MINUTES OF THE ORDINARY MEETING OF COUNCIL
TUESDAY 28 JULY 2015 AT 5.39PM

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 Nuatali Nelmes
Councillor Michael Osborne
Councillor Stephanie Posniak
Councillor Andrea Rufo
Councillor Lisa Tierney
Councillor Sharon Waterhouse

IN ATTENDANCE:
General Manager Ken Gouldthorp
Director Corporate Services Glen Cousins
Director Infrastructure Frank Cordingley
Director Planning and Regulatory Peter Chrystal
Manager Council and Legal Services Frank Giordano
Manager Strategic Planning Jill Gaynor
Manager Finance Andrew Glauser
Manager Regulatory Services Andrew Baxter
Manager Projects and Contracts Greg Sainsbury
Manager Commercial Property Paul Nelson
Manager Waste Services Darren North
Manager Cultural Services Liz Burcham
Communications Manager Kate Baartz

MINUTES:
Meetings Secretary Kerry Sullivan

WEBCASTING:
Acting Meetings Secretary Jodie Redriff

Chair, Cr Nelmes 22 September 2015
MINUTES OF THE ORDINARY MEETING OF COUNCIL
TUESDAY 28 JULY 2015 AT 5.39PM

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Prior to the commencement of the meeting Mr Ken Fayle, President of the City of Newcastle RSL Sub Branch Anzac Day Committee, presented Council with two Appreciation Certificates in recognition of the contribution and commitment from Newcastle City Council given to Anzac Day 2015.

The certificates recognised all staff of Council and particularly the effort of outdoor staff in that week which was impacted by the April storm event.

1 OPENING OF MEETING
1.1 The meeting was opened at 5.39pm.

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

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

4 APOLOGIES
4.1 MOTION
Moved by Cr Rufo, seconded by Cr Luke

The apology submitted on behalf of Councillor Robinson be received. Carried

5 DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS
5.1 Councillor Clausen
Councillor Clausen declared a less than significant non-pecuniary interest in Confidential Item 26 - Biennial Tenders for Hired Plant and Equipment. He indicated the tender covered a large number of engineering organisations and he was familiar with some of these but considered there to be no direct conflict.
5.2 **Councillor Luke**
Councillor Luke declared a less than significant non-pecuniary interest in Item 54 - Executive Monthly Performance Report – Preliminary Result as at 30 June 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.

5.3 **Councillor Compton**
Councillor Compton declared a less than significant non-pecuniary interest in Confidential Item 24 - Waratah Oval Grandstand Roof Replacement - Contract No. 2015/384T. Councillor Compton advised that he knew one of the builders who had quoted for the tender and would absent himself from the meeting for discussion on the item.

### 6 CONFIRMATION OF PREVIOUS MINUTES

6.1 **Minutes - Briefing Committee Meeting 9 June 2015**

**MOTION**
Moved by Cr Luke, seconded by Cr Waterhouse

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

**Carried**

6.2 **Minutes - Ordinary Council Meeting 16 June 2015**

A correction to the minutes was tabled in respect of Item 50 - CCL 16/06/15 - Newcastle City Walking Tours.

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

The draft minutes as circulated be taken as read and confirmed subject to paragraph two of Item 50 CCL 16/06/15 - Newcastle City Walking Tours being amended to read as follows:

2. Council re-constitutes the Public Art Advisory Committee, and receives a report on its re-establishment by the September Ordinary Council Meeting and receives a report on the development of a public art program focused on the walking trails and themes listed in 1 above.

**Carried**
7 LORD MAYORAL MINUTE

ITEM-3 LMM 28/07/2015 - AUSGRID TREE PRUNING PRACTICES

PURPOSE

To seek a resolution of the dispute that currently exists between Ausgrid and Council concerning Ausgrid's tree trimming/pruning/lopping practices with respect to public trees within the Newcastle Local Government Area.

Ausgrid's tree trimming/pruning/lopping practices are damaging Council's trees under power lines and Council is left with the financial burden of dealing with the aftermath of Ausgrid's non-standard practices.

Accordingly, Council wishes to submit a motion at the forthcoming Local Government NSW (LGNSW) Annual Conference, to be held on 11-13 October 2015, to invite all other councils which are also detrimentally affected to request the Minister for Local Government to act in accordance with s. 97 of the Electricity Act, 1995 (the Act) to resolve the dispute between Ausgrid and all affected councils. A copy of s. 97 of the Act is attached at Attachment A.

MOTION

That Newcastle City Council endorse the submission of a motion to the LGNSW Annual Conference, to be held on 11-13 October 2015, seeking the support of other councils, falling within the electricity network area serviced by Ausgrid, to join with LGNSW to persuade the Minister for Local Government, the Hon Paul Toole, MP to take action on behalf of the councils, in accordance with the dispute resolution process set out in s. 97 of the Electricity Supply Act, 1995 (NSW), to resolve the dispute currently existing between Ausgrid and the councils.

It is proposed that the s. 97 process (refer to the copy of s. 97 attached) would involve the Minister making representations on behalf of all affected councils and entering into discussions with the Minister responsible for Ausgrid, the Hon Anthony Roberts MP, being the Minister for Resources and Energy, in an endeavour to seek a satisfactory resolution to the existing dispute in respect of Ausgrid's tree pruning practices.

BACKGROUND

Ausgrid's tree trimming/pruning/lopping practices are resulting in many disfigured public trees, eg gullying cutting, that are both aesthetically unappealing and physically damaged, and destabilising some trees such that they are required to be removed and replaced. This practice also results in potential risks to property damage and personal injury.
NCC inspections have identified more than 900 street trees that have been significantly damaged over the past year and NCC has requested that 187 trees be urgently removed due to safety concerns. Thirty-eight per cent of NCC's street trees are under power lines and NCC estimates that under current pruning practices Newcastle LGA is losing $3.8 million worth of urban forest benefits annually.

Council values its urban forest and the many and varied benefits that such foliage cover brings to Council. These benefits are set out in detail in Council's Newcastle Urban Forests Policy (2008).

The proposed remedy seeks to leverage Council's position by having LGNSW seek support from other similarly affected councils, which will enable a collective approach to the Minister for Local Government, to seek to resolve the present dispute with Ausgrid by reaching an agreement with the Minister for Resources and Energy, the Minister responsible for Ausgrid.

**Attachment A: Section 97 of the Electricity Supply Act, 1995 (NSW)**
Attachment A

ELECTRICITY SUPPLY ACT 1995 - SECT 97

Resolution of disputes between public authorities

97 Resolution of disputes between public authorities

(1) Any dispute arising under this Act between 2 or more public authorities may be resolved by agreement between the Ministers responsible for those authorities or, if agreement cannot be reached, by the Premier.

(2) A public authority must comply with any direction arising out of the resolution of the dispute under this section.

(3) This section does not apply while any other remedy is available under this Act for the resolution of the dispute.

MOTION
Moved by Lord Mayor, Cr Nelmes

Newcastle City Council endorse the submission of a motion to the LGNSW Annual Conference, to be held on 11-13 October 2015, seeking the support of other councils, falling within the electricity network area serviced by Ausgrid, to join with LGNSW to persuade the Minister for Local Government, the Hon Paul Toole, MP to take action on behalf of the councils, in accordance with the dispute resolution process set out in s. 97 of the Electricity Supply Act, 1995 (NSW), to resolve the dispute currently existing between Ausgrid and the councils.

It is proposed that the s. 97 process (refer to the copy of s. 97 attached) would involve the Minister making representations on behalf of all affected councils and entering into discussions with the Minister responsible for Ausgrid, the Hon Anthony Roberts MP, being the Minister for Resources and Energy, in an endeavour to seek a satisfactory resolution to the existing dispute in respect of Ausgrid’s tree pruning practices.

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

Against the Motion: Nil.

Carried
9 REPORTS BY COUNCIL OFFICERS

ITEM-52 CCL 28/07/15 - AFFIXATION OF COUNCIL SEAL TO THREE DEEDS OF INDEMNITY

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

PURPOSE

To approve and authorise the affixation of the Council’s seal to three separate Deeds of Indemnity between Newcastle City Council and Port Stephens Council and each of Mr Kirby Clark, Ms Jude Munro and Mr Peter Cock in accordance with the requirements of Clause 400(4) of the Local Government (General) Regulation 2005 (Regulation).

RECOMMENDATION

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

   (a) the affixation of Council’s seal to each of the three separate Deeds of Indemnity to be entered into between Newcastle City Council, Port Stephens Council and each of Mr Kirby Clark, Ms Jude Munro and Mr Peter Cock; and

   (b) each of the Lord Mayor and any one other Councillor, or the Lord Mayor and the General Manager, witnessing the affixation of Council’s seal to each of the three Deeds of Indemnity,

on the grounds that the Deeds of Indemnity all relate to the business of Council.

KEY ISSUES

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

3 At the Extraordinary Council Meeting held on 8 October 2013, Council approved and authorised the execution of the relevant legal documents that implemented the corporate restructure of Newcastle Airport Pty Ltd (NAPL). The corporate restructure legal documents were executed on, and became effective on, 9 October 2013.
4 Mr Kirby Clark and Ms June Munro, were appointed as directors of NAPL on 13 April 2015. Similarly, Mr Peter Cock was appointed as CEO of NAPL (he is not a director of NAPL) on 17 June 2015. The present Deeds of Indemnity provide that both NCC and PSC shall indemnify each of the three individuals in respect of claims subject to the claim not arising from their failure to comply with the duties and obligations imposed on them by NAPL’s corporate governance charter, its constitution or any laws.

5 The provision of such Deeds of Indemnity is a necessary requirement in order to ensure that individuals such as Mr Clark and Ms Munro appropriately act as directors of NAPL and continue to remain as a director of NAPL, and in the case of Mr Cock, continue to act as the CEO of NAPL. This is a common practice in relation to companies that seek to appoint directors onto their boards of directors and/or wish to appoint CEOs and is permissible under the Corporations Act, 2001 (Commonwealth).

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

7 The Deeds of Indemnity have been already executed by the other parties to the tripartite Deeds which have been prepared by Herbert Smith Freehills. It is in NCC’s interests for the Deeds of Indemnity to be executed by it and to approve and authorise its seal being affixed to the Deeds of Indemnity in accordance with the requirements of Clause 400(4) of the Regulation.

FINANCIAL IMPACT

8 There is no financial cost associated with NCC’s execution of the Deeds of Indemnity. In the event that a legal claim was ever made against any of the indemnified individuals in respect of any alleged failure by any of them to comply with the duties and obligations imposed on them in their respective capacity as a director of NAPL or as a CEO of NAPL (as the case may be), it is expected that NAPL’s Directors and Officers Indemnity Insurance Policy would fully cover the financial costs of the claim, thereby protecting NCC and PSC from any financial costs associated with any particular claim and any of these Deeds of Indemnity being called upon. The Deeds of Indemnity specifically provide that the indemnity does not apply to the extent:
(i) the claim arises in connection with a failure by any of the three individuals to comply with the duties and obligations imposed on them by NAPL’s corporate governance charter; NAPL’s constitution, or any laws; or

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

COMMUNITY STRATEGIC PLAN ALIGNMENT

9 N/A

IMPLEMENTATION PLAN/IMPLICATIONS

10 No further action is required in order to enable the Deeds of Indemnity coming into legal effect.

RISK ASSESSMENT AND MITIGATION

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

RELATED PREVIOUS DECISIONS

12 31 March 2015 - Approval of execution of Deed of Indemnity in respect of Mr Wayne Wallis.

13 8 October 2013 – Approval of execution of NAPL corporate restructure legal documents.

14 24 September 2013 - Adoption of Instrument of Delegation to Newcastle Airport Ltd.

15 7 August 2012 - Adoption of Newcastle Airport Ownership Restructure.

CONSULTATION

16 Council staff have consulted with the Chief Financial Officer and Company Secretary of NAPL.

17 The appointment of Mr Kirby and Ms Munro as Directors of NAPL followed a selection process undertaken by the Director Selection Committee and was endorsed by both Newcastle Airport Partnership and NAPL. Their appointment is part of Director succession planning as articulated within the NAPL corporate governance charter.
OPTIONS

Option 1

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

Option 2

19 Council not adopt the recommendation as at Paragraph 1. This is not the recommended option.

REFERENCES

LOCAL GOVERNMENT (GENERAL) REGULATION 2005 - REG 400

Clause 400 Council seal

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

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

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

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

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

ATTACHMENTS

NIL
MOTION
Moved by Cr Tierney, seconded by Cr Luke

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

(a) the affixation of Council’s seal to each of the three separate Deeds of Indemnity to be entered into between Newcastle City Council, Port Stephens Council and each of Mr Kirby Clark, Ms June Munro and Mr Peter Cock; and

(b) each of the Lord Mayor and any one other Councillor, or the Lord Mayor and the General Manager, witnessing the affixation of Council’s seal to each of the three Deeds of Indemnity,

on the grounds that the Deeds of Indemnity all relate to the business of Council.

Carried
ITEM-53  

CCL 28/07/15 - CONTRACTUAL CONDITIONS OF SENIOR STAFF

REPORT BY: CORPORATE SERVICES
CONTACT: DIRECTOR CORPORATE SERVICES / MANAGER HUMAN RESOURCE SERVICES

PURPOSE

To report to Council on the contractual conditions of senior staff in accordance with the requirements of section 339 of the Local Government Act 1993 (NSW).

This information supplements details on salaries paid to Senior Officers and other information that is reported separately in the annual report in association with Section 217 of the Local Government (General) Regulation.

It should be noted that this report is provided for the information of Councillors only and if Council wishes to discuss individual arrangements it should close the meeting under Section 10(A)(2)(a) of the Act.

RECOMMENDATION

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

KEY ISSUES

2 At the 24 September 2013 Ordinary Council meeting it was resolved to:

   RESOLVED: (The Lord Mayor / Councillor B Luke)

1 Council adopt a permanent effective full time (EFT) establishment, excluding casual / temporary staff, of 935 noting:

   i) The reduction of 82 positions from the previous establishment has been implemented with an underlying annual salary saving of $6.5M per annum.

   ii) The remaining reduction of 11 EFT from the Delivery Plan is scheduled to be delivered by 30 June 2015.

   iii) This is the maximum permanent establishment.

2 a) That Council adopt a new structure comprising of up to three groups based on the function of:

   • Corporate Services
   • Planning and Regulatory
   • Infrastructure
b) Each Group be led by a Director reporting to the General Manager.

c) The General Manager and three Directors make up the Executive Management Team (EMT).

d) The EMT be supported by up to 16 Managers of Business Units (MBU's).

e) The EMT and MBU's make up the Senior Management Team.

f) All members of the Senior Management Team be appointed as Senior Staff in accordance with S332 of the Local Government Act.

g) It should be noted that this will result in an underlying management salary of $1M per annum.

3 That the General Manager be authorised to take all necessary action to transition to the new structure with it to be fully implemented by 30 June 2015 to coincide with Council's Delivery Plan.

4 That the Confidential Report and Briefing, other than parts released by the General Manager, remain confidential.

5 That the resolution not be made publicly available until after 2pm on Wednesday 25 September 2013 being the earliest practical time to do so after giving notice in accordance with Council's Industrial obligation.

3 All senior staff contracts are consistent with the relevant standard contract issued by the NSW Office of Local Government. The standard contracts are publicly available on the Office of Local Government website.

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<th>Position</th>
<th>Commencement Date</th>
<th>Contract Termination Date</th>
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<td>General Manager</td>
<td>11 March 2013</td>
<td>16 September 2018</td>
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<td>Director Infrastructure</td>
<td>24 August 2009</td>
<td>23 August 2018</td>
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<td>Director Planning and Regulatory</td>
<td>21 February 2011</td>
<td>15 June 2019</td>
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<td>Director Corporate Services</td>
<td>2 June 2014</td>
<td>1 June 2019</td>
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<td>Manager Human Resources</td>
<td>28 January 2014</td>
<td>27 January 2019</td>
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<td>Manager Finance</td>
<td>3 February 2014</td>
<td>2 February 2019</td>
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<tr>
<td>Manager Commercial Property</td>
<td>24 March 2014</td>
<td>23 March 2017</td>
</tr>
<tr>
<td>Manager Customer Service</td>
<td>13 May 2015</td>
<td>12 May 2020</td>
</tr>
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4 Under the contract, senior staff must, at least nine months before the contract termination date, apply to the General Manager (or in the case of the General Manager to Council) in writing if seeking re-appointment to the position. At least six months before the termination date, the General Manager will respond to the employee’s application by notifying the employee in writing of his decision to either offer the employee a new contract of employment (and terms) or decline the employee’s application for employment. At least three months before the termination date, the employee will notify the employer in writing of the employee’s decision to either accept or decline any offer made by Council.

FINANCIAL IMPACT

5 Senior staff remuneration is included in Council's management plan and budget. It is reported in the Annual Report in accordance with S.217 of the Local Government Regulation.

COMMUNITY STRATEGIC PLAN ALIGNMENT

6 Considered decision making based on collaborative, transparent and accountable leadership.

7 A local government organisation of excellence.

IMPLEMENTATION PLAN/IMPLICATIONS

8 Council is required to meet its reporting obligations to Council and the wider community.
RISK ASSESSMENT AND MITIGATION
9 N/A

RELATED PREVIOUS DECISIONS
10 The recruitment of senior staff followed Council's decision on the Organisation Structure which was determined on 24 September 2013.

CONSULTATION
11 N/A

OPTIONS
Option 1
12 Council adopts the recommendation. This is the preferred option.

Option 2
13 Council does not note the report on the contractual conditions of senior staff. This is not the recommended option.

BACKGROUND
14 Annual reporting to council of contractual conditions of senior staff is required by section 339 of the Act. In addition, section 428 of the Act requires a council to include certain senior staff details in its published annual report. This could include information on common contractual conditions, apart from salary. This approach is consistent with section 10A (2) of the Act that allows a council to close part of a meeting to discuss personnel matters concerning particular individuals.

ATTACHMENTS
Nil

MOTION
Moved by Cr Osborne, seconded by Cr Posniak
Council notes the contractual conditions of senior staff of The City of Newcastle.
Carried
ITEM-54 CCL 28/07/15 - EXECUTIVE MONTHLY PERFORMANCE REPORT - PRELIMINARY RESULT AS AT 30 JUNE 2015

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

PURPOSE

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

a) Council’s unaudited preliminary financial position for the 2014/15 financial year compared to the 2014/15 Operational Plan.

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

RECOMMENDATION

1 The report be received.

KEY ISSUES

2 At the end of June 2015 the preliminary unaudited consolidated full year actual operating position is a surplus of $3.4m (this result is subject to change as further detailed in paragraph 3 below) which represents a positive variance of $6.2m against the revised operating budget deficit of $2.8m. This budget variance is due to a combination of income and expenditure variances which are detailed in Attachment A. A significant factor contributing to this variance is the current level of under spending on asset maintenance and asset renewal. Our analysis indicates that if this work was increased above the 2014/15 budget to the level identified as sustainable it would result in additional full year operational costs of approximately $10m which would have reduced the reported actual operational position to a deficit of $6.6m.

3 The completion of the asset maintenance and Capital Expenditure budget was impacted by the significant storm in April and Council's response to it. The capital works completed in 2014/15 was still 25% greater in value than that completed in 2013/14.
4 At this time the reporting of Council’s financial position is preliminary and subject to the following:

a) A possible interim dividend on Lehman Brothers claims resolution process (CRP).

b) The final calculation and reconciliation of Council’s depreciation.

c) The reconciliation of gain or loss on the sale of Council’s property assets.

d) Finalisation of end of year accruals for goods and services received during the financial year 2014/15 but not yet invoiced.

e) The reclassification and expense of work previously regarded as capital that has been found to be of an operational nature.

f) Calculation of rehabilitation provisions for Council's waste management sites.

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

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

5 The preliminary unaudited full year 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 is a deficit of $8.4m. These items include:

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

ii **Restricted Income – $10.8m**
   Consolidation of the Council’s 50% share of the airport operating result ($2.8m), the 2012 Special Rate Variation ($4.2m), the storm water management service charge ($2m) and the Local Roads component of the Financial Assistance Grant ($1.8m).

6 At the end of June 2015, Council’s preliminary expenditure on the capital works program is $14.7m below the full year 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).
7. The preliminary **net funds generated** at the end of June 2015 is a **surplus** of **$25.1m** (after capital revenues, expenditure and loan principal repayments). This is a positive variance of **$22.4m** to the revised budget. The net funds generated is represented by a net reduction in restricted cash reserves of **$7.5m** (positive variance of **$16.5m**) offset by an increase in unrestricted cash reserves of **$32.6m** (positive variance of **$5.9m**). Again had **capital spending been in-line** with **budget forecasts** the additional expenditure would have reduced the net funds generated to a more **balanced position** which is roughly in-line with budget expectations.

8. 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, December and March Quarterly Budget Reviews.

9. 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. No fees were waived in the month of June.

<table>
<thead>
<tr>
<th>Full Year Adopted Budget $’000</th>
<th>Full Year Revised Budget $’000</th>
<th>Full Year Actual Result $’000</th>
<th>Variance to Revised Budget $’000</th>
<th>Variance %</th>
<th>Outstanding Commitments $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>215,969 Total Operating Revenue</td>
<td>226,522</td>
<td>228,581</td>
<td>2,059</td>
<td>1%</td>
<td>6,265</td>
</tr>
<tr>
<td>227,840 Total Operating Expenses</td>
<td>229,300</td>
<td>225,149</td>
<td>(4,151)</td>
<td>-2%</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total Operating Revenue Less Operating Expenditure (11,871)</strong></td>
<td><strong>Operating Expenditure (2,778)</strong></td>
<td><strong>3,432</strong></td>
<td><strong>6,210</strong></td>
<td><strong>-224%</strong></td>
<td><strong>0</strong></td>
</tr>
<tr>
<td>13,851 Total Capital Raising revenue</td>
<td>37,810</td>
<td>39,288</td>
<td>1,478</td>
<td>4%</td>
<td></td>
</tr>
<tr>
<td>46,928 Add Back Non Cash Items</td>
<td>64,489</td>
<td>64,489</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding available for capital expenditure $’000</th>
<th>48,998</th>
<th>77,187</th>
<th>7,688</th>
<th>11%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loan Principal Repayment $’000</td>
<td>(2,697)</td>
<td>(2,697)</td>
<td>0%</td>
<td>0</td>
</tr>
<tr>
<td><strong>(6,083)</strong> Net Funds Generated / (Used) $’000</td>
<td>2,764</td>
<td>25,124</td>
<td>22,360</td>
<td>809%</td>
</tr>
<tr>
<td><strong>(12,485)</strong> Net Transfers (from)/to Restricted Cash Reserves $’000</td>
<td>(24,004)</td>
<td>(7,504)</td>
<td>16,500</td>
<td>-69%</td>
</tr>
<tr>
<td>Net Transfers (from)/to Unrestricted Cash $’000</td>
<td>6,404</td>
<td>32,628</td>
<td>5,859</td>
<td>22%</td>
</tr>
<tr>
<td><strong>Net change in Council’s Reserves (6,081)</strong> $’000</td>
<td>2,765</td>
<td>25,124</td>
<td>22,359</td>
<td>809%</td>
</tr>
</tbody>
</table>

Note 1 - Budget revised at the March Quarterly Budget Review
Note 2 - Actual and Budget results include an estimate for the Newcastle Airport
FINANCIAL IMPACT

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

<table>
<thead>
<tr>
<th>Full Year Adopted Budget $’000</th>
<th>Full Year Revised Budget $’000</th>
<th>Full Year Actual Result $’000</th>
<th>Variance to Revised Budget $’000</th>
<th>Variance %</th>
<th>Outstanding Commitments $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Revenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>126,596 Rates &amp; charges</td>
<td>128,289</td>
<td>128,289</td>
<td>0%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>53,539 User charges &amp; fees</td>
<td>61,949</td>
<td>63,974</td>
<td>2,025 3%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6,735 Interest</td>
<td>9,620</td>
<td>9,766</td>
<td>146 2%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11,132 Other operating revenues</td>
<td>10,866</td>
<td>11,141</td>
<td>275 3%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grants &amp; contributions -</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17,967 Operating</td>
<td>15,798</td>
<td>15,411</td>
<td>(387) -2%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Operating Revenue</td>
<td>215,969</td>
<td>226,522</td>
<td>2,059 1%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Expenses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>91,155 Employee costs</td>
<td>86,800</td>
<td>86,698</td>
<td>(102) 0%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3,959 Borrowing costs</td>
<td>4,258</td>
<td>4,225</td>
<td>(33) 0%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>50,671 Materials &amp; contracts</td>
<td>45,908</td>
<td>44,037</td>
<td>(1,871) -4%</td>
<td>4,874</td>
<td></td>
</tr>
<tr>
<td>46,928 Depreciation &amp; amortisation</td>
<td>49,478</td>
<td>49,478</td>
<td>0%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>35,127 Other operating expenses</td>
<td>42,856</td>
<td>40,711</td>
<td>(2,145) -5%</td>
<td>1,391</td>
<td></td>
</tr>
<tr>
<td>Total Operating Expenses</td>
<td>227,840</td>
<td>229,300</td>
<td>(2,059) -2%</td>
<td>6,265</td>
<td></td>
</tr>
<tr>
<td>Total Operating Revenue Less Operating Expenditure</td>
<td>(11,871)</td>
<td>(2,778)</td>
<td>3,432</td>
<td>6,210</td>
<td>-224%</td>
</tr>
</tbody>
</table>

Note 1 - Budget revised at the March Quarterly Budget Review
Note 2 - Actual and Budget results include an estimate for the Newcastle Airport

11  Factors favourably impacting Financial Position

i  **User charges & fees – increase of $2m**
Additional civil works income through work on Transport for NSW contract.

ii  **Materials & Contracts – decrease of $1.9m**
Expenditure at the Waste Management Centre is $0.8m below budget, with the variance generally relating to Waste and Sustainability Improvement Programs that fund waste education and will continue into 2015/16.

