MINUTES OF THE ORDINARY MEETING OF COUNCIL
TUESDAY 28 APRIL 2015 AT 6.19PM

PRESENT:  
Lord Mayor, Councillor Nuatali Nelmes (Chair)  
Councillor Declan Clausen  
Councillor David Compton  
Councillor Tim Crakanthorp  
Councillor Therese Doyle  
Councillor Jason Dunn  
Councillor Brad Luke  
Councillor Michael Osborne  
Councillor Stephanie Posniak  
Councillor Allan Robinson  
Councillor Andrea Rufo  
Councillor Lisa Tierney  
Councillor Sharon Waterhouse

IN ATTENDANCE:  
General Manager  
Ken Gouldthorp  
Director Corporate Services  
Glen Cousins  
Director Infrastructure  
Frank Cordingley  
Manager Strategic Planning  
Jill Gaynor  
Manager Council and Legal Services  
Frank Giordano  
Manager Development and Building Services  
Murray Blackburn-Smith  
Manager Projects and Contracts  
Greg Sainsbury  
Manager Commercial Property  
Paul Nelson  
Manager Finance  
Andrew Glauser  
Corporate Planning Analyst  
Kelly Arnott  
Acting Manager Customer Service  
Kate Baartz

MINUTES:  
Meetings Secretary  
Kerry Sullivan

WEBCASTING:  
Meetings Secretary  
Amy Leach

Chair, Lord Mayor Cr Nelmes, 26 May 2015
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## MINUTES OF THE ORDINARY MEETING OF COUNCIL
**TUESDAY 28 APRIL 2015 AT 6.19PM**

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</tr>
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ITEM-10

CON 28/04/15 - CONFIDENTIAL PROPERTY MATTER - LOT 212 DP 660080

CONFIDENTIAL LAND & ENVIRONMENT COURT PROCEEDINGS - NCC

ATS MCFARLANE: DA 14/0522: LOT 22 DP 1195074, 15C WRIGHTSON AVENUE, BAR BEACH
1 OPENING OF MEETING

1.1 The meeting was opened at 6.19pm.

2 APOLOGIES

2.1 Nil.

3 ORDERS OF THE DAY

3.1 The General Manager advised that there would be a late item of business regarding a Confidential Property Matter - Lot 212 DP 660080.

3.2 Councillor Osborne gave notice of a late item of business concerning the Council legal proceedings - NCC ats McFarlane: DA 14/0522: Lot DP 1195074, 15C Wrightson Avenue, Bar Beach.

4 DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

4.1 Councillor Luke
Councillor Luke declared a less than significant non-pecuniary interest in Item 25 - Executive Monthly Performance Report – March 2015, 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.

4.2 Councillor Dunn
Councillor Dunn declared a significant non-pecuniary interest in the late item of business - Confidential Item 10 - Property Matter - Lot 212 DP 660080 indicating he knew one of the parties who had made a submission and retired from the Chamber for the duration of the item.

4.3 Councillor Robinson
Councillor Robinson declared a non-pecuniary less than significant interest in the late item of business - Confidential Item 10 - Property Matter - Lot 212 DP 660080 indicating that he knew some of the parties. He remained in the Chamber as he did not consider it would affect his decision.
5 CONFIRMATION OF PREVIOUS MINUTES

5.1 MOTION: Moved by Cr Osborne, seconded by Cr Luke

The draft minutes of the Briefing Committee meeting of 17 March 2015 and Ordinary Council meeting of 24 March 2015 as circulated be taken as read and confirmed.

Carried

6 PRESENTATIONS TO COUNCIL

6.1 Nil.

7 LORD MAYORAL MINUTE

7.1 Nil.
8 REPORTS BY COUNCIL OFFICERS

ITEM-22 CCL 28/04/15 - TABLING OF PECUNIARY INTEREST RETURNS

REPORT BY: GENERAL MANAGER
CONTACT: MANAGER COUNCIL AND LEGAL SERVICES

PURPOSE
For the General Manager to table the pecuniary interest returns received from designated persons who commenced employment with Council since the tabling of pecuniary interest returns on 28 October 2014.

RECOMMENDATION
1 Council to note the Pecuniary Interest returns as tabled by the General Manager.

KEY ISSUES
2 Section 449(1) of the Local Government Act 1993 (NSW) (Act) requires Councillors and designated persons to lodge a pecuniary interest return in the form prescribed by the Local Government (General) Regulation 2005 (NSW) within 3 months after becoming a councillor or designated person.

3 Section 441 of the Act provides that designated persons are:
   (a) General Manager;
   (b) Council’s Directors;
   (c) designated Council Officers and delegates of Council; and
   (d) designated members of committees of Council.

4 Section 450A of the Act requires the General Manager to keep a register of returns lodged and to table the returns at a meeting of Council.

5 In accordance with section 739 of the Act, Council has amended the register of pecuniary interest returns to omit information that discloses a designated person’s place of living where:
   (a) the designated person requested that such information be deleted on the grounds that it would place their personal safety or their family’s safety at risk; and
   (b) the General Manager was satisfied that disclosing the information would place the designated person’s safety or their family’s safety at risk.

FINANCIAL IMPACT
6 Not applicable.
COMMUNITY STRATEGIC PLAN ALIGNMENT

7 Open and collaborative leadership.

IMPLEMENTATION PLAN/IMPLICATIONS

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

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

RISK ASSESSMENT AND MITIGATION

10 Not applicable.

RELATED PREVIOUS DECISIONS

11 Pecuniary interest returns were last tabled at Council’s meeting on 28 October 2014.

CONSULTATION

12 Not applicable.

OPTIONS

Option 1

13 The recommendation as at Paragraph 1.

Option 2

14 Council does not adopt the recommendation. This is not recommended because the Act requires the pecuniary interest returns to be tabled at a Council meeting. Failure to do so would constitute a breach of section 450A of the Act.

BACKGROUND

15 Not Applicable.

REFERENCES

ATTACHMENTS

Nil
MOTION
Moved by Cr Tierney, seconded by Cr Osborne

Council to note the Pecuniary Interest returns as tabled by the General Manager.

Carried
ITEM-23  CCL 28/04/15 - PROPOSAL FOR A SPECIAL BRIEFING COMMITTEE

REPORT BY:  EXECUTIVE MANAGEMENT
CONTACT:  GENERAL MANAGER / MANAGER COUNCIL AND LEGAL SERVICES

PURPOSE

To provide Councillors with details of a proposed Special Briefing Committee to be held to address topics such as meeting practice, open workshops and open and transparent government.

RECOMMENDATION

1 Council endorse the scheduling of a Special Briefing Committee meeting to be held on a Friday (full day 9am-5pm) and Saturday (half day 9am-2pm) within the next three months (the exact dates to be finalised by the General Manager based on external presenter availability).

KEY ISSUES

2 At the Council meeting held on 24 March 2015, Council adopted resolutions relating to Council meeting practice, open workshops and open and transparent government (refer to the 'Related Previous Decisions' and 'Background' sections of this report for specific details of the resolutions).

3 To address these resolutions, it is proposed that a Special Briefing Committee be conducted in the Council Chambers and scheduled to include presentations on the following topics:

   a. Overview of the legislative framework pertaining to Council's obligations in adopting a Code of Meeting Practice - proposed presenter is LGNSW, Local Government Professionals or a lawyer who specialises in local government

   b. Code of Conduct - proposed presenter is a member appointed to Council's Code of Conduct review panel

   c. Key corruption issues in Local Government - proposed presenter is Independent Commission Against Corruption

   d. Good decision making and constructive debate - proposed presenter is St James Ethics Centre
e. Effective governance and effective Council meetings - proposed presenter Effective Governance Pty Ltd

f. Code of Meeting Practice - comparison with other Hunter Councils - proposed presenters are the General Manager and Manager Council and Legal Services

g. Code of Meeting Practice, open discussion session - proposed facilitators are the General Manager and Manager Council and Legal Services.

4 The purpose of the session is to provide a comprehensive overview of the existing governance and transparency framework under which local government operates and instigate discussion on additional procedures that may be implemented as per the Council resolution of 24 March 2015. It is essential that any additional procedures are consistent with and in context with existing legislation/regulation and coincide with transparency and effectiveness of Council decision making. The proposed approach aims to provide a comprehensive understanding of the current system and facilitate informed discussion on procedural improvements.

FINANCIAL IMPACT

5 The estimated cost of the open seminar is $20,000 - $25,000 (this includes travel and presentation costs of external presenters). There is a sufficient balance in the budget for Councillor's professional development for 2014/15 financial year.

COMMUNITY STRATEGIC PLAN ALIGNMENT

6 Open and collaborative leadership.

IMPLEMENTATION PLAN/IMPLICATIONS

7 The open seminar will be scheduled to take place on a Friday and Saturday in May 2015 depending on the availability of the external providers engaged to present the sessions.

8 Councillors will be given not less than two weeks' notice of the proposed date of the seminar.

RISK ASSESSMENT AND MITIGATION

9 The seminar will provide for increased awareness and knowledge of meeting procedure including the legislative framework, obligations under the Code of Conduct and other governance and ethical issues.

RELATED PREVIOUS DECISIONS
10  24 March 2015:  SUPPLEMENTARY REPORT TO ITEM-105 CCL
09/12/14 - ADOPTION OF REVISED CODE OF
MEETING PRACTICE

11  24 March 2015:  OPEN AND TRANSPARENT LOCAL GOVERNMENT

CONSULTATION

12 N/A

OPTIONS

Option 1

13  The recommendation as at Paragraph 1.

Option 2

14  Councillors do not accept the General Manager's proposal for the scheduling
of an open seminar.  This is not the recommended option taking into the
resolutions of 24 March 2015 set out in 'Related Previous Decisions' and
'Background' sections of this report.

BACKGROUND

15  MOTION 24.03.2015
Moved by Cr Osborne, seconded by Cr Doyle

a)  Newcastle City Council has adopted "Open and Collaborative
Leadership" as one of the key strategic directions for Newcastle in the
2030 Newcastle Community Strategic Plan, including considered
decision-making based on collaborative, transparent and accountable
leadership and our open and collaborative leadership provides the
foundation for excellent governance,

b)  The NSW Local Government Act 1993 states that Council must ensure
that, in the exercise of its regulatory functions, that it acts consistently
and without bias, particularly where an activity of the council is affected
(Section 8 The council’s charter),

c)  Every councillor, member of staff of a council and delegate of a council
must act honestly and exercise a reasonable degree of care and
diligence in carrying out his or her functions under this or any other Act
(Section 439 of the Act), and
d) The Independent Commission Against Corruption has highlighted that Councils need to be continually "reducing opportunities for corruption" in Council processes.

Council receives a report on how Newcastle Council can establish procedures that ensure the highest level of transparency, accountability and probity in our City’s governance by requiring that anyone who has dealings with Council through a Corporate entity (including through tenders, consultancies, development applications, planning agreements etc) provide sufficient company details so that the names and addresses of all major or significant beneficiary shareholders are identified.

**MOTION 24.03.2015**

Moved by Cr Clausen, seconded by Cr Posniak

That Council conduct open Workshops in order to consider and redraft Council’s current Code of Meeting Practice.

That these workshops focus on:

1. **The objectives and general principles of the Code of Meeting Practice with consideration of principles of transparency, openness, accountability and public participation, and a comparison to the Codes of Meeting Practice used by other Councils,**

2. **The role of Committees, Briefings and Workshops and how the Code of Meeting Practice can best organise these functions to meet the needs of Council,**

3. **Review of an updated draft Code of Meeting Practice.**

**REFERENCES**

**ATTACHMENTS**

NIL

**MOTION**

Moved by Cr Luke, seconded by Cr Compton

Council endorse the scheduling of a Special Briefing Committee meeting to be held on a Friday (full day 9am-5pm) and Saturday (half day 9am-2pm) within the next three months (the exact dates to be finalised by the General Manager based on external presenter availability).

*Cont’d over…*
Councillor Tierney gave notice of a foreshadowed motion that Council adopt the revised Code of Meeting Practice that had been placed on public exhibition.

Councillor Doyle foreshadowed that Council conduct a series of up to three workshops in order to consider and redraft Council's current Code of Meeting Practice.

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

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

Defeated

**MOTION**
Moved by Cr Tierney

Council adopt the revised Code of Meeting Practice placed on exhibition in August 2014.

Ruled out of order

**PROCEDURAL MOTION**
Moved by Cr Tierney, seconded by Cr Waterhouse

Move dissent against the Lord Mayor's ruling.

Defeated

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

Council conduct a series of up to three open workshops in order to consider and redraft Council's current Code of Meeting Practice.

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

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

Carried
ITEM-24  CCL 28/04/15 - AMENDMENT TO COUNCIL'S ADOPTED MEETING CYCLE FOR 2015

REPORT BY:  EXECUTIVE MANAGEMENT
CONTACT:  GENERAL MANAGER / MANAGER COUNCIL AND LEGAL SERVICES

PURPOSE
To amend Council's scheduled meeting dates for the month of June 2015.

RECOMMENDATION
1 Council approves the following amendment to its 2015 adopted meeting schedule for the month of June 2015 as follows:

<table>
<thead>
<tr>
<th>Week 1</th>
<th>Tuesday 2 June 2015</th>
<th>No scheduled meetings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Week 2</td>
<td>Tuesday 9 June 2015 (in lieu of the previously scheduled 16 June 2015)</td>
<td>Committee Meetings (as required): · Inspection Committee · Public Voice Committee · Briefings Committee · Development Applications Committee</td>
</tr>
<tr>
<td>Week 3</td>
<td>Tuesday 16 June 2015 (in lieu of the previously scheduled 23 June 2015)</td>
<td>Ordinary Council Meeting</td>
</tr>
<tr>
<td>Week 4</td>
<td>Tuesday 23 June 2015</td>
<td>No scheduled meetings</td>
</tr>
<tr>
<td>Week 5</td>
<td>Tuesday 30 June 2015</td>
<td>No scheduled meetings</td>
</tr>
</tbody>
</table>
KEY ISSUES

2 The recommended changes to the adopted meeting schedule will allow Council staff additional time to deal with matters relating to Council's budget for 2015/16 two weeks prior to the end of the financial year. In addition, the change will accommodate the availability of the Lord Mayor to chair the Council Meeting to be held on 16 June 2015 at which the proposed 2015/156 Budget will be adopted as well as enabling the Lord Mayor and the Director, Planning and Regulatory to attend the overseas Future Cities conference during the period 20-30 June 2015.

3 The recommended change to the scheduled Council meeting dates complies with the requirement in the Local Government Act 1993 (NSW) (Act) that Council meet at least ten times per year, with each meeting being in a different month.

FINANCIAL IMPACT

4 As the number of meetings held during the year will not be affected, the Council meeting budget will not be impacted.

COMMUNITY STRATEGIC PLAN ALIGNMENT

5 Open and collaborative leadership.

IMPLEMENTATION PLAN/IMPLICATIONS

6 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

7 Should Council not resolve to bring forward the June Ordinary Council meeting schedule there is a risk that the Council budget may not be adopted and implemented with sufficient time prior to the beginning of the new financial year.

RELATED PREVIOUS DECISIONS

8 26 November 2013 – Adoption of meeting the schedule for 2014.
25 November 2014 - Adoption of the meeting schedule for 2015.

CONSULTATION

9 N/A.

OPTIONS

Option 1

10 The recommendation as at Paragraph 1.
Option 2

11 Council does not amend the meeting cycle for June 2015. This is not the recommended option.

BACKGROUND

12 As per Paragraph 2 (Key Issues).

REFERENCES

ATTACHMENTS

Attachment A - Council's adopted meeting schedule for June 2015.
Attachment A

Council's current meeting schedule - June 2015 (adopted 25 November 2014)

<table>
<thead>
<tr>
<th>Week 1 – Tuesday 2 June 2015</th>
<th>No scheduled meetings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Week 2 – Tuesday 9 June 2015</td>
<td>Workshops and community consultation events (as required)</td>
</tr>
</tbody>
</table>
| Week 3 – Tuesday 16 June 2015 | Committee Meetings (as required):  
  • Inspection Committee  
  • Public Voice Committee  
  • Briefings Committee  
  • Development Applications Committee |
| Week 4 – Tuesday 23 June 2015 | Ordinary Council Meeting |
| Week 5 – Tuesday 30 June 2015 | No scheduled meetings |
MOTION  
Moved by Cr Tierney, seconded by Cr Doyle

Council approves the following amendment to its 2015 adopted meeting schedule for the month of June 2015 as follows:

<table>
<thead>
<tr>
<th>Week 1</th>
<th>Tuesday 2 June 2015</th>
<th>No scheduled meetings</th>
</tr>
</thead>
</table>
| Week 2 | Tuesday 9 June 2015 (in lieu of the previously scheduled 16 June 2015) | Committee Meetings (as required):  
- Inspection Committee  
- Public Voice Committee  
- Briefings Committee  
- Development Applications Committee |
| Week 3 | Tuesday 16 June 2015 (in lieu of the previously scheduled 23 June 2015) | Ordinary Council Meeting |
| Week 4 | Tuesday 23 June 2015 | No scheduled meetings |
| Week 5 | Tuesday 30 June 2015 | No scheduled meetings |

Carried
ITEM-25 CCL 28/04/15 - EXECUTIVE MONTHLY PERFORMANCE REPORT - MARCH 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 performance against the 2014/15 Operational Plan as at the month end of March 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).

To seek Council endorsement of the current Investment Policy without change for a further 12 months.

To report on Council's progress on the 2013-17 Delivery Program in accordance with section 404(5) of the Act.

RECOMMENDATION

1 (a) The Executive Monthly Performance Report (Attachment A) be received.

(b) Council endorses the current version of the Investment Policy (Attachment B) and extends the revision date for a further 12 months.

(c) The Six Monthly Review of Council's progress on the 2013-17 Delivery Program be received.

KEY ISSUES

2 At the end of March 2015 the consolidated year to date actual operating position is a surplus of $5.4m which represents a positive variance of $8.3m against budget. This variance is due to a combination of income and expenditure variances which are detailed in Paragraph 9 below. The full year revised budget for 2014/15 is an operating deficit of $6.3m. A significant factor contributing to this variance is below budget expenditure on asset maintenance and asset renewal, which is partly attributable to significant increases in the capital budgets, during the quarterly review process as a result of additional grant funding and carry forward work, which was not included in the original budget.
3 Our analysis also indicates that if this work was increased to the level identified as sustainable, which is significantly above the 2014/15 budget levels, it would result in additional year to date operational costs of approximately $9m which would have reduced the reported actual operational position to a deficit of $3.6m.