Unspent budget of $0.6m for expenditure on procuring and programming shows across Council’s Cultural Facilities.

The expenditure on external legal services is $0.4m below budget.

iii  **Other operating expenses – decrease of $2.1m**
Below budget expenditure of $0.8m for insurance and related third party public liability compensation claims.
The state waste levy is also approximately $0.5m below budget due to a combination of lower than forecast commercial waste tonnages at Summerhill and a waste levy exemption provided after the April storm event.

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 June reported an operational deficit of $0.4m which was broadly in line with expectations as creditors provide end of year invoices for payment.
13 Council adopted a capital works program of $55m for 2014/15. The program was increased by the addition of 2013/14 capital works in progress of $15.8m to $70.8m. Subsequent quarterly budget reviews reduced the budget to $64m based on scheduling of works through the 2014/15 financial year.

14 The actual capital works expenditure of $49m is within 10% of the adopted 2014/15 annual budget, when the effect of the timing differences of works in progress at the end of financial years 2013/14 ($15.8m) and 2014/15 (approximately $15m) are removed. Additionally the 2014/15 capital works expenditure is $10m above the 2013/14 capital works expenditure of $39m.

15 The completion of the capital works program in 2014/15 was delayed by the reprioritisation of Council resources as a consequence of the April 2015 storm event.
16 Council’s total capital spend is $14.7m below the revised budget of $64m. In aggregate Council’s revised budget assumed that the capital work program of $64m generated $11m of additional operational expenditure. This ratio indicates that a capital spend of $14.7m below budget would have a flow on effect of $2.5m to operational expenses.

17 At the end of June commitments raised against capital work totaled $10.4m. The commitments represent both the work currently being undertaken that has not yet met an invoice appropriate milestone as well as the work planned for the future. All accruals have been included in the financial statements above. Major commitments include:

i **Coastal Revitalisation – $2m**
   Commitment raised to pay the contractors (Daracon) constructing the Nobbys to Newcastle section of Bathers Way ($2m).

ii **Major Asset Preservation Program – $4.3m**
   Commitments include $2m for the contractors restoring 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 ($0.6m), city wide drainage ($0.5m) and the rehabilitation of Ironbark creek ($0.2m).

iii **Fleet Replacement – $1m**
   Commitments raised to cover fleet vehicles ordered but not delivered as at 30 June 2015.

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,
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. This is the recommended option.

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.
REFERENCES

ATTACHMENTS

Distributed under separate cover

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

The report be received.  

Carried
ITEM-55  CCL 28/07/15 - REVIEW OF THE CITY OF NEWCASTLE MEDIA POLICY
REPORT BY: CORPORATE SERVICES
CONTACT: DIRECTOR CORPORATE SERVICES / MANAGER CUSTOMER SERVICE

PURPOSE

To report to Council on the current Media Policy as requested in the Notice of Motion 16/06/15 - Open and Transparent Governance - Communications and Community Engagement that was endorsed by Council at its meeting held on 16 June 2015 (NOM).

RECOMMENDATION

1  Council receive the report.

KEY ISSUES

2  Council resolved at its meeting held on 28 April 2015 to approve the Amended Notice of 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 these summaries be produced in a manner which meets requirements of relevant privacy legislation and Council's Privacy Management Plan.

That these diary summaries be uploaded to the website within two weeks of the conclusion of the preceding month.

That in the interests 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 which concern the Council or decisions made by 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".

3 A subsequent Council report 'Legal advice in respect of open and transparent governance - open diaries' was considered in confidential session at the Ordinary Council meeting held on 26 May 2015. In reporting back after the conclusion of the confidential session the General Manager reported that the omitted paragraph 4 and additional parts of Notice of Motion Item 15 - Open and Transparent Governance: Open Diaries, as presented and adopted on 28 April 2015, were ultra vires. As the resolution was passed as a whole rather than in seriatim, the full resolution was considered to have no effect and would not be implemented.

4 At the 16 June 2015 Ordinary Council meeting, Council endorsed the following NOM:

"1. That Council's organisational structure and staff establishment be amended to include a stand-alone communications, community engagement and public affairs unit led by a senior staff officer, reporting directly to the General Manager, with the total approved staff establishment remaining the same (ie the change be absorbed within the existing approved organisational staff levels.)

"2. That a report be provided to Council at the July meeting reviewing the current media policy and guidelines, in line with the adopted delegations, to break down internal information silos and improve the effectiveness, consistency and clarity of information provided by Council to the community."

5 Item one of the NOM referred to in paragraph 5 above is being progressed through a recruitment process with advertising underway.

6 Item two of the NOM referred to in paragraph 5 above is the subject of this report.

7 The current Media Policy was last reviewed in 2013/2014 with the policy adopted by Council on 25 March 2014. It was scheduled for review in 2017.

8 The NOM referred to in paragraph 5 above included a background section requesting clarification about a range of issues. The existing policy addresses the majority of these issues with the relevant reference or clarification provided in the table below.
<table>
<thead>
<tr>
<th>Issue</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outline the role of the restructured Communications and Public Affairs Unit</td>
<td>Section 10</td>
</tr>
<tr>
<td>Promote the principles of Open and Transparent Governance</td>
<td>Section 1, 2, 3 and 6.3</td>
</tr>
<tr>
<td>Encourage an open information exchange between Newcastle City Council and the community (including online, in print publications and via the media)</td>
<td>Section 1, 2, 3</td>
</tr>
<tr>
<td>Ensure all communications are consistent, accurate, timely and appropriate</td>
<td>Section 1, 2, 3</td>
</tr>
<tr>
<td>Ensure consistency across the organisation when dealing with external communication, including via the media</td>
<td>Section 1, 2, 3, 5</td>
</tr>
<tr>
<td>Identify Newcastle City Council's authorised spokespersons for operational, administrative, strategic and policy issues, in line with the delegations of Council</td>
<td>Section 9</td>
</tr>
<tr>
<td>Provide for issues to be escalated as appropriate to senior executive management and the Lord Mayor</td>
<td>Section 1.2, 14</td>
</tr>
<tr>
<td>Outline the role of the Communications Manager, Council staff, Executive Management, Councillors and the Lord Mayor</td>
<td>Section 15</td>
</tr>
<tr>
<td>Engage the Communications Unit Manager as part of the executive decision making process, to raise and address communication constraints, and provide feedback to Council</td>
<td>The Communications Manager provides a Media Issues report to the monthly EMT Operations Meeting</td>
</tr>
</tbody>
</table>

**FINANCIAL IMPACT**

9 There is no cost associated with the recommended option (Option 1). However if Council elect to proceed with Option 2 there will be costs associated with the public exhibition of the document and hosting a stakeholder workshop of approximately $5,000.

**COMMUNITY STRATEGIC PLAN ALIGNMENT**

10 Open and collaborative leadership.
IMPLEMENTATION PLAN/IMPLICATIONS

11 Council’s Engagement Charter (adopted December 2011) states one of its guiding principles is to be open and transparent by:

- being clear and concise in all our communications;
- sharing information about Council services, activities and decisions;
- regularly promoting and celebrating the achievements of Council and the local community.

12 The Media Policy is a key tool for fulfilling the obligations of Council's Engagement Charter. Amending the media policy in a manner that would further constrain the distribution of information, or reduce the capacity to respond in a timely fashion to media enquiry, or further restrict the media's access to staff; would be contrary to this charter and the current Council's decision for openness and transparency.

RISK ASSESSMENT AND MITIGATION

13 To ensure the Council aligns with the Newcastle 2030 Community Strategic Plan objective - Open and collaborative leadership: considered decision-making based on collaborative, transparent and accountable leadership, the community and other relevant stakeholders should have the opportunity to provide feedback and suggest changes through a formal public exhibition process. This occurred when the Policy was last reviewed and should occur again if the Council determines that they require further changes to the current Policy.

14 If there is a concern on the application of the existing policy and an intent to direct additional media opportunity to the Mayor's office, this could be addressed within a guideline providing greater clarity to Communications staff. If a guideline is to be implemented, it would be best to do so in conjunction with the successful applicant to the new senior management position - Manager Communications and Engagement.

RELATED PREVIOUS DECISIONS

15 The Policy was reviewed and adopted at the Ordinary Council meeting held on 25 March 2014. The review date for the Policy is 2017.

16 The Policy was drafted and adopted by Council at the Ordinary Council meeting held on 13 November 2007, along with an amendment to the Code of Conduct 'Public comment by council officials'. 
17 The development of the 2007 Policy followed the resolution at an Extraordinary Council meeting held on 12 June 2007:

“Direct the General Manager to develop, for Council’s consideration, a draft policy on ‘Public Comment by Council Officials on Council Affairs’, and as an interim measure pending the General Manager’s further report the Council proposes to adopt the draft Policy on those matters as prepared by its solicitors.”

CONSULTATION

18 Consultation was undertaken as part of the 2013/2014 review. At that time, Councillors were concerned that the proposed wording was onerous and may restrict their ability to comment on matters that were in the public interest. In response to this some amendments were made to the draft Policy. An excerpt of the consultation section of the ‘Adoption of The City of Newcastle Media Policy’ report dated 25 March 2015 is provided below:

‘10 The Communications Team consulted with Council Officers who deal directly with the media and Council’s Governance Unit in revising this Policy.

11 Input was sought from Councils around the country via the Local Government Public Relations Association with Hawkesbury, Lake Macquarie, Port Macquarie Hastings, Parramatta and Wollongong providing copies of their own policy as well as advice on how effective they are in promoting positive relationships with the media.

12 A workshop about the revised Media Policy was held for Councillors on 10 September 2013.

13 The Media Policy was discussed at a Council Meeting on 10 December 2013 where concerns were raised about wording in two areas of the revised Media Policy. The following changes were made to the Policy

- Council Officers to be defined separately from Council Officials and Councillors
- Clause 6.2 replace “officials” with “officers”
- Clause 6.4 read as “Council Officers must support Council decisions and all Council Officials refrain from using the media”
- Change 7.1.3 to “may relate to matters that have not yet been determined by Council”
- 14 Changes to Clauses 12.2.2 and 12.3 have also been made.’
19 The impact of the above changes is summarised in the table below:

<table>
<thead>
<tr>
<th>Change</th>
<th>Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 6.2 replace “officials” with “officers”</td>
<td>Clause requires Council officers to ensure media statements are approved by the Council's Communication Unit but this clause does not apply to other council officials including councilors, volunteers and Committee members. While this provides greater freedom to council officials to express their views it also increases the potential for inconsistent messages to the community which presents a reputational risk for the organisation.</td>
</tr>
<tr>
<td>Clause 6.4 read as “Council Officers must support Council decisions and all Council Officials refrain from using the media”</td>
<td>Similar to above in that it provides greater freedom to council officials to express their views it also increases the potential for inconsistent messages to the community which presents a reputational risk for the organisation.</td>
</tr>
<tr>
<td>Change 7.1.3 to “may relate to matters that have not yet been determined by Council”</td>
<td>Intended to mitigate the risk of inconsistent messages to the community</td>
</tr>
<tr>
<td>14 Changes to Clauses 12.2.2 and 12.3 have also been made</td>
<td>These clauses relate to the behavior of journalists in the Chamber only.</td>
</tr>
</tbody>
</table>

OPTIONS

Option 1

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

Option 2

21 Council resolve to request a Guideline be prepared to improve the consistency and clarity of how media enquiries are to be processed with an emphasis on increasing the involvement of the Lord Mayor's Office.

Option 3

22 Council resolves to place the Media Policy (Attachment A) on public exhibition for 28 days and host a workshop with stakeholders, after the expiration of the public exhibition period, to discuss issues and opportunities for improvement. This is not the recommended option.
BACKGROUND

23 NOM 16/06/2015 - Open and Transparent Governance - Communications and Community Engagement (Attachment B).

REFERENCES

ATTACHMENTS

Attachment A: Media Policy adopted 25 March 2014
Attachment B: NOM 16/06/2015 - Open and Transparent Governance - Communications and Community Engagement and Council Resolution
Attachment A

The City of Newcastle

Policy

Media

PO Box 489 (282 King Street)
NEWCASTLE NSW 2300
Ph 02 4974 5000
Fax 02 4974 2222
Email mail@ncc.nsw.gov.au
www.newcastle.nsw.gov.au
### Media Policy

<table>
<thead>
<tr>
<th>Policy title</th>
<th>Media Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy owner</td>
<td>Communications Manager</td>
</tr>
<tr>
<td>Prepared by</td>
<td>Customer Service</td>
</tr>
<tr>
<td>Approved by</td>
<td>Council</td>
</tr>
<tr>
<td>Date approved</td>
<td>25 March 2014</td>
</tr>
<tr>
<td>Commencement Date</td>
<td>1 April 2014</td>
</tr>
<tr>
<td>Version</td>
<td>Version three</td>
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<tr>
<td>Category</td>
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</tr>
<tr>
<td>Keywords</td>
<td>media, social media, journalists, spokesperson, liaison, newspapers, communication, reporting, privacy.</td>
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<tr>
<td>Revision date</td>
<td>2017</td>
</tr>
<tr>
<td>Amendments</td>
<td>Newcastle City Council Media Policy (2007)</td>
</tr>
<tr>
<td>Relevant strategic direction</td>
<td>Open and Collaborative Leadership</td>
</tr>
<tr>
<td>Relevant legislation/codes</td>
<td>Local Government Act 1993 (NSW)</td>
</tr>
<tr>
<td></td>
<td>Government Information (Public Access) Act 2009 (NSW)</td>
</tr>
<tr>
<td></td>
<td>Privacy and Personal Information Protection Act 1998 (NSW)</td>
</tr>
<tr>
<td></td>
<td>The City of Newcastle’s Code of Conduct</td>
</tr>
<tr>
<td>Related policies/documents</td>
<td>Communications Planning Policy</td>
</tr>
<tr>
<td></td>
<td>Communications and Consultation Strategy 2010-2012</td>
</tr>
<tr>
<td></td>
<td>Social Media Policy</td>
</tr>
<tr>
<td>Related forms</td>
<td>Nil</td>
</tr>
</tbody>
</table>
Media Policy

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  2 Scope............................................................................................................................ 1
  3 Principles...................................................................................................................... 1
  4 Definitions ................................................................................................................... 2

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  5 Purpose......................................................................................................................... 3

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Part A - Purpose

1 Purpose

This policy is multipurpose as below:

1.1 To clearly indicate Council’s authorised spokespersons and define roles and responsibilities within the Council for working with the media.

1.2 Ensure appropriate authorisation and responsibility for information provided.

1.3 Assist the media by clarifying the level of service they can expect regarding access to Council officials, provision of information and responses to enquiries.

1.4 To limit the reputation risk and communication of inaccurate information.

1.5 Provide effective communication of Council Affairs to the public through the media.

2 Scope

2.1 The policy applies to Council officials. This policy applies to situations where Council officials:

2.1.1 communicate with the media about Council affairs and related matters;

2.1.2 attend public speaking engagements; or

2.1.3 make comments on Council affairs where it is reasonably foreseeable that their comments will be published in the media.

2.2 This policy applies to consultants engaged by Council to liaise with the media on its behalf.

2.3 This policy applies to journalists’ behaviour when attending Council meetings. Council’s Code of Meeting Practice also outlines guidelines for general meeting practice.

3 Principles

3.1 Council’s Engagement Charter (adopted December 2011) states one of its guiding principles is to be open and transparent by: being clear and concise in all our communications; sharing information about Council services, activities and decisions; and regularly promoting and celebrating the achievements of Council and the local community.

3.2 Council’s relationship with the media is a key component of delivering on these principles. This relationship provides an opportunity to:

3.2.1 keep the community informed about Council activities, services and programs;

3.2.2 involve the community in dialogue about the provision of services and planning for the future; and

3.2.3 involve the community in activities which support our great place, great lifestyle and great future.

3.3 This policy acknowledges the rights and responsibilities of Councillors as elected representatives as outlined in the Local Government Act 1993.
4 Definitions

4.1 Council means The City of Newcastle.

4.2 Council affairs means matters before the Council or other Council business, Council policy, interpretation of policy, management of Council business, management of Council staff or actions or matters that may commit the Council's resources to any purpose.

4.3 Councillor means a person elected or appointed to civic office and includes the Lord Mayor.

4.4 Council officer means staff of The City of Newcastle.

4.5 Council officials means Council officials as defined in Council's Code of Conduct, including Councillors, members of staff of Council and delegates of Council including volunteers.

4.6 Media includes print media such as national or local newspapers, magazines, newsletters, brochures and other documents and the broadcast media including radio and television broadcasters and internet publishers.

4.7 Public comment includes interviews with the media (including comments to or interviews with the press, radio or television), public speaking engagements, expressing views in letters to the press, in books, notices, articles or in any medium where it is reasonably foreseeable that the publication or circulation will enter the public domain.

4.8 Publication is the distribution of information via print or electronic media including but not being limited to newspapers, radio and television broadcasting and the internet.

4.9 Unless stated otherwise, a reference to a clause is a reference to a clause of the policy.
Part B - Media relations at Council

5 Purpose

5.1 Effective communication of Council affairs to the public through the media is not about curbing freedom of speech. Council welcomes the opportunity to talk to the media and, through them, to debate issues in the public arena.

5.2 Comments made to the public and media, on behalf of The City of Newcastle must be consistent, accurate, reliable and timely.

5.3 Comment to media must also enhance the reputation of the Council using the Council’s values as the cornerstone.

5.4 For this to occur, Council officials must adhere to a ‘whole of Council’ perspective when answering media inquiries and providing information to the media about Council programs and services.

5.5 This ensures there are ‘no surprises’ and that the Lord Mayor, General Manager, Councillors and senior Council officers can be advised of probable media stories prior to publication.
Part C - Regulations and responsibilities

6 General

6.1 All enquiries received by Council officers from media must be directed in the first instance to the Council’s Communications Unit. Adoption of this regulation significantly enhances the provision of consistent and accurate Council information through the news media.

6.2 Before making a statement to the media, Council officers must ensure:

6.2.1 the comment is approved by the Council’s Communications Unit

6.2.2 the statements are being made in accordance with Council’s delegations register.

6.3 Council will openly discuss matters of interest with the media unless disclosure of certain information contravenes Council’s obligations of confidentiality or privacy, duty of care, or could infringe other laws or regulations that govern its operations.

6.4 Council officers must support Council decisions and all Council officials must refrain from using the media to make negative personal reflections on each other or comments that could be interpreted as such and which are reasonably likely to undermine public confidence in the Council or local government generally.

6.5 Council officials must ensure that any comments to the media are not in breach of the Code of Conduct.

7 Councillor comments and comments about Council resolutions

7.1 Councillors are free to debate the merits of a proposed or adopted decision of Council. The Councillor must make it clear to the media that comments:

7.1.1 are being made as an individual;

7.1.2 are not necessarily the view of the Council, and

7.1.3 may relate to matters that have not yet been determined by Council.

8 Confidential information

8.1 Confidential information provided to Council officials prior, during or after a Council workshop, briefing or meeting must remain confidential and not be provided to the media, or any other member of the public prior, during or after a workshop, briefing or meeting.

9 General Manager and Lord Mayor – spokespersons

9.1 The Lord Mayor (subject to delegation from the elected Council) and the General Manager are the official spokespersons on Council affairs.

9.2 The General Manager may ask Directors or specialist members of staff (in accordance with Council’s register of delegations) to respond to technical questions on operational matters only.

10 Communications Unit responsibilities

10.1 Council’s Communications Unit is responsible for:
10.1.1 coordinating and distributing articles, columns and newsletters on behalf of the Lord Mayor or the Council.

10.1.2 preparing and distributing all media releases (all media releases must be approved by the relevant Director, the General Manager or Lord Mayor prior to release).

10.1.3 monitoring local newspapers, radio, television and online media (subject to appropriate resources being available) to identify any mentions of The City of Newcastle as well as to identify emerging issues that may potentially involve The City of Newcastle; and

10.1.4 providing this information to Council’s Executive Leadership Team as part of their monthly strategic meetings or on demand from any member of the Council’s Executive Leadership Team.

10.2 In the event of incorrect information or information that has a personal or corporate reputation risk being published, the Communications Manager will investigate and report to the General Manager on how the information came to be published and whether it was released in breach of this policy. If necessary, the General Manager will issue or will authorise a media release to clarify the incorrect information.

11 Regulations for engagement and management of consultants

11.1 The Council’s Communications Unit must be involved in the early stages of any process initiated to engage external consultants by the Council officers to undertake liaison with media, generation of media releases, public relations activities including launches, famils (enabling members of the media to become familiar with a place, topic or person) event management, or publication production. This includes creation of service briefs, evaluation of tenders and final appointment of consultants.

11.2 Any activity undertaken by external consultants on behalf of the Council which includes liaison with media, generation of media releases, public relations activities including launches, famils, event management, or publication production must be approved by the Council’s Communication Unit.

12 Regulations for journalists in Council meetings

12.1 A member of the Communication Unit will attend Council meetings and act as a liaison between the Lord Mayor, Councillors and journalists.

12.2 When in the chamber journalists must:

12.2.1 be seated in the designated media area. If there is no space in the designated media area, journalists will sit in the gallery.

12.2.2 switch off or place mobile phones on silent (phone calls in the Council chamber are not permitted).

12.2.3 leave the chamber during proceedings through the rear access to the chamber.

12.2.4 direct any questions and interview requests to the Communications Unit who will organise the information or interview.

12.3 Breaches of this policy by a journalist will result in removal from the media area in the Chamber at the instruction of the General Manager.

13 Supporting documentation

13.1 Council’s Code of Conduct outlines provision in relation to Public Comment by Council staff on current affairs and states this must be in accordance with this Media Policy.
13.2 Council’s Communications Unit is responsible for providing Council officials with more support in liaising with the media including help in drafting news releases, interview techniques and guidelines for filming, and working with the media in a crisis. For more information on the training, contact the Communications Unit.

14 Breaches

14.1 Breaches of this policy will be dealt with in accordance with the Code of Conduct or Code of Meeting Practice.

15 Roles and responsibilities

<table>
<thead>
<tr>
<th>Authorised Officer</th>
<th>Roles and Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lord Mayor</td>
<td>Council’s official spokesperson on policy related matters that are supported by a Council resolution. Authorised signatory for Letters to the Editor on these issues.</td>
</tr>
<tr>
<td>Deputy Lord Mayor</td>
<td>Act as the Lord Mayor’s delegated spokesperson if the Lord Mayor is not available.</td>
</tr>
<tr>
<td>Councillors</td>
<td>Provide the media with comment, identifying that this is provided as their own opinion and not representing the official position of Council.</td>
</tr>
<tr>
<td>General Manager</td>
<td>Council’s official spokesperson on all policy, operational and administration issues. Authorised signatory for Letters to the Editor on these issues.</td>
</tr>
<tr>
<td>Directors</td>
<td>Directors are delegated to speak to the media on areas under their jurisdiction. Advise either the General Manager or the Communications Unit prior to, or directly after, the comments made. Provide information to the Communications Unit when requested.</td>
</tr>
<tr>
<td>Communications Unit</td>
<td>Responsible for coordinating responses and providing information to the media on behalf of Council. Responsible for distributing all written media content to media organisations.</td>
</tr>
<tr>
<td>Directors, Service Unit Managers and staff with delegated authority</td>
<td>Selected managers and other staff with delegated authority will provide information within their area of expertise when requested by the Communications Unit and may be asked to provide interviews. This may include technical or in-depth knowledge of the particular subject in question.</td>
</tr>
<tr>
<td>Other delegated Council Officials e.g. volunteers / committee members.</td>
<td>Selected volunteers or committee members may be asked to provide information regarding their area of interest when requested by the Communications Unit to promote a particular activity or service. At all times, volunteers and committee members must indicate they are not speaking on behalf of Council or any Council committee or facility.</td>
</tr>
<tr>
<td>External consultants/agencies</td>
<td>Any consultant or agency engaged to provide information to media outlets must only do so with approval from the Communications Unit. The Communications Unit must be provided with a final draft of media releases or editorial three days before the due date to ensure information can be adequately reviewed and edited.</td>
</tr>
</tbody>
</table>
THE CITY OF NEWCASTLE
Notice of Motion

SUBJECT: NOM 18/06/15 - OPEN AND TRANSPARENT GOVERNANCE - COMMUNICATIONS AND COMMUNITY ENGAGEMENT

COUNCILLORS: CLAUSEN, POSNIAK, DUNN AND CRAKANTHORP

PURPOSE

The following Notice of Motion was received on 4 June 2015 from the abovementioned Councillor.

MOTION

1. That Council’s organisational structure and staff establishment be amended to include a stand-alone communications and public affairs unit led by a senior staff officer, reporting directly to the General Manager, with the total approved staff establishment remaining the same (i.e. the change be absorbed within the existing approved organisational staff levels).

2. That a report be provided to Council at the July meeting reviewing the current media policy and guidelines, in line with the adopted delegations, to break down internal information silos and improve the effectiveness, consistency and clarity of information provided by Council to the community.