4 The March year to date position includes a number of revenue items which are considered to be non-recurrent or are unable to be applied to supporting operating activities. When these items are removed Council’s sustainable underlying operating position at the end of March is a deficit of $4.5m. These items include:

   i Non-Reccurrent revenue – $1m
   The recoupment of the Glenelg collateralised debt obligation (CDO) ($1m).

   ii Restricted Income – $8.9m
   Consolidation of the Council’s 50% share of the airport operating result ($2.2m), the 2012 Special Rate Variation ($3.6m), the storm water management service charge ($1.6m) and the Local Roads component of the Financial Assistance Grant ($1.5m).

5 At the end of March 2015, Council’s expenditure on the capital works program is $17.6m below the revised budget. Analysis indicates that this also has a flow on effect, reducing operational expenditure by approximately $2.5m (ie capital spending in-line with budget would have created an additional $2.5m of operational expenditure).

6 The net funds generated at the end of March 2015 is a surplus of $28.7m (after Capital Revenues, Expenditure and loan principal repayments). This is a positive variance to budget of $29.3m. The net funds generated is represented by a net reduction in restricted cash reserves of $17.8m (positive variance of $9m) offset by an increase in unrestricted cash reserves of $46.5m (positive variance of $20.2m). Again had capital spending been in-line with budget forecasts the additional expenditure would have reduced the net funds generated to a balanced position which is roughly in-line with budget expectations.

7 A listing of significant contract variations totaling $2.8m is provided within the Executive Monthly Performance Report (Attachment A). $0.8m of contract variations required additional project budgets which have been reallocated from within existing approved program budgets. The remaining $2m of contract variations were within the contingencies allowed within the original project budgets. All contract variations and budget changes have been appropriately approved and reported in the September and December Quarterly Budget Reviews.

8 A listing of fees & charges waived or reduced in excess of $1,000 is provided within the Executive Monthly Performance Report (Attachment A) in accordance with a memo from the General Manager's office 24 February 2015. The total value of fees reduced or waived in March was $1,031.
## FINANCIAL IMPACT

9 The budget to actual year to date financial position at the end of March 2015 is provided in the Executive Monthly Performance Report *(Attachment A)*. Key elements are:

<table>
<thead>
<tr>
<th></th>
<th>Full Year Revised Budget $'000</th>
<th>YTD Revised Budget $'000</th>
<th>YTD Actual Result $'000</th>
<th>Variance to YTD Budget $'000</th>
<th>Variance %</th>
<th>Outstanding Commitments $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Operating Revenue</td>
<td>225,486</td>
<td>168,869</td>
<td>169,038</td>
<td>169</td>
<td>0%</td>
<td>(12,186)</td>
</tr>
<tr>
<td>Total Operating Expenses</td>
<td>(231,775)</td>
<td>(171,806)</td>
<td>(163,665)</td>
<td>8,141</td>
<td>-5%</td>
<td>(12,186)</td>
</tr>
<tr>
<td>Total Operating Revenue Less</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Expenditure</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Capital Raising revenue</td>
<td>22,662</td>
<td>17,989</td>
<td>21,347</td>
<td>3,358</td>
<td>19%</td>
<td></td>
</tr>
<tr>
<td>Add Back Non Cash Items</td>
<td>43,684</td>
<td>32,762</td>
<td>32,762</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Funding available for capital</td>
<td>60,057</td>
<td>47,814</td>
<td>59,482</td>
<td>11,668</td>
<td>24%</td>
<td></td>
</tr>
<tr>
<td>expenditure</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total capital spend</td>
<td>(70,655)</td>
<td>(46,334)</td>
<td>(28,721)</td>
<td>17,613</td>
<td>-38%</td>
<td>(11,425)</td>
</tr>
<tr>
<td>Loan Principal Repayment</td>
<td>(2,697)</td>
<td>(2,023)</td>
<td>(2,023)</td>
<td></td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td>Net Funds Generated / (Used)</td>
<td>(13,295)</td>
<td>(543)</td>
<td>28,738</td>
<td>29,281</td>
<td>-5395%</td>
<td></td>
</tr>
<tr>
<td>Cash Reserves</td>
<td>(34,200)</td>
<td>(26,812)</td>
<td>(17,768)</td>
<td>9,044</td>
<td>-34%</td>
<td></td>
</tr>
<tr>
<td>Net Transfers (from)/to Restricted</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash</td>
<td>20,905</td>
<td>26,269</td>
<td>46,506</td>
<td>20,237</td>
<td>77%</td>
<td></td>
</tr>
<tr>
<td>Net change in Council's</td>
<td>(13,295)</td>
<td>(543)</td>
<td>28,738</td>
<td>29,281</td>
<td>-5395%</td>
<td></td>
</tr>
<tr>
<td>Reserves</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

i **Interest – increase of $0.8m**
Council’s Investment Portfolio continues to return a higher than forecast investment return. Interest earned for the month of March was $0.8m and brought the total Year to Date (YTD) interest earnings to $7.4m.

ii **Employee costs – decrease of $4.6m**
Corporate provisions of $3.6m that are used to fund transitionary measures, cash out of sick leave and parental leave have not yet been fully utilised. These provisions will be analysed and reflected in the March Quarterly Budget Review.

iii **Materials & Contracts – decrease of $2m**
YTD expenditure at the Summerhill Waste Management Centre is $1.3m below budget, however this is largely related to timing issues and actual expenditure is expected to align with the budget by the year end. The variance is made up of $0.7m relating to Waste and Sustainability Improvement Programs and $0.6m relating to general landfill operations.

The expenditure on external legal services is $0.3m below budget. Again this is largely a timing issue, however if there are no significant legal matters arising during the remainder of the year it is likely that this favourable variance will remain at year end.
iv Other operating expenses – decrease of $1.5m
The state waste levy is approximately $1m below budget due to lower than forecast commercial waste tonnages at Summerhill Waste Management Centre.

11 Factors adversely impacting Financial Position
i User Fees & Charges – decrease of $0.6m
As noted above Commercial waste tonnages are below forecast which has reduced revenue by approximately $1.1m. However income earned through Stockton Beach Holiday Park is ahead of expectations by $0.3m.

12 At the end of March commitments raised against operating expenses totaled $12.1m. 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 – $6m
Commitment raised by Summerhill Waste Management Centre to pay the forecast state waste levies to 30 June 2015. The cost is roughly $2m a month and the commitment will be exhausted in June 2015.

ii Operational project work – $3.5m
Commitments raised by working crews for materials used in operational project work. Expense is generally $1m a month with regular commitments raised.

iii Building maintenance – $0.7m
Commitments raised by working crews for materials used in maintaining Council’s built infrastructure. Expense is generally $0.6m a month with regular commitments raised.

iv Events and Cultural Programming – $0.9m
Commitments raised for expenditure across Council’s cultural facilities, libraries and tourism areas.

v Park maintenance – $0.4m
Commitments raised by working crews for materials used in maintaining Council’s parks and gardens. Expense is generally $0.4m a month with regular commitments raised.
13 Typically Council’s capital works program accelerates as the year progresses and there will be seasonal factors which will result in both revenue and expense timing variations by month. The month of March reported an operational deficit of $1.1m. Operational expenditure was aligned to the March monthly budget but operational grant income was $1m less than forecast.
At the end of March there is a positive variance to budget of $4.8m in the proceeds from the sale of assets. This is a timing variance in Council's 10 year asset sale program and will be included in the full year forecast prepared as part of the March Quarterly Budget Review.

Council’s total capital spend is $17.6m below the year to date budget of $46.3m. In aggregate Council’s budget assumes that the capital work program of $70.7m generates $9m of additional operational expenditure. This ratio indicates that a YTD capital spend $17.6m below budget would have a flow on effect of $2.5m to operational expenses.

The year to date actual is behind the year to date budget by $17.6m and although this variance will reduce as the year progresses there may be a significant amount of work in progress at June 30. The capital position will be analysed and an updated forecast reported through the March Quarterly Budget Review.

### Capital Revenues

<table>
<thead>
<tr>
<th></th>
<th>Full Year Revised Budget $’000</th>
<th>YTD Revised Budget $’000</th>
<th>YTD Actual Result $’000</th>
<th>Variance to YTD Budget $’000</th>
<th>Variance %</th>
<th>Outstanding Commitments $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grants &amp; contributions - Capital</td>
<td>15,491</td>
<td>10,818</td>
<td>9,339</td>
<td>(1,479)</td>
<td>-14%</td>
<td></td>
</tr>
<tr>
<td>Proceeds from the sale of Assets</td>
<td>7,171</td>
<td>7,171</td>
<td>12,008</td>
<td>4,837</td>
<td>67%</td>
<td></td>
</tr>
<tr>
<td><strong>Total Capital Raising revenue</strong></td>
<td><strong>22,662</strong></td>
<td><strong>17,989</strong></td>
<td><strong>21,347</strong></td>
<td><strong>3,358</strong></td>
<td><strong>19%</strong></td>
<td></td>
</tr>
</tbody>
</table>

### Net Surplus/(deficit) after capital revenue

<table>
<thead>
<tr>
<th></th>
<th>Full Year Revised Budget $’000</th>
<th>YTD Revised Budget $’000</th>
<th>YTD Actual Result $’000</th>
<th>Variance to YTD Budget $’000</th>
<th>Variance %</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>16,373</td>
<td>15,052</td>
<td>26,720</td>
<td>11,668</td>
<td>78%</td>
</tr>
</tbody>
</table>

### Adjustments for Non Cash Items

<table>
<thead>
<tr>
<th></th>
<th>Full Year Revised Budget $’000</th>
<th>YTD Revised Budget $’000</th>
<th>YTD Actual Result $’000</th>
<th>Variance to YTD Budget $’000</th>
<th>Variance %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Add back Depreciation</td>
<td>48,476</td>
<td>36,356</td>
<td>36,356</td>
<td></td>
<td>0%</td>
</tr>
<tr>
<td>Less land &amp; infrastructure donations</td>
<td>(4,792)</td>
<td>(3,594)</td>
<td>(3,594)</td>
<td></td>
<td>0%</td>
</tr>
</tbody>
</table>

### Funding available for capital expenditure

<table>
<thead>
<tr>
<th></th>
<th>Full Year Revised Budget $’000</th>
<th>YTD Revised Budget $’000</th>
<th>YTD Actual Result $’000</th>
<th>Variance to YTD Budget $’000</th>
<th>Variance %</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>60,057</td>
<td>47,814</td>
<td>59,482</td>
<td>11,668</td>
<td>24%</td>
</tr>
</tbody>
</table>

### Capital Expenses

<table>
<thead>
<tr>
<th></th>
<th>Full Year Revised Budget $’000</th>
<th>YTD Revised Budget $’000</th>
<th>YTD Actual Result $’000</th>
<th>Variance to YTD Budget $’000</th>
<th>Variance %</th>
<th>Outstanding Commitments $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asset renewals</td>
<td>(27,483)</td>
<td>(16,470)</td>
<td>(11,396)</td>
<td>5,074</td>
<td>-31%</td>
<td>(4,203)</td>
</tr>
<tr>
<td>New / upgrade</td>
<td>(29,872)</td>
<td>(19,683)</td>
<td>(12,596)</td>
<td>7,087</td>
<td>-36%</td>
<td>(3,830)</td>
</tr>
<tr>
<td>Special Projects</td>
<td>(13,300)</td>
<td>(10,181)</td>
<td>(4,729)</td>
<td>5,452</td>
<td>-54%</td>
<td>(3,392)</td>
</tr>
<tr>
<td><strong>Total capital spend</strong></td>
<td><strong>(70,655)</strong></td>
<td><strong>(46,334)</strong></td>
<td><strong>(28,721)</strong></td>
<td><strong>17,613</strong></td>
<td><strong>-38%</strong></td>
<td><strong>(11,425)</strong></td>
</tr>
<tr>
<td>Loan Principal Repayment</td>
<td>(2,697)</td>
<td>(2,023)</td>
<td>(2,023)</td>
<td></td>
<td>0%</td>
<td></td>
</tr>
</tbody>
</table>

### Net Funds Generated / (Used)

<table>
<thead>
<tr>
<th></th>
<th>Full Year Revised Budget $’000</th>
<th>YTD Revised Budget $’000</th>
<th>YTD Actual Result $’000</th>
<th>Variance to YTD Budget $’000</th>
<th>Variance %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Transfers /from/to Restricted Cash Reserves</td>
<td>(34,200)</td>
<td>(26,812)</td>
<td>(17,768)</td>
<td>9,044</td>
<td>-34%</td>
</tr>
<tr>
<td>Net Transfers /from/to Unrestricted Cash</td>
<td>20,905</td>
<td>26,269</td>
<td>46,506</td>
<td>20,237</td>
<td>77%</td>
</tr>
</tbody>
</table>

### Net change in Council’s Reserves

<table>
<thead>
<tr>
<th></th>
<th>Full Year Revised Budget $’000</th>
<th>YTD Revised Budget $’000</th>
<th>YTD Actual Result $’000</th>
<th>Variance to YTD Budget $’000</th>
<th>Variance %</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(13,295)</td>
<td>(543)</td>
<td>28,738</td>
<td>29,281</td>
<td>-5395%</td>
</tr>
</tbody>
</table>
17 At the end of March commitments raised against capital work totaled $11.4m. 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 **Coastal Revitalisation – $3.0m**
Commitment raised to pay the contractors (Daracon) constructing the Nobbys to Newcastle section of Bathers Way ($2.5m). This commitment will be realised by June 2015.

ii **Major Asset Preservation Program – $5.2m**
Commitments include $2m for the contractors rebuilding the City Hall Clock Tower. This commitment covers the entire contract and will be partially expensed each month until December 2015.

Various commitments have been raised as Council undertakes road resurfacing ($0.7m), city wide drainage ($0.3m) and the rehabilitation of Ironbark creek ($0.4m).

iii **Fleet Replacement – $2m**
Commitments raised cover fleet vehicles ordered and expected to be received up to June 2015.

iv **Other works**
Other major works currently underway include Islington Park ($0.5m), Blackbutt ($0.4m), and Glebe Road ($0.3m).

18 Council’s temporary surplus funds are invested consistent with Council’s Investment Policy, Investment Strategy and the Act and Regulations. Detail of all Council funds invested under s625 of the Act is provided in the Investment Policy and Strategy Compliance Report (section 4 of Attachment A).

**COMMUNITY STRATEGIC PLAN ALIGNMENT**

19 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**

20 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 clause s625 of the Act.
RISK ASSESSMENT AND MITIGATION

21  No additional risk mitigation has been identified this month.

RELATED PREVIOUS DECISIONS

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

CONSULTATION

23  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

24  The recommendation as at Paragraph 1 (a) - (c).

Option 2

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

BACKGROUND

26  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.

27  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.

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

29  In response to a memo from the office of the General Manager an additional table has been added to the Executive Monthly Performance Report (Attachment A) outlining fees & charges which have been waived or reduced.
30 In accordance with the current version of Council's Investment Policy (Policy) (Attachment B) Finance have conducted an annual review of the Policy and are recommending no change to its contents. The current version continues to comply with the Office of Local Government Investment Policy Guidelines and all legislative requirements. Finance recommends that Council endorse the current version of the Policy and extend the revision date for a further 12 months.

31 In response to s404(5) of the Act a Six Month Review of Council's 2013-17 Delivery Program is included at Attachment C.

REFERENCES

ATTACHMENTS Distributed under separate cover

Attachment A: Executive Monthly Performance Report for March 2015
Attachment B: Investment Policy
Attachment C: Six Month Review of Council's 2013-17 Delivery Program

MOTION
Moved by Cr Clausen, seconded by Cr Osborne

1 The Executive Monthly Performance Report (Attachment A) be received.

2 The Six Monthly Review of Council's progress on the 2013-17 Delivery Program be received.

3 Council endorses the current version of the Investment Policy (Attachment B) and extends the revision date to August 2015.

4 An updated Investment Policy be produced which notes Council's preference for Environmentally and Socially Responsible Investments where:

   a) The investment is compliant with the other parameters and objectives of the investment policy and legislative requirements; and

   b) The investment rate of interest is favourable to Council relative to other similar investments that may be on offer to Council at the time of investment.

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


Carried
ITEM-26 CCL 28/04/15 - REVIEW OF COUNCIL SPONSORSHIP AND GRANT POLICIES - REPORT ON SUBMISSIONS AND POLICY ADOPTION

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

PURPOSE

To report to Council the results of community consultation on the draft sponsorship and grant policies and for Council to adopt the policies.

RECOMMENDATION

1 Council note the submission received during advertising of the draft policies.

2 Council adopt the following policies:

   a) Events Sponsorship Policy (Attachment A)
   b) Economic Development Sponsorship Policy (Attachment B)
   c) Community Assistance Grant Policy (Attachment C)
   d) Place Making Grant Policy (Attachment D)

KEY ISSUES

3 Council administers a range of grant and sponsorship programs, guided by policies that define the purpose, scope, assessment and payment requirements of each program.

4 The policies were recently reviewed to ensure consistency in the processing and assessment of applications and to ensure differentiation in the purpose, assessment criteria and outcomes sought under each program.

5 The policies were advertised for 28 days. During this period, one submission was received, supporting the policies. Further internal discussion on the policies has also occurred. An additional requirement has been added to the Event Sponsorship Policy, requiring events seeking funding in this program to be open to the public. This change is highlighted in Attachment A.

FINANCIAL IMPACT

4 There is no financial impact from adopting the revised policies. The policies clearly identify that the elected Council will determine annually the budget available for each program.
5 The policy procedures ensure that Council’s requirements under the Local Government Act regarding business transactions and financial assistance are met.

COMMUNITY STRATEGIC PLAN ALIGNMENT

6 Sponsorship and grants from Council assist many sectors of the community and help Newcastle to be a caring and inclusive community and create vibrant and activated public places, in a smart and innovative city.

IMPLEMENTATION PLAN/IMPLICATIONS

7 The policy procedures ensure open and transparent processes to allocate grants and sponsorships will be implemented.

RISK ASSESSMENT AND MITIGATION

8 A strong and consistent policy framework across the grant and sponsorship programs will ensure Council meets all requirements of the Local Government Act.

RELATED PREVIOUS DECISIONS

9 Council resolved on 24 February 2015 to release the draft policies for 28 days public comment.

CONSULTATION

10 The policies were advertised for public comment from 28 February 2015 to 30 March 2015. A feature advertisement appeared in the Newcastle Herald on 28 February 2015 and 14 March 2015. Comment was invited through the Council website and previous applicants were notified.

11 One submission was received. The comments related to when funding would be available in 2015-16; funding amounts; and noted that criteria 8.3, in the Events Sponsorship Policy about coordination with other events, will depend on the type of event proposed. No changes to the draft policies are required as a result of the submission.

OPTIONS

Option 1

12 The recommendation as at Paragraphs 1 and 2.

Option 2

13 Council not adopt the revised policies. Deferring adoption of the policies will defer implementation of the programs in the 2015-16 financial year and may negatively impact on potential applicants. This is not the recommended option.
BACKGROUND

14 The former community assistance program was divided into three ‘streams’ in 2011 to provide greater clarity of purpose for Council assistance to community initiatives. This separation is maintained and enhanced in the attached revised policies.

ATTACHMENTS

Attachment A: Events Sponsorship Policy
Attachment B: Economic Development Sponsorship Policy
Attachment C: Community Assistance Grant Policy
Attachment D: Place Making Grant Policy

Attachments A to D are distributed under separate cover.

MOTION
Moved by Cr Tierney, seconded by Cr Osborne

1 Council note the submission received during advertising of the draft policies.

2 Council adopt the following policies:
   a) Events Sponsorship Policy (Attachment A)
   b) Economic Development Sponsorship Policy (Attachment B)
   c) Community Assistance Grant Policy (Attachment C)
   d) Place Making Grant Policy (Attachment D)

Carried
ITEM-27  CCL 28/04/15 - EXHIBITION OF 2013-17 DRAFT DELIVERY PROGRAM, 2015/16 DRAFT OPERATIONAL PLAN AND 2015/16 DRAFT FEES AND CHARGES

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

PURPOSE

To endorse the revised 2013-17 draft Delivery Program (Attachment A) and the 2015/16 draft Operational Plan (Attachment B) and draft Fees and Charges (Attachment C) for public exhibition from 30 April to 28 May 2015 as required under the Local Government Act 1993.

RECOMMENDATION

1 Council endorses the revised 2013-17 draft Delivery Program and the 2015/16 draft Operational Plan and draft Fees and Charges Register and places these documents on public exhibition for 28 days prior to final consideration by Council.

KEY ISSUES

2 Achieving long term financial sustainability is a primary focus of the Council. The underlying operating result of the Council has been in deficit for a number of years, which is not financially sustainable in the long term.

3 This draft Delivery Program has been based on the current Long Term Financial Plan (LTFP) endorsed by Council on the 24 February 2015. The efficiency initiatives which were identified in the prior years’ versions of the Delivery Program have generated some very positive improvements to the financial performance of the organisation and have been carried over into this updated version of the program. In addition the Delivery Program has been updated to target increases in asset maintenance and asset renewal work towards sustainable levels.

4 The 2015/16 draft operating budget reflects an increase in general rate income of 8%. This increase consists of the allowable rate peg increase of 2.4% plus an additional amount of 5.6% representing Council’s Special Rate Variation (SRV) Application. This application has been made to the Independent Pricing and Regulatory Tribunal (IPART) and consists of a total annual 8% increase in general rate income for a five year period ie 2015/16 to 2019/20. IPART will make its determination of Council’s application by mid-May of this year.
FINANCIAL IMPACT

5 The draft operating budget has been developed based on the Budget Principles adopted by Council on 18 April 2013, including maintaining the reduction in net operating expense of at least 10% made over the prior two years, focusing on reducing the infrastructure backlog and reducing debt as a funding source.

6 The draft budgeted operating result for 2015/16 is a deficit of $9.5m which is broadly in line with the $8.5m deficit forecast in the endorsed LTFP for 2015/16. The operating deficit is larger than the 2014/15 budget due to the cost associated with increasing operational asset maintenance and asset renewal to sustainable levels. The operating result is forecast to continue to improve in 2016/17.

<table>
<thead>
<tr>
<th>Operating Revenue</th>
<th>2013/14 Adopted Budget $’000</th>
<th>2014/15 Adopted Budget $’000</th>
<th>Draft budget 2015/16 $’000</th>
<th>LTFP 2015/16 $’000</th>
<th>LTFP 2016/17 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rates &amp; charges</td>
<td>123,045</td>
<td>128,191</td>
<td>137,126</td>
<td>137,126</td>
<td>147,058</td>
</tr>
<tr>
<td>User charges &amp; fees</td>
<td>46,947</td>
<td>60,093</td>
<td>62,749</td>
<td>62,701</td>
<td>64,631</td>
</tr>
<tr>
<td>Interest</td>
<td>6,858</td>
<td>7,077</td>
<td>7,618</td>
<td>6,609</td>
<td>5,741</td>
</tr>
<tr>
<td>Other operating revenues</td>
<td>12,394</td>
<td>9,463</td>
<td>8,960</td>
<td>10,129</td>
<td>10,636</td>
</tr>
<tr>
<td>Grants &amp; contributions - Operating</td>
<td>16,390</td>
<td>16,419</td>
<td>16,591</td>
<td>15,697</td>
<td>15,697</td>
</tr>
<tr>
<td><strong>Total Operating Revenue</strong></td>
<td><strong>205,634</strong></td>
<td><strong>221,243</strong></td>
<td><strong>233,044</strong></td>
<td><strong>232,262</strong></td>
<td><strong>243,763</strong></td>
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<table>
<thead>
<tr>
<th>Operating Expenses</th>
<th>2013/14 Adopted Budget $’000</th>
<th>2014/15 Adopted Budget $’000</th>
<th>Draft budget 2015/16 $’000</th>
<th>LTFP 2015/16 $’000</th>
<th>LTFP 2016/17 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee costs</td>
<td>(88,978)</td>
<td>(90,813)</td>
<td>(93,712)</td>
<td>(94,712)</td>
<td>(97,627)</td>
</tr>
<tr>
<td>Borrowing costs</td>
<td>(4,220)</td>
<td>(4,257)</td>
<td>(4,117)</td>
<td>(4,110)</td>
<td>(3,916)</td>
</tr>
<tr>
<td>Materials &amp; contracts</td>
<td>(50,378)</td>
<td>(40,256)</td>
<td>(50,054)</td>
<td>(47,806)</td>
<td>(49,003)</td>
</tr>
<tr>
<td>Depreciation &amp; amortisation</td>
<td>(55,609)</td>
<td>(48,476)</td>
<td>(50,242)</td>
<td>(48,861)</td>
<td>(49,545)</td>
</tr>
<tr>
<td>Other operating expenses</td>
<td>(36,361)</td>
<td>(42,910)</td>
<td>(42,232)</td>
<td>(43,022)</td>
<td>(44,102)</td>
</tr>
<tr>
<td>Net Loss from disposal of assets</td>
<td>0</td>
<td>0</td>
<td>(2,228)</td>
<td>(2,228)</td>
<td>(2,326)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total Operating Revenue Less Operating Expenditure</th>
<th>2013/14 Adopted Budget $’000</th>
<th>2014/15 Adopted Budget $’000</th>
<th>Draft budget 2015/16 $’000</th>
<th>LTFP 2015/16 $’000</th>
<th>LTFP 2016/17 $’000</th>
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<td>137,126</td>
<td>147,058</td>
</tr>
<tr>
<td>2014/15 Adopted Budget $’000</td>
<td>46,947</td>
<td>60,093</td>
<td>62,749</td>
<td>62,701</td>
<td>64,631</td>
</tr>
<tr>
<td>Draft budget 2015/16 $’000</td>
<td>6,858</td>
<td>7,077</td>
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</tr>
<tr>
<td>LTFP 2015/16 $’000</td>
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<td>10,129</td>
<td>10,636</td>
</tr>
<tr>
<td>LTFP 2016/17 $’000</td>
<td>16,390</td>
<td>16,419</td>
<td>16,591</td>
<td>15,697</td>
<td>15,697</td>
</tr>
</tbody>
</table>

7 User Charges and Fees income are forecast to be higher than the 2014/15 adopted budget primarily due to increased business and associated gate fees at Summerhill Waste Management Centre.

8 Operational materials and contracts expenditure is budgeted to increase by $10m against the 2014/15 budget. This is being driven by operational expenditure associated with Council's increased capital works program as well as additional expenditure on infrastructure maintenance. Underlying material and contracts costs are stable against 2014/15.
The $20.2m capital grants and contributions budgeted for 2015/16 is higher than the $6.7m forecast in the LTFP. The increase is driven by $10m of land and infrastructure donations which are classified as capital revenue but provide no cash injection to support expenditure and are thus removed before calculating the funding available for capital. The additional $4m of capital grant income is associated with grants that Council has successfully achieved to support the capital works program.

The capital works program budgeted for 2015/16 at $68.3m is broadly in-line with the LTFP forecast of $72.4m for 2015/16. However expenditure on asset renewal makes up only $32.8m of the total capital spend. This is $6.2m short of the LTFP forecast required to stabilise the infrastructure backlog.

COMMUNITY STRATEGIC PLAN ALIGNMENT

The revised 2013-17 draft Delivery Program and 2015/16 Operational Plan and 2015/16 Fees and Charges have been developed as a requirement of the Local Government Act 1993 and Local Government (General) Regulation 2005. These documents outline how Council will deliver on the seven strategic directions contained in the Newcastle 2030 Community Strategic Plan.
IMPLEMENTATION PLAN/IMPLIEDNATIONS

12 The Delivery Program and the Operational Plan are required to be adopted by Council by 30 June 2015 following a 28 day public exhibition period. A delay in endorsement of this report will impact on the time available to collate and incorporate community feedback to ensure adoption of the final report by the deadline.

RISK ASSESSMENT AND MITIGATION

13 The development of the Four Year Delivery Program is based on a number of assumptions, including assumptions that are outside of Council’s control. This may potentially affect the financial results. The risks associated with these assumptions include:

a) Independent Pricing and Regulatory Tribunal (IPART) not approving the 2015/16 special rate variation to 8%.

b) Grant funding from State and Federal Governments is lower than anticipated.

c) Investment returns are lower than assumed.

d) Contributions, for example s94, do not materialise at the level predicted.

e) Further cost shifting from other Government agencies without offsetting revenue.

f) Inflation increase against costs higher than anticipated.

g) Legislative changes that may lower income streams or increase expenditure.

h) Natural disasters.

14 Implementation of the Delivery Program will need to be carefully monitored and further adjustments implemented as necessary.

15 In order to ensure the objective of financial sustainability is achieved further investigation of Council’s current delivery methods including benchmarking of service costs and market testing will be ongoing.

RELATED PREVIOUS DECISIONS

16 Council endorsed the 2015-25 LTFP on the 17 February 2015.


18 Council adopted Budget Principles for the development of the 2013/14 Operational Plan, Four Year Delivery Program and 10 Year Financial Plan on 18 April 2013.
19 Council endorsed the Draft Newcastle Community Strategic Plan (Revised 2013) to go on public exhibition on 30 April 2013 and adopted the Plan on 25 June 2013.

CONSULTATION

20 Two Councillor Budget Workshops held on 10 March and 17 March 2015 and further information provided to Councilors on 14 April 2015.

21 Subject to endorsement of the recommendation detailed at Paragraph 1 above the draft 2013-17 draft Delivery Program and the 2015/16 draft Operational Plan and draft 2015/16 Fees and Charges Register will be placed on public exhibition for 28 days and the community feedback received will be considered prior to finalising the documents.

OPTIONS

Option 1

21 The recommendation as at Paragraph 1.

Option 2

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

BACKGROUND

23 The 2013-17 Delivery Plan has been based on the outcomes of the ISFA prepared in November 2012 and expert independent advice. The ISFA found that the current budget position and increasing deficit forecast at that time was not sustainable in the long term.

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

REFERENCES

ATTACHMENTS

<table>
<thead>
<tr>
<th>Attachment A:</th>
<th>Distributed under separate cover</th>
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<tbody>
<tr>
<td>Attachment B:</td>
<td>2013-17 Draft Delivery Program</td>
</tr>
<tr>
<td>Attachment C:</td>
<td>2015/16 Draft Operational Plan</td>
</tr>
<tr>
<td></td>
<td>2015/16 Draft Fees and Charges Register</td>
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</table>
MOTION
Moved by Lord Mayor Cr Nelmes, seconded by Cr Clausen

Council endorses the revised 2013-17 draft Delivery Program and the 2015/16 draft Operational Plan and draft Fees and Charges schedule and places these documents on public exhibition for 28 days prior to final consideration by Council.

AMENDMENT
Moved by Cr Dunn, seconded by Cr Crakanthorp

Council endorses the revised 2013-17 draft Delivery Program and the 2015/16 draft Operational Plan and draft Fees and Charges schedule with the Beresfield Swimming Centre Fees and Charges amended as follows and places these documents on public exhibition for 28 days prior to final consideration by Council.

Summary of Fees and Charges

<table>
<thead>
<tr>
<th>Beresfield Swimming Centre Fees</th>
<th>Proposed Fees &amp; Charges for BSC 2015/16</th>
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</thead>
<tbody>
<tr>
<td>Single Admission</td>
<td>$2.80</td>
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<tr>
<td>Children 0-5</td>
<td>Free</td>
</tr>
<tr>
<td>Pensioner Admission</td>
<td>$2.20</td>
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<tr>
<td>Spectator</td>
<td>Free</td>
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<tr>
<td>Bulk Entry (over 20 patrons)</td>
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<td>Family Day Ticket</td>
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<td>- Pensioner Aqua Aerobics</td>
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<td>- Learn to Swim - Group Lesson</td>
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<tr>
<td>- Squads Level 2 - 10 Pass</td>
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The Lord Mayor and Councillor Clausen indicated they would incorporate the amendment into the motion.
The amended motion moved by Lord Mayor Cr Nelmes and seconded by Councillor Clausen was put to the meeting.

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

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

*Carried*
ITEM-28 CCL 28/04/15 - PROPOSED ROAD CLOSURE AND SALE OF PART OF THE GROVE, MEREWETHER HEIGHTS

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

PURPOSE

To seek a resolution to close a small part of The Grove, Merewether Heights, shown in Attachment A and sell the land to the adjoining property owner, the applicant at 12 The Grove, Merewether Heights. The road closure is subject to approval by the Crown (NSW Department of Trade and Investment) and Ministerial consent, following Council's endorsement to close the road.

RECOMMENDATION

1. (a) Council endorses the closure of 8m\(^2\) of The Grove, Merewether Heights, adjacent to Lot 288 DP 221588.

   (b) Subject to receiving approval for the road closure from the Crown (NSW Department of Trade and Investment), Council approves the sale of the parcel of land to the adjoining owner, the applicant, for the sale price of $5,000 (plus GST), with all costs including legal, survey and service relocation to be borne by the applicant owner.

   (c) The net proceeds of the sale to be credited to the Land and Property Reserve.

   (d) Authority be granted to the General Manager or his delegate to execute all relevant documentation to effect the transaction.

KEY ISSUES

2. The proposed road closure and sale of the land would have no impact on vehicular traffic or pedestrian movements, as the existing kerb and gutter is outside the closure area and matches with the existing physical street alignment.

3. Council has received written acceptance from the applicant agreeing to consolidate the road closure lot with their property, agreeing to pay all costs associated with the closure and agreeing to the valuation of $5,000 (plus GST) for the road closure compensation.

4. The sale proceeds will be transferred to Council's Land and Property Reserve.
5 Any development of the land sold to the adjoining owner or any future owner would be subject to development consent.

FINANCIAL IMPACT

6 Council will receive $5,000 (plus GST) from the closure road and sale and all costs including legal, survey and service relocation are to be borne by the adjoining owner.

7 The revenue received by Council from the sale of the land is proposed to be transferred to the Land and Property Reserve.

COMMUNITY STRATEGIC PLAN ALIGNMENT

N/A

IMPLEMENTATION PLAN/IMPLICATIONS

8 The proposed road closure and sale is not prohibited under any existing planning instrument.

9 The next steps in the road closure process involve an application to the Crown for an 'in principle' approval, then Council entering into a deed of agreement with the adjoining owner. The applicant is then required to provide a survey plan and subdivision application for road closure, thereby creating a separate lot for sale. After endorsement and registration of the plan at the Land and Property Information (LPI), the Crown then publishes the closure by Government Gazettal. After amendments to the title, the land will be sold to the applicant.

10 Timeframe for the road closure process is expected to be 15 months.

RISK ASSESSMENT AND MITIGATION

11 Relevant Council officers have been consulted and raised no objections to the proposed road closure.

RELATED PREVIOUS DECISIONS

12 There are no previous related road closure decisions for The Grove, Merewether Heights.

CONSULTATION

13 The road closure application was advertised for public comment for a period of 28 days with the adjoining property owners being notified directly by mail. Submissions were received from Ausgrid, Jemena Asset Management, Roads and Maritime Services, Telstra and Hunter Water Corporation. These authorities raised no objection to the closure.
OPTIONS

Option 1

14 The recommendation as at Paragraph 1 (a) - (d).

Option 2

15 Council does not consent to the proposed road closure and subsequent sale of part of The Grove, Merewether Heights. This is not the recommended option.

BACKGROUND

16 The road "The Grove" was initially dedicated on 19 March 1964 by plan DP 221588, as part of the Merewether Heights estate residential subdivision.

17 In 2007, a Development Application (DA 07/1530) was submitted to Council for a swimming pool addition to 12 The Grove by the applicant. As a result of the construction of the pool and surrounds, it was discovered that a fence adjacent to the pool was found to be encroaching onto the road reserve.

18 It was determined that it was not feasible to remove the fence, and attached deck area, from the road reserve. Therefore as part of the approval process, it was agreed that to formalise the encroachment, a road closure application was necessary to provide a method by which the owner of the adjoining property could come into ownership of the land.

19 In the interim, Council has given consent, pursuant to Section 138 of the Roads Act 1993, for the encroachment on the road reserve, prior to the closure and sale formally being completed.

20 The section of the road reserve proposed to be closed and sold to the owner of 12 The Grove, Merewether Heights will be a parcel 0.7m wide and 11m long, having a total area of $8m^2$ (subject to final survey) and is adjacent to the applicant's property (Attachment B). The road is a cul-de-sac and has no through traffic and the closure of the road reserve will not impact on traffic and will not affect any physical access rights.
21 A valuation to determine appropriate compensation of the road section was completed and assessed at $5,000 (plus GST), to which the applicant has agreed. The applicant also agreed to be responsible for all legal, survey and land registration costs.

REFERENCES

Nil

ATTACHMENTS

Attachment A: Aerial Diagram of 12 The Grove, Merewether Heights
Attachment B: Site Diagram of 12 The Grove, Merewether Heights.
Aerial Diagram Showing Proposed Road Closure at 12 The Grove, Merewether Heights
MOTION
Moved by Cr Luke, seconded by Cr Tiemey

(a) Council endorses the closure of 8m² of The Grove, Merewether Heights, adjacent to Lot 288 DP 221588.

(b) Subject to receiving approval for the road closure from the Crown (NSW Department of Trade and Investment), Council approves the sale of the parcel of land to the adjoining owner, the applicant, for the sale price of $5,000 (plus GST), with all costs including legal, survey and service relocation to be borne by the applicant owner.