BACKGROUND

Council needs to be able to provide effective, consistent, clear and accurate communications to the community. This is achieved through a strong online presence including both the official website, and social media streams; accurate information at the call centre (including up-to-date on-hold messaging); relevant information with rates notices, mail outs and letterbox drops (including the ‘Council News’ newsletters and other flyers); strong community consultation with projects and events; and outcome driven relationships with local media.

To achieve this, Council’s communications unit needs to have engagement across Council, breaking down internal silos and understanding operations between the Divisions, Executive Management, Councillors and the Lord Mayor’s Office.

Council needs to continue to enhance existing relationships with the media to provide opportunities to further our reputation and inform the public about services, activities and events.

The scope of the updated media policy and/or guidelines should:

- Outline the role of the restructured Communications and Public Affairs Unit
- Promote the principles of Open and Transparent Governance
- Encourage an open information exchange between Newcastle City Council and the community (including online, in print publications and via the media)
- Ensure all communications are consistent, accurate, timely and appropriate
- Ensure consistency across the organisation when dealing with external communication, including via the media
- Identify Newcastle City Council’s authorised spokespeople for operational, administrative, strategic and policy issues, in line with the delegations of Council
THE CITY OF NEWCASTLE
Notice of Motion

- Provide provision for issues to be escalated as appropriate to senior executive management and the Lord Mayor
- Outline the role of the Communications Manager, Council staff, Executive Management, Councillors and the Lord Mayor
- Engage the Communications Unit Manager as part of the executive decision making process, to raise and address communication constraints, and provide feedback to Council

Most City Councils of Newcastle’s size have a separate Communications Unit led by an individual that is part of the Senior Management Team. Newcastle City Council’s approach to date has been to maintain a communications section within the Customer Services Unit. With Council’s intent to establish an integrated Customer Services approach and improve openness and transparency, it is appropriate that NCC establish an appropriately resourced unit to implement this intent.

ATTACHMENTS

Nil
Attachment B

THE CITY OF NEWCASTLE
Notice of Motion

Action Item

Committee Name
Tuesday, 16 June 2015

Subject: NOM 16/06/15 - Open and Transparent Governance - Communications and Community Engagement

Motion
Moved by Cr Clausen, seconded by Cr Osborne

1. That Council’s organisational structure and staff establishment be amended to include a stand-alone communications, community engagement and public affairs unit led by a senior staff officer, reporting directly to the General Manager, with the total approved staff establishment remaining the same (i.e. the change be absorbed within the existing approved organisational staff levels).

2. That a report be provided to Council at the July meeting reviewing the current media policy and guidelines, in line with the adopted delegations, to break down internal information silos and improve the effectiveness, consistency and clarity of information provided by Council to the community.

Carried
MOTION
Moved by Cr Clausen, seconded by Cr Doyle

That in the interest of Open and Transparent Governance, and for consistency with resolutions of Council including formal Delegations, the following amendments be made to the Media Policy (Version 3, adopted by Council on 25 March 2014):

1 Clause 9 be amended to read:

9 Lord Mayor and General Manager
9.1 The Lord Mayor is an official media spokesperson of Council.
9.2 The General Manager is the official spokesperson of Council, and may provide comment on operational and administrative matters.
9.3 The General Manager may ask Directors or specialist members of staff (in accordance with Council’s register of delegations) to respond to technical questions on operational matters only.

2 Clause 10.2 be amended to read that
‘In the event of incorrect information or information that has a personal or corporate risk of being published, the Communications, Public Affairs and Community Engagement Manager will investigate and provide a report to the General Manager who will advise the Lord Mayor on how the information came to be published and whether it is in breach of this policy. If necessary, the Lord Mayor or General Manager will issue or will authorise a media release to clarify the incorrect information.’

3 Clause 12.3 be amended to read that:
‘Breaches of this policy by a journalist in the Chamber will be dealt as per the Code of Meeting Practice’.

4 Clause 15 (Roles and Responsibilities) will be amended by:
a Amending the 'Roles and Responsibilities' of the Lord Mayor to read: 'Council's official spokesperson on all matters. Authorised signatory for Letters to the Editor. When the Lord Mayor is unavailable, the Deputy Lord Mayor may assume the responsibilities of the Lord Mayor.'

b Amending the 'Roles and Responsibilities' of the General Manager to read: 'Council's Official spokesperson on operational and administrative matters. Authorised signatory of Letters to the Editor on these issues.'

Cont’d over...
c Amending the 'Roles and Responsibilities' of the Directors to read: 'When delegated by the General Manager, Directors may speak to the media on technical components of operational matters. To ensure consistency in information flow, the Director should advise Council's Media Spokespersons prior, or directly after, the comments are made. A Director will provide information to the Communications Unit or Media Spokesperson when requested.'

That an updated Media Policy incorporating these changes be produced, and be circulated to Councillors, Council staff and uploaded to the website by 14 August 2015.

Carried
ITEM-56  CCL 28/07/15 - CLASSIFICATION OF COUNCIL OWNED LAND - 114A LAKE RD ELERMORE VALE AND 37A TURRAMA ST WALLSEND

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

PURPOSE

To seek a Council resolution approving the classification of 114a Lake Road, Elermore Vale Lot 3054 DP 1202601 and 37a Turrama Street, Wallsend Lot 3055 DP 1202601 as operational land pursuant to section 31 and section 34 of The Local Government Act 1993 (Act).

RECOMMENDATION

1 Council resolves to approve the classification of 114a Lake Road, Elermore Vale Lot: 3054 DP 1202601 and 37a Turrama Street, Wallsend Lot 3055 DP 1202601 as operational land for the purposes of The Local Government Act 1993 (Act).

KEY ISSUES

2 Newcastle City Council (Council) purchased the above named two separate parcels of land from Newcastle Coal Company Wallsend Limited (NWCCCL) on 5 May 2015 (114a Lake Road, Elermore Vale Lot: 3054 DP 1202601 and 37a Turrama Street, Wallsend Lot 3055 DP 1202601) for the purposes of a cycle way as shown on the attached diagram (Attachment A). The cycle way is already in place but was constructed on the land prior to its acquisition by Council.

3 Under the Act, land acquired by Council would normally be classified as community land unless Council resolves to make the land operational within three months of acquisition (ie prior to 5 August 2015).

4 To complete the cycle way land acquisition, a final parcel of land needs to be acquired from Pepperwood Ridge Pty Limited (Pepperwood) as shown on the diagram (Proposed Lot1 DP366438) at Attachment A.

5 Pepperwood owns land on both sides of the cycle way which it will retain. However, it has agreed in principle to transfer the section of land on which the cycle way is constructed to Council, subject to Council granting an easement (right of carriageway) under the recently purchased land (114a Lake Road, Elermore Vale and 37a Turrama Street, Wallsend). This will provide access between the Pepperwood land that would otherwise be separated by the cycle way.
To facilitate the granting of such an easement the recently purchased land needs to be classified as operational land. Alternatively, if this land becomes community land and the granting of easements is restricted then it may be possible to acquire the balance of the cycle way from Pepperwood by compulsory acquisition. However, the compensation payable may be considerable as by not granting the easements one part of the Pepperwood land becomes landlocked and this may be a consideration in any compensation payable. Classification of the land acquired as operational is therefore preferable.

FINANCIAL IMPACT

There will be no cost to Council as a result of the classification but there may be additional costs incurred if the land is not classified as operational and Council is required to pursue compulsory acquisition.

COMMUNITY STRATEGIC PLAN ALIGNMENT

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

Vibrant and Activated Public Places: A city of great public places and neighbourhoods promoting people’s health, happiness and wellbeing. Active and healthy communities with physical, mental and spiritual wellbeing.

Smart and Innovative City: A leader in smart innovations with a healthy, diverse and resilient economy. A thriving city that attracts people to live, work, invest and visit.

IMPLEMENTATION PLAN/IMPLICATIONS

Council’s Commercial Property Unit will reflect the operational land classification of the land in Council's Land Register. No Plan of Management will be required for the land.

RISK ASSESSMENT AND MITIGATION

If the acquired Lots were to revert to community land by default, Pepperwood could choose not to transfer part of the cycle way to Council. This will result in a costly compulsory acquisition process or closure of part of the cycle way.

Whilst operational land is able to be sold, there is no intent to sell the land on which the cycle way is constructed. In addition, a resolution of Council is required prior to the sale of any operational land.

RELATED PREVIOUS DECISIONS

On 22 June 2010 Council resolved:
1 To authorise the affixing of Council’s seal to documents between Council, the Newcastle Wallsend Coal Company Pty Ltd, Lake Macquarie City Council and the Roads and Traffic Authority that provide for land use rights, land transfers and easements including a deed of agreement.

2 To authorise the acquisition of part Lot 1 DP 366438 by:
   (a) agreement for a fair value to a maximum of $50,000; or
   (b) failing agreement, application to the Minister for the Governor’s consent to compulsorily acquire part Lot 1 DP 366438 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

CONSULTATION

15 On 23 May 2015, public notification of the proposal to classify the land as operational land was given and 28 days was allowed for public submissions, as required under section 34 of the Act. No submissions were received.

16 Facilities and Recreation (Asset Operator) and Strategic Planning have been consulted.

OPTIONS

Option 1

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

Option 2

18 Council resolves not to classify the land as operational land for the purposes of the Act. The land will then, by default, be classified as community land. This is not the recommended option.

BACKGROUND

19 The Wallsend to Glendale shared pathway is a joint project funded by Council (25%), Lake Macquarie City Council (LMCC) (25%) and the Roads and Maritime Services (RMS) (50%).

20 The cycle way is built on the former tramway corridor which was located on land owned by various parties including NWCCCL, Pepperwood and the State Transit Authority.

21 The documents between Council, the NWCCCL, LMCC and the RMS provide for land use rights, land transfers and easements to allow the construction of the Wallsend to Glendale shared pathway / cycle way as well as future use of other adjacent land for a residential development by Xstrata as shown on the diagram. Xstrata is the parent company of NWCCCL.

22 Council has been attempting to acquire 2,900m² of land from the Pepperwood to finalise the land ownership on which the cycle way is constructed. Council
has made an offer slightly over the valuation amount, however Pepperwood has indicated they are unwilling to sell the land unless Council provides easements for right of ways via underpasses under the cycle way. To be able to grant such easements the cycle way land must be classified as operational land.

23 The Adamstown / Belmont cycle way is also a shared project with LMCC and is located on operational land.

ATTACHMENTS

Attachment A: Aerial Diagram showing Lots 3054 and 3055 DP 1202601 Wallsend
MINUTES OF THE ORDINARY MEETING OF THE CITY OF NEWCASTLE
TUESDAY 28 JULY 2015 AT 5.39PM

AERIAL DIAGRAM SHOWING LOTS 3054 AND 3055 D.P. 1202601, WALLSEND
MOTION
Moved by Cr Luke, seconded by Cr Clausen

Council resolves to approve the classification of 114a Lake Road, Elermore Vale Lot: 3054 DP 1202601 and 37a Turrama Street, Wallsend Lot 3055 DP 1202601 as operational land for the purposes of the Local Government Act 1993 (Act).

Carried
ITEM-57 CCL 28/07/15 - LOCAL GOVERNMENT BOUNDARY ADJUSTMENT - ADOPTION OF AMENDMENT TO NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012

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

PURPOSE

The purpose of this report is to advise Council on the outcomes of the public exhibition of the planning proposal to amend the Newcastle Local Environmental Plan 2012 in relation to the local government boundary adjustment between Newcastle and Lake Macquarie and seek a Council resolution to endorse the Planning Proposal as provided in Attachment A.

RECOMMENDATION

1 Council resolves to:

   a) Endorse the attached planning proposal (Attachment A) PP_2014_NEWCA_009_00 to amend Newcastle Local Environmental Plan 2012, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act), in order to enable the LEP maps to be amended to reflect the change of the Local Government Area Boundary.

   b) Forward Planning Proposal PP_2014_NEWCA_009_00 to the Department of Planning and Environment requesting that a draft Local Environmental Plan be prepared and made pursuant to Section 59(1) of the EP&A Act.

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

KEY ISSUES

2 The objective of the Planning Proposal is to amend the Application Map and other relevant maps of the Newcastle Local Environmental Plan 2012 (NLEP 2012) and Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014) as a result of a proposed local government area boundary adjustment. While the Office of Local Government (OLG) is responsible for determining local government area boundaries, a planning proposal is required to ensure land use provisions on land to be transferred between the two Councils are consistent with the provisions of each Council's LEP.
3 The new boundary will follow the Newcastle Link Road and a proposed RMS connector to Lake Road and Macquarie College. It will result in the transfer of approximately 300 hectares of land to the Newcastle local government area (LGA) from Lake Macquarie LGA and the transfer of approximately 84 hectares of land from Newcastle LGA to Lake Macquarie.

4 In addition to the amendment to the Land Application map, the Planning Proposal also includes amendments to the land zoning, lot size, height of building and urban release area maps to include the land that is being transferred from Lake Macquarie. Each Council intends to convert the existing provisions to the relevant LEP as closely as possible, however, there is not an exact match for each Council. This issue was raised in submissions and is discussed further in Attachment B.

5 The Department of Planning and Environment (DPE) issued a gateway determination on 27 October 2014 in support of the planning proposal proceeding to community consultation and granting six months to complete the proposal. An extension to the gateway determination was issued on 29 April 2015 granting an extension of time to complete the proposal until 3 November 2015. The gateway determination required a public exhibition period of 14 days.

6 The planning proposal was exhibited from 16 May 2015 to 30 May 2015. Council received four written submissions. A summary of the issues raised within the submissions and Council’s response to the issues are included in Attachment B of this report.

7 The planning proposal was discussed with the OLG in April 2015. OLG advised that they were still processing the boundary adjustment application despite the ‘fit for the future’ initiatives. OLG was again contacted by Council staff in May 2015 to advise of the public exhibition period.

FINANCIAL IMPACT

8 The work will be undertaken by Council’s Urban Planning Team within the current allocated work program and budget. As the LEP amendment was initiated by Council, fees are not applicable.

COMMUNITY STRATEGIC PLAN ALIGNMENT

9 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.
Compliance with the LEP amendment process, in particular section 57 of the EP&A Act, 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

The preparation of the attached planning proposal was undertaken in accordance with Council’s LEP Amendment Policy (2012), NSW Planning and Environment guidelines and in consultation with Lake Macquarie City Council planning staff.

The boundary adjustment will alter the land within Council’s LGA and therefore will alter the land to which Council’s statutory documents, plans and policies apply. Once the boundary is adjusted, the land transferred to Council will need to be zoned under the Newcastle LEP 2012, hence the need for this planning proposal. It should be noted that the LEP amendment would not take effect until the boundary adjustment has been gazetted.

The adjustment of the boundary will require amendment to some council documents, the website, maps and promotional material to reflect the change to the local government boundary. Adjustments will also be required to suburb boundaries once the additional land is transferred to Council.

The affected land is currently largely undeveloped, in large lots and in only four separate ownerships. Adjusting the boundary now will simplify future decision making with regard to the provision of services, community infrastructure and the assessment of development applications.

RISK ASSESSMENT AND MITIGATION

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

As the land is largely undeveloped, the boundary adjustment is unlikely to cause an increased risk to Council operations. Resolving this issue prior to urban development will decrease the risk of cross boundary issues between Newcastle City Council and Lake Macquarie City Council.

RELATED PREVIOUS DECISIONS

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

Council resolved to proceed with the Local Government Boundary adjustment on 21 July 2009.
19 Council resolved on 29 April 2014 to endorse the planning proposal and forward it to DPE for gateway determination. This resolution was implemented as outlined in this report.

CONSULTATION

20 The planning proposal was exhibited for a period of 14 days from 16 May 2015 to 30 May 2015 as required by the Department of Planning and Environment's gateway determination.

21 Council received four written submissions in relation to the proposal. Issues raised in submissions and the planning response are summarised at Attachment B.

22 Internal consultation has occurred with Council's Infrastructure Planning, Communications and Rates Management Units.

OPTIONS

Option 1

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

Option 2

24 Council resolves not to proceed with the Planning Proposal in Attachment A and thereby NOT amend Newcastle LEP 2012. This is not the recommended option. While it is still not certain when OLG will finalise this long standing request to adjust our boundary with Lake Macquarie, it will be important to have the planning controls in place when this happens or the land will effectively be "unzoned" for the time it takes to prepare and finalise a planning proposal.

25 In addition, as this planning proposal has received a gateway determination, if this option is pursued, Council will need to request that the Minister for Planning and Environment allow Council to discontinue the proposed amendment.

BACKGROUND

26 Council and Lake Macquarie Council resolved in 2009 to submit a joint application to the then Division of Local Government to adjust the Local Government boundary at Minmi and Glendale to better align the boundary with future development in the Western Corridor area.

27 The Office of Local Government advised Council in February 2014 the boundary adjustment would be gazetted shortly. Therefore a Planning Proposal has been prepared to amend the maps in the LEP to reflect the revised
boundary and to ensure the land will be appropriately zoned under the Newcastle LEP 2012 once the amendment goes ahead.

ATTACHMENTS

Attachment A:    Planning Proposal - PP_2014_NEWCA_009_00 – Local Government Boundary Adjustment

Attachment B:    Issues raised in submissions

Attachments A and B distributed under separate cover.

PROCEDURAL MOTION

Moved by Cr Osborne, seconded by Cr Clausen

The matter lay on the table and a report be provided by Council Officers addressing the concerns of the landowners affected by the boundary adjustment. The report should also provide advice on the proposed "Green Corridor", proposed in this location along the Link Road.

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

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

Carried
ITEM-58  CCL 28/07/15 - 41 WALLARAH ROAD NEW LAMBTON - ADOPTION OF AMENDMENT TO NEWCASTLE LEP 2012

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

PURPOSE

This report advises on the outcomes of the community consultation, including a public hearing, carried out for the planning proposal to amend Newcastle Local Environmental Plan (LEP) 2012 to reclassify and rezone land at Part Lot 2 DP 219868 41 Wallarah Road, New Lambton and seek a Council resolution to endorse the Planning Proposal as provided in Attachment A.

RECOMMENDATION

1 Council resolves to:

   a) Endorse the attached planning proposal PP_2014_NEWCA_007_00 in order to reclassify land at 41 Wallarah Road New Lambton, described as Part Lot 2 DP 219868 from community land to operational land and rezone the land from RE1 Public Recreation to R2 Low Density Residential as detailed in Attachment A.

   b) Forward Planning Proposal PP_2014_NEWCA_007_00 to the Department of Planning and Environment (DPE) requesting that a draft Local Environmental Plan be prepared and made pursuant to Section 59(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

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

KEY ISSUES

2 The planning proposal comprises land at 41 Wallarah Road New Lambton, described as Part Lot 2 DP 219868, which is currently zoned RE1 Public Recreation and classified as community land. Allambie Court retirement centre adjoins the site to the west and fronts Hobart Road. This lot is zoned R2 Low Density Residential.
3 The lot that is the subject of this planning proposal (41 Wallarah Road) is divided into two areas. The western part is located within the fenced area of the Allambie Court retirement centre and consists of a grassed area, a large metal carport and an asphalt driveway. The eastern part extends from the fence to a stormwater drainage culvert within New Lambton Park. This part of the site is grassed but contains no embellishments.

4 The planning proposal aims to amend the Newcastle LEP 2012 by rezoning and reclassifying the part of the land that adjoins the Allambie Court retirement centre and a portion of undeveloped open space that is separated from New Lambton Park by the stormwater drainage culvert. This will enable both areas to be consolidated with the Allambie Court development (Lot 1 DP 219868 and Lot 1 DP 115047) so that the retirement village is on one title and is wholly classified as operational land. Please refer to the planning proposal at Attachment A for maps.

5 The planning proposal was prepared in accordance with the DPE guidelines and Council’s Local Environmental Plan Request for Amendment policy.

6 The Department of Planning and Environment (DPE) issued a gateway determination on 21 August 2014 in support of the planning proposal proceeding to community consultation. The gateway determination required a public exhibition period of 28 days. There were no requirements to consult with any public authorities under section 56(2)(d) of the EP&A Act.

7 The planning proposal was exhibited from 27 April 2015 to 25 May 2015. Council received one written submission. A public hearing was held at the New Lambton Library, Regent Street New Lambton on Tuesday 16 June 2015. Three representations were made at the public hearing. A summary of the issues raised within the written submission and during the public hearing are provided in Attachment B along with the planning response.

8 Should Council resolve to support the planning proposal it will be submitted to DPE with a request for the Minister to make the amendment.

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

FINANCIAL IMPACT

10 The costs involved in carrying out the recommendation are covered by Council’s LEP Amendment (Stage C) Fee, which was paid by the applicant.
These fees are based on Council not exercising delegations under Section 59(1) of the EP&A Act.

11 The recommended reclassification and rezoning of 41 Wallarah Road New Lambton will enable Council to dispose of this asset as per the Council resolution of 10 December 2013.

COMMUNITY STRATEGIC PLAN ALIGNMENT

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

13 Compliance with the LEP amendment process, in particular section 57 of the EP&A Act 1979, will assist in achieving the strategic objective; “Consider decision-making based on collaborative, transparent and accountable leadership” and the identified strategy 7.2b, which states: “Provide opportunities for genuine and representative community engagement in local decision making”.

14 The outcomes on the natural, built and social environments resulting from the proposed LEP amendments are also likely to have strong synergies with the remaining strategic directions of the Newcastle 2030 Community Strategic Plan.

IMPLEMENTATION PLAN/IMPLICATIONS

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

16 It was also prepared having regard to DPE's Planning Circular PN09-003 Classification and reclassification of public land through a local environmental plan and Council's Public Land Reclassification Policy 2000.

RISK ASSESSMENT AND MITIGATION

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

18 Council has adhered with the requirements of the gateway determination issued on 21 August 2014 as outlined in this report. Further detail of the community consultation undertaken is outlined in Part 5 - Community Consultation of planning proposal PP_2014_NEWCA_007_00 (Attachment A).
RELATED PREVIOUS DECISIONS

19 Council resolved at its meeting of 22 July 2014, to endorse the planning proposal and forward it to DPE for gateway determination. This resolution was implemented as outlined in this report.

20 On 10 December 2013, Council resolved:

"a) Council endorses all required property actions to enable appropriate land zoning, reclassification and consolidation of land title for the Council-owned retirement centres.

b) Council endorses the implementation of “best practice” operational practices at the three Council-owned retirement centres.

c) Upon completion of paragraph 3 and 4 of the recommendation, Council endorses the sale of the three Council-owned retirement centres through an open Expression of Interest process, on the following basis:

(i) it will be a condition of the sale that the retirement centres will be sold to an operator of retirement villages

(ii) use of selection criteria which includes the highest return for the sites and the experience of the preferred proponent(s) as an operator of retirement villages."

CONSULTATION

21 The planning proposal was exhibited for a period of 28 days from 27 April 2015 to 25 May 2015 as required by the DPE gateway determination.

22 Council received one written submission objecting to the proposal. The issues raised in the written submission are outlined in Attachment B.

23 A public hearing was held on 16 June 2015 as required by section 29 of the Local Government Act 1993, as the planning proposal is reclassifying land from community to operational. The public hearing was conducted by an independent chairperson and two council staff attended. Three members of the public attended, each of whom were adjoining land owners and residents of the surrounding area.

24 All persons who spoke at the public hearing, spoke against the reclassification of the site. Issues raised at the public hearing are summarised in Attachment B. The Chairperson's report of the public hearing is provided in Attachment C.
OPTIONS

Option 1

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

Option 2

26 Council resolves not to proceed with Planning Proposal PP_2014_NEWCA_007_00 in Attachment A and thereby NOT amend Newcastle LEP 2012. This would not allow Council to consolidate this land with the Allambie Retirement Centre. This is not the recommended option.

BACKGROUND

27 The site previously formed part of a railway line connecting the old Lambton Colliery to the Port of Newcastle. The site formed part of the approaches to an overhead bridge that allowed trains to pass over Hobart Road. The line appears to have been constructed in the late 1800s or early 1900s and was dismantled in the early 1970s. After that time the railway bridge was removed, and the elevated approaches were partially levelled or removed.

28 The site was mostly grassed and Allambie Court retirement centre was constructed in 1972. The car parking and services area at the rear of Allambie Court are located on a separate lot.

29 When the Local Government Act 1993 came into force, all Council land was required to be classified as either community land or operational land. New Lambton Park was classified as community land at this time. However, due to the subdivision pattern and the Allambie Court development being located across two separate lots, part of Allambie Court is now located on community land. In order to carry out Council’s resolution of 10 December 2013, the Part of Lot 2 that is associated with Allambie Court will need to be reclassified as Council is unable to sell community land.

ATTACHMENTS

Attachment A: Planning proposal - PP_2014_NEWCA_007_00 – 41 Wallarah Road, Lambton

Attachment B: Issues raised in submissions and at the Public Hearing

Attachment C: Public Hearing Report

Attachments A, B and C distributed under separate cover.
MOTION
Moved by Cr Tierney, seconded by Cr Doyle

Council resolves to:

a) Endorse the attached planning proposal PP_2014_NEWCA_007_00 in order to reclassify land at 41 Wallarah Road New Lambton, described as Part Lot 2 DP 219868 from community land to operational land and rezone the land from RE1 Public Recreation to R2 Low Density Residential as detailed in Attachment A.

b) Forward Planning Proposal PP_2014_NEWCA_007_00 to the Department of Planning and Environment (DPE) requesting that a draft Local Environmental Plan be prepared and made pursuant to Section 59(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

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

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

Against the Motion: Nil.