(c) The net proceeds of the sale to be credited to the Land and Property Reserve.

(d) Authority be granted to the General Manager or his delegate to execute all relevant documentation to effect the transaction.

Carried
ITEM-29  CCL 28/04/15 - WHARF ROAD AND SCOTT STREET
NEWCASTLE, PROPOSED RAISED THRESHOLDS,
PEDESTRIAN CROSSINGS AND PEDESTRIAN REFUGE

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

PURPOSE

It is proposed to install two raised thresholds with pedestrian crossings (also known as "wombat crossings") in Wharf Road near Scratchley's Restaurant and Queen's Wharf, as well as a pedestrian refuge in Scott Street east of Wolfe Street to increase pedestrian safety in this location. The Newcastle City Traffic Committee (NCTC) endorsed the plan as shown in Attachment A, and recommended the project be forwarded to Council for final determination and approval.

RECOMMENDATION

1 Approve the raised thresholds with pedestrian crossings in Wharf Road near Scratchley's Restaurant and Queen's Wharf, and the pedestrian refuge in Scott Street east of Wolfe Street

KEY ISSUES

2 In January/February 2015 the State Government opened up five pedestrian pathways across the heavy rail line from Steel Street to Wolfe Street. One of these pedestrian pathways is near Queen's Wharf east of Wolfe Street.

3 The crossings have proven to be popular, including the one near Wolfe Street. Pedestrians cross Wharf Road and Scott Street and pedestrian facilities are warranted in this location to increase safety. The NCTC recommended raised threshold with kerb extensions and a pedestrian crossing in Wharf Road near Queen's Wharf. A pedestrian refuge is also recommended in Scott Street east of Wolfe Street to assist pedestrians to cross and for those who don't wish to use the pedestrian traffic lights near Perkins Street.

4 To increase pedestrian safety in Wharf Road and Scott Street near the newly opened railway crossing, interim measures were carried out in February and March 2015. These included No Stopping signs on Wharf Road and Scott Street to increase sight distance of pedestrians' ahead, directional signs to encourage pedestrians to use the pedestrian traffic signals near Perkins Street and the pedestrian refuge near Market Street.
5 The Roads and Maritime Services (RMS) also introduced a 40 km/h High Pedestrian Activity Area (HPA) speed limit in Wharf Road from Scratchley's Restaurant to the Watt Street roundabout end. The 40 km/h speed limit signs were installed in early March to slow traffic and increase safety to pedestrians. High Pedestrian Activity warning signs have also been installed.

6 Community consultation was conducted by Council's Traffic and Transport Coordinator, either by a personal visit or phone call to businesses in the area such as Scratchley's Restaurant, Harry's Café De Wheels, Queen's Wharf Brewery, The Diggers Club and a few businesses in Wolfe Street. The responses were all positive and they welcome the additional pedestrian facilities in Wharf Road and Scott Street. No objections were received to the proposal.

FINANCIAL IMPACT

7 The project will be funded in two streams. The wombat crossing in Wharf Road near Queen's Wharf and the Scott Street pedestrian refuge works were forwarded to Transport for NSW for funding as a result of the pedestrian activity following the opening of the railway crossing. A request for $105,000 has been made to Transport for NSW. The project is a high priority and it is recommended for installation as soon as possible. At the time of writing verbal indication has been received from Transport for NSW that the funding will be approved.

8 The raised threshold and pedestrian crossing project in Wharf Road near Scratchley's Restaurant was forwarded to the Roads and Maritime Services for funding of $75,000 as part of the 40 km/h HPA. This project will have to wait until the RMS confirms the funding. The amount includes improvement of the drainage on the northern side of Wharf Road.

COMMUNITY STRATEGIC PLAN ALIGNMENT

9 The project proposal is aligned with the “Connected City” strategic direction that states “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”. It also supports the objective of “linked networks of cycle and pedestrian paths”.

IMPLEMENTATION PLAN/IMPLICATIONS

10 Approval of the raised threshold, kerb extensions and pedestrian refuge are not delegated to Council Officers and must be referred to Council for final determination.

11 Approval of the proposed projects does not have any implications for existing or future planning policies and projects of Council. The project in Wharf Road and Scott Street will receive high priority of implementation due to safety concerns for pedestrians crossing Wharf Road.
RISK ASSESSMENT AND MITIGATION

12 The proposed crossings and pedestrian refuge are intended to increase pedestrian safety by slowing traffic passing through the crossing. This is supplemented by the introduction of the 40 km/h HPA signage along Wharf Road.

RELATED PREVIOUS DECISIONS

13 The project was endorsed by the NCTC on 16 February and 16 March 2015 for Council consideration and final determination.

CONSULTATION

14 Community consultation was conducted with businesses in the area and other stakeholders such as Newcastle Police, RMS, Ambulance, NSW Fire Brigade, Newcastle Cycleways, etc. No objection was received to the project.

OPTIONS

Option 1

15 Approve the recommendation set out in Paragraph 1. This is the recommended option.

Option 2

16 Council not approve the pedestrian thresholds with pedestrian crossings in Wharf Road and pedestrian refuge in Scott Street. This is not the recommended option.

BACKGROUND

17 Please refer to Key Issues for background information.

REFERENCES

ATTACHMENTS

Attachment A: NCTC endorsed plan
Attachment A

PROPOSED PEDESTRIAN CROSSING AND RAISED THRESHOLDS (WOMBAT CROSSINGS) IN WHARF ROAD AND PEDESTRIAN REFUGE IN SCOTT STREET

MOTION
Moved by Cr Osborne, seconded by Cr Luke

Approve the raised thresholds with pedestrian crossings in Wharf Road near Scratchley's Restaurant and Queen's Wharf, and the pedestrian refuge in Scott Street east of Wolfe Street.

Carried
ITEM-30 CCL 28/04/15 - EXHIBITION OF DRAFT WALLSEND FLOODPLAIN RISK MANAGEMENT PLAN – IMPLEMENTATION STUDY

REPORT BY: INFRASTRUCTURE
CONTACT: DIRECTOR INFRASTRUCTURE / MANAGER PROJECTS & CONTRACTS

PURPOSE

The purpose of this report is to provide information on the draft Wallsend Floodplain Risk Management Plan – Implementation Study (the Implementation Study) and to seek Council’s endorsement for it to be placed on public exhibition for comment on a preferred option.

RECOMMENDATION

1 Council endorse Option 2 as the preferred option of the draft Wallsend Floodplain Risk Management Plan – Implementation Study.

2 Council place the draft Wallsend Floodplain Risk Management Plan – Implementation Study (Attachment A) on public exhibition for a period of six weeks.

KEY ISSUES

3 Flood risks in the Ironbark Creek Catchment have been identified as significant for the Wallsend CBD. The June 2007 event was particularly damaging for the business owners in the Wallsend CBD and members of the Wallsend Town Business Association have been active in fostering the need for flood risk management in the commercial area.

4 Council undertook a succession of studies following the June 2007 event in accordance with State Government guidelines. The result was adoption of a Floodplain Risk Management Plan (FRMP) in 2009, which included the consideration of a range of measures for Wallsend (to the total estimated value of $44M).

5 The total cost to implement options of the 2009 FRMP was considered to be prohibitive and would not easily attract funding through the flood grants program of the state/federal government. The Implementation Study was commissioned to investigate more cost effective options. SMEC, as independent consultants, were appointed in 2013 to undertake the Implementation Study.
The Implementation Study used the options identified in the FRMP as a starting point to develop the most effective and efficient options. As a result four targeted options have been identified and assessed in detail using a cost benefit analysis.

The following four options were assessed in detail for the Implementation Study:

**Option 1** Minmi Road bridge enlargement

**Option 2** Remove Tyrrell and Boscowen Street bridges from the open channel and enhance conveyance of Nelson Street bridge

**Option 4B** Remove designated commercial center buildings on right bank (east of channel) and install a levee along Tyrrell Street (east of channel)

**Option 5B** New 20-25m wide open channel in the Wallsend Commercial Centre (Ironbark Creek) and removal of Tyrrell and Boscowen Street bridges. Plus rebuilding Nelson Street bridge.

All of the options were found to reduce flood inundation of the commercial area except Option 1.

Option 4B was estimated to offer the best value for money with a cost benefit ratio of 3.7. However the works associated with the option worsen the flood hazard in parts of the commercial area and this is not an acceptable outcome for public safety. As a result Option 4B is not recommended.

Option 2 is the recommended option because it achieves notable benefits in the form of $16.5M in flood damage reduction for relatively low capital cost ($5.9M). A cost benefit ratio of 2.8 was estimated demonstrating that the benefits far outweigh the costs.

In addition Option 2 reduces the risk of flooding in the commercial area and achieves a 10% AEP (annual exceedence probability) capacity for the Ironbark Creek canal. This aligns with the serviceability target for Council’s stormwater asset management systems. The probability of a particular rainfall amount for a specified duration being equaled or exceeded in any one year period can be expressed as a percentage. The use of annual exceedence probability (AEP) to describe the chance of a particular rainfall is preferred as it conveys the probability or chance that exists for each year.

It is notable that the options that were examined in this study are basic options to determine the most feasible approach to pursue to implementation. Depending on community feedback there may be variations to Option 2 that will need to be explored, such as replacement of the Tyrrell Street and Boscowen Street bridges with higher, low profile structures, in place of the complete removal option.
FINANCIAL IMPACT

12 At this point, the recommendation is for exhibition of the draft Implementation Study report only. The costs associated with exhibition of the document are accommodation in the current consultant's contract.

13 In terms of selecting a preferred option costs for each of the Options is detailed in the draft Implementation Study report. Option 2 was found to have a relatively low capital cost of $5.9M in comparison to other options. Variations of this option, such as replacement of the Tyrrell and Boscowen Street bridges, would add about $8M to the cost. This would bring the cost/benefit ratio down to close to Option 5B but Option 2 would still be at a lower capital cost.

14 The state flood grant program supports implementation works of floodplain management with funding on a 2:1 ratio of state:local government contribution. For the 2014-15 financial year a total of $13M was allocated by the State for implementation works where the highest value project funded was $3.5M. This however might not reflect what is offered for the next financial year.

15 It should be noted that Council endorsement of Option 2, and the outcome of the public exhibition process, places Council in a better position to source funding to undertake this work. Council does not have the funding allocated the Long term Financial Plan to do Flood works of this scale and needs significant Government financial assistance to progress the works. It must be noted that, commensurate with the comment in paragraph 14, the higher the cost of the solution the harder it will be to secure funding.

COMMUNITY STRATEGIC PLAN ALIGNMENT

16 The draft Implementation Study aligns with the adopted Wallsend Commercial Centre Floodplain Risk Management Plan 2009. It is the highest implementation priority of a key project (City-Wide Flood plan) as identified in Council's adopted (2011) 2030 Newcastle Community Strategic Plan.

IMPLEMENTATION PLAN/IMPLICATIONS

17 The draft Implementation Study report is prepared to fulfill Council's responsibility according to the principles of the NSW Floodplain Development Manual, as required by Section 733 of the Local Government Act 1993.

18 The recommended option 2 demonstrates a commitment to reduce the frequency of flooding in the Wallsend commercial area. None of the options would however reduce the risk to life in an extreme flood event much greater than the 100 year flood.
19 The recommended option 2 involves removal of two bridges in the commercial area that would significantly disturb the current flow of traffic. A traffic management study has been prepared in the draft Implementation Study to investigate the effects on traffic. Variations to Option 2 at a higher capital cost, would mitigate this risk.

20 The construction phase would conflict with access to various businesses aligning the open channel. Consideration of traffic management during implementation would be a key task to limit the impact to these businesses.

RISK ASSESSMENT AND MITIGATION

21 At this stage the cost estimates for the options are not detailed enough for submission of a flood grant application. In order to reach the level of detail required a detailed design process is necessary. Estimated cost for the detailed design is estimated to be in the order of $300,000, which is eligible for grant funding.

22 The cost estimate for Option 2 may increase following the detailed design process if unforeseen constraints arise. Appropriate ancillary works and contingencies have been made in the cost estimate to mitigate this risk.

23 The community and/or stakeholders may not accept the preferred option presented in the public exhibition. Direct consultation with stakeholders and the community, see paragraphs 24-26, has been and will continue to be a priority for Council to ensure that the preference is well understood and supported.

RELATED PREVIOUS DECISIONS

24 Appointment of the preferred tenderer for the Implementation Study, (SMEC consultants) was approved by Council at the ordinary meeting on 25 June 2013.

25 Council adopted the Wallsend Commercial Centre FRMP in August 2009, which recommended a range of options to reduce the flood risk in the Wallsend CBD. These have been refined as part of the draft Implementation Study.

CONSULTATION

26 Officers from the Infrastructure directorate have been involved in review of the results of the Implementation Study and in development of the draft report. The recommended public exhibition period offers the opportunity for wider comment on the proposed preferred option and findings of the draft Implementation Study.

27 The Floodplain Management Committee has been involved in the development of the targeted options throughout 2014 and in early 2015 providing comment on the findings of the draft Implementation Study.
28 As part of the Wallsend Winter Fair on 10 August 2014, Council Officers were present to update the community on the progress of the project and advise of the community information session for November 2014.

29 A community information session was held at the Wallsend library in November 2014 to update the community on the progress and findings of the Implementation Study.

30 Three Drop-in sessions were held at the Wallsend library in March 2015 to offer the community and key interest groups the opportunity to hear the findings of the Implementation Study and ask questions.

31 A Councillor workshop was held in mid April 2015 in order to present the findings of the Implementation Study and allow for an improved understanding of the targeted options.

OPTIONS

Option 1

32 The recommendation as at Paragraphs 1 and 2. Public exhibition to commence Monday 4 May till Friday 12 June 2015

Option 2

33 Revise the draft Implementation Study report prior to public exhibition. In this case, Council should advise the specific changes required. The delay to exhibition will be dependent on the degree of modification.

BACKGROUND

34 Historical flooding has been experienced in the Wallsend CBD on an average occurrence interval of 10-15 years. Media reports of flooding are recorded dating back to the mid-19th century where Nelson and Council Streets Wallsend experienced inundation depths of up to 7 feet. During the June 2007 storm flash flooding was experienced in the Wallsend CBD due to intense rainfall and significant blockage of the Cowper, Tyrrell, Nelson and Boscawen Street bridges.

35 Flood risks in the Ironbark Creek Catchment have been identified as significant for the Wallsend CBD in the 2009 FRMP. The FRMP targeted the reduction of flood risk through structural works with two main components:

- Increasing the flow capacity under Minmi Road; and
- Removing designated buildings and bridges, and widening the Ironbark Creek channel between the downstream end of the Stockland Wallsend shopping center and Federal Park.
A principal aim of the 2009 FRMP was to reduce the force of flash flood waters in extreme events from present conditions where most buildings would be in danger of collapse. Practical strengthening of buildings was investigated so as to allow shelter-in-place using refuges when evacuation was not possible due to the rapid onset of extreme evacuation hazard.

Council engaged SMEC in 2013 to assess the options in the 2009 FRMP, and to develop an implementation strategy for a preferred option. The primary goal of the current study is to undertake investigations, in the form of a cost benefit analysis, to determine the feasibility of the five nominated options in 2009.

Council with financial assistance from NSW Government's Floodplain Management Grant Program is trialing a Flash Flood Alert Service for the middle and lower reaches of Ironbark Creek, Wallsend. The trial will run for a period of 12 months and is expected to be operation from May 2015. Local residents are signing up for the free twelve month trial.

REFERENCES


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

1 Council notes Option 2 as the preferred option of the draft Wallsend Floodplain Risk Management Plan – Implementation Study.

2 Council place the draft Wallsend Floodplain Risk Management Plan – Implementation Study (Attachment A) on public exhibition for a period of six weeks.

3 Council:

   a) undertake a traffic study to determine the impact of Option 2 on local traffic;
   b) investigate the feasibility and cost of replacing the bridges at Tyrrell and Boscowen Streets in order to achieve similar benefits to Option 2 while maintaining vehicular access;

and report back to Councillors.

Carried
ITEM-31 CCL 28/04/15 - NEWCASTLE SMART CITY INITIATIVES

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

PURPOSE

The purpose of this report is to inform Council of progress in the development of Newcastle as a smart and innovative city, and to seek endorsement of the Newcastle Smart City Initiative to further establish and take advantage of smart city strategic opportunities.

RECOMMENDATION

1 That Council resolves to:
   a) Acknowledge and endorse actions taken to date supporting the pilot project and development of Newcastle as a creative smart city.
   b) Endorse grant funding application to the Federal Attorney General’s Safer Streets Program for the Smart Crime Prevention Platform.
   c) Endorse the Newcastle Smart City Initiative to further identify, establish and take advantage of smart city strategic opportunities.

KEY ISSUES

2 Council representation in the Smart City Expo Delegation to the United States in October 2014 has triggered a range of outcomes and rapid development of multi-stakeholder strategic efforts to establish Newcastle as a creative and innovative smart city.

3 A smart city has three primary elements:
   a) A smart urban infrastructure capable of collecting and processing multi-sensor internet of things (IoT) data to improve the measurement of asset status and life-cycle, and to understand population behaviour. Intelligent and integrated analysis of this data enables reduced costs, enhanced resource allocation and improved efficiencies across a range of applications.
   b) A smart city has a focus on people utilising digital technologies to enhance performance and wellbeing, to engage more effectively and accurately with its citizens, and to encourage efficiency and creativity.
c) A commercial and cultural innovation ‘ecology’ that supports, attracts, and enables industries, businesses, and entrepreneurs working in ‘smart’ sectors to drive development of smart city services, creative applications, and interactive urban environments.

4 International research and stakeholder engagement has identified a number of valuable points of difference and value propositions underpinning the development of the Newcastle Smart City Initiative:

   a) A joint strategic approach between local government (The City of Newcastle) and the business community (Newcastle NOW).
   b) The prospect of integrating smart city with a comprehensive urban renewal program and evolving post-industrial services-led economy.
   c) An emphasis on utilising smart city technology for its creative applications in addition to its resource efficiency and asset management potentials.
   d) An opportunity to be a leader in the region and Australia in the adoption of an integrated and comprehensive smart city platform.

Funding Opportunities

5 Council is currently undertaking processes of research, evaluation and system design concerning the use of IoT-enabled security and smart lighting system to further increase the safety and amenity of the city centre and Hamilton nightlife precincts. The Smart Crime Prevention Platform being proposed will form part of a grant funding application to the Federal Attorney General’s Safer Streets Program. Funding available through this Federal program in 2015-16 is $15 million.

6 The funding window for the 2015-16 round of the Federal Attorney General’s Safer Streets Program has not yet been released.