Carried
ITEM-59 CCL 28/07/15 - ADOPTION OF LOCAL PLANNING STRATEGY

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

PURPOSE

The purpose of this report is to advise Council on the outcomes of the public exhibition of the draft Local Planning Strategy (LPS) and seek a Council resolution to adopt the LPS as provided in Attachment A.

RECOMMENDATION

1 Council resolves to adopt the Local Planning Strategy as provided in Attachment A; and

2 Repeal the Newcastle Urban Strategy.

KEY ISSUES

3 On 9 December 2014 Council considered a report on the draft LPS and resolved to:
   
   a) Place the draft Local Planning Strategy as provided in Attachment A on exhibition for 12 weeks.
   
   b) Receive a report back on the outcomes of the public exhibition.

4 The draft LPS was publicly exhibited for 12 weeks between 2 February 2015 and 27 April 2015. Council received:
   
   ● 71 written submission (summarised in Attachment B)
   ● 359 comments received via the community sessions, which were attended by approximately 100 members of the community (summarised in Attachment C)
   ● 20 phone enquiries
   ● during exhibition of the background working papers to the LPS, Council received 132 written submissions and 291 comments via Social Pinpoint, online community engagement mapping tool.

5 The principal issues raised are discussed in greater detail below.
Zoning in Carrington

6 A total of 14 submissions (including 11 form type submissions) were received requesting a change to zoning within Carrington for all land between Cowper Street South, Darvall Street, Denison Street and Young Street from IN2 Light Industrial to residential zoning. The submissions indicate that this area is predominately housing and that the current IN2 Light Industrial zoning:

- devalues properties compared to those within a residential zone
- creates difficulties with financing
- existing use rights do not offer land owners full benefits compared to those within a residential zone.

7 A review of past planning schemes identifies that the subject area has been zoned for industrial purposes since the 1960s when Council's first planning scheme, the 1960 Northumberland County District Planning Scheme, was introduced. Residential dwellings have been a prohibited land use since this time, other than as an ancillary use to an otherwise permissible industrial development.

8 The Newcastle Employment Lands Strategy (NELS) 2013 was prepared by consultants Hill PDA to inform the LPS in relation to supply/demand of employment lands. The NELS recommends that industrial lands within the Inner Precinct (including Carrington) be retained to meet future supply.

9 Council's adopted Floodplain Risk Management Study and Plan (2012) identifies this area as affected by flooding and outlines that this will be exacerbated by future sea level rise (ocean flooding). The LPS applies a proactive approach to hazard management and recommends avoiding the rezoning of additional residential land known to be subject to inundation. Council is in the early stages of preparing a long term strategic position for low lying lands which may have implications for land use planning. It is recommended that this area within Carrington remain zoned IN2 Light Industrial.

Permitted uses in public recreation zones

10 A total of eight form type submissions were received raising concern relating to recreation land, particularly that the draft LPS included the following Strategic Direction 2) for recreation land: Ensure recreational land is not sterilised from its intended use by only permitting land uses consistent with the zone directions.

11 The submissions indicate that only uses consistent with the zone directions should be allowed, noting that a wide range of permissible uses are already available within the RE1 Public Recreation zone under the Newcastle Local Environmental Plan (LEP) 2012.

12 The intent of the strategic direction is actually to protect recreational land by ensuring that recreational land is not sterilised by inappropriate uses. This has now been clarified and the Strategic Direction simplified in intent to state: Land uses are consistent with the zone directions.
13 Some of these submissions also raised concern in relation to the following action for recreation land, on a similar basis, that it would enable inappropriate use.

14 Consider additional land uses within RE1 Public Recreation land on a case by case basis where it can be demonstrated that the co-use can support financial sustainability provided such uses are complementary to and do not impede upon the primary function of the public recreation area. This should be implemented through additional permitted use under Schedule 1 of the Newcastle LEP 2012.

15 The LPS seeks to implement land use directions from Council's existing adopted strategies. In this regard, Council's adopted Parkland and Recreation Strategy 2014 contains Strategic Direction 2 - Efficient Management of Facilities: Parkland and recreational facilities are sound investment for our community, playing a major role in improving human health, both mental and physical. Ensuring recreational facilities are well governed, financially sustainable and responsive to emerging challenges and opportunities are fundamental to efficient management and positive community experience.

16 A strategic objective of the Parkland and Recreation Strategy is: To improve the long-term financial viability of community and recreation facilities.

17 To achieve this objective, the Parkland and Recreation Strategy contains a specific action to: Review and amend the Newcastle Local Environmental Plan 2012 and Newcastle Development Control Plan 2012 to allow for greater commercial use and advertising within parkland and recreation facilities.

18 The intent of the action within the LPS is to provide a safeguard when considering such additional uses that they must ‘not impede upon the primary function of the recreation area’.

19 To clarify the intent of this action within the LPS, it has been reworded to state: Only consider an additional land use to support financial sustainability of RE1 Public Recreation land/facilities where it can be demonstrated that the co-use is complementary to and does not impede upon the primary function of the public recreation area/facility.

**Zoning in Darby Street**

20 Two submissions, including one with a petition containing 14 signatories, were submitted in relation to Bull Street, Cooks Hill. The submission objected to:

- Investigating rezoning the current R3 Medium Density Residential zone to a B4 Mixed Use zoning.
- If zone changed, would be concerned there would be impacts from more restaurants, shops, offices, doctors, bars or adult shops. The rates will rise, there will be less parking.
- Changing the heritage protection of homes in the Cooks Hill Heritage Conservation Area.
21 The LPS does not propose to alter the heritage protection of Cooks Hill but rather reinforces a number of sound planning mechanisms to ensure appropriate protection of the City's heritage, such as regular review of heritage schedules and review of heritage DCP guidelines.

22 The LPS includes an action to investigate the zoning of a number of commercial centres to reflect their role within the commercial centres hierarchy. Darby Street currently has a B4 Mixed Use zone extending from King Street to Bull Street, then an R3 Medium Density residential zone between Bull and Parry Street, then a B2 Local Centre zone between Parry and Tooke Street, with a mix of residential and commercial uses along this length.

23 Investigating a B4 Mixed Use zone to encompass this area could rationalise this mixture of land uses under a single more accommodating, flexible zone that will support the street's continued vibrancy. This investigation is focused on properties that front Darby Street, which would likely address the primary concern raised in submissions of impact into side streets.

24 Any investigation for rezoning would follow the normal planning proposal process which includes community consultation. The details of the rezoning and the properties affected would be discussed with affected residents during the preparation of the planning proposal.

Key issues from community information sessions

25 A total of eight community information sessions were undertaken during March 2015. Coordinated by Council's Newcastle Voice team, the sessions were attended by 100 community members, and generated some 359 comments. A report on the sessions, prepared by Newcastle Voice, was used to strengthen the neighbourhood visions and objectives under the LPS. The feedback received and resultant actions is summarised in Attachment C.

26 The report concluded with the following recommendation: Upon reviewing the results of this consultation, the strategic planning team may wish to evaluate whether the data that supports community visions of cycleways, better public transport and improved traffic management could be reflected through amendments to the Local Planning Strategy.

27 Having regards to this recommendation, Section 3.6 Transport of the LPS has been amended to clarify that the role of the LPS is to integrate land use with transport, thereby complementing Council's adopted Newcastle Transport Strategy 2014.
28 Many submissions received on the neighbourhood visions of the LPS, were for specific capital works projects. A desire to see improved cycleways was a particularly strong theme expressed. Such capital works projects are outside the scope of the LPS, being a land use planning strategy implemented through the Newcastle LEP 2012 and Development Control Plan (DCP) 2012. However, this valuable input from the community has been passed onto the relevant business units of Council and is being used by the organisation to assist in other areas of Council operations, including prioritising capital works programs, and preparation of the draft Newcastle Social Strategy.

29 It was apparent from some submissions that the role of the LPS in Council's integrated planning framework required further clarification. Accordingly some minor reformatting of the LPS has been undertaken to:

- Include a specific section on the Newcastle 2030 Community Strategic Plan (CSP)
- Provide a clearer relationship between the strategic directions and actions by reformatting the tables under Section 4 Strategic Directions
- Other minor reformatting to improve general readability, clarity and intent.

Issues from further internal review
30 The LPS (Maps 10 and 11) identify recreation and environmental lands requiring zoning review, the majority of which are owned and controlled by Council. More detailed review by Council officers has identified additional parcels of Council land, particularly bushland riparian areas and some redundant unformed road reserves that require review. An action of the LPS recommends a wider review of the environmental zoning and these additional parcels will be considered as part of this project.

31 Council development assessment staff recently identified a need for greater clarity within the Newcastle DCP 2012 guidelines applying to the renewal corridors along with a need for improved guidance on boarding house development. An action to investigate these matters has been included under the LPS.

FINANCIAL IMPACT

32 The recommendations of the LPS involve a number of amendments to the Newcastle LEP 2012 and Newcastle DCP 2012. These have been prioritised to be carried out within allocated Council resources and work plans.

COMMUNITY STRATEGIC PLAN ALIGNMENT

34 The LPS implements the land use objectives from Newcastle 2030 CSP, principally in relation to the strategic direction 'Liveable and Distinct Built Environment'. The LPS also reflects the outcomes of Council's other core strategies as they relate to land use.
35 The consultation undertaken for the LPS project aligns with the strategic direction ‘Open and Collaborative Leadership’ identified within the CSP.

IMPLEMENTATION PLAN/IMPLICATIONS

36 The strategic directions and actions within the LPS are primarily implemented through the Newcastle LEP 2012 and Newcastle DCP 2012. The recommended amendments to these documents have been prioritised (including timeframes) and are within Council resources to implement.

37 Monitoring indicators of the LPS are consistent with those under the Newcastle 2030 CSP, to ensure compatibility with Council’s reporting framework.

RISK ASSESSMENT AND MITIGATION

38 The LPS is an evidence based strategy with recommendations supported by extensive background research and community engagement.

39 There are no statutory provisions for public exhibition of the LPS under the Environmental Planning and Assessment Act 1979. The extensive consultation process, as outlined within this report, has provided the public extended time and opportunity to provide input into the preparation of the LPS.

40 Future amendments to planning instruments and policy, as recommended under the LPS, are required to comply with legislative plan making processes under the Environmental Planning and Assessment Act 1979, thereby mitigating future risk.

RELATED PREVIOUS DECISIONS

41 On 9 December 2014 Council considered a report on the draft LPS and resolved to:

a) Place the draft Local Planning Strategy as provided in Attachment A on exhibition for 12 weeks.

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

42 Councillors received a workshop on the LPS on 11 November 2014.
CONSULTATION

43 Extensive public consultation was undertaken during preparation of the draft LPS.

- The 11 themed Working Papers, prepared as background research to support the LPS, were each released for public comment for a minimum of two weeks. Combined, these exhibitions attracted a total of 132 written submissions.
- An online community engagement mapping tool known as ‘Social Pinpoint’ was used from February to October 2014, attracting a total of 291 comments.

44 The Working Papers, including the community feedback received, informed the preparation of the draft LPS itself. The Working Papers have now been compiled into a Background Report to the LPS.

45 A comprehensive engagement plan was developed in conjunction with Council’s Communications Team for the exhibition of the draft LPS. A multifaceted approach was undertaken to maximise exposure and included:

- 12 week exhibition period
- display ad in Council’s newsletter distributed with rates notice
- three large newspaper ads throughout exhibition period
- Council enews
- Council website (including carousel on homepage)
- social media - Council Facebook, Twitter
- media release (including Lord Mayor article and radio interview)
- comprehensive mail out to key stakeholders, including government agencies, community and industry groups and notifying Newcastle Voice
- documents displayed at all Council libraries and Customer Enquiry Centre, including posters, fact sheets and bookmarks
- eight community information session/workshops
- LPS information video.

46 The draft LPS was publicly exhibited for 12 weeks from 2 February 2015 to 27 April 2015. All requests for late submissions were accepted with members of the community citing the severe weather event in April as causing delays making submissions within the exhibition period.

47 As a result of exhibition Council received:

- 71 written submissions (summarised in Attachment B). This included 11 Government agency submissions, three community groups (two of these groups made two submissions each), two industry groups, and 53 individual submissions (one of which a petition containing 14 signatories).
- 359 comments received via the community workshops, which were attended by approximately 100 community members (summarised in Attachment C)
20 telephone enquiries.

Overall, the consultation for the LPS project, including Working Papers and formal exhibition of the draft LPS itself, generated 853 submissions (excluding telephone enquiries).

OPTIONS

Option 1

The recommendation as at Paragraphs 1 and 2. This is the recommended option. The LPS will assist in implementing the Community's vision for a smart, liveable and sustainable city as established under the Newcastle 2030 CSP.

Option 2

Council could choose not adopt the LPS and instead continue with the existing Newcastle Urban Strategy. This would not fully support the community aspirations under the Newcastle 2030 CSP and would not respond to the extensive community consultation undertaken as part of the LPS project. This is not the recommended option.

BACKGROUND

The Newcastle Urban Strategy is currently Council's principal land use planning strategy for Newcastle. The Newcastle Urban Strategy was first prepared in 1998 and informed the preparation of the former Newcastle LEP 2003. While a robust strategy, it was prepared prior to the Newcastle 2030 CSP and therefore does not fully embrace the community's aspirations, nor does it fit neatly into Council's new integrated planning framework.

The LPS will replace the Newcastle Urban Strategy to become the principal land use strategy to guide the future growth and development of the City of Newcastle. The LPS will sit in parallel with the Newcastle Urban Renewal Strategy which establishes the land use planning framework for the City Centre. The LPS will underpin the Newcastle LEP 2012 providing a land use planning platform to move towards a smarter, more liveable, and sustainable Newcastle.

The LPS is an evidence based analysis of land use planning issues, being supported by a comprehensive Background Report. The Background Report has been compiled from a series of 11 themed Working Papers that were sequentially released for public comment from July 2012 to September 2014. Each working paper covered a particular land use theme including background and legislative context, centres and employment, housing and neighbourhoods, recreation, environment, transport, infrastructure, heritage and hazards. These working papers directly informed the corresponding chapter within the LPS.
ATTACHMENTS

Attachment A: Local Planning Strategy
Attachment B: Summary of written submissions
Attachment C: Summary of community workshop submissions

Attachments A, B and C distributed under separate cover

A copy of the Background Report will be distributed separately to Councillors

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

1 Council resolves to adopt the Local Planning Strategy as provided in Attachment A; and

2 Repeal the Newcastle Urban Strategy.

AMENDMENT
Moved by Cr Doyle, seconded by Cr Osborne

1 Reference Attachment A - Actions for Recreational Lands - Permissibility - Newcastle LEP 2012, page 63

   Amend first dot point to read:

   Only consider an additional land use to support financial sustainability of RE1 Public Recreation land/ facilities where it can be demonstrated that the co-use is complementary to and consistent with the primary function of the public recreation area/facility.

2 Reference Attachment A - Vision and Objectives - Newcastle and Newcastle West, re Objectives, page 146

   Amend second dot point to read:

   Land use and development will enhance access to the harbour from and to the city centre for the community and provide high quality public domain that will support the activation and revitalisation of the Newcastle City Centre.

   Cont’d over…
The amendment was put to the meeting.

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

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

*Carried*

The amendment was then incorporated into the motion.

The amendment was then incorporated into the motion.

Councillor Osborne moved the following as a Part B to the motion:

B Councillors receive a report that outlines the issues, constraints and options for development on IN2 Light Industrial land in Carrington between Cowper Street South, Darvall Street, Denison Street, Young Street and in Maryville, east from McMichael Street, noting that there are existing residential properties in this zone that may be suitable for further development.

The Lord Mayor and Councillor Luke indicated they would incorporate Part B into the motion.

**PROCEDURAL MOTION**

Moved by Cr Tierney, seconded by Cr Waterhouse

Parts A and B of the motion be moved seriatim.

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

**Against the Motion:** Councillors Clausen, Doyle and Dunn.  

*Carried*

*Cont’d over…*
Part A of the motion, Part 1 to adopt the Local Planning Strategy and Part 2 to repeal the Newcastle Urban Strategy as moved by Lord Mayor Cr Nelmes and seconded by Councillor Luke was put to the meeting.

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

**Against the Motion:** Councillors Tierney and Waterhouse.  

Carried

Part B of the moved by Lord Mayor Cr Nelmes and seconded by Councillor Luke was put to the meeting.

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

**Against the Motion:** Nil.  

Carried
ITEM-60 CCL 28/07/15 - ENDORSEMENT OF URBAN GROWTH NSW DRAFT COMMUNITY ENGAGEMENT PLAN - NEWCASTLE URBAN TRANSFORMATION AND TRANSPORT PROGRAM

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

PURPOSE

To endorse the UrbanGrowth NSW community engagement plan ‘The Plan’ (Attachment A) for the Newcastle revitalisation program.

RECOMMENDATION

1 Council resolves to endorse the Newcastle Urban Transformation and Transport Program Community Engagement Plan (Attachment A).

KEY ISSUES

2 UrbanGrowth NSW and Newcastle City Council have signed a Memorandum of Understanding (MOU) to define how both parties will work together over the life of the NSW Government's Newcastle urban transformation and transport program.

3 Section 6.1, dot point 3 states "UrbanGrowth NSW will develop and implement a community engagement plan which will be presented to the elected Council."

4 The plan (Attachment A) outlines how UrbanGrowth NSW intends to engage with the range of stakeholders, including Newcastle City Council and the Newcastle community, during the development and implementation of the Newcastle Urban Transformation and Transport Program.

FINANCIAL IMPACT

5 Endorsing the plan does not commit Council to any expenditure other than the provision of staff resources to support the project.

COMMUNITY STRATEGIC PLAN ALIGNMENT

6 The draft plan aligns with the Newcastle 2030 strategic objective of open and collaborative leadership
IMPLEMENTATION PLAN/IMPLICATIONS

7  The consideration of the community engagement plan is an action of the MOU.

RELATED PREVIOUS DECISIONS

8  At the 26 May 2015 Ordinary Council Meeting Council resolved:

   Council endorse the Memorandum of Understanding with UrbanGrowth NSW as provided in Attachment A amended as follows and delegate authority to the General Manager to sign the document for and on behalf of Council.

   **Clause 5.1, first dot point to be amended to read:**

   The parties agree the key principles of this MOU are:

   - It is acknowledged that there are differing views in regards to aspects of the program. The parties will work in a respectful manner where differing views occur and focus on areas of agreement. *(Noting Council's decision of 9 December 2014 - Urban Renewal).*

   **Clause 6.1, third dot point to be amended to read:**

   - UrbanGrowth NSW will develop and implement a community engagement plan which will be presented to Council for endorsement by the elected Council.

   **A new Clause 8.1 be inserted:**

   8.1  **A Newcastle Urban Transformation Steering Group (NUTSG) will be established to guide urban transformation activities proposed under the Newcastle Urban renewal and Transport Program. This group will consist of: The Lord Mayor of the City of Newcastle, General Manager of the City of Newcastle, Director Planning and Regulatory of City of Newcastle, Head of Urban Transformation UrbanGrowth NSW, Program Director UrbanGrowth NSW and the General Manager Hunter Development Corporation.**

   Existing Clause 8.1 to become 8.2 and remaining clauses renumbered accordingly.

CONSULTATION

9  Council officers have been working with the UrbanGrowth NSW project team to assist in developing the draft community engagement plan.
OPTIONS

Option 1

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

Option 2

11 Council requests further consultation occur between stakeholders and an updated Newcastle urban transformation and transport program community engagement plan be tabled for consideration at the next available Council meeting. This is not the recommended option.

Option 3

12 Council does not endorse the Newcastle urban transformation and transport program community engagement plan. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: UrbanGrowth NSW community engagement plan

MOTION

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

Council resolves to endorse the Newcastle Urban Transformation and Transport Program Community Engagement Plan (Attachment A).

Councillor Crakanthorp moved the following as a Part B to the motion.

B Individual and community groups can make submissions and that they will be made publically available.

The Lord Mayor and Councillor Clausen indicated they would incorporate Part B into the motion.

Cont’d over…
**AMENDMENT**

Moved by Cr Doyle, seconded by Cr Osborne

The results of all consultation processes be made public and that the consultation process include a facilitated discussion on the future of the transport corridor that includes an option for re-establishing rail services in the corridor consistent with Council's current position.

**For the Amendment:** Councillors Crakanthorp, Doyle, Dunn and Osborne.

**Against the Amendment:** Lord Mayor Cr Nelmes, Councillors Clausen, Compton, Luke, Posniak, Rufo, Tierney and Waterhouse.  

**Defeated**

The 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, Compton, Crakanthorp, Dunn, Luke, Osborne, Posniak, Rufo, Tierney and Waterhouse.

**Against the Motion:** Councillor Doyle.  

**Carried**
ITEM-61 CCL 28/07/15 - ENDORSEMENT OF ECONOMIC DEVELOPMENT AND EVENTS SPONSORSHIP

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

PURPOSE

For Council to endorse recommendations from the Economic Development Sponsorship Panel and the Events Sponsorship Panel for 2015-16.

RECOMMENDATION

Council resolves to:

1 Endorse the recommendations from the Economic Development Sponsorship Panel for 2015-16 as follows:
   a Catapult Dance $10,000
   b DIG Festival $10,000
   c Facon Creative Studio $15,000
   d Smart Future Cities $20,000
   e The Lock Up Program $15,000
   f Women in Business - Fast Tracking Business Success $15,000
   g 2015 Newy Awards for Digital Creativity $5,000

2 Endorse the recommendations from the Events Sponsorship Panel for 2015-16 as follows:
   a Australian Bowl Riders $20,000
   b Australian Mens Shed Association $10,000
   c Cyclefest $10,000
   d Kellogg's Nutrigrain $15,000
   e Lantern Walk $10,000
   f Men of Football $5,000
   g Newcastle Writers Festival $20,000
   h This That $10,000

3 The remaining $10,000 within the Economic Development Sponsorship program be allocated to Events Sponsorship funding for 2015-16 and be provided to support the Kellogg's Nutrigrain ironman in Newcastle, ie increase the total sponsorship to the Kellogg's Nutrigrain Ironman series to $25,000.
KEY ISSUES

4 Council adopted revised policies to govern the distribution of economic development and event sponsorship funding in April 2015.

5 Council advertised for applications for both programs in the Herald on 9 and 23 May 2015 with applications closing on 1 June 2015. A webpage was also established on the Council website to provide information including the programs and relevant applications forms.

Economic Development Sponsorship

6 The economic development sponsorship panel met and assessed the applications consistent with the assessment criteria in section 8 of the relevant policy, on 12 June 2015. Panel members scored each application against the policy criteria. A follow up meeting was held 17 June 2015 to finalise the grant applications. A total of 15 applications were received, requesting $260,000 in sponsorship funding and a summary of the applications is included in Attachment A.

7 The assessment criteria for economic development sponsorship is (excerpt from the policy)

8.1 Economic benefit in one or more of the following areas:
   a. Business development or growth;
   b. Skills acquisition or research;
   c. Innovation and/or creative industries
   d. Tourism and tourism product development

8.2 Identified need and/or developing a strength in the local economy or a specific sector

(From Economic Development Sponsorship policy, City of Newcastle, 2015)

8 The panel has recommended funding be awarded to seven applications as listed in the recommendations above. The projects will create opportunities focusing in the business development, skills acquisition and innovation and creative sectors.
$10,000 remains of the Council allocated budget ($100,000) as the panel did not feel all applications as presented warranted funding (feedback will be provided to unsuccessful applicants where requested)). Part 3 of the recommendation recommends the funding be allocated to the Kellogg's Nutrigrain event to ensure the event is not lost Newcastle and. In previous years, Council has provided $25,000 for this Kellogg's Nutrigrain event and negotiations with the applicants have revealed that the event will not be retained at Newcastle if a minimum of $25,000 in sponsorship is obtained. Newcastle has regularly hosted the series final with significant media coverage.

Events Sponsorship

The events sponsorship panel met and assessed the applications consistent with the assessment criteria in section 8 of the relevant policy, on 16 June 2015. A total of 35 applications were received requesting more $700,000 in funding and a summary of the applications is included in Attachment B.

The assessment criteria for event sponsorship applications are (excerpt from policy)

Economic Benefit
8.1 Number and origin of attendees anticipated
8.2 Anticipated overnight visitation rates

Image and Profile
8.3 Ability to link or coordinate with other Events or programs being held at the same time of year

Promotional Exposure
8.4 Scope and ability to promote the city and Council in connection with the event, locally, nationally and internationally

City Assets
8.5 Promotes Newcastle facilities and attractions

Other
8.6 Applicant’s experience and track record (Note: Council may assess all information available to Council about the applicant when making this assessment including data from previous events)
8.7 Adequacy of budget proposal
8.8 The Event must be open to the general public to attend.

(Events Sponsorship policy, the City of Newcastle, 2015)

The panel has recommended funding be awarded to eight applications as listed in the recommendation above. This would expend the 2015-16 budget for events sponsorship.
13 The successful events all scored greater than 64% on assessment. The events will attract an estimated 44,000 people and generate an expected economic return to Newcastle of $7.2M (based on preliminary estimates).

FINANCIAL IMPACT

14 Council allocated $100,000 each to the economic development and events sponsorship programs in the 2015-16 operational plan.

COMMUNITY STRATEGIC PLAN ALIGNMENT

15 The sponsorship funding aligns with a 'smart and innovative city' and 'vibrant and activated public places'.

IMPLEMENTATION PLAN/IMPLICATIONS

16 Once the recommendations are endorsed, funding agreements will be put in place with successful applicants, as per the relevant Council policies. The agreements clearly outline acquittal and reporting requirements.

17 An application from Cricket NSW was unsuccessful, however, staff will continue to liaise with Cricket NSW in an endeavor to bring 'Big Bash' 20/20 games to Newcastle.

18 An event sponsorship strategy is currently being drafted and will include criteria and guidance on Council identifying and partnering in the delivery of events, in addition to sponsoring events.

RISK ASSESSMENT AND MITIGATION

19 Council is always likely to receive more sponsorship applications than we can fund. Revised policies were adopted in April 2015 to ensure there would be clear criteria and a transparent process for the assessment of applications. Numerous applicants will be disappointed each year and will not receive funding. A strong process will go some way to criticism received from unsuccessful applicants.

20 Assessment of the applications has been consistent with the relevant adopted policies of Council.

RELATED PREVIOUS DECISIONS

21 Council adopted updated policies for the economic development and events sponsorship programs in April 2015, following public advertising of the draft policies.
CONSULTATION

22 The draft policies that govern the sponsorship programs were released for public comment in February-March 2015 and adopted by Council in April 2015. The call for applications for funding in 2015-16 was advertised in the Herald and via Council's webpage.

OPTIONS

Option 1

23 The recommendation as at Paragraph 1 to 3. This is the preferred option.

Option 2

24 That Council not endorse the recommendations. This will delay the distribution of funding to recipients. This is not the recommended option.

BACKGROUND

25 Not applicable.

ATTACHMENTS

Attachment A - Economic Development Sponsorship Program 2015/16 - Summary of Applications

Attachment B - Event Sponsorship Program 2015/16 - Summary of Applications
## ATTACHMENT A

### Economic Development Sponsorship Program 2015/16

#### Summary of Applications

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Project description</th>
<th>Target sector</th>
<th>Amount requested ($)</th>
<th>Overall rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Care put dance and the Flipside Youth Project</td>
<td>A new NFS contemporary (all age) dance organisation in Newcastle West.</td>
<td>c</td>
<td>20000</td>
<td>6</td>
</tr>
<tr>
<td>DIG Festival</td>
<td>DIG festival aims to be the showcase design, innovation and technology event in Australia.</td>
<td>c</td>
<td>20000</td>
<td>7</td>
</tr>
<tr>
<td>Facon Creative Studio</td>
<td>To build a high quality, local creative industry servicing national and international fashion needs. Facon is a planned fashion magazine created with a Newcastle focus.</td>
<td>c and a</td>
<td>20000</td>
<td></td>
</tr>
<tr>
<td>HSLA water safety and awareness</td>
<td>Surf education courses aimed at country and QiS Uni Students and school aged children.</td>
<td>b</td>
<td>20000</td>
<td></td>
</tr>
<tr>
<td>INNX Season</td>
<td>To present a 12 month program to promote the entrepreneurial spirit of Newcastle's innovative and creative industries.</td>
<td>c</td>
<td>20000</td>
<td></td>
</tr>
<tr>
<td>King Street STEAM Festival</td>
<td>To promote the STEAM (science, technology, engineering, arts and media) skills which exist in King Street Newcastle.</td>
<td>c</td>
<td>10000</td>
<td></td>
</tr>
<tr>
<td>Marry Rivers</td>
<td>Not project based. Part funding of expenses of a local officer in the Hunter region.</td>
<td>a</td>
<td>20000</td>
<td></td>
</tr>
<tr>
<td>Newcastle Youth Orchestra 2016</td>
<td>Ineligible due to existing agreed financial support.</td>
<td></td>
<td>20000 ineligible</td>
<td></td>
</tr>
<tr>
<td>Newy Awards for Digital Creativity 2015</td>
<td>The regional awards celebrate the year’s best digital innovation.</td>
<td>a</td>
<td>5000</td>
<td>3</td>
</tr>
<tr>
<td>Port2Port Down Under Rally</td>
<td>Host the Nautical Nomads, a group of private cruising yachts from USA to visit Newcastle.</td>
<td>d</td>
<td>15000</td>
<td></td>
</tr>
<tr>
<td>Renew EXPosed</td>
<td>Ineligible due to existing agreed financial support.</td>
<td></td>
<td>20000 X</td>
<td></td>
</tr>
<tr>
<td>Smart Future Cities 2016</td>
<td>A 3 day City Hall conference to present the latest findings in how to grow a smart City.</td>
<td>b and c</td>
<td>20000</td>
<td>1</td>
</tr>
<tr>
<td>Sydney Sixers BBL Pre Season Game</td>
<td>The Sydney Sixers’ pre season game in Newcastle in the 2015 for NSW Cricket.</td>
<td>d</td>
<td>12000</td>
<td></td>
</tr>
<tr>
<td>Project Description</td>
<td>Description</td>
<td>Letter</td>
<td>Budget</td>
<td>Project Duration</td>
</tr>
<tr>
<td>------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>--------</td>
<td>--------</td>
<td>------------------</td>
</tr>
<tr>
<td>The Look Up Program through marketing and promotion</td>
<td>To support the development of a revised marketing and promotions plan, integrated with The City of Newcastle.</td>
<td>d</td>
<td>15000</td>
<td>6</td>
</tr>
<tr>
<td>Wallsend 2015 ground truth project</td>
<td>Establish an up to date business data base to include the suburbs of Minmi, Petcher, Maryland, Elermore Vale and Jesmond.</td>
<td>b</td>
<td>4400</td>
<td></td>
</tr>
<tr>
<td>Woman in Business-Fast Tracking Business Success</td>
<td>A mentoring program for up to 40 businesses to collaborate through a mentor program.</td>
<td>b</td>
<td>20000</td>
<td>2</td>
</tr>
<tr>
<td><strong>Indicative value of requests and project values</strong></td>
<td><strong>261,400</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Target sector as per section 8.1 of NCC Economic Development Sponsorship policy 2015

*a* = business development and growth  
*b* = skills acquisition and research  
*c* = innovation and/or creative industries  
*d* = tourism and tourism product development
### ATTACHMENT B

#### Event Sponsorship Program 2015/16
Summary of Applications

<table>
<thead>
<tr>
<th>Event Name</th>
<th>Description</th>
<th>Amount Requested $</th>
<th>Estimated Economic Return $</th>
<th>Estimated Attendees</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aunty Mens Shed Association</td>
<td>national showcase of the men's shed model</td>
<td>15,000</td>
<td>826,000</td>
<td>500</td>
<td>73%</td>
</tr>
<tr>
<td>Australia Day Regatta</td>
<td>sailing event on Australia Day</td>
<td>20,000</td>
<td>150,000</td>
<td>26,000</td>
<td></td>
</tr>
<tr>
<td>Australian Bowl Riders</td>
<td>Australian National Skate Bowl riding championships</td>
<td>25,000</td>
<td>1,141,000</td>
<td>5,000</td>
<td>87%</td>
</tr>
<tr>
<td>Australian Concrete Transition</td>
<td>national finals of the skate bowl series</td>
<td>45,000</td>
<td>308,000</td>
<td>5,000</td>
<td></td>
</tr>
<tr>
<td>Beaumont Street Carnival</td>
<td>celebration of cultures held in Hamilton</td>
<td>20,000</td>
<td>224,000</td>
<td>12,300</td>
<td></td>
</tr>
<tr>
<td>Beaumont Street Spring Carnival</td>
<td>celebrating the spring carnival with horses and fashion</td>
<td>10,000</td>
<td>184,000</td>
<td>8,000</td>
<td></td>
</tr>
<tr>
<td>Carols by Candlelight</td>
<td>annual event in King Edward Park</td>
<td>8,000</td>
<td>644,000</td>
<td>15,000</td>
<td></td>
</tr>
<tr>
<td>Cyclifest</td>
<td>cycle racing and lifestyle expo</td>
<td>20,000</td>
<td>1,006,430</td>
<td>10,000</td>
<td>78%</td>
</tr>
<tr>
<td>Diamond Surf and Turf</td>
<td>fund raiser for Newcastle Surf Club</td>
<td>15,000</td>
<td>61,950</td>
<td>450</td>
<td></td>
</tr>
<tr>
<td>East Coast Classic</td>
<td>game fishing event</td>
<td>25,000</td>
<td>45,274</td>
<td>311</td>
<td></td>
</tr>
<tr>
<td>Engineers Australia</td>
<td>engineering conference</td>
<td>7,500</td>
<td>74,300</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Festival of Sport 2016</td>
<td>engineering conference</td>
<td>35,000</td>
<td>622,000</td>
<td>11,500</td>
<td></td>
</tr>
<tr>
<td>Flipside Project</td>
<td>contemporary dance for young people</td>
<td>20,000</td>
<td>117,400</td>
<td>1,200</td>
<td></td>
</tr>
<tr>
<td>Srit and Grind Challenge</td>
<td>Stand up paddle board event at Stockton</td>
<td>15,000</td>
<td>63,800</td>
<td>900</td>
<td></td>
</tr>
<tr>
<td>Kelloggs Nutri Grain</td>
<td>showcase elite iron man-events</td>
<td>60,000</td>
<td>583,000</td>
<td>6,000</td>
<td>81%</td>
</tr>
<tr>
<td>Lantern Walk</td>
<td>Charity fundraiser held on Chinese New Year</td>
<td>20,000</td>
<td>481,500</td>
<td>5,000</td>
<td>64%</td>
</tr>
<tr>
<td>Live at the Foreshore</td>
<td>music event on the foreshore</td>
<td>12,000</td>
<td>920,000</td>
<td>10,000</td>
<td></td>
</tr>
<tr>
<td>Maitara</td>
<td>community festival</td>
<td>20,000</td>
<td>163,000</td>
<td>20,000</td>
<td></td>
</tr>
<tr>
<td>Men of Football City Sixers</td>
<td>masters' football competition</td>
<td>6,000</td>
<td>319,000</td>
<td>2,000</td>
<td>67%</td>
</tr>
<tr>
<td>NAIDOC Community Day</td>
<td>celebrate Aboriginal and Torres Strait Islander culture and services</td>
<td>20,000</td>
<td>41,400</td>
<td>450</td>
<td></td>
</tr>
<tr>
<td>Newcastle Animation Festival</td>
<td>celebrate animated film art</td>
<td>25,000</td>
<td>31,800</td>
<td>550</td>
<td></td>
</tr>
<tr>
<td>Newcastle Envirosfest 2016</td>
<td>promote environmental awareness</td>
<td>20,000</td>
<td>289,000</td>
<td>3,100</td>
<td></td>
</tr>
<tr>
<td>Newcastle Fringe Festival 2016</td>
<td>performing arts festival</td>
<td>25,000</td>
<td>1,043,000</td>
<td>10,000</td>
<td></td>
</tr>
<tr>
<td>Newcastle Jazz Festival</td>
<td>annual jazz festival at the Jockey Club</td>
<td>20,000</td>
<td>221,680</td>
<td>2,100</td>
<td></td>
</tr>
<tr>
<td>Newcastle Junior Cricket</td>
<td>2 junior cricket carnivals in January</td>
<td>8,000</td>
<td>1,054,800</td>
<td>1,600</td>
<td></td>
</tr>
<tr>
<td>Newcastle Writers Festival</td>
<td>bringing authors and audiences together</td>
<td>25,000</td>
<td>316,000</td>
<td>5,500</td>
<td>69%</td>
</tr>
<tr>
<td>Event</td>
<td>Description</td>
<td>Participants</td>
<td>Entrants</td>
<td>Sales</td>
<td></td>
</tr>
<tr>
<td>-----------------------</td>
<td>--------------------------------------------------</td>
<td>--------------</td>
<td>----------</td>
<td>---------</td>
<td></td>
</tr>
<tr>
<td>Night Attack</td>
<td>Night time obstacle course</td>
<td>10,000</td>
<td>1,000</td>
<td>4,500</td>
<td></td>
</tr>
<tr>
<td>Pro Bull Riders</td>
<td>Bull riding series</td>
<td>10,000</td>
<td>2,000</td>
<td>4,600</td>
<td></td>
</tr>
<tr>
<td>Smart Cities</td>
<td>Smart cities conference and expo</td>
<td>25,000</td>
<td>2,500</td>
<td>7,100</td>
<td></td>
</tr>
<tr>
<td>Star Struck 2016</td>
<td>Variety show organised by the Dept. of Education</td>
<td>25,000</td>
<td>2,400</td>
<td>15,000</td>
<td></td>
</tr>
<tr>
<td>Sundae Fundaze</td>
<td>Dance music event</td>
<td>25,000</td>
<td>319,000</td>
<td>5,000</td>
<td></td>
</tr>
<tr>
<td>Fratrum</td>
<td>Theatre production</td>
<td>10,000</td>
<td>20,550</td>
<td>1,000</td>
<td></td>
</tr>
<tr>
<td>This is not Art</td>
<td>Unique Newcastle born multi form arts event</td>
<td>25,000</td>
<td>1,362</td>
<td>3,000</td>
<td></td>
</tr>
<tr>
<td>This That</td>
<td>Music and food event</td>
<td>25,000</td>
<td>2,685,520</td>
<td>10,000</td>
<td>86%</td>
</tr>
<tr>
<td>Wallsend Winter Fair</td>
<td>Family friendly event</td>
<td>10,000</td>
<td>690,000</td>
<td>30,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>795,000</td>
<td></td>
</tr>
</tbody>
</table>
MOTION
Moved by Lord Mayor Cr Nelmes, seconded by Cr Rufo

Council resolves to:

1 Endorse the recommendations from the Economic Development Sponsorship Panel for 2015-16 as follows:
   a Catapult Dance $10,000
   b DIG Festival $10,000
   c Facon Creative Studio $15,000
   d Smart Future Cities $20,000
   e The Lock Up Program $15,000
   f Women in Business - Fast Tracking Business Success $15,000
   g 2015 Newy Awards for Digital Creativity $5,000

2 Endorse the recommendations from the Events Sponsorship Panel for 2015-16 as follows:
   a Australian Bowl Riders $20,000
   b Australian Mens Shed Association $10,000c
   c Cyclefest $10,000
   d Kellogg's Nutrigrain $15,000
   e Lantern Walk $10,000
   f Men of Football $5,000
   g Newcastle Writers Festival $20,000
   h This That $10,000

3 The remaining $10,000 within the Economic Development Sponsorship program be allocated to Events Sponsorship funding for 2015-16 and be provided to support the Kellogg's Nutrigrain ironman in Newcastle, ie increase the total sponsorship to the Kellogg's Nutrigrain Ironman series to $25,000.

4 Council include funding for Carols by Candlelight through the September Quarterly Review process.  
   Carried

Councillors Crakanthorp and Dunn left the Chamber at 7.29pm and 7.30pm respectively and were absent when the vote was taken on this item.

They returned to the Chamber after the commencement of Item 62 - Port Waratah Coal Services Major Project Application MP10_0215 - Proposed Voluntary Planning Agreement.
ITEM-62 CCL 28/07/15 - PORT WARATAH COAL SERVICES MAJOR PROJECT APPLICATION MP10_0215 - PROPOSED VOLUNTARY PLANNING AGREEMENT

REPORT BY: EXECUTIVE MANAGEMENT
CONTACT: GENERAL MANAGER

PURPOSE

To advise Council of the outcome of negotiations with the Port Waratah Coal Services (PWCS) on developer contributions associated with the Terminal 4 Project and seek endorsement to proceed with a Voluntary Planning Agreement (VPA).

RECOMMENDATION

That:

1 Council accept the offer outlined in PWCS letter dated 15 July 2015 to enter a Voluntary Planning Agreement.

2 The General Manager be authorised to take the necessary action to finalise the terms and conditions of the proposed VPA and to undertake the necessary statutory process.

3 The Minister for Planning and the Planning Assessment Commission (PAC) be advised of this decision.

KEY ISSUES

4 PWCS submitted a major project application (MP10_0215) to the Department of Planning (the Department) in 2010 seeking approval to construct and operate a fourth coal terminal (T4) with capacity to export up to 70 million tonnes of coal per annum on Kooragang Island in the Port of Newcastle. The project has a capital investment value (CIV) of $4.8 billion and will generate up to eighty operational positions. The PAC is expected to determine the application under delegation from the Minister for Planning within the next four to six weeks.

5 Following exhibition of the proposal in 2013, the then Minister for Planning directed that PAC review the T4 project. As part of the review The Department submitted to the PAC the Secretary's Preliminary Environmental Assessment Report (SPEAR) in June 2014. It included a consideration of Local Government Contributions. Based on the submitted documentation, the report concluded that a modest contribution was appropriate given the limited environmental impacts of the proposal. The report considered that payment of a contribution equal to one percent of the total Council's works schedule and new public facilities as listed in
Appendix A and B of Council's s94A Plan was reasonable. This amounted to a recommendation to condition a contribution of $528,140.

6 Since notification of the PAC's review of the application and SPEAR, Council has consistently taken the position that:

Council is supportive of economic development, jobs growth and the renewal of Newcastle. The significant State investment in Newcastle and the broader renewal strategy provides the opportunity to establish Newcastle as the predominant regional city in the Asia Pacific and genuine second retail and commercial centre to Sydney within New South Wales.

To achieve this outcome the City must continue to develop essential and community infrastructure to maintain amenity and support efficient commerce.

To this end, it is considered appropriate that any consent granted for the project includes an appropriate condition requiring PWCS to pay the development contribution provided for by Council's adopted s94A Plan, or alternatively PWCS enter into a Voluntary Planning Agreement with Council.'

(From correspondence in August 2014 to the then Minister for Planning and PAC.)

7 Council has continued to promote this position throughout the assessment process in numerous correspondence to the Minister for Planning, the Department and PAC.

8 The initial PAC review report for the T4 project was released on 15 December 2014. The conclusion of the report agreed with the findings of SPEAR that the proposal is 'approvable', subject to a number of recommendations and associated refinements to the project and draft conditions. In regard to development contributions the report stated:

The Commission notes that both the proponent and Council are willing to enter into a VPA and seem committed to negotiating terms. The Commission encourages this collaborative approach and recommends the Department amends its development contribution condition to reflect the outcome of these negotiations.

9 In July 2015 an addendum to the SPEAR was released. The purpose of the addendum is to address the recommendations arising from the PAC review report. The addendum does not address or even acknowledge the recommendations from the PAC review report in respect to contributions or Council's position on the matter. Consequently the latest version of the draft project approval and schedule of conditions contains the original development contribution condition effectively recommending a contribution of $528,140.
10 PAC has recently completed further public hearings in Newcastle and it is anticipated that they will make a determination on the application in the next four to six weeks.

11 Since March 2014 Council and PWCS have continued to negotiate the essential terms of a possible Voluntary Planning Agreement (VPA). These negotiations have taken place in parallel with the State Significant Development Assessment process with both PWSC and Council putting forward their positions to the respective assessment authorities.

12 Since commencement of the negotiations there has been considerable movement in respect to the quantum, timing and maintenance of real value of contributions. The latest offer from PWCS (Attachment A) has a net present value (NPV) of $12 million once both State and Commonwealth approvals are obtained. This assumes that the indexing to be applied is sufficient to maintain real value.

13 The offer proposes a payment of $2,028,140 at the time a final decision to proceed with the construction of the Terminal 4 Project is taken followed by payments of $400,000 per annum for 25 years with all amounts indexed from time of approval.

14 The timing of the ‘final decision to proceed’ will need to be defined within the VPA. Given the regulatory environment associated with developments of this nature it is considered that there will be sufficient options available to define this trigger point clearly.

FINANCIAL IMPACT

15 The method of calculating and applying contributions for State significant development projects has varied considerably. Attachment B lists 14 State significant developments approved between 2010 and 2015. Only one had the full Council s94A plan contribution applied and this was a development of a much lower scale resulting in contribution of $6,000 from a $600,00 CIV (Crawford's).

16 While the CIV for the Terminal 4 Project is $4.8 billion, PWCS has estimated that the construction costs for the purpose of calculating contributions will be in the order of $3.2 billion. The proposed contribution with an NPV of $12 million amounts to 0.375 percent of this amount.

17 The offer is a significant advancement from that proposed at commencement of negotiations and a much more realistic contribution than the $528,140 recommended by the SPEAR.

COMMUNITY STRATEGIC PLAN ALIGNMENT

18 The preparation and processing of a Voluntary Planning Agreement will align to all seven strategic directions by providing community benefits through the delivery of community infrastructure to new and existing communities and facilitation of economic development.
IMPLEMENTATION PLAN/IMPLICATIONS

19 The offer presented by PWCS is 'subject to agreement on satisfactory terms and the approval of the Board of Directors' and is to include 'commitments in a VPA to be made pursuant to s93F of the NSW Environmental Planning Assessment Act (EPA Act) 1979'. It is preferable that Board approval be obtained prior to the PAC determination in order to give a higher level of the surety that the offer will be realised. In the event that the Board has not validated the offer prior to the determination, it would be appropriate for Council to seek PAC to provide an appropriate condition that enforces Council's position.

20 Section 93F (3A) of the Environmental Planning and Assessment Act states:

'(3A) A planning agreement cannot exclude the application of s94 or 94A in respect of development unless the consent authority for the development or the Minister is party to the agreement.'

21 Therefore the proposal will need the support of PAC or the Minister.

RISK ASSESSMENT AND MITIGATION

22 Council has the choice to enter a VPA acceptable to both it and PWCS or to leave the determination of an appropriate contribution at the discretion of PAC. Given the recommendation in SPEAR for a much lower contribution and the previous inconsistency in determination of contributions with State significant development; there is a high risk that a sub optimal result would be achieved if Council does not take up the offer.

23 Due to the imminent timing of determining the application and the extensive negotiations to get to this point; a decision by Council not to accept the offer and to continue to negotiate is likely to have the same result as simply rejecting the offer out right.

24 Given Council's position supporting economic development and job growth implying support for the project providing a reasonable contribution is made, and the negotiated offer from PWCS increasing that contribution from $528,124 to $12 million; there is a high risk that Council would be seen as being unreasonable by the Department and PAC if it did not accept the offer.
25 In response to Council’s submissions on the Terminal 4 Project the Department of Planning advised in March 2015:

As previously advised in correspondence dated 24 November 2014 (enclosed) the Department does not support levying a contribution based on a flat one percent local developer contribution. The Department’s position is based on the absence of nexus between the impact of the proposal and the amount levied and its inconsistency with the principle of equitable apportionment. Furthermore, the Department cannot recommend that a VPA can be mandated through a statutory instrument when the terms of the agreement are yet to be completed. A VPA can be finalised after the project has been determined. In this respect, should the proponent and Council reach ‘in principle’ agreement on the fundamental terms of a VPA, the proponent could submit a formal letter of offer to the Department outlining the agreed contributions framework. Under these circumstances, the Department would be in a position to include the offer in any final recommendation for approval. This would then form the basis for the preparation, exhibition and execution of a VPA, should the application be approved.

Subsequently, I encourage Council to continue negotiations with the proponent with a view of reaching an agreement as soon as possible.

RELATED PREVIOUS DECISIONS

26 On 23 September 2014 Newcastle City Council resolved that:

1 That Council note with concern that:

a) The NSW Department of Planning and Environment has recommended that Council receive only $528,140 in section 94 levies from the T4 development if it is approved, and

b) This amount represents far less than 1% of the total value of the proposed $4.8billion development, and is therefore only a fraction of the amount that Council is entitled to expect.

2 That Council call on the State Government to confirm to Council and the Newcastle community that in the absence of Newcastle City Council and Port Waratah Coal Services entering a voluntary agreement, it will ensure that Council receives its full s94A levies in the event that the T4 development is approved.
CONSULTATION

27 There has been extensive consultation between all parties throughout the application process. This includes a presentation by PWCS on their development plans in October 2011. Subsequent presentations from PWCS and extensive negotiations with Council facilitated by the General Manager and including participation from the current and former Lord Mayor.

28 Extensive communication has also taken place between NCC, the Department, the Minister for Planning and PAC; both in writing and direct discussions.

29 PAC has recently completed the second series of public hearings in Newcastle.

30 Entering a VPA will, as part of the statutory process, require public exhibition.

OPTIONS

Option 1

31 The recommendation as at Paragraph 1.

Option 2

32 Council not accept the negotiated offer from PWCS and request further negotiations to continue to pursue a VPA more favourable to Council. This is not the recommended option. It is considered that negotiations with PWCS have been exhausted and the offer at hand is a significant improvement on both the original starting position of PWCS and the recommendation in the SPEAR. The impending determination by PAC is unlikely to be deferred to allow for further negotiation.

Option 3

33 To reject the VPA offer from PWCS and leave the contribution to be determined by PAC. This is not the recommended option. PAC is obliged to consider the recommendation in SPEAR for a significantly lower contribution than is being offered through a VPA.

REFERENCES

ATTACHMENTS

Attachment A: Correspondence - Terminal 4 Proposed Voluntary Planning Agreement

Attachment B: Section 94A Payments Table
15 July 2015

Mr Ken Gouldthorp
General Manager
Newcastle City Council
P O Box 489
NEWCASTLE, NSW 2300

Dear Mr Gouldthorp

Port Waratah Coal Services Terminal 4 Project – Proposed Voluntary Planning Agreement (VPA)

I refer to various discussions and letters exchanged between Port Waratah Coal Services (Port Waratah) and Newcastle City Council (Council) in 2014 and 2015 on the subject of a development contribution in relation to the proposed Terminal 4 (T4) project. In particular, I refer to Port Waratah’s most recent VPA offer detailed in our letter to Council dated 10 July 2015.