7 Newcastle NOW, with support of Council, is preparing a grant funding application to the 2015 round of the Hunter Infrastructure and Investment Fund (HIIF) for the purposes of providing a high-speed data network to underpin the smart city infrastructure. NBN Co. has been contracted by Newcastle NOW to do a detailed costing and cost-benefit of investment in broadband services through fibre-to-the premises (fttp) for the city. In addition to the provision of data infrastructure, these benefits include the potential to promote the city and capacity to attract new businesses and commercial enterprises to Newcastle to support the smart city innovation ecology identified in paragraph 3.

8 Newcastle’s transition to a smart city is not dependent on successful HIIF funding, but distribution of fttp in key locations throughout the city would provide extensive value-add and impetus to the smart city process.

9 The funding window for the 2015 round of the Hunter Infrastructure and Investment Fund has not yet been released.
Smart City Pilot Projects

10 Newcastle NOW in partnership with VIMOC Technologies Inc (with assistance from Council) has been installing a smart city pilot project in Darby Street. The Kaooma Project demonstrates the capability of an IoT platform for capturing data and enabling smart city services applicable to Council, the business sector, and the wider community. The Kaooma Project was recognised as a finalist in the Cisco Internet of Things Global Innovation Challenge, placing in the top six of 812 entries globally.

11 Smart City applications being tested in the Kaooma Project include people counting and smart car park management. Phase II of the Kaooma Project is expected to be installed by the end of April 2015.

12 Newcastle NOW has signed a non-binding MOU with Cisco to work together towards implementing a second smart city pilot in the City Centre. Cisco has presented to key Council staff and Newcastle NOW on their global Smart and Connected Cities program.

13 Through partnership with Newcastle NOW, Council has been able to provide input into the development of the City Centre Pilot. The smart applications selected are:

- City-wide Wi-Fi
- Safe City and Crime Prevention
- People Movement Analytics (including pedestrian count and traffic monitoring)
- Smart Car Parking Management
- Visitor Services (including smart signage, way-finding and tourist information)

14 The city centre pilot is currently in the planning phases with implementation of selected smart city applications expected to commence in 2015.

Stakeholder Engagement

15 Council, with Newcastle NOW, has been liaising with key city stakeholders to explore opportunities around smart city and related infrastructure. City stakeholders who have expressed interest in the potential of the Newcastle Smart City Initiative include:

- The University of Newcastle
- Urban Growth NSW
- Regional Development Australia Hunter
- NSW Police - Newcastle Local Area Command
An internal advisory group has been formed to promote and encourage the Smart City Initiative. Project and programming arising from this group will be required to go through the normal Council approval process.

The Smart City Advisory Group will be responsible for developing project concepts that can demonstrate the potential of smart city technology to improve the capacity or efficiency of Council service delivery. These projects will seek to integrate Council services with the technology of the city centre and Kaooma smart city pilots in order to maximise the benefits for Council. Members of the advisory group will also work to champion the Smart City Initiative.

Endorsement of the Smart City Initiative to further identify, establish and take advantage of smart city strategic opportunities would therefore enable Council to:

a) Continue to support the Newcastle NOW’s smart city pilots in the City Centre and Darby Street, and ensure that the use cases deployed in these pilots fully and rigorously test the potential of smart city applications.

b) Explore and test a range of concepts developed by the Smart City Advisory Group to understand the capacity of IoT and smart city technology to improve Council business and service delivery.

c) Continue effectively to engage with key city stakeholders to ensure Council is positioned to maximise benefits from the transition to a creative smart city.

d) Develop the community engagement and consultation program to inform and consult with the community about IoT/smart city technology opportunities derived from the transition to smart city status.

e) Research and evaluate necessary internal governance and policy structures and processes required to ensure Council is well positioned to transition to a smart city.

FINANCIAL IMPACT

The Newcastle Smart City Initiative is a rapidly developing opportunity and is not identified in the existing Operational Plan. Continued support of the Newcastle NOW pilot projects require workload at the Officer level to facilitate implementation of the projects. For example, Council support of installation of the Kaooma trial has involved line marking of car parking bays in Darby Street. These kinds of support actions will occur within existing budget and work flow as part of the normal business of Council.

Successful acquisition of grant funding for the Smart Crime Prevention Platform through the Federal Attorney General’s Safer Streets Program would create an infrastructure project for implementation within 3 years. Pending grant funding, this project would need to be programmed, tendered and would require project management.
21 The Newcastle Smart City Initiative is the subject of a corporate project submission for financial years 2015/16 and 2016/17. Primarily this will involve developing small projects representing cross-silo collaborations between Council business units seeking to identify and test ideas for utilising smart city/IoT technology to improve the ways Council handles data and delivers services to the community.

22 To date the Newcastle Smart City Initiative has been resourced through Strategic Planning Services, relying specifically on the Community Safety Facilitator. In order to adequately manage existing workloads and also maximise smart city opportunities, it will be necessary to consider the resources available to support the Initiative.

COMMUNITY STRATEGIC PLAN ALIGNMENT

23 The Smart City Initiative has genuinely ‘whole-of-organisation’ potential benefits and aligns with the following objectives of Newcastle 2030:

1.1: Effective and integrated public transport
1.3: A transport network that encourages energy and resource efficiency
2.1: Greater efficiency in the use of resources
3.1: Public places that provide for diverse activity and strengthen our social connections
3.3: Safe and activated places that are used by people day and night
4.3: A creative, culturally rich and vibrant community
5.4: Best practice energy and water efficient buildings and infrastructure
6.2: A culture that supports and encourages innovation and creativity at all levels
6.3: A thriving city that attracts people to live, work, invest and visit
7.3: Active citizen engagement in local planning and decision-making processes and a shared responsibility for achieving our goals

IMPLEMENTATION PLAN/IMPLICATIONS

24 The Newcastle Smart City Initiative conforms to existing Council policies and control plans.
25 Preparation and submission of the grant funding application for the Smart Crime Prevention Platform and, if successful, its implementation and integration with wider installation of smart city technology would also form part of the Smart City Initiative.

RISK ASSESSMENT AND MITIGATION

26 There is a strong need for Council to be seen as a leader and a key player in discussion with stakeholders to advance the city towards smart city status. There is a present risk for Council in allowing discussions and stakeholder relationships to progress without having an active role in the development of key strategic directions. Likewise, there is a risk that smart city pilot projects progressing without strategic input and support from Council will impede Council's capacity to effectively assess the potential of smart city technologies.

27 There is a key risk in failing to effectively communicate the meaning and opportunity of smart city for contributing to economic and urban renewal of Newcastle. The Smart City Initiative will include the development of a consultation and engagement program to inform the community to mitigate these risks.

RELATED PREVIOUS DECISIONS

28 At 23 September 2014 Council resolved to:

   a) Support and showcase the development of the City of Newcastle as a Smart City.
   
   b) Apply for membership of the Smart City global steering committee to reinforce presence of Newcastle as an emerging smart city.
   
   c) Send a delegation comprised of the General Manager, Acting Mayor Councillor Brad Luke, and the Community Safety Facilitator to the City of Palo Alto, California, and the Cisco Internet of Things World Forum in Chicago.
   
   d) Explore opportunities to establish ongoing mutually beneficial relationships with the City of Palo Alto, technology entrepreneurs and investors, and corporate entities that will support the development of a Smart City platform in the City of Newcastle.

CONSULTATION

29 The Newcastle Smart City Initiative has been discussed at a meeting of the Leadership Group (10 December 2014). The Newcastle Smart City Initiative has been the subject of a Councillor Workshop (10 March 2015).
An internal Smart City Advisory group has been formed in March 2015 to guide the further development and implementation of the Newcastle Smart City Initiative. This advisory group comprises managers from 10 business units and key strategic planners.

Preliminary community consultation on the use of integrated smart surveillance and lighting took place in the Newcastle After Dark survey in February 2015 through Newcastle Voice. The survey identified indicative support for surveillance systems and lighting improvements in nightlife precincts. It will be released to the public by Newcastle Voice in April 2015.

The development of a community consultation and engagement program around the broader smart city opportunities would form one key task of the Newcastle Smart City Initiative.

OPTIONS

Option 1

The recommendation as at Paragraph 1.

Option 2

Council could resolve not to endorse the Newcastle Smart City Initiative, or to selectively endorse the recommendations listed at paragraph 1. This course of action would jeopardise the capacity of Council to effectively and intelligently position itself to take advantage of current and emerging smart city opportunities to the benefit of Council and the city.

This is not the recommended option.

BACKGROUND

Participation in the Smart City delegation to the U.S. involved visitation to the City of Palo Alto, the capital of Silicon Valley (8-13 October), and Chicago (14-16 October) for the Cisco Internet of Things World Forum.

The Palo Alto component involved a series of meetings and networking events with key potential investors, suppliers, stakeholders, strategic partners, and smart city peers. Including the following:

- VIMOC Associates (stakeholders in the Kaooma Project)
- Silver Springs Networks (system integration - potential supplier)
- Rambus (smart lighting - potential supplier)
- City of Palo Alto (Smart city peers/strategic partners)
- Austrade (strategic partners)
These activities yielded the following outcomes:

- Rambus is willing to provide Council with some street lighting technology for pilot testing.
- The City of Palo Alto is open to establishing a smart city relationship for sharing experience in knowledge.
- Austrade is willing and ready to play a role in helping establish an innovation ecology in Newcastle.
- Stanford University is open to sharing the results of their smart city research programs, and to investigate a research relationship with University of Newcastle.

The Chicago component of the U.S. trip involved attending the IoT World Forum including conference sessions on: big data and analytics, smart city policies and case studies, innovative leadership, consortium and governance models. The Chicago conference also enabled the delegation to see and experience smart city technologies in practice and in operation through a Smart City Walking Tour through Chicago CBD, the global innovation challenge (featuring the Kaooma Project as a finalist), and various presentations on latest technology applications through the trade show.

Two meetings between the City of Newcastle Delegation and Executives from Cisco took place in Chicago. These meetings were instrumental in establishing the interest of Newcastle in taking advantage of smart city opportunities, and formative in building relationships that have resulted in a non-binding MOU between Newcastle NOW and Cisco to establish a smart city pilot project in the city centre.

ATTACHMENTS

Nil
MOTION
Moved by Cr Luke, seconded by Cr Clausen

That Council resolves to:

a) Acknowledge and endorse actions taken to date supporting the pilot project and development of Newcastle as a creative smart city.

b) Endorse grant funding application to the Federal Attorney General’s Safer Streets Program for the Smart Crime Prevention Platform.

c) Endorse the Newcastle Smart City Initiative to further identify, establish and take advantage of smart city strategic opportunities.

Carried
ITEM-32  CCL 28/04/15 - ADOPTION OF MINOR HERITAGE AMENDMENTS TO NEWCASTLE LEP 2012

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

PURPOSE

To inform Council of the outcomes of community consultation carried out for planning proposal PP_2014_NEWCA_006_00 (Part B – Minor Heritage Amendments) and seek endorsement to an amendment to Newcastle Local Environmental Plan (LEP) 2012.

RECOMMENDATION

1 Council resolves to:
   
a) Endorse the planning proposal PP_2014_NEWCA_006_00 (Part B – Minor Heritage Amendments), as amended within Attachment A of this report, to amend Newcastle Local Environmental Plan 2012, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979, in order to address various minor heritage matters as outlined in Attachment A (Planning Proposal – Part B – Minor Heritage Amendments); and

b) Forward planning proposal PP_2014_NEWCA_006_00 (Part B – Minor Heritage Amendments) 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.

KEY ISSUES

2 The Department of Planning and Environment (DPE) issued a gateway determination on 27 June 2014 in support of the Planning Proposal proceeding to community consultation. The gateway determination required a public exhibition period of 14 days.

3 The Planning Proposal was exhibited for a period of 14 days from 13 October to 27 October 2014 as required by the Department of Planning and Environment’s gateway determination.

4 Council received two submissions during the exhibition period raising objection to the Planning Proposal. A summary and response to the issues raised within the submissions are included in Attachment B to this report.
5 The gateway determination required consultation with the Mine Subsidence Board under s56(2)(d) of the Environmental Planning and Assessment Act 1979 (EP&A Act). In addition, Council consulted with the Office of Environment and Heritage. No objections were raised to any of these local heritage listings from either the Mine Subsidence Board or the Office of Environment and Heritage.

**FINANCIAL IMPACT**

6 The costs involved in carrying out the recommendation are covered by staff costs given this was a Council initiated planning proposal.

**COMMUNITY STRATEGIC PLAN ALIGNMENT**

7 The preparation and processing of the attached planning proposal aligns to the strategic direction ‘Open and Collaborative Leadership’ identified within the Newcastle 2030 Community Strategic Plan.

8 Compliance with the LEP amendment process, in particular section 57 Community Consultation 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”.

**IMPLEMENTATION PLAN/IMPLICATIONS**

9 The preparation of the attached planning proposal was undertaken in accordance with Council’s LEP 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 a Local Environmental Plan.

**RISK ASSESSMENT AND MITIGATION**

10 The process of amending a Local Environmental Plan 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 planning proposals are considered with regard to relevant strategic planning documents and are determined in an appropriate timeframe.

**RELATED PREVIOUS DECISIONS**

11 Pursuant to Section 55 of the EP&A Act 1979, Council at its meeting of 29 April 2014, resolved to endorse the planning proposal and forward it to DPE for gateway determination. This resolution was implemented as outlined in Attachment A to this report.
CONSULTATION

12 The Planning Proposal was exhibited for a period of 14 days from 13 October to 27 October 2014 as required by the Department of Planning and Environment's gateway determination.

13 As required under Section 56(2)(d) of the EP&A Act 1979, the planning proposal was referred to the Mine Subsidence Board and the Office of Environment and Heritage for comment. The MSB advised that it has no objections with the changes and has given some advice for future development with regard to specific sites. OEH advised they had no objection.

14 Council received two written submissions objecting to the planning proposal based on various grounds. The Planning Proposal has been modified to address the concerns raised by submissions. A summary of key points raised in the submissions and planning response to these concerns is included in Attachment B.

OPTIONS

Option 1

15 The recommendation as at Paragraph 1.

Option 2

16 Council resolves not to proceed with the planning proposal PP_2014_NEWCA_006_00 (Part B – Minor Heritage Amendments) in Attachment A and thereby NOT amend Newcastle LEP 2012.

17 As this planning proposal has previously received gateway determination, Council will need to request that the Minister for Planning and Environment allow Council to discontinue the proposed amendment. This is not the recommended option.

BACKGROUND

18 Council staff identified a number of matters that require amendment to Newcastle LEP 2012. As a result planning proposals were prepared and grouped together in order to avoid unduly delaying the anticipated timeframe for completion.

19 The planning proposal and amendments to the LEP:
   - Remove incorrect identification of items or properties due to recent subdivision of land.
   - Remove incorrect identified levels of significance due to items having been listed on the State Heritage Register.
   - Remove incorrect categorisation such as being identified as a ‘Heritage Item’ instead of an ‘Archaeological site’.
● Removal of listed items that have been demolished, removed or the like.
● Other minor anomalies.

20 The proposal will legally correct property descriptions and mapping anomalies relating to several heritage items which are currently listed in Newcastle Local Environmental Plan 2012.

ATTACHMENTS

Attachment A: Planning Proposal – Part B – Minor Heritage Amendments
Attachment B: Summary of submissions and Council response

Attachments A and B are distributed under separate cover.

MOTION
Moved by Cr Clausen, seconded by Cr Rufo

Council resolves to:

a) Endorse the planning proposal PP_2014_NEWCA_006_00 (Part B – Minor Heritage Amendments), as amended within Attachment A of this report, to amend Newcastle Local Environmental Plan 2012, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979, in order to address various minor heritage matters as outlined in Attachment A (Planning Proposal – Part B – Minor Heritage Amendments); and

b) Forward planning proposal PP_2014_NEWCA_006_00 (Part B – Minor Heritage Amendments) 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.

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

Against the Motion: Nil.

Carried
ITEM-33  CCL 28/04/15 - EXHIBITION OF DRAFT NEWCASTLE ARCHAEOLOGICAL MANAGEMENT STRATEGY 2015

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

PURPOSE

The purpose of this report is to obtain a resolution of Council to place the Draft Newcastle Archaeological Management Strategy 2015 on exhibition, as provided at Attachment A.

RECOMMENDATION

1 Council resolve to place the Draft Archaeological Management Strategy on public exhibition for a period of four weeks in the form as attached at Attachment A.

KEY ISSUES

2 The purpose of the Draft Newcastle Archaeological Management Strategy (NAMS) is to:

- integrate the ‘relic provisions’ at Section 139 of the NSW Heritage Act 1977 into Council procedures and processes
- identify areas of archaeological sensitivity so that planning decisions can take these aspects into account
- inform prospective developers, site owners and managers about the archaeological sensitivity of their land at the earliest opportunity
- ensure that resources (human, physical and financial) are directed to the most sensitive areas and important sites
- allow archaeologists time for proper assessment and investigation of significant archaeological sites
- reduce risk by identifying those areas where there is the potential to disturb relics so that this information can inform project planning, infrastructure delivery and development assessment processes.

3 The Strategy provides a framework for streamlined decision making in the context of development assessment, land use strategy, infrastructure planning and project delivery and outlines procedures for decision making in sensitive archaeological locations. It is based on two parent documents - the Newcastle Archaeological Management Plan 1997 (NAMP 1997) and the Newcastle Archaeological Management Plan Review 2013 (Review 2013). These documents are technical background reports supporting this Strategy.
4 The Strategy includes measures to retain significant archaeological deposits on land subject to a development proposal, including interpretation and presentation of archaeological remains on site. Other conservation measures are identified, consistent with the adopted Newcastle Heritage Policy and Heritage Strategy 2013-17.

FINANCIAL IMPACT

5 Any future projects will continue to be determined in accordance with the management plan and budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

6 The Draft Newcastle Archaeological Management Strategy aligns with the Liveable and Distinctive Built Environment strategic direction from the Newcastle 2030 Community Strategic Plan 2013.

IMPLEMENTATION PLAN/IMPLICATIONS


8 The Strategy does not address Aboriginal cultural material pre-dating 1788 because this material is subject to protections within the NSW National Parks and Wildlife Act 1974. The proposed Aboriginal Heritage Management Strategy, to be prepared later this year, will address Council's management of pre 1788 Aboriginal cultural heritage. In the absence of a specific strategy for pre 1788 Aboriginal cultural material, Council will continue to be guided by the strategic directions contained in the Newcastle Heritage Strategy 2013-17, and the “Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW”.

RISK ASSESSMENT AND MITIGATION

9 The Newcastle Archaeological Management Strategy seeks to reduce the risk of disturbing relics in the study area by identifying areas of archaeological potential. The relevant approval procedures to permit disturbance of a relic are outlined in the draft Strategy.

RELATED PREVIOUS DECISIONS

CONSULTATION

11 The draft Strategy will be publicly exhibited and key stakeholders will be invited to make submissions including the NSW Office of Environment and Heritage.

OPTIONS

Option 1

12 The recommendation as at Paragraph 1.

Option 2

13 Council not endorse the NAMS for public exhibition. This option is not the recommended option. This option would be inconsistent with NSW Heritage Council directions and would not achieve the strategic directions of the 2030 Community Strategic Plan.

BACKGROUND

14 As the second oldest city in Australia, Newcastle has a high concentration of archaeological sites, many of which have been assessed as state significant. Under sections 139-140 of the NSW Heritage Act (the relic provisions), any relic in NSW that has heritage significance is automatically protected, regardless of whether that relic is listed in a local environmental planning instrument or the State Heritage Register. Penalties apply to persons or corporations who disturb a relic without the prior consent of the NSW Heritage Council.

15 In addition to the automatic protection given to relics under the Act, Council’s Local Environmental Plan requires Council to take archaeological heritage into consideration when assessing a development application that may affect relics. Under Part 5.10 of the Newcastle LEP 2012, Council must notify the NSW Heritage Council if it is to grant development consent to a site with local heritage significance, and, it must take into consideration any advice received from the NSW Heritage Council. Furthermore, under the principles of the Newcastle Heritage Policy, Council is to ensure that archaeological sites are conserved, interpreted, celebrated and recognised.

16 Council, in its role as a provider of services and facilities, can refer to the procedures in the NAMS as a tool to manage risk in project planning and delivery, in those areas where there is the potential to disturb an archaeological site.

17 Archaeological resources are scattered across the inner suburbs and Newcastle City Centre. To ensure that other strategies of Council are not delayed or compromised, for example City Centre revitalisation, the NAMS aims to streamline decision making and minimise risk.
In view of the large number of archaeological sites that were being uncovered in the city centre in the years immediately following the Newcastle earthquake, Council engaged archaeologists to prepare an Archaeological Management Plan. This led to the adoption of the *Archaeological Management Plan for Inner Newcastle*, on 9 September 1997 (referred to as the NAMP 1997). The purpose of the NAMP 1997 was to assess the archaeological resource of the Newcastle City Centre to a basic and consistent level and identify areas of archaeological sensitivity.

Since adoption, the NAMP 1997 has determined the requirements for site specific investigations associated with development in the study area, and is disclosed in the Section 149 certificates issued in respect of land in the study area of the NAMP 1997.

Council partnered with the Heritage Division NSW Office of Environment and Heritage and Ausgrid to commission a review of the NAMP 1997. Edward Higginbotham & Associates Pty Ltd was engaged to compile the review, and a draft was completed in 2013. The review is a predictive model of the location of potential archaeological sites using historical mapping overlays to sequence the urban development of the city from 1804 onwards. The review updates baseline archaeological data and assesses the archaeological potential of roads and streets to inform infrastructure planning and delivery. It also assesses the degree of heritage significance of potential archaeological sites in the study area, which is intended to streamline the referral process to the NSW Office of Environment and Heritage.

**ATTACHMENTS**

Attachment A: Draft Newcastle Archaeological Management Strategy 2015

Attachment A is distributed under separate cover.

**MOTION**

Moved by Cr Luke, seconded by Cr Tierney

Council resolve to place the Draft Archaeological Management Strategy on public exhibition for a period of six weeks in the form as attached at Attachment A.

Carried
9 NOTICES OF MOTION

ITEM-14 NOM 28/04/15 - RESCISSION MOTION ITEM 4 NOM 25/03/14 - USE OF MOBILE PHONES AND SOCIAL MEDIA DURING COUNCIL MEETINGS AND WORKSHOPS

COUNCILLORS: CLAUSEN, DUNN, CRAKANTHORP, POSNIAK AND NELMES

PURPOSE

The following Notice of Motion was received on 16 April 2015 from the abovementioned Councillors:

MOTION

That Council’s decision in respect of Item 4 NOM 25/03/14 – Use of Mobile Phones and Social Media during Council meetings and workshops from the Ordinary Meeting of 25 March 2014 be altered.

That Clause 1 of the original motion is deleted, and replaced by:

1. Council permits Councillors’ use of electronic devices during Council meetings and workshops, provided that:

   a) Use of any device avoids interfering or distracting other Councillors, either visually or audibly, and should not interfere with proceedings – in particular, phone calls are not permitted within the Chamber and devices should be operated in silent mode

   b) Devices are not permitted to record the proceedings (either by audio or visual means), unless authority is granted under Section 40.3 of the Code of Meeting Practice.

   c) Communication on social media regarding confidential matters will be considered a potential breach of the Code of Conduct and of the Act

   d) use of devices should be as unobtrusive as possible and should be related to Councillors duties; and

2. Notes that:
a) Reflections on other Councillors made on Social Media must not be insulting, abusive, or imply improper motives as per Section 76 of the Code of Meeting Practice.

BACKGROUND

The motion of 25/03/14 is unduly restrictive and limits the ability of elected representatives to access important information relevant to decision making (such as emails), and communicate with the community.

Local, state and federal government bodies worldwide are in the process of determining policy to best adjust the increasing use of social media by the community, the needs of elected representatives and the ability to maintain decorum within meeting practice.

This altered motion seeks to only restrict the use of electronic devices where they impact would impact on the decorum of the meeting, or breach the Code of Conduct or Code of Meeting Practice. All other usage is permitted.

The altered motion has been compiled based on the recommendation of the thorough review undertaken by the Commonwealth’s House of Representatives Standing Committee on Procedure titled Use of electronic devices in the Chamber and Federation Chamber which was tabled to the Commonwealth Parliament on 24 September 2014.

ATTACHMENTS

Use of electronic devices in the Chamber and Federation Chamber

House of Representatives
Standing Committee on Procedure

September 2014
Canberra
Appendix B–Proposed House Resolution Relating to the Use of Electronic Devices in the Chamber

That the House:

1. permits Members’ use of electronic devices in the Chamber, Federation Chamber and committees, provided that:
   a. use of any device should avoid interference or distraction to other Members, either visually or audibly, and should not interfere with proceedings – in particular, phone calls are not permitted and devices should be operated in silent mode;
   b. devices are not permitted to record the proceedings (either by audio or visual means);
   c. communication on social media regarding private meetings of committees or in camera hearings will be considered a potential breach of privilege; and
   d. use of devices should be as unobtrusive as possible and should be directly related to the Members’ parliamentary duties; and

2. notes:
   a. that communication via electronic devices, whether in the Chamber or not, is unlikely to be covered by parliamentary privilege; and
   b. reflections on the Chair by Members made on social media may be treated as matters of order just as any such reflections made inside or outside the Chamber.
GENERAL MANAGER'S COMMENT

The Notice of Motion does not explain the reasons why Council should rescind the resolution approved by Council on 25 March 2014 (refer to the copy of the original NOM attached) concerning the prohibition of the use of mobile phones and social media during the course of Council meetings other than to state that it is "unduly restrictive". No qualitative assessment is offered in respect of the application of the prohibition since its implementation in terms of whether the prohibition has had any adverse practical impacts.

Typically, each monthly Ordinary Council Meeting lasts between two and three hours. During the course of any Council meeting, it should be incumbent upon Councillors to be totally focussed on the conduct of proceedings and to participate fully in debate without the interruption and diversion of attention to electronic devices (other than their iPads through which Councillors receive and have read access to their Council business papers).

Councillors have ample opportunity to check their emails both before and immediately after the conclusion of a Council meeting. It should not be unreasonable to expect Councillors to devote their full and undivided attention to a Council meeting.

It is not appropriate or relevant to suggest Council meetings are comparable to the parliamentary proceedings of the House of Representatives such that its practices should be followed, without question. The House parliamentary sitting hours are, by comparison to a monthly Council meeting, quite lengthy:

- Monday 10.00 am - 9.30 pm
- Tuesday 12.00 pm - 9.30 pm
- Wednesday 9.00 am - 8.00 pm
- Thursday 9.00 am - 5.00 pm

Council should, instead, consider the practices of Hunter and other NSW councils as being more relevant. A brief survey of such councils (that address this particular subject) is set below:
(i) **Lake Macquarie City Council**, Code of Meeting Practice, Clause 5.18 - "All mobile phones or their audible alarms are to be switched off in the Council Chambers";

(ii) **Port Stephens Council**, Code of Meeting Practice, Clause 15 - "Mobile phones and pagers should be turned off when entering the Chambers when a meeting is being conducted. A person will be given a warning from the chairperson and may be expelled from a meeting of the Council or Committee for receiving or using a mobile phone or pager in contravention with this clause."

(iii) **Parramatta City Council**, Code of Meeting Practice, Clause 15 - "Mobile telephones must be switched off, or set to silent operation during the Council or other meeting.

(iv) **Ku-rin-gai Council**, Code of Meeting Practice, Clause 8 "No person shall answer or otherwise use a mobile telephone during a council or committee meeting, unless permission is granted by the chairperson. All mobile telephones shall be switched off or put on silent mode during every council and committee meeting, unless permission is otherwise granted by the chairperson."

(v) **Randwick Council**, Code of Meeting Practice, Clause 71 "Councillors and members of the public are prohibited from using mobile phones for voice conversations in the Council Chamber during meetings of the Council or Council Committees. Mobile phones should be turned-off or changed to ‘silent mode’ prior to entering the Council Chamber."

(vi) **Fairfield City Council**, Code of Meeting Practice, Clause 16(5) " The use of personal digital assistants, smart phones, mobile phones, laptop computers or other electronic devices must be kept to a minimum during Council meetings and at all times these devices must be operated silently, whether or not being used as a recording device as defined in this Clause. (6) Failure to comply with Sub-clause (5) will be treated as if it were a misuse of a recording device under Sub-clause (1) and the user may accordingly be expelled and removed from a meeting of Council or Committee of Council and, if necessary, restrained from re-entering."

(vi) **Gosford City Council**, Code of Meeting Practice, Clause 15.6 - "Members of the public are required to turn off mobile telephones, or other electronic devices when entering the council chamber or a committee room or any other location where a meeting of council or a committee of council is being held and failure to do so or an attempt to use a mobile telephone or electronic device in the chambers or committee room or other location will be deemed to be an act of disorder and render the offender liable for expulsion from the room. Electronic devices do not include equipment supplied by or approved by council and used during an approved presentation to council or a council committee or a briefing of councillors."
The above survey (which does not purport to be exhaustive) indicates that Council's current policy in respect of the prohibited use of mobile phones during Council meetings is consistent with the practice followed by other councils in NSW. The Office of Local Government has not issued a Circular to Councils addressing this particular subject. With the introduction of a re-written Local Government Act and its accompanying Regulation next year, it can be reasonably expected that such a subject will be appropriately addressed.

Finally, the following extract is taken from the NSW Legislative Assembly website:

"Use of Electronic Devices (2012 precedent)

...It has been a longstanding practice of the House that members are permitted to use mobile phones and other devices only in silent mode so that their use does not interfere with the proceedings of the House.....I [the Speaker] advise members and officers that this (speaking on their mobile phones) is unacceptable behaviour and that such conversations should be brought to an end well before members enter the Chamber. I also take this opportunity to remind members that tweeting about proceedings, .....while the House....,[is] in session, is out of order."
THE CITY OF NEWCASTLE
Notice of Motion

SUBJECT: NOM 25/03/14 - USE OF MOBILE PHONES AND SOCIAL MEDIA DURING COUNCIL MEETINGS AND WORKSHOPS

COUNCILLOR: COUNCILLORS RUFO AND ROBINSON

PURPOSE

The following Notice of Motion was received on 13 March 2014 from the abovementioned Councillors:

MOTION

1. Council prohibits the use of mobile phones and social media during Council meetings and workshops because it effects the orderly conduct of the meeting. To facilitate this, Councillors must turn their mobile phones off during such meetings unless:
   (a) the Councillor has the approval of the Chair to leave the phone on (for example, if the Councillor is expecting an urgent call)
   (b) the phone is required to access the internet for the purpose of accessing business papers. In this instance, the phone should be placed on silent and should not be used for any other purpose, or
   (c) an urgent call is received and the Councillor has the approval of the Chair to leave the meeting room to deal with the urgent call.

2. Council incorporates this policy in the next revision of its Code of Meeting Practice.

BACKGROUND

The proposal is to prohibit the use of mobile phones and social media (ie Facebook, Twitter, emails) during Council meetings and workshops.

The use of mobile phones and social media at these times distracts those using them as well as those around them and effects the orderly conduct of the meeting. It is important that we give our full attention to the issues before Council in order to fulfil our role as Councillors and carry out our functions with the degree of care and diligence they deserve. It is also common decency to give the issues our full attention.

It is true that social media has become part of everyday life but it should not replace manners and respect towards staff, other Councillors, and Council itself.
1. Speaker made a considered statement regarding the use of electronic devices in the Legislative Assembly stating:
"As a result of a number of members and Temporary Speakers raising the use of mobile phones with me, I wish to make a statement about their use in the Chamber by members. It has been a longstanding practice of the House that members are permitted to use mobile phones and other devices only in silent mode so that their use does not interfere with proceedings of the House. However, a trend has developed whereby members are speaking on their mobile phones when entering the Chamber or in the area behind the Speaker’s chair. I advise members and officers that this is unacceptable behaviour and that any such conversations should be brought to an end well before members enter the Chamber. I also take this opportunity to remind members that tweeting about proceedings, either while the House or its committees are in session, is out of order.

2. Speaker requested members refrain from tweeting during question time.
PD 3/4/2012, 10525

3. The Speaker made a clarifying statement in relation to the use of mobile phones and tweeting in the Chamber stating:
"A number of members and others have expressed concerns via tweets, emails and conversations. I take this opportunity to inform members that my comments were not intended to imply a blanket ban. As noted in the more traditional press yesterday, the question of the contribution of social media to democratic debate and whether that should extend to a two-way conversation during Chamber proceedings has not been settled, despite the deliberations of a number of parliamentary committees both in Australia and overseas.
Members who choose to participate in such social engagements are reminded that tweets are not proceedings of the Parliament. As such, they do not attract parliamentary privilege and would be subject to the normal laws of defamation. There is potential for certain use of social media to possibly give rise to the types of statements that would traditionally be considered to be in breach of standing orders on contempt, or involve reflection on members or the Chair. That would be considered disorderly. Whilst tweeting might be at the cutting edge of public engagement, the standing orders are framed around traditional verbal debate in public between elected members. I ask all members not to tweet comments that would be disorderly if verbalised in the House.

4. Member reminded that they were not permitted to use their mobile phones in the Chamber.
PD 9/5/2012, 11444
MOTION
Moved by Cr Clausen, seconded by Cr Dunn

That Council’s decision in respect of Item 4 NOM 25/03/14 – Use of Mobile Phones and Social Media during Council meetings and workshops from the Ordinary Meeting of 25 March 2014 be altered.

That Clause 1 of the original motion is rescinded and replaced by:

1 Council permits Councillors’ use of electronic devices during Council meetings and workshops, provided that:

   a) Use of any device avoids interfering or distracting other Councillors, either visually or audibly, and should not interfere with proceedings – in particular, phone calls are not permitted within the Chamber and devices should be operated in silent mode

   b) Devices are not permitted to record the proceedings (either by audio or visual means), unless authority is granted under Section 40.3 of the Code of Meeting Practice.

   c) Communication on social media regarding confidential matters will be considered a potential breach of the Code of Conduct and of the Act

   d) use of devices should be as unobtrusive as possible and should be related to Councillors duties; and

2 Notes that:

   a) Reflections on other Councillors made on Social Media must not be insulting, abusive, or imply improper motives as per Section 76 of the Code of Meeting Practice.

   Carried
ITEM-15 NOM 28/04/15 - OPEN AND TRANSPARENT GOVERNANCE: OPEN DIARIES

COUNCILLORS: CLAUSEN, DUNN, CRAKANTHORP, POSNIAK AND NELMES

PURPOSE

The following Notice of Motion was received on 16 April 2015 from the abovementioned Councillors:

MOTION

That commencing on 1 June 2015 the Lord Mayor, Deputy Lord Mayor and General Manager maintain appropriate records to allow for monthly diary extracts to be published on the Council website detailing a summary of meetings held with stakeholders, external organisations and individuals. That this summary disclose the organisation or individual with whom the meeting occurred, details of any registered lobbyists present, and the broad purpose of the meeting. Diary summaries are to be uploaded to the website within two weeks of the conclusion of the preceding month.

In the interest of transparency, all meeting should be disclosed, however it will not necessary to disclose information about:

- Meetings with Council staff;
- Meetings that are strictly personal or party political;
- Social or public functions or events;
- Matters for which there is an overriding public interest against disclosure (as defined in the Government Information (Public Access) Act 2009).

While the requirement to provide meeting summaries does not apply to social or public functions or events, where substantive discussion of issues are raised with either the Lord Mayor, Deputy Lord Mayor or General Manager that concern the Council or decisions made by the Lord Mayor, Deputy Lord Mayor or General Manager the meeting should be disclosed.

BACKGROUND

The reputation of the City of Newcastle has been damaged by resignations of local elected representatives following evidence heard by the Independent Commission Against Corruption (ICAC).
In the interest of restoring the public’s faith in government decision making, open diaries should be utilised by senior representatives of the City in order to demonstrate transparency. These representatives exercise significant formal delegated authority, as well as informal influence, over the decisions of Council.

Open diaries are a cornerstone of transparency in many jurisdictions including for Ministers in the states of NSW and QLD. Internationally, leaders of government from the President of the United States and Prime Minister of the United Kingdom, utilise open diaries. A number of local government bodies in Australia are considering implementation of a similar open diary mechanism, particularly in Queensland.

While it is for the General Manager to determine the process of release of this information, it is suggested that diary extracts be prepared on a monthly basis in consultation with Council’s information officer, and are treated in a similar fashion to an informal GIPA request. Public interest tests could be applied before each summary is published online, as per the GIPA Act.

A possible template for the summary disclosure could be that required by NSW Ministers under Premier’s Memorandum M2014-07 Publication of Ministerial Diaries.

ATTACHMENTS


Ministers must publish summaries in the attached form one month after the end of each quarter.

This Memorandum sets out the requirement, for all Ministers to regularly publish extracts from their diaries detailing scheduled meetings held with stakeholders, external organisations and individuals. This Memorandum takes effect on and from 1 July 2014.

Ministers must publish summaries in the attached form one month after the end of each quarter (Attachment A). The summary should disclose the organisation or individual with whom the meeting occurred, details of any registered lobbyists present, and the purpose of the meeting.