Port Waratah has considered your verbal response to our latest VPA offer and, given we appear to be coming closer to an agreement, Port Waratah now offers an amended offer in an effort to finalise an agreed VPA with Council. We again offer to make the initial payment under a VPA at the point where a final decision is made to proceed with the project. Given the lead time to construction and the length of the construction period, this still allows more than sufficient time for Council to prepare for the operational phase of the project.

I am confident that our latest revised offer below demonstrates that we continue to be willing to accommodate Council’s expectations in other respects: we agree to Council’s request that amounts that would become payable under the VPA will be indexed from completion of the development approval, and we propose to increase the annual contribution payment as well as extending the period for annual payments. To avoid confusion, I should make it clear that the development approval would be considered complete when both the State and Commonwealth approvals are obtained.

Port Waratah has considered Council’s position as discussed recently with our General Manager Development, Terry Tyman, and make the following offer in response. This offer is made without prejudice to any of our rights and remains conditional as described below.

Subject to agreement on satisfactory terms and the approval of the Board of Directors of Port Waratah Coal Services, Port Waratah is willing to include the following commitments in a VPA to be made pursuant to Section 93F of the NSW Environmental Planning and Assessment Act 1979 (the Act):

(a) Port Waratah will pay to Newcastle City Council, upon taking a final decision to proceed with the construction of the Terminal 4 Project, the amount of $528,140 representing the developer contributions in respect of potential impact on Council services and public amenities.
(b) Port Waratah will also pay to Newcastle City Council, upon taking a final decision to proceed with the construction of the Terminal 4 Project, the amount of $1.5 million for allocation towards infrastructure projects to be selected from Council’s work schedule and new facilities as listed in Schedule 1 of Appendix A and B to the Section 94A Development Contributions Plan as it is made and updated from time to time.

(c) Port Waratah will pay to Newcastle City Council $400,000 per annum for allocation towards infrastructure projects to be selected from Council’s work schedule and new facilities as listed in Schedule 1 of Appendix A and B to the Section 94A Development Contributions Plan as it is made and updated from time to time. This contribution will be paid annually, commencing 12 months after (b) above and will continue for 25 years. As per our previous offers, Port Waratah accepts Council’s offer to establish a governance arrangement through which Port Waratah would be able to submit proposals for and be consulted on projects to be funded through this contribution outlined in (b) and (c).

(d) All amounts above will be escalated by the official consumer price index from the date of development approval to the date of payment.

We respectfully submit that over the proposed 25 year life of the agreement this proposal provides benefits to Council and the Newcastle community which mitigates any potential impact on the demand for Council services and over and above that clearly demonstrates the direct community benefits of a large infrastructure project.

Port Waratah has continued to negotiate in good faith with Council on this matter and in doing so, has been consistent with the objectives of the relevant sections of the Act and Regulation, Newcastle City Council’s Voluntary Planning Agreements Policy 2009 and explanatory documentation such as Practice Notes issued by the Department. Our approach to establishing a VPA is consistent with past practice of the NSW Department of Planning and Environment.

Port Waratah looks forward to resolving the outstanding issues in regard to an agreed VPA as well as Council’s provision of landowner consent for Lot 23, Deposited Plan 1155723 as detailed in previous correspondence.

Yours faithfully

[Signature]

HENNIE DU PLOOY
CHIEF EXECUTIVE OFFICER
## Section 94A Development Contributions

### Table 1 Applications approved by the Minister for Planning and delegates 2010-2015

<table>
<thead>
<tr>
<th>App No</th>
<th>Proponent/Applicant</th>
<th>Suburb</th>
<th>Development</th>
<th>CIV</th>
<th>Cost</th>
<th>DCP levy</th>
<th>Contribution</th>
<th>Contribution Req</th>
<th>Approval date</th>
<th>Consent Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>MP 08_0170</td>
<td>Healthscope Limited</td>
<td>New Lambton Hts</td>
<td>Additions to private hospital</td>
<td>$33,700,000</td>
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<td></td>
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<tr>
<td>MP 08_0250</td>
<td>Hunter Medical Research</td>
<td>New Lambton Hts</td>
<td>Medical research facility</td>
<td>$6,460,000</td>
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<td></td>
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<tr>
<td>MP10_0042</td>
<td>Aldi Foods</td>
<td>Beresfield</td>
<td>Distribution warehouse</td>
<td>$100,000,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MP 09_0096</td>
<td>Newcastle Port Corporation</td>
<td>Mayfield North</td>
<td>Concept PlanÆPort facilities</td>
<td>$200,000,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MP 08_0130</td>
<td>Stolthaven Aust</td>
<td>Mayfield North</td>
<td>Liquids fuel Storage facility</td>
<td>$54,353,395</td>
<td>$46,711,469</td>
<td>1%</td>
<td>$457,114</td>
<td>Not specified</td>
<td>16-Jun-12</td>
<td>M</td>
</tr>
<tr>
<td>SSD-5119</td>
<td>Crawford's Freightliners</td>
<td>Sandgate</td>
<td>AN storage &amp; distribution facility</td>
<td>$600,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>MP 08_0198</td>
<td>ICL</td>
<td>Mayfield North</td>
<td>Cement terminal</td>
<td>$37,000,000</td>
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<td></td>
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<td></td>
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<tr>
<td>SSD-4986</td>
<td>Incitec Pivot</td>
<td>Kooragang</td>
<td>Ammonium Nitrate manufacturing plant</td>
<td>$600,000,000</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>SSD-6457</td>
<td>University of Newcastle</td>
<td>Newcastle</td>
<td>NeW Space project</td>
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<td></td>
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<tr>
<td>SSD-8664</td>
<td>Stolthaven Aust</td>
<td>Kooragang</td>
<td>Expand existing liquid fuel storage facility</td>
<td>$13,400,000</td>
<td>$10,000,000</td>
<td>1%</td>
<td>$100,000</td>
<td>$11,558</td>
<td>16-Apr-15</td>
<td>D</td>
</tr>
<tr>
<td>SSD-0580</td>
<td>Doma Honeysucks P/L</td>
<td>Newcastle</td>
<td>Commercial/residential development</td>
<td>$38,825,677</td>
<td>$39,867,804</td>
<td>2%</td>
<td>$797,356</td>
<td>$797,356</td>
<td>18-Jun-15</td>
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<tr>
<td>MP 07_0171</td>
<td>Aurizon Operations Ltd</td>
<td>Hexham</td>
<td>Train support facility</td>
<td>$126,000,000</td>
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<td></td>
<td></td>
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<tr>
<td>MP 10_0093</td>
<td>Coal &amp; Allied Industries Ltd</td>
<td>Black Hill</td>
<td>Concept PlanÆEmployment Lands</td>
<td>$695,737,000</td>
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<td></td>
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<tr>
<td>SSD-6580</td>
<td>Doma Honeysucks P/L</td>
<td>Newcastle</td>
<td>Commercial/residential development</td>
<td>$38,825,677</td>
<td>$39,867,804</td>
<td>2%</td>
<td>$797,356</td>
<td>$797,356</td>
<td>18-Jun-15</td>
<td>D</td>
</tr>
</tbody>
</table>

1. **Type of application**  
2. **CIV**  
   The capital investment value of the project/development.
3. **Cost**  
   The cost of the development calculated under clause 25J of the Environmental Planning & Assessment Regulation 2000.
4. **DCP levy**  
   The required development contribution levy under Council's adopted Section 94A Development Contributions Plan.
5. **Contribution**  
   The monetary contribution required based on the applicable levy.
6. **Contribution Req**  
   The monetary contribution required by the project approval or development consent.
7. **Consent Authority**  
   M-Minister for Planning, D- Department of Planning officer under delegated authority, PAC-Planning Assessment Commission under delegated authority.

### Table 2 Number of applications per category

<table>
<thead>
<tr>
<th>Category</th>
<th>No of applications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contribution not specified</td>
<td>3</td>
</tr>
<tr>
<td>Reduced contribution</td>
<td>2</td>
</tr>
<tr>
<td>Maximum contribution</td>
<td>2</td>
</tr>
<tr>
<td>To be levied at DA stage</td>
<td>2</td>
</tr>
<tr>
<td>Exempt from levy</td>
<td>3</td>
</tr>
<tr>
<td>No contribution</td>
<td>2</td>
</tr>
</tbody>
</table>

Version 7 14 July, 2015 Prepared by Planning & Regulatory
MOTION
Moved by Lord Mayor Cr Nelmes, seconded by Cr Luke

1 Council accept the offer outlined in PWCS letter dated 15 July 2015 to enter a Voluntary Planning Agreement.

2 The General Manager be authorised to take the necessary action to finalise the terms and conditions of the proposed VPA and to undertake the necessary statutory process.

3 The Minister for Planning and the Planning Assessment Commission (PAC) be advised of this decision.

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

Against the Motion: Councillors Doyle and Osborne. Carried
9  NOTICES OF MOTION

ITEM-18  NOM 28/07/15 - NOTICE OF MOTION TO RESCIND A COUNCIL RESOLUTION - ITEM 51 OF 16 JUNE 2015 - NEWCASTLE ART GALLERY FOUNDATION SUPPLEMENTARY DEED OF TRUST

COUNCILLORS:  WATERHOUSE, COMPTON AND ROBINSON

PURPOSE

At the meeting of 16 June 2015 Councillor Waterhouse gave notice of her intention to submit a rescission motion on Council's decision in respect of Item 51 - CCL 16/06/15 - Newcastle Art Gallery Foundation Supplementary Deed of Trust to the next Council meeting. Written notice was subsequently submitted at the meeting.

MOTION

That Council rescind the resolution of Council for Item 51 - CCL 16/06/15 - Newcastle Art Gallery Foundation Supplementary Deed of Trust made on 16 June 2015.

BACKGROUND

Refer to the Officer's report presented at the Ordinary meeting of 16 June 2015.

ATTACHMENTS

Attachment A: Resolution of Council 16 June 2015 - Item 51 - Newcastle Art Gallery Foundation Supplementary Deed of Trust
Attachment B: Signed Rescission Motion received from Councillors Waterhouse, Compton and Robinson
Attachment C Subsequent correspondence received from Newcastle Art Gallery Foundation
Attachment A

ITEM-51: CCL 16/06/15 - NEWCASTLE ART GALLERY FOUNDATION
SUPPLEMENTARY DEED OF TRUST

RESOLVED: (LORD MAYOR CR NELMES/COUNCILLOR POSNIAK)

1. Council grants approval of the Newcastle Art Gallery Foundation Supplemental Deed of Trust in the form as per attached Attachment K of the Officer’s report, pursuant to the terms of Clause 12.01 of the current Trust Deed subject to the three amendments being further incorporated into the Supplemental Deed of Trust:

(a) the definition of Eligible Entity in Clause 2.1 (b) iii being amended by deleting the word ‘benefit’ and adding the words ‘promotion, advancement and development’.

(b) Clause 4.1 is amended by deletion of all words in 4.1(a) and replaced in its entirety with the following:

“4.1
(a) The Trustees must pay or apply the Trust Fund solely for the purpose of providing money, property or benefits for the promotion, advancement and development of the Art Gallery in all forms and in such manner as the Trustees think fit, provided it is in accordance with the Public Ancillary Fund Guidelines and provided to an Eligible Entity.”

(c) Clause 14.1 being amended by the deletion of the words "and providing that such approval is not unreasonably withheld or delayed," immediately following the word "Council," in line 1.

2. The General Manager, or delegate, execute all documentation on behalf of Council that conveys the above Council approval to the Foundation prior to 30 June 2015.

3. Council prepares a draft Memorandum of Understanding (MoU) in consultation with the Newcastle Art Gallery Foundation Board which:

- establishes expectations and responsibilities of the executive and foundation in regard to the execution of the Trust Deed,
- promotes a harmonious relationship, and
- includes best practice dispute resolution processes.
That the draft MoU to be presented to Councillors at a briefing with Officers involved in the process in August, for final presentation for endorsement to the September Ordinary Council Meeting.
RECISSION MOTION – Ordinary Council Meeting 16 June 2015 ITEM – 51 CCL 16/6/15 – Newcastle Art Gallery Foundation Supplementary Deed of Trust

That Council rescind the resolution of Council for ITEM – 51 CCL 16/6/15 – Newcastle Art Gallery Foundation Supplementary Deed of Trust made on 16 June 2015.

16 June 2015

Signed

[Signatures]
CR. SHARON WATERHOUSE
CR. ALLAN ROBINSON
8 July 2015

Cr Nuatali Nelmes

Lord Mayor, The City of Newcastle

Via email only: lordmayor@ncc.nsw.gov.au

NEWCASTLE ART GALLERY FOUNDATION- SUPPLEMENTAL DEED OF TRUST

Dear Nuatali,

On behalf of the Board, I again would like to thank Council for its prompt and well considered responses to our request for approval of the Foundation’s Supplemental Trust Deed.

After the Council meeting of 16 June 2015 where the Council approved the Supplemental Trust Deed with the Alternate Motion, the Foundation Board met on 17 June 2015 and resolved to execute the Supplemental Trust Deed. In doing so, the Foundation also made the ATO aware that, although Council had approved the Supplemental Trust Deed at this meeting, a rescission motion was possible.

Prior to 30 June 2015, the ATO approved the Trust Deed and a copy of the Trust Deed has been lodged with the ACNC.

Best wishes

Judy

Judy Hart
Chairman,
Newcastle Art Gallery Foundation

Cc: F. Giordano, K. Gouldthorp
MOTION
Moved by Cr Waterhouse, seconded by Cr Tierney

Council rescind the resolution of Council for Item 51 - CCL 16/06/15 - Newcastle Art Gallery Foundation Supplementary Deed of Trust made on 16 June 2015.

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

**Against the Motion:** Lord Mayor Cr Nelmes, Councillors Clausen, Crakanthorp, Doyle, Dunn, Posniak and Osborne. **Defeated**
ITEM-19 NOM 28/07/15 - EQUALITY FOR NOVOCASTRIANS

COUNCILLORS: D CLAUSEN, T CRAKANTHORP, J DUNN, N NELMES AND S POSNIAK

PURPOSE

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

MOTION

That Newcastle City Council:

1 Affirms its commitment to valuing and respecting diversity in our community, including in the provision of services and as an employer of equal opportunity.

2 Seeks to further its support, by adopting the Safe Space Charter and increasing the number of Council venues (such as the libraries, museum, art gallery and pools) registered with ACON NSW’s Safe Space Program.

3 Supports the establishment of a permanent rainbow crossing as a placemaking project on a local road or alternate suitable public place within the Newcastle LGA to symbolise the City’s commitment to equality.

4 A report be received by Council at or before the October meeting of council which identifies a number of location options, and estimates the costs and other constraints, of establishing a permanent rainbow pedestrian crossing on a local road or in alternative public space. This report is to consider the potential of establishing a permanent crossing in locations of current and historical significant to the local LGBTIQ community including Beaumont Street, Hamilton.

5 Adopts a position supporting marriage equality; that is that civil marriage should be available, without discrimination, to all adult couples, regardless of sex, sexual orientation or gender identity.

6 Publically shares this statement including by publicising on Council’s website and social media; and by writing to the Prime Minister, Federal Opposition Leader, and Federal Members for Newcastle, Charlton, Shortland, Paterson and Hunter advising them of council’s support, and encouraging support of marriage equality bills before the commonwealth parliament.
BACKGROUND

Provision of Services and Employer of Equal Opportunity
As both a service provider to a community of more than 154,000 people, and as an employer of more than 1,000 individuals (in 919.63 EFT positions), the City of Newcastle has a legal and moral obligation to ensure that its operations are free from discrimination, and that its practices promote acceptance and diversity.

Data from the most recent Census indicates that the Newcastle LGA reports the second highest number of Lesbian, Gay, Bisexual, Transgender, Intersex or Queer (LGBTIQ) couples of any major city in NSW.

The Office of Local Government’s ‘Anti-discrimination guidelines for local Councils: Factsheet for Local Government Councillors’ (Attachment A) outlines the role of the elected Council in ensuring that an inclusive workplace is established and that appropriate services are provided for all residents, including for LGBTIQ people.

Since 1993 the City of Newcastle has also considered various policies and motions relating to the provision of services to the LGBTIQ community (Attachment B).

A welcoming service provider
ACON, formerly known as the AIDS Council of NSW, is an NGO funded primarily by the NSW Ministry of Health to further HIV prevention, HIV support and LGBTIQ health. ACON administer a register of ‘Safe Spaces’ which are services, shops, cafés, and other businesses which are welcoming, supportive and actively engaged with LGBTIQ communities.

There are presently more than 450 Safe Spaces registered in NSW, including a number of Council venues such as the Newcastle Museum, Newcastle Library and New Lambton Library. Given Council’s anti-discrimination stance, Council should seek to further develop staff and register additional venues as Safe Spaces. The ACON Safe Space Charter is provided as Attachment C.

Rainbow crossing
Rainbow crossings have been established in a number cities worldwide to symbolise a commitment to equality. To date this includes crossings in West Hollywood, San Francisco and London. These crossings provide an additional tourist attraction and are an additional mechanism of place making.

The LGBTIQ community has a proud history in Newcastle. Research undertaken in collating the book: ‘Out in the Valley - Hunter gay and lesbian histories’, edited by Jim Wafer, Erica Southgate and Lyndall Coan; as well as by the Newcastle Museum, identifies that Newcastle has a long gay history including with a strong gay scene in

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Hamilton in the 70s and 80s, including at hotels such as The Centurion. It would be appropriate to celebrate this long history, and support diversity with the installation of a permanent rainbow crossing.

The City of Sydney established a rainbow crossing on Oxford Street, Sydney, as part of the celebration of Mardi Gras 2013. The LMM adopted by the City of Sydney Council on 10 December 2012 estimated that the installation of two large rainbow crossings would come to $75,000 which would include the cost of designs, road safety audits and installation (Attachment D). The City of Sydney crossing required the approval of Roads and Maritime Services (RMS) as it crossed a state road. This approval was provided for a 3 month period, with RMS ultimately required that the crossing be removed.

The proposal for Newcastle is for the establishment of a smaller crossing on a local road or other suitable public space rather than a state road. It is anticipated that this will substantially decrease the expense, and remove the need for substantial state government approvals, as were required in Sydney.

A poll undertaken by the Newcastle Herald indicates that 81.1% of Herald readers support rainbow crossings.

The City of Sydney Rainbow Crossing in Oxford St, 2013 (L); San Francisco’s Xing (2015)

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Marriage Equality
On 28 May 2013, Council resolved to indefinitely lay a motion supporting marriage on the table on the basis that it did not have the legislative authority to address the issue.

Since that time the campaign for marriage equality has continued to gain significant traction both nationally and internationally. On 22 May 2015 the Irish Government held a referendum required to amend the Irish Constitution to allow marriage equality. The Catholic nation adopted this proposal with more than 1.2 million ‘yes’ votes representing 62% of the voting population.

More recently, in making judgement on the Obergefell v. Hodges case on 26 June 2015, the US Supreme Court made Marriage Equality legal in all 50 states of the United States of America. Prior to the judgement, individual state governments had enacted legislation to allow same-sex marriage in 36 individual states.

Globally 22 countries presently recognise marriage equality including the US, the UK, New Zealand, the Netherlands, Belgium, Spain, Canada, Sweden, Denmark, France and Finland. Australia is the only major English speaking country not to allow marriage equality.

The topic of marriage equality has also been considered in Australian Parliaments, with both state/territory parliaments and the Commonwealth considering various marriage equality bills. More recently, when it considering The Commonwealth of Australia v The Australian Capital Territory [2013] HCA 55, the High Court determined that marriage equality is a matter which the Constitution assigns to the Commonwealth Parliament for determination.

A number of Marriage Equality Bills are presently before the Commonwealth Parliament, and are believed to have substantial support provided that the Government grants its members a conscience ‘free’ vote. A decision on whether this may occur is expected in August.

While seen by many as symbolic, the provision of marriage equality is also a critical social and health issue.

Mental health is a significant problem in the Lesbian, Gay, Bisexual, Transsexual, Intersex and Queer (LGBTIQ) community. LGBTIQ Australians are 14 times more likely to attempt suicide than their heterosexual peers. LGBTIQ people have the highest rates of suicidality of any population in Australia.

While the causes of such significant rates of mental illness in the LGBTIQ community are complex, psychologists indicate that this problem is closely associated with:

- Deeply held beliefs that same-sex relationships are not valid
- Being excluded from social institutions which normalise same-sex relationships, such as marriage
- 'Internalized Homophobia' - negative beliefs including LGBTIQ are disordered, sick or evil.

In 2010 61% of surveyed same-sex attracted young people reported verbal abuse because of homophobia, 18% physical abuse and 26% 'other' forms of homophobia. Whilst marriage equality won’t eliminate all abuse and hurt felt by same-sex attracted people, the international experience shows that reports of abuse towards same-sex attracted people drop significantly in the months and years following the legalisation of marriage equality, giving same-sex attracted people increased feeling of social inclusion. These improvements were seen right across the community, even among those people who did not use the opportunity to marry.

Marriage equality is also an economic issue. The University of California’s Williams Institute reviewed the economics of marriage equality in Australia, and identified that there would be an immediate benefit of more than $161 million in the first 3 years. This would provide a significant boost to small business in Newcastle.

Fundamentally, allowing marriage equality is not only about addressing the rights of a perceived minority, but it also about protecting the rights of the community in general. If Councils allow the exclusion of certain basic privileges to some, then they open the door to the introduction of a range of policies which exclude others.

Council has a responsibility to be a leader in the Newcastle community, and reflect diversity.

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A matter for Council
Statements endorsing Marriage Equality have been adopted by a significant number of NSW and Australian local government bodies including10:
- Albury City Council
- Bega Valley Shire Council
- Blue Mountains City Council
- Buloke Shire Council
- Byron Shire Council
- Camden Council
- City of Ballarat Council
- City of Darebin Council
- City of Geelong Council
- City of Melbourne Council
- City of Port Phillip Council
- City of Sydney Council
- City of Vincent Council
- City of Yarra Council
- Coonamble Council
- Glen Era City Council
- Glenorchy City Council
- Hepburn Shire Council
- Hobart City Council
- Hobsons Bay Council
- Kogarah City Council
- Lachlan Shire Council
- Leichardt Council
- Lismore City Council
- Marrickville Council
- Mildura Rural City Council
- Moreland City Council
- Randwick City Council
- Wodonga City Council
- Surf Coast Shire Council
- Tenterfield Shire Council

ATTACHMENTS
Attachment A: OLG Antidiscrimination guidelines for local councils.
Attachment B: Council resolutions
Attachment C: LGBTI Safe Place Charter
Attachment D: City of Sydney rainbow crossings

10 http://www.australianmarriageequality.org/local-council-motion-of-support/
This factsheet has been developed to assist local government councillors understand their responsibilities under anti-discrimination law. It should be read in conjunction with Anti-Discrimination Guidelines for Local Councils which provides more detailed information on how anti-discrimination law affects local councils.

This factsheet has been developed by the Anti-Discrimination Board of NSW in conjunction with the Division of Local Government, Department of Premier and Cabinet.
Anti-discrimination law in NSW

Under the NSW Anti-Discrimination Act 1977 it is unlawful to discriminate against someone (treat them less favourably than others) or harass them, because of their own or their friends’, relatives’ or associates’:

- sex (including pregnancy and breastfeeding);
- race (including colour, descent, nationality, ethnic and ethno-religious background or national origin);
- age;
- marital or domestic status;
- homosexuality (actual or presumed, male or female);
- disability (physical, intellectual, mental or infection such as HIV, whether past, present, future or presumed);
- transgender status; or
- responsibilities as a carer.

The law applies to:

- the types of services and facilities Council provides and the way in which they are provided;
- council meetings and decisions, including the way councillors treat each other; and
- Council’s employment practices.

The Local Government Act 1993 also has Equal Employment Opportunity provisions which don’t cover all the grounds for discrimination but give local councils specific responsibilities to plan for and achieve a diverse workplace.

Your Council’s Code of Conduct must also be considered.

Four types of discrimination

Direct discrimination

Direct discrimination happens when assumptions are made about a person just because they belong to a particular group of people (race, sex, age etc).

Indirect discrimination

This is when a written or unwritten requirement, rule or policy is applied to everyone, but unreasonably disadvantages more people from one group compared to another group.

Harassment

Harassment is behaviour that is:

- unwelcome; and
- offensive, humiliating or intimidating; and
- creates a hostile environment (in the workplace, or in service delivery); and
- happens because of sex, pregnancy, breastfeeding, marital or domestic status, race, disability, homosexuality, transgender, age or carer responsibilities.

Sexual harassment is unwelcome:

- advances, or requests for sexual favours; or
- conduct of a sexual nature that a reasonable person would expect to find offensive, humiliating or intimidating.

Vilification

Vilification is a public act, that incites hatred, serious contempt or severe ridicule of a racial group, homosexual people, transgender people or people with HIV/AIDS.

What happens if someone makes a complaint to the Anti-Discrimination Board?

If someone believes they have been unlawfully discriminated against or harassed by Council, councillors or council employees, they can make a complaint to the Anti-Discrimination Board of NSW.

If the Board is satisfied that the complaint falls within its jurisdiction, it will discuss the matter with all parties. The Board is impartial.

The Board will try to ‘conciliate’ the complaint, that is, help the parties to reach a private and confidential settlement. For information on the types of settlement available see Anti-Discrimination Guidelines for Local Councils.

If a complaint can’t be conciliated it may be referred to the Equal Opportunity Division of the Administrative Decisions Tribunal. The Tribunal can order up to $100,000 compensation, plus costs, for each complaint. Tribunal hearings are usually public and can be reported in the media.
Can a complaint about discrimination be made under a council's code of conduct?

Yes. Under the Local Government Act, councils are required to adopt a code of conduct that incorporates the provisions of the *Model Code of Conduct for Local Councils in NSW*. The Model Code of Conduct sets the minimum requirements of conduct for council officials (councillors, members of staff of councils, administrators, members of council committees, conduct reviewers and delegates of council) in carrying out their functions. The Model Code is prescribed by regulation.

Council officials:
- must not do anything that causes, comprises or involves intimidation, harassment or verbal abuse;
- must not act in a way that results in discrimination, disadvantage or adverse treatment in employment or service provision;
- must treat others with respect;
- must consider issues consistently, promptly and fairly and in accordance with established procedures, in a non-discriminatory manner; and
- must not harass, discriminate against, or support others who harass or discriminate against colleagues or members of the public.

The procedures for managing complaints about the conduct of council officials are set out in the Model Code and each council's code of conduct.

Whose legal responsibility is it to make sure the law is followed?

**Council’s liability**
Council must take ‘all reasonable steps’ to prevent unlawful harassment, discrimination, vilification and/or associated victimisation:
- between elected members;
- between employees;
- from a councillor or councillors to an employee or employees;
- from an employee or employees to a councillor or councillors;
- from Council, a councillor, or a council employee to a member of the public; and
- between members of the public on council premises or at council organised occasions.

**Councillors’ individual liability**
A councillor may also be personally legally liable if:
- they act in a discriminatory, harassing or vilifying way towards another person, including another councillor, when carrying out council duties;
- they encourage, aid or allow the council to do something discriminatory or harassing; or
- they personally intervene in, or make a decision about a complaint without applying the rules of natural justice or due process.

As a councillor how can I make sure that Council follows anti-discrimination law?

**Be careful about your own behaviour**
Councillors need to be careful how they speak to and behave towards council employees, other councillors and community members. Therefore, don’t do anything that is, or could be, interpreted as sexual, sexist, racist, ageist, and so on.

Remember that:
- everyone has different values and opinions about what is inappropriate behaviour;
- every employee has the legal right to a safe, discrimination and harassment free workplace;
- every councillor has the right not to be vilified or harassed; and
- every community member has the right to fair and non-discriminatory services.

Be careful of words used and how they are said. Apologise sincerely if you have unintentionally upset someone.

Don’t personally intervene in complaints of discrimination or harassment. Leave such decisions to council employees or to Council as a whole.

**Be careful about discussions and decisions made at council meetings**
There must be no unlawful vilification, by anyone, during council meetings.

If vilification or abuse occurs, councillors should publicly disassociate themselves and make sure that
it is not repeated. They may need to exclude people from the meeting.

Decisions made at council meetings which are discriminatory can be overturned by the courts. Council may also have to pay compensation including legal costs to those discriminated against.

Employment practices
As a councillor you should ask for regular reports on:
- progress against the EEO management plan;
- the background (age, race, gender, disabilities etc) of staff being appointed, promoted and leaving; and
- the numbers and types of staff discrimination/harassment grievances.

You can get more information about how to make sure Council’s employment practices are non-discriminatory from the Anti-Discrimination Board’s Guidelines for Managers and Supervisors.

Check Council services
Councillors should monitor Council service provision decisions to make sure they are fair and non-discriminatory.

Councillors may ask for regular reports on:
- progress under the Delivery Program and Operational Plan;
- which groups have been consulted in relation to Council’s community engagement strategy; and
- the numbers and types of community member discrimination/harassment complaints.

Keep an eye on service delivery practices
The General Manager should ensure that all employees:
- are directed not to discriminate against, harass or vilify any members of the public;
- follow a written and fair complaints handling procedure; and
- are regularly trained in non-discriminatory service provision.

The General Manager should provide reports to Council on the implementation of these measures.
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ATTACHMENT 1 - NOM - Non Gender Specific Language
NOTICE OF MOTION

NO. 24 OF 10 OCTOBER 1995
COUNCILLOR E RENE
SUBJECT NON-GENDER SPECIFIC LANGUAGE
NUCLEAR DISARMAMENT & FRENCH NUCLEAR TESTING

FILE NOS. 60/74/60/05
60/39/40/08

The following Notice of Motion was received on 4 October 1995 from the abovementioned Councillor.

I move

1 That Newcastle City Council adopt a policy of non-gender specific titles.

2 That the new Council reaffirm its support for the protest against the continuing French Nuclear Testing program in the South Pacific.

DATE: 4 OCTOBER 1995 CR E RENE
That Newcastle City Council adopt a policy of non-gender specific titles.

RESOLVED: (Councillors E René/M Henry)

That Newcastle City Council adopt a policy of non-gender specific titles.
Breaking down barriers of prejudice is difficult. For its part, Council recognises the need to support people and families who are living with AIDS. Council encourages the community to seek out information about the HIV virus and reach out to those who are living with AIDS.

The HIV virus does not distinguish between age, sex, or race, therefore active community education is essential.

Breaking down barriers of prejudice is difficult. For its part, Council recognises the need to support people and families who are living with AIDS. Council encourages the community to seek out information about the HIV virus and reach out to those who are living with AIDS.
Breaking down barriers of prejudice is difficult. For its part, Council recognises the need to support people and families who are living with AIDS. Council encourages the community to seek out information about the HIV virus and reach out to those who are living with AIDS.

That Newcastle City Council recognises the importance of community education in preventing HIV infection and is committed to continuing its support of community education on HIV. Council endorses the release of a statement along the following lines:-

NEWCASTLE CITY COUNCIL
A MESSAGE FOR WORLD AIDS DAY

The HIV virus does not distinguish between age, sex, or race, therefore active community education is essential.

Breaking down barriers of prejudice is difficult. For its part, Council recognises the need to support people and families who are living with AIDS. Council encourages the community to seek out information about the HIV virus and reach out to those who are living with AIDS.
ATTACHMENT 3 - LMM - 50:50 Gender Equality
including Council Action Item
SUBJECT: LMM 06/07/2010 – 50:50 VISION COUNCILS FOR GENDER EQUITY

PURPOSE

Attached is a copy of the 50:50 Vision Councils for Gender Equity brochure. An initiative of the Federal Government which I believe Newcastle City Council should take up in a positive manner.

In October 2009, the Local Government and Planning Ministers Council (LGPMC) endorsed the 50:50 Vision strategy to increase the levels of participation of women in local government at both elected and senior management levels.

Newcastle City Council has had and continues to have a strong representation of women as Aldermen, Councillors and Senior Managers, including the first female Lord Mayor in Australia the late Joy Cummings AM.

The 50:50 Vision National Awards and Accreditation Program has three levels, Bronze, Silver and Gold. The Bronze Award is the entry level where Council’s must meet a number of criteria. To progress to Silver and Gold Council’s must have achieved Bronze Level and additional criteria as listed in the attached brochure.

RECOMMENDATION

Council advise the General Manager that Newcastle City Council would like to nominate for the Bronze Level award as part of the Councils for Gender Equity National Awards and Accreditation Program for Local Government

ATTACHMENTS

Attachment A: 50:50 Vision Councils for Gender Equity National Awards and Accreditation Program for Local Government brochure – distributed separately
(please note a copy of this brochure has been distributed to Councillors and General Manager, this brochure can be accessed via www.5050vision.com.au – library – 50:50 vision brochure)
SUBJECT: LMM 06/07/2010 – 50:50 VISION COUNCILS FOR GENDER EQUITY

RESOLVED: (THE LORD MAYOR/G BOYD)

Council advise the General Manager that The City of Newcastle Council would like to nominate for the Bronze Level award as part of the Councils for Gender Equity National Awards and Accreditation Program for Local Government.
ATTACHMENT 4 - NOM - Marriage Equality
including Council Procedural Motion
PURPOSE

The following Notice of Motion was received on 29 April 2013 from the abovementioned Councillors:

MOTION

Noting that:

i) The role of a Councillor is to represent the interests of the residents and ratepayers and to provide leadership and guidance to the community (Local Government Act 1993, Section 232), and

ii) Council is obliged under its Charter to exercise community leadership (Local Government Act 1993, Section 8)

Newcastle City Council:

1 Reaffirms its commitment to valuing and respecting diversity in our community.

2 Adopts a position of supporting the strong community campaign for marriage equality for all Australians before the law.

3 Conveys this resolution to local Federal Members of Parliament for Newcastle, Sharon Grierson, Charlton, Greg Combet and Shortland, Jill Hall.

BACKGROUND

Newcastle Councillors have two clearly defined roles under Section 232 of the Local Government Act 1993: one is as a member of the governing body of Council to guide the administration and delivery of council services and the other is represent the interests of all people in our community, including those who may be different from the majority.

This second is largely an advocacy role and it may be as simple as standing up for our local community, adopting a position and writing a letter.

This is an important role and is one of the two roles of a Councillor outlined in the Local Government Act 1993 under which Newcastle Councillors were elected.

Providing same-sex couples with the same legal and social recognition of their relationships in no way infringes upon the rights of others.

Allowing same-sex marriage is about extending the privileges already enjoyed by the majority to an excluded minority who differ simply in terms of the sex of the person with whom they are in a committed relationship.
Further, and very importantly, lifting the ban on same-sex marriage is not only about addressing the rights of this minority group; it is about protecting the rights of people in general. If we say exclusion to certain basic privileges is okay for some, then we are opening up the doors to introducing laws as we see fit to exclude others.

In a different space and time, it may be your rights or those of your loved ones that are affected. Equality, respect, dignity, and a sense of belonging are ideals and values endorsed by Australian society. When these values are not upheld for some, it has the potential to affect us all.

In a modern society we should not have laws that deny rights and opportunities for some people based on their sexuality or any other forms of discrimination.

Miscegenation laws until 1967 denied marriage to people of different races in parts of the United States. The Nuremburg laws in Germany denied marriage between Aryans and Jews.

The vast majority of Australians support marriage equality for all Australians before the law.

**Galaxy Research polling (2009-2012) shows:**

- 64% of Australians support marriage equality,
- A majority of Christians (53%) support marriage equality,
- 76% of Coalition voters want Abbott to allow a conscience vote,
- 75% believe the reform is inevitable, and
- 81% of young people (18-24 years) support marriage equality.

**SMH/Nielsen poll, December 2011:**

- 81% of Australians want Coalition MPs to have a conscience vote on marriage equality.

**SMH/Nielson poll, November 2011:**

- 62% of Australians support marriage equality.

**News Ltd poll, mid-August 2011:**

- 7 in 10 Australians support marriage equality.

**Roy Morgan poll, early August 2011:**

- 78% of Australians believe the institution of marriage is still necessary.

**Roy Morgan poll, early August 2011:**

- 68% of Australians support marriage equality.
News Ltd poll, December 2010:

65% of Australians support marriage equality or don’t mind either way.

Support comes from a variety of people, including:

Heather Ridout, CEO, Australian Industry Group

"I don’t see gay marriage as a radical agenda; it’s very relevant to many Australians."

Chris Berg, Research Fellow, Institute of Public Affairs

"Extending the marital franchise to gay and lesbian couples would multiply the number of Australians who can join this crucial social institution, spreading the positive impact of marriage on society."

Amnesty International Australia

"Amnesty International supports all initiatives to end discrimination in marriage laws based on sexual orientation or gender identity."

Headspace, Australia's national Youth Mental Health Foundation

"Headspace believes marriage equality is primarily about ending social exclusion and giving all Australians the same basic rights. Headspace knows this lack of equality has strong links to mental health issues among same sex attracted young people. We want to see an end to the unnecessary stigma and isolation another generation of young Australians could face because of this inequality."

Fr Dave Smith, Anglican parish priest, Sydney

"From a Christian point of view, marriage is an institution designed to serve two social needs:

1. contribute broadly to social stability
2. provide a stable environment for the nurturing of children.

If this is the case then the only questions Christians need to concern themselves with when it comes to the issue of gay marriage are these two:

1. Would gay marriage lead to greater social stability?
2. Would a married gay partnership be likely to provide a more secure environment for the nurturing of the children of a gay couple than an unmarried one?

I think the answer to both these questions has to be 'yes'"

Rev Robert Clarke, Metropolitan Community Church, Good Shepherd, Granville, NSW

"MCC supports your initiative 'civil marriage for same-sex couples' wholeheartedly."
Rev Matt Glover, Baptist Minister, Melbourne

"When a couple want to be part of the institution of marriage, when they fully accept the same rights and responsibilities of marriage and treat marriage with the respect it deserves, why should they NOT get married? As a Christian minister, I believe that marriage is under threat from many angles, but also believe that recognizing same-sex unions will help return marriage to its rightful place in society."

Rev Leanne Jenski, Blackwood Uniting Church

"I am looking forward to being able to marry my female partner of 13 years as soon as it is legal … and it will be a church wedding too as my partner Rev Susan Wickham is also a minister, with Goodwood Uniting Church, SA!"

Chas Licciardello, The Chaser, ABC TV

"I cannot believe that we live in a society where gays can't get married. It seems to me like something that should have been taken care of a hundred years ago. I'm amazed that it hasn't happened yet, but I'm sure it will. The whole system seems very antiquated at the moment."

David Cameron, Prime Minister of Britain, Leader of the Conservatives:

"Conservatives believe in the ties that bind us; that society is stronger when we make vows to each other and support each other. So I don't support gay marriage despite being a Conservative. I support gay marriage because I'm a Conservative."

ATTACHMENTS

Nil
PROCEDURAL MOTION

MOTION: (Councillors B Luke/L Tierney)

The following Notices of Motion lay on the table until the relevant State or Federal Government has delegated legislative authority for those areas to the Council.

- Item 10 - Marriage Equality
- Item 16 - Reaffirm Newcastle as a Welcome City for Refugees
- Item 17 - Public Voice on Ammonium Nitrate Storage

Following discussion the procedural motion was put to the meeting and Councillor Osborne called for a division which resulted as follows:


Against the procedural motion: Councillor T Crakanthorp, T Doyle, J Dunn, N Nelmes, M Osborne and S Posniak.

The Lord Mayor declared the procedural motion carried on the division of seven votes to six votes.

RESOLVED: (Councillors B Luke/L Tierney)

The following Notices of Motion lay on the table until the relevant State or Federal Government has delegated legislative authority for those areas to the Council.

- Item 10 - Marriage Equality
- Item 16 - Reaffirm Newcastle as a Welcome City for Refugees
- Item 17 - Public Voice on Ammonium Nitrate Storage
ATTACHMENT 5 - Draft Community Enhancement for the People of The City of Newcastle
DRAFT

COMMUNITY ENHANCEMENT

FOR THE PEOPLE OF

THE CITY OF NEWCASTLE

Community Development Policy

Social Impact Consultative Panel

Following Community Consultation

August 1994
COMMUNITY DEVELOPMENT POLICY

Contents

1. Introduction ................................................................. 2
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APPENDIX

(i) Section 8 - The Council's Charter
Local Government Amended Act 1993
(ii) Definitions of Value Base
(iii) New South Wales Charter "The State Government for a Culturally Diverse Society"
(iv) Examples of Council's Roles in Community Development
(v) Social Development Goals and Objectives 1980
1. Introduction: Community Development Policy

In September 1980 Council adopted a social development policy which included a community development role. (See Appendix 1) This policy needs reaffirmation, and expansion in the context of a new and changing world, in order to meet the requirements of the Local Government Amendment Act 1993, and the needs of the City Enhancement Plan and the revised Social Strategy Plan.

Community Development is often taken to be synonymous with the provision of services, commonly human services. Nevertheless, it has always involved a wide field of economic, social and cultural activities. In this context the term describes co-operation between government and community to improve the quality of life by working together to meet agreed ends.

Over the last 15 years Council has adopted elements of community development in a haphazard way usually driven by legislation as in the case of the Environmental Planning and Assessment Act and by the program administration of various departments, such as the Department of Community Services when funds are provided for the provision of certain services.

The new Local Government Act (see Appendix 2) gives Council the opportunity to enhance its involvement in community development. A major purpose of the Act is to shift the accountability of councils more towards the community which elected them.

The 1994 Community Development policy should assist Council:

* to address the restrictions imposed by its limited funds
* to bridge the gaps between the 'haves' and 'have nots' in our community
* to tackle new strategic goals and programs
* to develop an effective prioritising mechanism for the diverse range of needs and projects and
* to make the best use of the community's willingness to be involved in Council's programs.

"Community development looks at both local and regional communities in order to ensure appropriate, accessible and equitable distribution of social, health, cultural, leisure and recreational services" (City Enhancement Plan p11) and to create an atmosphere of creative thinking which enhances the quality of life for all citizens.

(Definitions of "Community" are found in Appendix 3)
2. Value Base

Community Development practice is based on values. The adopted set of values is the most crucial component of a community development policy. Activities are assessed against this set of values to judge whether the kind of community development advocated by this policy is being implemented by Council.

The value base of the 1994 Community Development policy is:

* The value of respect for individuals and groups
* The value of self determination
* The value of democracy
* The value of the "common good"
* The value of equity of access for all citizens
* The value of diversity

(See Appendix 3 for definitions of principles underpinning these values and Appendix 4 for New South Wales Charter on a Culturally Diverse Society)
3. Goal/Mission Statement

The City Enhancement Plan sees community as being: "nurtured when a community is encouraged to participate with local government in identifying needs and promoting opportunities to strengthen social networks which can work together for the common good". Therefore the goal of the Community Development policy is

"to enhance the relationship between Council and the Community in order to bring about agreed change"

Community Development involves the following:

* an awareness of common interests that can form the basis of effective relationships for working together
* an identification of unmet concerns or objectives that can enhance individual life and which may develop a sense of community
* an understanding about how governments, public and private organisations work in distributing resources and power
* an understanding that natural and human resources are finite
* a realisation that ordinary people can use their potential to develop their community or to bring about change
* a realisation that conflict can be a part of community development
* that community development is a process which is rewarding and enriching and which promotes community identity and well-being
4. Operational Principles

In practical terms this policy involves three areas in which the Council will be active:

1. Planning Role - in which the Council continues to monitor needs and services, identifies important issues and devises and evaluates strategies to resolve them. A protocol for community participation is essential to ensure effective participation in all of Council's strategic planning processes.

2. Development Role - in which the Council encourages groups in the city to meet local needs, assists and supports them to locate and obtain the resources to provide local community services, either separately or in partnership with government, or non-government organisations.

3. Organisation Role - in which the Council raises the awareness of social issues in the community and encourages co-operative solutions to them; assists organisations in their planning and delivery of services, and encourages co-ordination rather than duplication, co-operation rather than competition. Council's role also involves the maintenance and ongoing development of its Community Development policy.

There are many roles Council will play in implementing the community development policy some of these are:

* a provider of facilities or programs, either alone or with others

* a leader and researcher in identifying issues and stimulating action

* an advocate on behalf of the community to the region and to other levels of government

* an education and resource agency supporting community groups and agencies

* a partner in joint ventures with the community and other levels of government

Examples of these roles are to be found in Appendix 5. This is not an exhaustive list. Council will select a role or mix of roles which are appropriate for specific tasks. These roles will be exercised through relevant structures like joint committees, research reports, feasibility studies, action plans, submissions for funding and budgets which lead to working facilities and programs for people.
A number of action plans which will use this policy as a guide are already underway such as:

- Social Strategy Plan review
- the Cultural Plan
- Recreation Strategy Plan
- the 1997 Bicentenary, and
- a community participation policy arising from the City Enhancement Plan.

Community participation will ensure effectiveness of Council's Community Development Policy.
CHAPTER 3 - WHAT IS A COUNCIL'S CHARTER?

INTRODUCTION
The charter contained in this Chapter comprises a set of principles that are to guide a council in the carrying out of its functions. A council may add other principles not inconsistent with those in the Chapter.

The council's charter
8. (1) A council has the following charter:
• to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively
• to exercise community leadership
• to exercise its functions with due regard for the cultural and linguistic diversity for its community
• to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible
• to have regard to the long term and cumulative effects of its decisions
• to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible
• to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government
• to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants
• to keep the local community and the State government (and through it, the wider community) informed about its activities
• to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected
• to be a responsible employer.

(2) A council, in the exercise of its functions, must pursue its charter but nothing in the charter or this section gives rise to, or can be taken into account in, any civil cause of action.
Appendix 2

Principles Relating to Values

These values are based on the following interlinking principles:

1. **Self respect and self determination** holds that within the constraints of law and cultural mores, people have the right to be treated with respect and as far as is compatible with the rights of others, to decide for themselves what they want.

2. **Democracy** is built on the principles of participation in decision making and community life. Newcastle City Council through the City Enhancement Plan is developing a public participation strategy which goes beyond merely community representation. The level of participation will be worked out in specific issues within the context of Local Government responsibilities.

3. **The common good** requires a balance of the interests of individuals or particular groups with the interests of the community.

5. **Equity of access for all** is based on the principles of the provision of equality of opportunity for all. Its implementation entails fairness in policy application especially for the less advantaged.

6. **Diversity** - This value is based on the principle of respect for the diversity of our community and an affirmation of diversity as a positive factor in enhancing the quality of life of all its citizens. This value forms the basis of Australia's multicultural policy and the "New South Wales Charter of Principles for a Culturally Diverse Society" (Appendix 4)
Appendix 3

NSW CHARTER OF PRINCIPLES FOR A CULTURALLY DIVERSE SOCIETY

PREAMBLE

The Government of New South Wales (NSW) regards the cultural and linguistic diversity of the state's population as a valuable national resource which enhances all aspects of life.

In order to maximise this resource, the Government will adopt a charter of basic principles to guide all Government activity. These principles will apply to all aspects of the social, cultural, political, legal and economic life of NSW on which public institutions impact.

Pursuant to the Government's commitment, all NSW institutions will be required to diversify their policies and activities in order to realise the full potential of the population.

PRINCIPLES FOR A CULTURALLY DIVERSE SOCIETY

1. All individuals in NSW should have the greatest possible opportunity to contribute to, and participate in, all levels of public life.

2. All individuals and public institutions should respect and accommodate the culture, language and religion of others within an Australian legal and institutional framework where English is the primary language.

3. All individuals should have the greatest possible opportunity to make use of and participate in relevant activities and programs provided and/or administered by NSW government institutions.

4. All NSW public institutions should recognise the linguistic and cultural assets in the NSW population as a valuable resource and utilise and promote this resource to maximise the development of the state.

APPLICATION

This Charter will be reflected in all Government policies, activities, and in its dealings with the non-government sector. It will inform and influence all public institutions. It will establish objectives for the NSW public sector. Public sector managers will demonstrate commitment to the Principles of this Charter.

Within this framework, the Minister for Ethnic Affairs will be the principal reference point for all Ministers and the Ethnic Affairs Commission of New South Wales will be the principal reference point for all departments, instrumentalities, institutions and agents on issues related to this Charter.
Appendix 5

Newcastle City Council adopted a Social Development Policy on 16 September 1980. The Goals and Objectives of this policy are:

Goal:

To promote the overall social well-being and development of the City and its Citizens.

Objectives:

* To act as a catalyst in the community to ensure that important social problems are raised and solved in a planned, co-ordinated and effective manner.

* To monitor the changing needs of the City and the services being provided and to encourage the effective use of community resources to meet needs.

* To encourage co-ordination of existing services being provided by government and voluntary agencies and by community groups.

* To strive for an equitable distribution of services and resources so that they are available and accessible to as many people as require them.

* To promote the process of community development by assisting the community in its attempt to meet its own needs.

* To initiate and/or encourage new services, where these are required, to full identifiable needs or gaps in service.

* To encourage the development of an effective information system to ensure that citizens have sufficient access to services and resources when they require them.
DRAFT

HUMAN SERVICES POLICY

(Part of the Community Development Policy)

Social Impact Consultative Panel

Following Community Consultation

August 1994
HUMAN SERVICES

Contents

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2. Value Base .................................................................................. 3
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APPENDIX

(i) Examples and direct services provided by Newcastle City Council
(ii) Definitions of value base
1. Introduction: Human Services Policy 1994

"This policy is concerned with those groups within the community who have particular needs which local government, in consultation with relevant support agencies, can identify and meet." (City Enhancement Plan)

The Human Services Policy is guided by the Council's Community Development Policy.

The initial involvement of local government in human services was to offer support for a wide range of community-based organisations and services provided by government and non-government agencies. This level of commitment increased over the years, with councils undertaking core responsibilities of social planning and community development in addition to providing facilities.

More often than not, council, with either its own, State or Federal funding, helped initiate services such as child care and then passed them over to community and non-government agencies to run.

Councils that engage in direct service provision employ a significant number of staff to conduct activities that can range from management of children's services, activities for youth, community transport services for the aged and people with disabilities, community neighbourhood centre activities, etc.

State and Federal governments along with the non-government agencies have major responsibilities for providing services which deal directly with the welfare of individuals, families and disadvantaged groups.

Whilst Council has a legitimate role in the provision of certain services (See Appendix 1), the thrust of a developmental Human Services policy makes use of the unique position of local government as a broker, negotiator, co-ordinator and advocate for the community with the State and Federal governments and with private enterprise and non-government organisations.