Meeting summaries will be published at www.dpc.nsw.gov.au. The Department of Premier and Cabinet will assist Ministers with uploading the summaries to the DPC website.

Ministerial staff should obtain the consent of meeting attendees to summary information about the meeting being disclosed.

It is not necessary to disclose information about:

- meetings with Ministers, ministerial staff, Parliamentarians or government officials;
- meetings that are strictly personal, electorate or party political;
- social or public functions or events;
- matters for which there is an overriding public interest against disclosure.

While the requirement to provide meeting summaries does not apply to social or public functions or events, where substantive discussion of issues are raised with the Minister at social or other functions that concern the Minister’s ministerial portfolio or concern other policies or decisions made by the Minister in his/her capacity as a member of Cabinet, the meeting should be disclosed.

A suggested template meeting request form will be made available to Ministers’ Offices separately by the Department of Premier and Cabinet.

Application

All Government Ministers must comply with the requirement to publish information about meetings as set out in this Memorandum.
Reporting periods will be quarterly and the information must be published by Ministers at the end of the month following the end of each quarter.

**Mike Baird MP**
Premier

**Attachments** M2014-07_Attach_A.docx  
**Issuing Entity** Premier  
**Publishing Entity** Department of Premier and Cabinet  
**Replaced by:** This document is not replaced by any later document.  
**Replaces:** This document does not replace any previous document.  
Compliance with this document is mandatory

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<th><strong>Contact Email</strong></th>
<th><a href="mailto:Contact_us@dpc.nsw.gov.au">Contact_us@dpc.nsw.gov.au</a></th>
<th><strong>Contact Phone</strong></th>
<th>(02) 9228 5555</th>
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<td><strong>Date Issued</strong></td>
<td>27 June 2014</td>
<td><strong>Review date</strong></td>
<td>27 June 2019</td>
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</tbody>
</table>
## Disclosure Summary

**Premier, Minister for Infrastructure and Minister for Western Sydney**

For the period of 01 October 2014 to 31 December 2014

<table>
<thead>
<tr>
<th>Date</th>
<th>Organisation/Individual</th>
<th>Purpose of Meeting</th>
</tr>
</thead>
</table>
| 1/10/2014  | Alan Jones AO
Basil Sellers AM
Terrance Plowright | To discuss a philanthropic sculpture for Sydney                                     |
| 2/10/2014  | General Sir John Monash Foundation             | Briefing on the NSW Government's John Monash Scholarship                           |
| 5/10/2014  | ANZ Stadium                                    | ANZ Stadium redevelopment                                                          |
| 8/10/2014  | ClubsNSW
Minister Troy Grant                          | ClubsNSW Memorandum of Understanding                                               |
| 8/10/2014  | Thales                                         | To discuss Thales’ business in NSW                                                |
| 8/10/2014  | NSW Business Chamber                           | Roundtable lunch hosted by the NSW Business Chamber                                 |
| 9/10/2014  | Rio Tinto                                      | To discuss Rio Tinto’s operations in NSW                                           |
| 15/10/2014 | Meriton Group                                  | To discuss the NSW planning system                                                |
| 16/10/2014 | Primary Club of Australia Inc
Marathon Cricket
Minister Stuart Ayres | To discuss Marathon Cricket VI                                                      |
| 16/10/2014 | Leighton Holdings                              | To discuss issues related to Leighton Holdings                                     |
| 23/10/2014 | John Symond AM                                 | To discuss the Sydney Opera House / general catch-up                              |
| 27/10/2014 | Maronite Eparchy of Australia
Minister Victor Dominello                     | To discuss general matters pertaining to the Maronite community in NSW             |
| 30/10/2014 | Craig Sinclair
Donna Gammidge                                  | To discuss issues relating to Sydney Water                                         |

**Notes:** This table shows meetings held by the Minister with external persons who seek to influence government policy or decisions. It does not include internal meetings with ministerial staff or government officials. It does not include strictly personal, electorate or party political meetings, or meetings with other Parliamentarians (from NSW, other States and Territories, the Commonwealth or foreign governments). It does not include attendance at public social functions or events. Information (such as that above) will not be disclosed about meetings where there is an overriding public interest against its disclosure under the Government Information (Public Access) Act 2009 (for example, where the information is market sensitive or commercial-in-confidence).
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<tr>
<th>Date</th>
<th>Organisation/Individual</th>
<th>Purpose of Meeting</th>
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</thead>
<tbody>
<tr>
<td>31/10/2014</td>
<td>Roza Sage MP</td>
<td>To discuss the proposal for a rail trail on the Casino-Murwillumbah railway line</td>
</tr>
<tr>
<td>3/11/2014</td>
<td>Northern Rivers Rail Trail Group Thomas George MP</td>
<td>Central Coast Roundtable</td>
</tr>
<tr>
<td>3/11/2014</td>
<td>Gosford City Council Wyong Shire Council NSW Business Chamber Gosford Chamber of Commerce Wyong Regional Chamber of Commerce Northern Lakes Regional Chamber of Commerce Terrigal Chamber of Commerce The Lakes Entrance and District Chamber of Commerce East Gosford Chamber of Commerce Peninsula Chamber of Commerce Erina Chamber of Commerce Avoca Chamber of Commerce Minister Rob Stokes Chris Holstein MP</td>
<td>Community Roundtable</td>
</tr>
<tr>
<td>3/11/2014</td>
<td>Muslim community leaders Minister Victor Dominello</td>
<td>Community Roundtable</td>
</tr>
<tr>
<td>6/11/2014</td>
<td>Transurban</td>
<td>To discuss infrastructure projects in NSW</td>
</tr>
<tr>
<td>7/11/2014</td>
<td>Football Federation Australia (FFA)</td>
<td>To discuss issues related to the FFA</td>
</tr>
<tr>
<td>7/11/2014</td>
<td>NSW Minerals Council Rio Tinto Anglo American Centennial Coal The Bloomfield Group Glencore Coalpac BHP Billiton Whitehaven</td>
<td>To discuss government policies related to the mining industry</td>
</tr>
</tbody>
</table>

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</thead>
<tbody>
<tr>
<td>12/11/2014</td>
<td>Victim of crime&lt;br&gt;Attorney General Brad Hazzard&lt;br&gt;Barrick Limited&lt;br&gt;Yancoal&lt;br&gt;Newcrest Mining&lt;br&gt;Peabody Energy&lt;br&gt;Watermark Coal&lt;br&gt;Minister Anthony Roberts</td>
<td>Victims of crime issues</td>
</tr>
<tr>
<td>14/11/2014</td>
<td>Australian Rugby Union Limited&lt;br&gt;National Rugby League&lt;br&gt;Football Federation Australia&lt;br&gt;Minister Stuart Ayres</td>
<td>Sporting infrastructure in NSW</td>
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<tr>
<td>18/11/2014</td>
<td>Bank of China&lt;br&gt;Treasurer Andrew Constance&lt;br&gt;Minister Paul Toole</td>
<td>TCorp launch of Renminbi bond issue</td>
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<tr>
<td>20/11/2014</td>
<td>Local Government NSW&lt;br&gt;Minister Paul Toole</td>
<td>To discuss local government reform</td>
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<tr>
<td>25/11/2014</td>
<td>Santos Ltd&lt;br&gt;Minister Jillian Skinner</td>
<td>To discuss the Narrabri Gas Project</td>
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<tr>
<td>27/11/2014</td>
<td>Australian Medical Association NSW&lt;br&gt;Minister Jillian Skinner</td>
<td>To discuss the development of the Northern Beaches Hospital</td>
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<tr>
<td>27/11/2014</td>
<td>Industrial &amp; Commercial Bank of China&lt;br&gt;Treasurer Andrew Constance</td>
<td>To discuss investments in NSW</td>
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<tr>
<td>28/11/2014</td>
<td>Andrew Leary&lt;br&gt;Minister Jillian Skinner</td>
<td>To discuss ideas for regional and rural bus safety</td>
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<tr>
<td>1/12/2014</td>
<td>Pottinger&lt;br&gt;Minister Andrew Constance&lt;br&gt;Andrew Leary&lt;br&gt;Minister Paul Toole</td>
<td>To discuss social and economic global trends</td>
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<tr>
<td>4/12/2014</td>
<td>Hunter Business Chamber&lt;br&gt;Hunter Development Corporation&lt;br&gt;Hunter Infrastructure &amp; Investment Fund&lt;br&gt;Newcastle City Council&lt;br&gt;Property Council of Australia Hunter&lt;br&gt;University of Newcastle&lt;br&gt;Renew Newcastle</td>
<td>Newcastle Roundtable</td>
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<td>Hunter Transport for Business Development Inc</td>
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<td>Honeysuckle Residents Association Inc</td>
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<td>Hunter Environment Lobby</td>
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<td>Newcastle Inner City Residents Alliance Inc</td>
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<td>Save our Rail NSW Inc</td>
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<td>Hunter Transport Alliance</td>
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<td>Hunter Tomorrow</td>
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<td>Friends of King Edward Park</td>
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<td>Newcastle Knights</td>
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<td>Newcastle Jets</td>
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<td>Minister Gladys Bereijklian</td>
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<td>9/12/2014</td>
<td>Parramatta Mission</td>
<td>Parramatta Roundtable</td>
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<td>Deerubbin Local Aboriginal Land Council</td>
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<td>Museum of Contemporary Art Australia</td>
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<td></td>
<td>University of Western Sydney</td>
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<td>Homart Pharmaceuticals</td>
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<td>Western Sydney Local Health District</td>
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<td>University of Sydney</td>
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<td></td>
<td>Deloitte</td>
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<td></td>
<td>Nathan Hindmarsh, Sporting Champion of Western Sydney</td>
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<td>Police Citizens Youth Club (NSW)</td>
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<td>Parramatta City Council</td>
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<td>Sydney Business Chamber</td>
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<td>Parramatta Eels</td>
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<td>Catholic Diocese of Parramatta</td>
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<td>Jae My Holdings Pty Ltd</td>
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<td>Western Sydney Wanderers</td>
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<td>Minister Stuart Ayres</td>
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<tbody>
<tr>
<td>10/12/2014</td>
<td>Geoff Lee MP</td>
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<td>Bishops and representatives of the Middle Eastern Apostolic Churches of Australia and New Zealand Minister John Ajaka</td>
<td>Meet and greet, and to discuss events in the Middle East</td>
</tr>
<tr>
<td>10/12/2014</td>
<td>NRMA</td>
<td>To discuss NSW infrastructure in NSW and roads in Western Sydney</td>
</tr>
<tr>
<td>17/12/2014</td>
<td>Religious community leaders Minister Victor Dominello</td>
<td>Religious leaders forum</td>
</tr>
<tr>
<td>22/12/2014</td>
<td>TransGrid</td>
<td>To discuss issues related to TransGrid</td>
</tr>
<tr>
<td>22/12/2014</td>
<td>Major Performing Arts Panel</td>
<td>To discuss Pier 2/3, Walsh Bay</td>
</tr>
<tr>
<td>22/12/2014</td>
<td>ANZ Stadium Minister Stuart Ayres</td>
<td>ANZ Stadium masterplan</td>
</tr>
<tr>
<td>22/12/2014</td>
<td>Police Association of New South Wales Minister Stuart Ayres</td>
<td>Issues affecting Police Association of NSW</td>
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REPORT ON NOTICE OF MOTION - OPEN AND TRANSPARENT GOVERNANCE: OPEN DIARIES

REPORT BY: MANAGER COUNCIL AND LEGAL SERVICES

CONTACT: GENERAL MANAGER/MANAGER, COUNCIL AND LEGAL SERVICES

There is currently no statutory requirement under the Local Government Act (Act) or the associated Local Government (General) Regulation which imposes the obligation for the Lord Mayor, Deputy Lord Mayor and the General Manager to maintain and publish open diary documentation. Nor has the Office of Local Government specified such a need in any of its Circulars to Councils.

Specifically, s. 335 of the Act provides that the general manager is generally responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation, without undue delay, of decisions of the council. The section also specifies that the General Manager is tasked with the day-to-day management of the council.

The Notice of Motion draws on the practice of the NSW Premier and his Ministers instituted with effect from 1 July 2014. Such a practice has not been adopted by any other NSW local council nor has it been adopted by other States (with the exception of Queensland which initiated the practice by its Premier and his Ministers two years ago) or the Commonwealth.

The proposal, if it proceeds, can be expected to raise the following potential concerns:

(i) Privacy. It is noted that the NSW Premier's Memorandum dated 27 June 2014 (Memorandum) specifies that "Ministerial staff should obtain the consent of meeting attendees to summary information about the meeting being disclosed". This proviso, or an equivalent requirement that Council staff should, as a bare minimum, obtain the written consent of meeting attendees to the disclosure of their attendance at a particular meeting via publication on Council's website, of the relevant meeting details, so that Council will not breach its legal obligations under the Privacy legislation nor Council's Privacy Management Plan, which also applies to Councillors: refer to Clause 32 of Council's Code of Conduct. If the relevant consent is not provided by the meeting attendee, then the disclosure cannot be made;

(ii) Non-applicability of the proposed practice to the General Manager. It should be noted that the Memorandum on open diaries only applies to the Premier and his Ministers, ie elected members of parliament that hold ministerial portfolios only. It does not extend to the Department Secretaries ie non-elected executive employees or other staff.
The Act makes a distinction between the role of the elected Councillors and the role of the General Manager. The former is governed by s. 232 of the Act, whilst the latter is dealt with by s. 335 of the Act. Consistent with the separation of the role of Councillors and those of the General Manager under the Act, and the Memorandum, which the Notice of Motion proposes to follow, the requirement to disclose and publish the General Manager's meetings diary should be removed;

(iii) **Non-exclusion of party political meetings by Councillors.** The exemption of party political meetings should be removed as that exemption may potentially breach Clause 8.1 of Council's Code of Conduct which provides: "You must not participate in binding caucus votes in relation to matters to be considered at a Council or Committee meeting." Clause 8.2 of the Code relevantly defines a binding caucus vote as a process whereby a group of Councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the Council or Committee meeting irrespective of the personal views of individual members on the merits of the matter before the Council or Committee. NSW Ministers do not have to comply with a comparable Code of Conduct obligation and therefore the availability of the "party political" exemption is not appropriate to Councillors. In other words, all party political meetings should be disclosed by the Lord Mayor and Deputy Lord Mayor in the interests of open and transparent governance;

(iv) **Registered lobbyists.** Query the relevance of this to local government. This is a State government consideration pursuant to the Lobbying of Government Officials Act 2011 (NSW) whereby the NSW Electoral Commissioner is appointed as an independent regulator of lobbyists and is responsible for maintaining a register of third party lobbyists. In addition, the Commonwealth has adopted a Lobbying Code of Conduct that is administered by the Department of the Prime Minister and Cabinet which is responsible for maintaining a Register of Lobbyists. Local councils are not required to keep a register of lobbyists;

(v) **Increased administrative costs.** A number of potential issues that might arise for consideration include whether the publication of the open diary leads to a substantial increase in GIPA applications and Councillor Service Requests for documents that may be tabled at meetings which could overload Council's current resourcing level and which could give rise to the need to employ additional staff. In addition, meeting attendees may be reluctant to table documents where there may be a valid public interest presumption against disclosure. This could frustrate genuine openness and transparency at meetings and could operate against Council's legitimate best interests. The proposal, if implemented, can be expected to lead to additional administrative costs generally being incurred to in order to comply with its requirements; and
(vi) **The proposal should be trialed for a three month period.** If implemented, preferably as amended to address the matter identified above, the proposal should first be the subject of a trial to assess whether there are any unintended effects or impacts to ensure that the City is not disadvantaged in anyway having regard to the additional resources that this proposal will require. It is suggested that Council should, if it wishes to proceed with the implementation of the proposal, do so on a trial basis for a period of three months commencing from 1 July 2015. Subject to a report to Council being submitted on the outcome of the trial, Council will review the on-going implementation of the proposal thereafter.

**MOTION**  
Moved by Crs Clausen, Dunn, Crakanthorp, Posniak and Lord Mayor Cr Nelmes

That commencing on 1 June 2015 the Lord Mayor, Deputy Lord Mayor and General Manager maintain appropriate records to allow for monthly diary extracts to be published on the Council website detailing a summary of meetings held with stakeholders, external organisations and individuals. That this summary disclose the organisation or individual with whom the meeting occurred, details of any registered lobbyists present, and the broad purpose of the meeting. Diary summaries are to be uploaded to the website within two weeks of the conclusion of the preceding month.

In the interest of transparency, all meeting should be disclosed, however it will not be necessary to disclose information about:

- Meetings with Council staff;
- Meetings that are strictly personal or party political;
- Social or public functions or events;
- Matters for which there is an overriding public interest against disclosure (as defined in the Government Information (Public Access) Act 2009).

While the requirement to provide meeting summaries does not apply to social or public functions or events, where substantive discussion of issues are raised with either the Lord Mayor, Deputy Lord Mayor or General Manager that concern the Council or decisions made by the Lord Mayor, Deputy Lord Mayor or General Manager the meeting should be disclosed.
Councillor Clausen withdrew the Notice of Motion and submitted a revised motion and moved:

**REVISED MOTION**
Moved by Cr Clausen, seconded by Cr Dunn

That commencing on 1 June 2015 the Lord Mayor, Deputy Lord Mayor and General Manager maintain appropriate records to allow for monthly diary extracts to be published on the Council website detailing a summary of meetings held with stakeholders, external organisations and individuals.

That these summaries disclose the organisation or individual with whom the meeting occurred, and the broad purpose of the meeting.

That these summaries be produced in a manner which meets requirements of relevant privacy legislation and Council's Privacy Management Plan.

That if consent is not provided by the meeting attendee(s) for the name(s) and the meeting's purpose to be published, then the meeting will not proceed. The required consent can be obtained by the Lord Mayor, Deputy Lord Mayor, General Manager or appropriate Executive Assistant staff, and may be received either in writing or verbally.

That in the interest of transparency, all meetings should be disclosed however it will not be necessary to disclose information about:

- Meetings with Council staff;
- Meetings that are strictly personal or party political;
- Social or public functions or events;
- Meetings on matters which the elected Council has resolved are Confidential (as defined in Council's Media Policy (2014);
- Matters for which there is an overriding public interest against disclosure (as defined in the Government Information (Public Access) Act 2009).

That while the requirement to provide meeting summaries does not apply to social or public functions or events, where substantive discussion of issues are raised with either the Lord Mayor, Deputy Lord Mayor or General Manager the meeting must be disclosed.

That in the interest of openness and transparency Section 9.1 of the Media Policy be amended to read that "The Lord Mayor or delegate is the official spokesperson on all Council affairs".