Council's Human Services policy provides the context in which implementation be measured and accountability ensured in the development, provision and delivery of human services, agreed upon in general by Council and community.
2. Value Base

The Human Services Policy is built on the foundation of:

* The value of Social Justice
* The value of Community Participation in Local Government
* The value of Council Community leadership
* The value of Equity of Access for all

Appendix 2 contains a definition of these values.
3. Goal/Mission Statement

Human Services' Mission Statement is based on the values enunciated above:-

To ensure that a range of human services continue to be available to suit local needs along with an imaginative development of new and on-going initiatives which are encouraged within the community itself and in government and non-government agencies.

The goal of the Council's Human Services policy is:-

To improve the quality of life of all its citizens by enhancing and developing the quality and range of human services and facilities for the community - at the same time reducing social disadvantage.
4. Operational Principles

The role of local government guided by a developmental perspective based on its stated values is guided by the following operational principles:

* Consultation and Participation - Effective service provision is enhanced by genuine community consultation process and a participation protocol which ensures a shared vision and encompasses a process of "council working with community".

* Efficient and Effective Service provision - Integrated planning promotes a comprehensive approach to service provision.

* Advocacy - The Human Services Sector has a significant advocacy role on behalf of community groups and individuals.

* Equity of Access to services and facilities - This principle is about addressing barriers which disadvantage citizens whether they are physical, administrative, socio-economic or cultural. A key concern of equity of access relates to how information and other assistance is offered by Council to the community, particularly to diverse groups whose experience of Government structure and procedures is limited or non-existent.

* Comprehensiveness - This principle encompasses the rights and well-being of all citizens and therefore recognises the need for a comprehensive and varied approach to service provision.
Appendix 1

Some examples of Direct Service Human provision by Newcastle City Council:

* Children's services such as Long Day Care and Family Day Care.

* Services to the aged such as the Lang Street Elderly Citizens Centre which provides meals each day.

* The provision of staff to offer information and advice to community groups as well as resources in the development and provision of Human Services.

* The establishment of Adamstown, Elermore Vale Child Care Centres.

* Continuing working relationship with the State Department of Community Services in the planning and provision of local services.
Appendix 2

Principles relating to values:

- Social Justice - The Federal Government in the 1989-90 budget claimed that a socially just society entailed that:
  - economic resources are distributed fairly
  - individual rights are protected and enhanced
  - fair access to essential community services is assured
  - all have the opportunity to participate in the life of the community

- Community participation in Local Government - The principle which underlies this value is a positive indicator that Local Government is a grass roots government in which an active community participation in planning and decision making helps to ensure accountability and to ensure communities have a say in the kind and quality of human services which they want for this our community.

- Council community leadership recognises the role of Council in developing, monitoring and maintaining Human Services and in stimulating new and creative ideas regarding service provision.

- Equity of access for all is based on the principles of the provision of equality of opportunity for all. Its implementation entails fairness in policy application especially for the less advantaged.
As a Safe Place we are committed to:

01  Caring about each other. This space is free of homophobia, transphobia and all other prejudices.

02  Celebrating the diversity of the LGBTI community.

03  Opposing discrimination, prejudice and hate.

04  Making sure you feel accepted and safe. Homophobic language like “that’s so gay” is not ok here. We don’t use words like ‘fag’ or ‘dyke’ or ‘tranny’ or other terms that cause harm.

05  Encouraging progressive social change. We want to make a positive difference to our community.

06  Speaking up against prejudice. We name it when we see it and won’t tolerate it, ever.

07  Equality and freedom for all.

08  Trying to be the best we can be. We are proud to be a Safe Place so if something isn’t ok please let us know.

For more info contact: ACON’s Anti-Violence Project
Tel: (AVP Report Line): (02) 9206 2116 | Free call: 1800 063 060 | E-mail: avp@acon.org.au

Safe Place Charter
ITEM 3.3. TRIAL OF OXFORD STREET RAINBOW CROSSINGS

FILE NO: S051491

MINUTE BY THE LORD MAYOR

To Council:

Oxford Street is the focus of the world’s largest night time GLBT celebration - the annual Sydney Gay and Lesbian Mardi Gras Parade.

The City celebrates Oxford Street’s GLBT character and heritage by regularly flying rainbow banners in support of significant community events and festivals, through our extensive support for the Mardi Gras Parade and Festival and Parade - our historic Oxford Street walking tour brochure.

A new opportunity has arisen to further acknowledge and promote Oxford Street’s GLBT character and its significance to the GLBT community by reproducing the rainbow flag on two Oxford Street signalised pedestrian crossings at Taylor Square and Whitlam Square.

The rainbow flag, together with the pink triangle, is firmly established as an internationally recognised GLBT symbol and routinely features in GLBT events, media and many other aspects of GLBT community life.

In 2012, the City of West Hollywood, home to one of the largest GLBT communities in the United States, installed a similar rainbow pattern as a temporary measure to promote Gay Pride month in 2012. It has since become a permanent installation to celebrate the City’s GLBT character and promote it as a leading tourist destination – the crossing has become a “must visit” icon in itself.

The Rainbow Flag project will also contribute to the City’s commitment to the revitalisation of Oxford Street, which has included making space available in the City’s properties for creative enterprises and encouraging other property owners to do the same and support for a range of events and activities in the area.

I am proposing that the City install rainbow crossings in time for the 35th anniversary of Mardi Gras from 8 February to 3 March 2013 so that it forms part of the City’s contribution to this historic event.

The approval of Roads and Maritime Services (RMS) will be required, as the major crossings are on a State road. RMS has indicated approval is likely to be granted, if they are initially installed on a trial basis with a full risk evaluation undertaken. Initial analysis indicates there may be safety benefits in making pedestrian crossings stand out.

The estimated cost of two rainbow crossings is around $75,000 which includes designs, road safety audits and installation.

Apart from potentially providing a permanent, visual acknowledgement of the significance of Oxford Street to the GLBT community, the benefits include improvements to the pedestrian experience of Oxford Street and complementary support for other revitalisation initiatives.
RECOMMENDATION

It is resolved that:

(A) Council support the implementation of the rainbow crossings trial on Oxford Street from within the existing City Centre pedestrian works budget; and

(B) the Chief Executive Officer report to Council on the outcomes of the trial by September 2013.

COUNCILLOR CLOVER MOORE
Lord Mayor
MOTION
Moved by Cr Clausen, seconded by Cr Posniak

Newcastle City Council:

1. Affirms its commitment to valuing and respecting diversity in our community including in the provision of services and as an employer of equal opportunity.

2. Seeks to further its support by adopting the Safe Space Charter and increasing the number of Council venues (such as the libraries, museum, art gallery and pools) registered with ACON NSW’s Safe Space Program.

3. Supports the establishment of a permanent rainbow crossing as a placemaking project on a local road or alternate suitable public place within the Newcastle LGA to symbolise the City’s commitment to equality.

4. A report be received by Council at or before the October meeting of Council which identifies a number of location options and estimates the costs and other constraints of establishing a permanent rainbow pedestrian crossing on a local road or in alternative public space. This report is to consider the potential of establishing a permanent crossing in locations of current and historical significance to the local lesbian, gay, bisexual, transgender and intersex or queer (LGBTIQ) community including Beaumont Street, Hamilton.

5. Adopts a position supporting marriage equality; that is that civil marriage should be available, without discrimination, to all adult couples, regardless of sex, sexual orientation or gender identity.

6. Publically shares this statement including by publicising on Council’s website and social media, and by writing to the Prime Minister, Federal Opposition Leader and Federal Members for Newcastle, Charlton, Shortland, Paterson and Hunter advising them of Council’s support and encouraging support of marriage equality bills before the commonwealth parliament.

Cont’d over…
Councillor Osborne proposed the following additional paragraphs to the motion.

7 Become the first Council in Australia to take part in the Pride in Diversity Workplace Program, which is designed specifically to assist Australian employers with the inclusion of LGBTIQ employees.

8 Work towards achieving the national accredited Rainbow Tick for Council Services which formally demonstrates LGBTIQ inclusive practice and service delivery.

The mover and seconder incorporated the additional paragraphs into the motion.

The motion incorporating the additional paragraphs 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, Rufo, Tierney and Waterhouse. Carried
ITEM-20 NOM 28/07/15 - GENERAL MANAGER PERFORMANCE REVIEW

COUNCILLORS: RUFO AND ROBINSON

PURPOSE

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

MOTION

1 That Matthew McArthur, having provided the cheaper quote, be appointed as the facilitator for the General Manager's Performance Review.

2 The schedule for the review be established by the facilitator in consultation with the Review Panel and the General Manager.

3 The report back to the full Council for finalisation of the process occur no later than the September meeting.

4 The Review is to comply with the OLG s23A Guideline.

BACKGROUND

In accordance with the Section 23 guidelines issued by the Office of Local Government the Performance Management report of any Council staff member including the General Manager should be undertaken confidentially and not released to the public. The purpose of this Notice of Motion is simply to commence the process in accordance with Council's obligation.

The General Manager's Performance Review arrangements are stipulated in the Standard Contract of Employment for General Managers issued by the Office of Local Government (OLG) the Guidelines for the Appointment and Oversight of General Managers issued by the OLG under Section 23A of the Local Government Act and (to the extent they are consistent with the OLG documents) Newcastle City Council's policy on the General Manager Performance Review.

These documents establish a consultative process whereby Council is required to consult with the GM on how the review is conducted.

Specific requirements under the above documents as outlined in recent memorandums to All Councillors are:
1 Council is to ensure that the GM's performance is reviewed (and where appropriate the Performance Agreement varied) at least annually with the review having regard with the Performance Agreement put in place at the previous review.

   In 2014 the Performance Panel met with the General Manager on 21 July and reported back to Council on the outcome of the review at the August Ordinary meeting.

2 The General Manager is to give Council 21 day's written notice when the Annual Performance is due.

   The General Manager gave notice to all Councillors in writing on Tuesday 30 June, 2015.

3 An independent, suitably qualified and experienced facilitator agreed between Council and the General Manager is to be appointed to facilitate the review.

   On 8th July 2015 all Councillors were provided with two quotes obtained by HR for two independent facilitators proposed by the GM.

4 Council is to give the General Manager at least 10 days' notice in writing that any performance review is to be conducted.

   At this stage an agreed facilitator has not been appointed and Council has not given the required 10 days' notice.

ATTACHMENTS

Nil

MOTION

Moved by Cr Rufo, seconded by Cr Luke

1 That Matthew McArthur, having provided the cheaper quote, be appointed as the facilitator for the General Manager's Performance Review.

2 The schedule for the review be established by the facilitator in consultation with the Review Panel and the General Manager.

3 The report back to the full Council for finalisation of the process occur no later than the September meeting.

4 The Review is to comply with the OLG s23A Guideline.

Cont’d over...
PROCEDURAL MOTION
Moved by Cr Clausen, seconded by Cr Dunn

Council proceed into confidential session for discussion on Notice of Motion 20 - General Manager Performance Review as outlined below and for Confidential items 21 - 27 for the reasons outlined in the business papers:

- Notice of Motion 20 - General Manager Performance Review
  - The meeting be closed under Section 10A(2)(a) and Section 10A(2)(d) of the Local Government Act
  - Under Section 376(3) of the Local Government Act, the General Manager be excluded from the meeting for the duration of this item, as the discussion to this item relates directly to both the General Manager's Performance and Terms of Employment. The requirement to close the meeting and exclude the General Manager during this discussion is reiterated in the Office of Local Government's 'Guide for appointment and oversight of General Managers' issued under Section 23A of the Local Government Act.

- Item 21 - Detail Design Consultancy for the Expansion and Upgrade of the Small Vehicle Receival Centre & Materials Recovery Facility at Summerhill Waste Management Centre - Contract 2015/119T
- Item 22 - Replacement of Stage Lighting - Civic Theatre - Contract No. 2015/446T
- Item 23 - Supply Air Cooled Chillers - City Hall - Contract No. 2015/445T
- Item 24 - Waratah Oval Grandstand Roof Replacement - Contract No. 2015/384T
- Item 25 - Tender for the Community Surveys Through a Hosted Website - Contract No. 2015//196T
- Item 26 - Biennial Tenders for Hired Plant & Equipment
- Item 27 - Confidential Tender for the Provision of Facilities & Services for the Impounding of Animals for Contract No. 2015/204T

The General Manager stated that Notice of Motion 20 - General Manager's Performance Review concerned the process of conducting his performance review and Council was required to consult with him about how that process occurred. The General Manager did not consider that being excluded from the meeting for this purpose met with the relevant terms of his contract of employment.

The procedural motion moved by Councillor Clausen and seconded by Councillor Dunn was put to the meeting.

Carried
### 10 CONFIDENTIAL REPORTS

Council resolved into confidential session at 8.47pm.

The General Manager retired from the Chamber prior to further discussion on Notice of Motion 20 - General Manager's Performance Review.

The General Manager returned to the Chamber at 9.18pm for the discussion on the remaining confidential items.

While in Confidential Session, Councillor Compton retired from the Chamber for discussion on Item 26 - Biennial Tenders for Hired Plant and Equipment and returned prior to the commencement of Item 27 - Confidential Tender for the Provision of Facilities and Services for the Impounding of Animals for Contract No 2015/204T.

Council reconvened into open Council at 9.26pm and the Lord Mayor announced the detail of the resolution approved by Council pertaining to Notice of Motion 20 - General Manager's Performance Review.
ITEM-20 NOM 28/07/15 - GENERAL MANAGER PERFORMANCE REVIEW

**MOTION**

1. The membership of the Review Panel shall be the Lord Mayor, the Deputy Lord Mayor and Councillor Stephanie Posniak.

   Councillor Posniak has substantial legal experience including working in industrial relations and working as an inhouse lawyer at the University of Newcastle amongst a team of legal counsel providing advice on a range of issues including contract and IR issues and is most suited to represent Councillors on this panel.

2. The Review Panel in consultation with the General Manager appoint an independent facilitator to undertake the 2015 annual review.

3. The facilitator produce a schedule for the review in consultation with the Review Panel and the General Manager.


5. The Review Panel report back to the full Council for finalisation of the process no later than the September meeting.

6. The review comply with the Office of Local Government's 'Guidelines for the Appointment and Oversight of General Managers' and Council's General Manager Performance Review Policy.

Carried

At 9.30pm, Council moved procedurally to extend the meeting.

**PROCEDURAL MOTION**

Moved by Lord Mayor Cr Nelmes, seconded by Cr Posniak

Council extend the meeting by five minutes.

Carried

Councillor Tierney retired from the meeting at 9.30pm.

Councillor Luke retired from the meeting at 9.35pm.
The General Manager then announced the details of the resolutions approved by Council in confidential session pertaining to the confidential items.

**ITEM-21**

**CON 28/07/15 - DETAIL DESIGN CONSULTANCY FOR THE EXPANSION AND UPGRADE OF THE SMALL VEHICLE RECEIVAL CENTRE & MATERIALS RECOVERY FACILITY AT SUMMERHILL WASTE MANAGEMENT CENTRE - CONTRACT 2015/119T**

**REPORT BY:** INFRASTRUCTURE
**CONTACT:** DIRECTOR OF INFRASTRUCTURE / MANAGER WASTE MANAGEMENT

**PURPOSE**

Subsequent to Council awarding the original tender for the design of the Small Vehicle Receival Centre (SVRC), Council received an EPA grant to assist with funding the construction of a Materials Recovery Facility (MRF). It is proposed to vary the original tender by combining the design of the two facilities into a single contract.

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

**REASON FOR CONFIDENTIALITY**

This report has been classified confidential in accordance with the provisions of the *Local Government Act 1993 (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 a tender for the Detail Design for the expansion and upgrade of the Small Vehicle Receival Centre (SVRC) and the Materials Recovery Facility (MRF) located at Summerhill Waste Management Centre (SWMC) under Contract No. 2015/119T.

B It is contrary to the public interest to discuss tenders in an open meeting because the information provided to Council by tenderers is provided on the basis that it will be treated by Council as commercial-in-confidence. A practice of disclosing sensitive commercial information to the public, including competitors, could result in the withholding of such information by tenderers. This would lead to a reduction in the supply of information relevant to Council's decision. A disclosure of confidential information by Council could result in Council being the subject of litigation for breach of confidence.

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

\[Cont'd over...\]
2 In accordance with s.55(3)(i) of the Local Government Act 1993, to accept the amended tender of Hyder Consulting Pty Ltd in the amount of $425,678.00 (excluding GST) for the Detail Design Consultancy for the expansion and upgrade of the Small Vehicle Receival Centre (SVRC), and the design of the Materials Recovery (MRF) Facility located at Summerhill Waste Management Centre - Contract No. 2015/119T. Council accepts this revised tender without the calling of further tenders as it considers that a satisfactory result would not be achieved by inviting tenders because of the following extenuating circumstances:

a) The tight timing constraints applicable to the two projects completion dates under the EPA grant Deed of Agreement means that the calling of tenders would result in Council not meeting the EPA grant critical milestone timelines, specifically the completion of the construction of the projects and being fully operational by June 2017. This risks having the total grant funding of $2.937 million withdrawn by the EPA and the projects not proceeding;

b) The addition of the MRF to the design scope of work provides best value for money, as it adds only 33% additional cost to the original tender price even though the MRF is just as complex and the project cost is 2.5 times larger than the SVRC (3.5 million v $8.8 million). Calling tenders for the MRF design only would not achieve a more beneficial outcome and would potentially result in the total project foregoing $2.937 million grant funding which is critical to enabling both projects being successfully undertaken and completed; and

c) Council has an immediate and critical necessity to address management operational needs to avoid the potential financial and environmental liabilities associated with having to landfill over 5000 tonnes per annum of materials previously identified for resource recovery such as paper, cardboard, consumer packaging, plastics, timber and metals should the projects not proceed.

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

Carried
ITEM-22  CON 28/07/2015 - REPLACEMENT OF STAGE LIGHTING - CIVIC THEATRE - CONTRACT NO. 2015/446T

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

PURPOSE

Tenders were invited for the supply of high efficiency; high performing LED theatrical lighting to replace the existing stage lighting at the Newcastle Civic Theatre. The project is part of the program of works being delivered through a grant from the Federal Government's Community Energy Efficiency Program (CEEP) and will greatly improve the efficiency of the system at the site, resulting in reduced electricity consumption and associated costs.

The project contributes to the achievement of Council's targets under the Newcastle 2020 Carbon and Water Management Action Plan, specifically:
- 30% reduction in Council's carbon footprint; and
- 30% reduction in Council's electricity usage.

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

REASON FOR CONFIDENTIALITY

This report has been classified confidential in accordance with the provisions of the Local Government Act 1993 (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 Replacement of Stage Lighting - Civic Theatre - for Contract No. 2015/446T.

B It is contrary to the public interest to discuss tenders in an open meeting because the information provided to Council by tenderers is provided on the basis that it will be treated by Council as commercial-in-confidence. A practice of disclosing sensitive commercial information to the public, including competitors, could result in the withholding of such information by tenderers. This would lead to a reduction in the supply of information relevant to Council's decision. A disclosure of confidential information by Council could result in Council being the subject of litigation for breach of confidence.

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

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**MOTION**

Council resolves to:

1 Accept the tender of Herkes Electrical Supplies in the amount of $336,784.91 (excluding GST) for Replacement of Stage Lighting – Civic Theatre for Contract No. 2015/446T; and

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

_Carried_
ITEM-23 CON 28/07/2015 - SUPPLY AIR COOLED CHILLERS - CITY HALL - CONTRACT NO. 2015/445T

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

PURPOSE

Tenders were invited for the supply of high efficiency air cooled chillers (air conditioner) at the Newcastle City Hall. The chillers are to replace the existing chiller which has nearing the end of its operable life. The project is part of the program of works being delivered through a grant from the Federal Governments Community Energy Efficiency Program (CEEP) and will greatly improve the efficiency of the system at the site, resulting in reduced electricity consumption and associated costs.

The project contributes to the achievement of Council’s Targets under the Newcastle 2020 Carbon and Water Management Action Plan, specifically:
- 30% reduction in Council’s carbon footprint; and
- 30% reduction in Council’s electricity usage.

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

REASON FOR CONFIDENTIALITY

This report has been classified confidential in accordance with the provisions of the Local Government Act 1993 (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 Supply Air Cooled Chillers - City Hall - for Contract No. 2015/445T.

B It is contrary to the public interest to discuss tenders in an open meeting because the information provided to Council by tenderers is provided on the basis that it will be treated by Council as commercial-in-confidence. A practice of disclosing sensitive commercial information to the public, including competitors, could result in the withholding of such information by tenderers. This would lead to a reduction in the supply of information relevant to Council's decision. A disclosure of confidential information by Council could result in Council being the subject of litigation for breach of confidence.

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

MOTION

Council resolves to:

1 Accept the tender of Smardt Chillers trading as Powerpax in the amount of $167,727.27 (excluding GST) for Supply Air Cooled Chillers – City Hall for Contract No. 2015/445T.

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

Carried
ITEM-24 CON 28/07/15 - WARATAH OVAL GRANDSTAND ROOF REPLACEMENT - CONTRACT NO. 2015/384T

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

PURPOSE

The proposed works include the demolition of the entire roof including structural framing and sheeting and the installation of a mono pitched roof and framing. Included in the proposed works are stormwater drainage, new lighting and additional structural bracing to the structural frame.

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 The Waratah Oval Grandstand Roof Replacement for Contract No. 2015/384T.

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 accepts the tender of Builtform Construction Pty Ltd in the amount of $247,752 (excluding GST) for Waratah Oval Grandstand Roof Replacement for Contract No. 2015/384T.

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

Carried
ITEM-25  CON 28/07/15 - TENDER FOR THE COMMUNITY SURVEYS THROUGH A HOSTED WEBSITE - CONTRACT NO. 2015/196T

REPORT BY: CORPORATE SERVICES
CONTACT: DIRECTOR CORPORATE SERVICES / MANAGER CUSTOMER SERVICE

PURPOSE

To appoint a service provider to provide the software and host the website platform for Council's community reference panel Newcastle Voice.

As the value of the services 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 community survey through a hosted website for Contract No. 2015/196T.

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

Council moves to:

(a) accept the tender of Vision Critical Communications Pty Ltd to provide the software and host the website for community surveys at a cost of up to $199,440 (excluding GST) for a period of four years (if the contract options are exercised) for Contract No. 2015/196T.

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

Carried
ITEM-26 CON 28/07/15 - BIENNIAL TENDERS FOR HIRED PLANT & EQUIPMENT

REPORT BY: INFRASTRUCTURE
CONTACT: DIRECTOR INFRASTRUCTURE / MANAGER CIVIL WORKS

PURPOSE

To award contracts for the casual hire of plant and equipment to a number of contractors and suppliers. The hired plant is predominately used in the construction & maintenance of roads, footpaths and storm water drainage within the Newcastle Local Government Area.

As the value of individual hire contracts may exceed $150,000 the Local Government (General) Regulation 2005 (Regulation) requires Council's acceptance of the tenders.

REASON FOR CONFIDENTIALITY

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

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

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

GROUND FOR CLOSING PART OF THE MEETING

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

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

A The matter relates to tenders for the biennial hire of plant and equipment for Contract Number 2015/218T.

B It is contrary to the public interest to discuss tenders in an open meeting because the information provided to Council by tenderers is provided on the basis that it will be treated by Council as commercial-in-confidence. A practice of disclosing sensitive commercial information to the public, including competitors, could result in the withholding of such information by tenderers. This would lead to a reduction in the supply of information relevant to Council's decision. A disclosure of confidential information by Council could result in Council being the subject of litigation for breach of confidence.

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

MOTION

1 Council resolves to accept the 78 tenders stated in Appendix A and Council awards separate contracts to each of the stated tenderers with the contracts to include the hire rates & charges offered by each tenderer; and

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

Carried
ITEM-27  CON 28/07/15 - CONFIDENTIAL TENDER FOR THE
PROVISION OF FACILITIES & SERVICES FOR THE
IMPOUNDING OF ANIMALS FOR CONTRACT NO 2015-204T

REASON FOR CONFIDENTIALITY

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

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

Section 10A(2)(d) commercial information of a confidential nature that would, if
disclosed:
(i) prejudice the commercial position of the person who
supplied it

Section 10A(2)(d) commercial information of a confidential nature that would, if
disclosed:
(ii) confer a commercial advantage on a competitor of the

council

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

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

and

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

GROUND FOR CLOSING PART OF THE MEETING

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

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

A The matter relates to

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

Section 10A(2)(d) commercial information of a confidential nature that would, if disclosed:
(i) prejudice the commercial position of the person who supplied it

Section 10A(2)(d) commercial information of a confidential nature that would, if disclosed:
(ii) confer a commercial advantage on a competitor of the council

B The closed session involves only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security and the Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

C The discussion of the confidential report involves the tender for the provision of facilities and services for the management of impounded animals, primarily dogs and cats throughout the local government area. The discussion includes the confidential attachment containing the tender assessment for the management of impounded dogs and cats for Contract No. 2015/204T.

It is contrary to the public interest to discuss the matter in an open meeting because the information provided to Council by tender proponents is provided on the basis that it will be treated by Council as commercial-in-confidence. A practice of disclosing this sensitive commercial information to the public, including competitors, could result in the withholding of such information by tender proponents. This would lead to a reduction in the supply of information relevant to Council’s decision. A disclosure of confidential information could result in Council being the subject of litigation for breach of confidence.
MOTION

Council resolves to:

1 Accept the tender of Royal Society for the Prevention of Cruelty to Animals New South Wales (RSPCA NSW) for the management of impounded dogs and cats for 5 years for Contract No. 2015/204T with payments to be made in accordance with the tendered unit rates.

2 Confirm that 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