*Cont'd over…*
The General Manager advised Council that elements of the revised motion appeared to be unlawful in particular the proposal that the Mayor, Deputy Mayor and General Manager refuse to meet with individuals or organisations unless they first consent to waive their privacy rights and purpose of the meeting to be published on the website.

In regard to paragraph four, the Lord Mayor indicated that she would take legal advice and suggested it be removed from the motion.

Councillor Clausen agreed to remove paragraph four from the motion.

The motion therefore became:

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

That commencing on 1 June 2015 the Lord Mayor, Deputy Lord Mayor and General Manager maintain appropriate records to allow for monthly diary extracts to be published on the Council website detailing a summary of meetings held with stakeholders, external organisations and individuals.

That these summaries disclose the organisation or individual with whom the meeting occurred, and the broad purpose of the meeting.

That these summaries be produced in a manner which meets requirements of relevant privacy legislation and Council's Privacy Management Plan.

That in the interest of transparency, all meetings should be disclosed however it will not be necessary to disclose information about:

- Meetings with Council staff;
- Meetings that are strictly personal or party political;
- Social or public functions or events;
- Meetings on matters which the elected Council has resolved are Confidential (as defined in Council's Media Policy (2014);
- Matters for which there is an overriding public interest against disclosure (as defined in the Government Information (Public Access) Act 2009).

That while the requirement to provide meeting summaries does not apply to social or public functions or events, where substantive discussion of issues are raised with either the Lord Mayor, Deputy Lord Mayor or General Manager the meeting must be disclosed.

*Cont'd over…*
The motion was then put to the meeting.

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


Carried

Councillor Rufo was absent from the Chamber when the vote was taken.
ITEM-16 NOM 28/04/15 - CONSULTATION ON SIGNIFICANT TREE REMOVAL, REPLACEMENT AND MANAGEMENT

COUNCILLORS: DOYLE AND OSBORNE

PURPOSE

The following Notice of Motion was received on 16 April 2015 from the abovementioned Councillors:

MOTION

That Council

• Receive an open briefing on how the current Street Tree Masterplan requirement for community consultation where tree replacement occurs in “high profile and special areas” is currently fulfilled,

• Establish a working committee comprising relevant Council officers, Councillors and community members to develop a draft process for effective community consultation before any decisions to remove significant local assets including significant trees.

• Have a moratorium on further removal of significant trees, except where they present a significant imminent and otherwise unavoidable danger, or where their removal is legally required, until such time as council has adopted a process for such consultation

BACKGROUND

Councillors have received several expressions of concern from members of the public regarding the felling of plane trees in King Street over the weekend of the 11th and 12th of April. A major concern was that the removal of such significant elements of the urban landscape should occur without prior broad consultation with the Newcastle community.

This motion addresses that community concern in an immediate sense and provides a mechanism to facilitate ongoing, meaningful and effective community input into council decisions around significant community assets such as street trees.

The three principles of Council’s Community Engagement Policy commit Council to

• Be accessible and inclusive;

• Actively seek input into our decision-making; and

• Be open and transparent

• (page 2 of Community Engagement Policy 2013)

In the Council’s Community Engagement Framework 2013-2018, Council commits to a consultation process that involves the community in consultation wherever there are circumstances that “directly and significantly affect a large number of people” or
that “involve significant numbers of people who hold strong views on the subject of the project plan”

Council adopted an *Urban Forest Policy* in 2008 to ensure that the city maximises city amenity, air quality, biodiversity, shade and climate enhancement. One of the four objectives of the policy is to “involve the community as a key partner in managing Newcastle’s urban forest”.

The *Street Tree Masterplan* in 2011, provided an effective strategy for implementing the *Urban Forest Policy* as it relates to street trees. One of the seven key tree asset management objectives is to “use tree planting to enhance the visual, historical and environmental aspects of the urban form”.

While Council already has a significant array of policies that prioritise community consultation and engagement in matters affecting the city’s significant urban landscape, Council needs to achieve a community consensus on how these policies are implemented.

**ATTACHMENTS**

Nil
REPORT ON NOTICE OF MOTION - CONSULTATION ON SIGNIFICANT TREE REMOVAL, REPLACEMENT AND MANAGEMENT - 28 APRIL 2015

REPORT BY: INFRASTRUCTURE

CONTACT: DIRECTOR INFRASTRUCTURE

DIRECTOR COMMENT

The notice of motion regarding significant tree removal, replacement and management provides an opportunity to explain section 2.0 'High profile and special areas and/or major infrastructure projects street tree planting' of the Street Tree Master Plan (STMP) and its application to works within Council's policy framework.

Section 2.0 'High profile and special areas and/or major infrastructure projects street tree planting' Section 2.0 of the STMP refers to key stakeholder engagement during the design process. The issues discussed at this stage include the nature of the street furniture, street lighting and replacement tree selection from a short list generated from STMP matrix using site constraints.

The consultation component does not include whether trees should be removed or not. Tree management decisions as part of infrastructure works are in accordance with the Development Control Plan Tree Management and Urban Forest Technical Manual.

This involves iteration of design to ensure that all practical options are investigated that might leave tree assets in situ rather than incur costs of removal and replacement, including immediate loss of canopy. This process of design iteration is documented in Council's tree assessment process and is equivalent to that required for private tree removal (CDC) process.

Council, as a Roads Authority, is authorised under s. 88 of the Roads Act 1993, despite any Act or law to the contrary, to remove, or lop any tree or other vegetation that is on or overhanging a public road if, in its opinion, it is necessary to do so for the purposes of carrying out road work or removing a traffic hazard.

Where a tree has been determined to be causing infrastructure damage or a potential public risk, Council's approach in accordance with current process and deemed best practice, is to look at the feasibility of options to mitigate the damage and retain the public tree. This pragmatic approach means that suitable and cost effective options are implemented where appropriate, however where there is no alternative option then tree removal is undertaken and replacement occurs with more appropriate/suitable tree species that are less likely to develop future legal claims risks. This is consistent with Council's Street Tree Master Plan and the Urban Forest Tree Policy.
Council is not required by the Local Government Act to engage in a public consultation or public exhibition notification process in order to carry out necessary infrastructure repair/maintenance or improvement works, but normal practice is to communicate with the people directly affected.

Council needs to ensure that its public liability insurance arrangements and costs are kept under control and that it does not prejudice and put its public liability insurance cover at risk.

**Community engagement framework 2013-2018**

Community engagement is approached in accordance with the above framework, using the International Association of Public Participation (IAP2) matrix as a guide for determining the level of engagement.

In most cases where infrastructure assets are damaged and need to be remediated the opportunity for community influence over decision making is low therefore the focus of engagement activities is to inform rather than consult, involve, collaborate or empower.

**King Street, Newcastle timeline**

An extensive communication process was followed in the case of the trees recently removed in King Street as part of the footpath renewal process.

In January 2014, there was initial consultation with Newcastle Now on behalf of local businesses including King Street traders.

From February 2014 to February 2015, detailed design, budget planning and project planning was undertaken. The project was listed in the 2014/15 Operations Plan, which was adopted by Council.

In March 2015:

- 5th - A memo to Councillors provided an outline of the street tree selection process;
- 18th - A memo to Councillors provided a summary of the project;
- 18th - A letter to inform property owners and tenants of the project and scope of works was distributed;
- 20th - Full page published on Council’s website detailing the project;
- 20th - DL Flyer on project produced for distribution to businesses and Newcastle Now;
- 21st - Herald advertisement regarding project road closures and traffic restrictions;
- 26-27th - Face to face meetings with businesses in King St;
- 27th - Morning Media Alert about road closure and tree removal;
- 27th - Afternoon Media Alert delaying project due to emerging business impacts;
• 30th - Project replanned to address business concerns and rescheduled for 12 April 2015;

April 2015:
• 8-9th - Face to Face meetings with businesses in King St and redistribution of DL Flyer;
• 10th - Media Alert about road closure and tree removal;
• 12th - Road closure and tree removal occurred.

Infrastructure and risk management

Council is potentially legally exposed to negligence claims by individuals claiming to have tripped, slipped or fallen as a consequence of damaged infrastructure.

Also, Council is potentially legally exposed to negligence claims by individuals claiming to have tripped, slipped or fallen as a consequence of tree roots lifting footpaths thereby creating cracks in footpaths, or tripping over roots that have emerged/grown through cracks in the concrete, or accidents caused by uneven or uplifted concreted footpaths. In addition, any upstream flooding events caused by storm water drain blockages due to tree root growth can provide a legal liability. Once Council becomes aware of the potential public hazards, it is obliged to take reasonable precautions to address the relevant risk of harm. Intervention levels for this type of work are contained in the Citywide Maintenance Policy. Currently Council has a list of 43 streets (including the Cooks Hill area) where tree roots are the cause of these issues and the trees can no longer be mitigated with remedial action. Council is prioritising removal and replacement works for these areas as appropriate.

Council does not have an exemption from legal claims under the provisions of the Civil Liability Act.

Accordingly, these issues are operational matters and seeking community consensus is not feasible.

If Council does not take reasonable steps to maintain assets, including minimising risk, Council can be held legally liable for any property damage/personal injury that occurs to the users of the footpaths.

Council is proactive in its approach to asset management with a forward program that ensures footpaths are inspected and adequately maintained and users are warned of any unusual dangers as per intervention levels contained in the Citywide Maintenance Policy.

Similarly, Council is potentially legally exposed to negligence claims in respect of falling tree branches that may cause personal injury/property damage. The propensity for such claims increases, and therefore Council's legal risk exposure correspondingly increases as the tree ages and its condition begins to decline towards the natural end of tree life. In many cases this level of risk is not noticeable
by the public until branches start falling. This situation currently exists in many parts of the city, including in Bibby Street Hamilton at present.

**Liability**

If an identified hazard results in an injury, Council will not be able to plead as a mitigating factor in legal proceedings, in respect of the defense to negligence claims, that a particular committee disapproved of the removal of a tree. Council cannot abrogate its legal responsibilities to members of the community to take reasonable steps to detect and repair/remove problems associated with its footpath and tree assets.

Accordingly it is inappropriate to place a moratorium on further significant tree removal pending the establishment of a consultation process as it will inhibit our program of works to address the backlog and improve other aspects of the amenity of the city, including reducing flooding, and improving footpaths, cycleways and roads.

Council already has an Environmental Advisory Committee (EAC) in place. The EAC reviewed and endorsed the current STMP before it went to Council/public exhibition and was adopted by Council. Therefore it is not necessary, and would be very inefficient in use of staff time, for Council to create another “working committee”. There are sufficient communication and notification processes already in place for Councillors to be aware of Council operational activities, before they occur, and be able to make comment if they wish.

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**PROCEDURAL MOTION**

Moved by Cr Doyle, seconded by Cr Osborne

The motion be moved seriatim.

*Defeated*
MOTION
Moved by Cr Doyle

That Council
• Receive an open briefing on how the current Street Tree Masterplan requirement for community consultation where tree replacement occurs in “high profile and special areas” is currently fulfilled,
• Establish a working committee comprising relevant Council officers, Councillors and community members to develop a draft process for effective community consultation before any decisions to remove significant local assets including significant trees.
• Have a moratorium on further removal of significant trees, except where they present a significant imminent and otherwise unavoidable danger, or where their removal is legally required, until such time as council has adopted a process for such consultation.

As no seconder was forthcoming for Councillor Doyle's motion, the motion lapsed.  

Motion lapsed

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

A That Council reviews the current Street Tree Master Plan adopted by Council in 2011 and reports back to Council by or on the 8 December 2015. The report is to include the process for Community Consultation and the implementation of a Significant Trees Register.

B Council congratulates the staff of Newcastle City Council for their efforts in response to damage across the City resulting from last week’s storm.  

Carried
10 EXTENSION OF MEETING DURATION

At this stage of the meeting, the time being 9.24pm, Council moved the following procedural motion.

PROCEDURAL MOTION
Moved by Lord Mayor Cr Nelmes, seconded by Cr Compton

In accordance with the Code of Meeting Practice, Clause 8.1, Council extends the meeting up to 10.00pm.

Carried

11 LATE ITEMS OF BUSINESS

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

Council hear two late items of business in confidential session:
- Confidential Property Matter - Lot 212 DP 660080
- Council legal proceedings - NCC ats McFarlane: DA 14/0522: Lot DP 1195074, 15C Wrightson Avenue, Bar Beach

Carried
12 DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

**Councillor Waterhouse**
Councillor Waterhouse declared a significant non-pecuniary interest in the late item of business regarding NCC ats McFarlane: DA 14/0522: Lot DP 1195074, 15C Wrightson Avenue, Bar Beach indicating that she had a close working relationship with one of the objectors and retired from the Chamber for the duration of the item.

**Councillor Dunn**
Councillor Dunn declared a significant non-pecuniary interest in the late item of business regarding NCC ats McFarlane: DA 14/0522: Lot DP 1195074, 15C Wrightson Avenue, Bar Beach and for the same reasons he did not participate in the original decision retired from the Chamber for the duration of the item.

**Councillor Posniak**
During discussion on the late item of business NCC ats McFarlane: DA 14/0522: Lot DP 1195074, 15C Wrightson Avenue, Bar Beach, Councillor Posniak identified that she may have a potential conflict of interest due to her husband being a legal officer employed by Council.

The General Manager did not consider there to be a conflict. He indicated that the question related to the development application not officers providing advice.
13 CONFIDENTIAL REPORTS

MOTION
Moved by Cr Luke, seconded by Cr Rufo

Council proceed into confidential session for the following items for the reasons outlined in the business papers and the two late items of business:

Item 8 - Confidential Report - Sale of Residential Properties
Item 9 - Shortland Esplanade - Newcastle Beach - Stage 2 - Bathers Way - Contract No. 2015T
Item 10 - Confidential Property Matter Lot 212 DP
Council legal proceedings - NCC ats McFarlane: DA 14/0522: Lot DP 1195074, 15C Wrightson Avenue, Bar Beach

Carried

Council moved into confidential session at 9.25pm. Councillor Dunn left the meeting prior to the commencement of Item 8 and returned at the commencement of Item 9.

Councillors Waterhouse and Dunn retired from the Chamber at the commencement of the discussion on legal proceedings NCC ats McFarlane: DA 14/0522: Lot DP 1195074, 15C Wrightson Avenue, Bar Beach.

Council reconvened into open Council at 9.55pm and the General Manager announced the details of the resolutions approved by Council in confidential session.
ITEM-8 CON 28/04/15 - CONFIDENTIAL REPORT - SALE OF RESIDENTIAL PROPERTIES

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)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

Section 10A(2)(d) 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) the discussion of the item in a closed meeting:

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

and

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

GROUND FOR CLOSING PART OF THE MEETING

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

MOTION TO PROCEED

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

A The matter relates to the sale of various residential properties that were originally vested in Council or acquired for road widening purposes and have since been determined as surplus to Council's requirements.

Section 10A(2)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
B The Council or Committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

C It is contrary to the public interest to discuss the matter in an open meeting because the information provided to Council is sensitive commercial information which would provide a commercial advantage to any person making an offer to market or purchase the land. This could lead to a reduction in the final negotiated purchase price or higher sales costs and hence reduce revenue to Council.

MOTION

1 Council endorses the sale of the following Council owned properties on the open market:
   a) 1 Cowper Street Wallsend.
   b) 1 Longworth Avenue Wallsend.
   c) 1A Longworth Avenue Wallsend.
   d) 14 Bridge Street Hamilton.
   e) 3 Court Street Adamstown.
   f) 184 Teralba Road Adamstown and backyard comprising 638 Glebe Road Adamstown.

2 Following completion of necessary actions to determine road widening requirements, survey and registration (if required) Council endorses the sale of the following Council owned properties on the open market:
   a) 39 Longworth Avenue Wallsend.
   b) 611 Glebe Road Adamstown.

Cont’d over…
3 The properties are to be sold for a reserve price of no less than 90% of market value as determined by Council’s valuation.

4 Additional funds of $30,000 to be allocated from the Land and Property Reserve as required, for carrying out the property actions outlined in the report to enable sale of the subject properties.

5 Authority be granted to the General Manager or his delegate to execute and, if necessary, to seal all relevant documentation to effect the sale transactions.

6 The net proceeds of the sale are to be credited to the Land and Property Reserve.

7 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. It is contrary to the public interest to discuss the matter in an open meeting because the information provided to Council is sensitive commercial information which would provide a commercial advantage to any person making an offer to market or purchase the land. This could lead to a reduction in the final negotiated purchase price or higher sales costs and hence reduce revenue to Council.

Carried

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

PURPOSE

Tenders were invited for construction of Stage 2 of the Shortland Esplanade Bathers Way. The scope of works, extending from the Newcastle Ocean Baths entrance through to Zaara Street, includes creating a wide shared path, a new viewing platform, new lighting, landscaping, drainage, earthworks and batter stabilisation of a significant portion of Shortland Esplanade, adjacent Newcastle Beach.

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.

GROUNDS FOR CLOSING PART OF THE MEETING

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

MOTION TO PROCEED

The discussion of the confidential report take place in a closed session, with the press and public excluded, for the following reasons:
A The matter relates to tenders for Shortland Esplanade - Newcastle Beach Stage 2 - Bathers Way for Contract No. 2015/132T.

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.

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

MOTION

1 Council accept the tender of Gleeson Civil Engineering Pty Ltd in the amount of $2,846,581.49 (excluding GST) for Shortland Esplanade - Newcastle Beach Stage 2 - Bathers Way for Contract No. 2015/132T.

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

Carried
14 LATE REPORTS

ITEM-10 CON 28/04/15 - CONFIDENTIAL PROPERTY MATTER - LOT 212 DP 660080

MOTION

1 (a) Council grant authority to the General Manager or his delegate to execute all relevant documentation to effect the sale transaction of the property situated at 182-188 Hunter Street and 1-7 Wolfe Street, Newcastle (Lot 212 DP 660080), to the Literary Trading Company Pty Ltd as Trustee for Literary Company Trust for a consideration of $2,025,000 or the next highest offer above valuation.

(b) the net proceeds of the sale to be credited to the Land and Property Reserve.

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

Carried

CONFIDENTIAL LAND & ENVIRONMENT COURT PROCEEDINGS: NCC ATS MCFARLANE: DA 14/0522: LOT 22 DP 1195074, 15C WRIGHTSON AVENUE, BAR BEACH

MOTION

1 Council notes the confidential memo dated 28 April 2015 and endorses the decision to make a submitting appearance in respect of NCC ats McFarlane: DA 14/0522: Lot DP 1195074, 15C Wrightson Avenue, Bar Beach.

2 The confidential memo remain confidential until Council determines otherwise.

Carried

The meeting concluded at 10.00pm.