Councillors,

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

DATE: Tuesday 13 December 2016
TIME: 5.30pm
VENUE: Council Chambers
2nd Floor
City Hall
290 King Street
Newcastle NSW 2300

Peter Chrystal
Interim Chief Executive Officer

City Administration Centre
282 King Street
NEWCASTLE NSW 2300

2 December 2016

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ITEM-114 CCL 13/12/16 - AMENDMENT TO NEWCASTLE DCP 2012 - NEW SECTION RESIDENTIAL ACCOMMODATION

ITEM-115 CCL 13/12/16 - RECLASSIFICATION OF LAND AT 21 BRADFORD CLOSE KOTARA

ITEM-116 CCL 13/12/16 - RECLASSIFICATION AND REZONING OF LAND AT 162A NEWCASTLE ROAD WALLSEND

ITEM-117 CCL 13/12/16 - HABITAT III CONFERENCE ECUADOR (to be distributed under separate cover)

COUNCILLOR REPORTS

Nil

NOTICES OF MOTION

NOTE: NOTICES OF MOTION RECEIVED ON THE AFTERNOON PRIOR TO THE EARLY RELEASE DATE OF THE COUNCIL AGENDA ARE TO BE DISTRIBUTED UNDER SEPARATE COVER

CONFIDENTIAL REPORTS

ITEM-37 CON 13/12/16 - CONTRACT FOR FURTHER INVESTIGATION OF FORMER WARATAH GASWORKS SITE - CONTRACT NO. 2017/222T

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

MINUTES - PUBLIC VOICE 15 NOVEMBER 2016

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 161115 Public Voice Committee Minutes

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au
Minutes of the Public Voice Committee Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 15 November 2016 at 5.35pm.

PRESENT
The Lord Mayor (Councillor N Nelmes), T Doyle, J Dunn (arrived 5.45pm), B Luke, M Osborne, S Posniak, A Robinson, A Rufo and S Waterhouse.

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

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

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

APOLOGIES

MOTION
Moved by Cr Doyle, Seconded by Cr Osborne.

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

Carried

Note: Councillors Tierney and Clausen were not present at the meeting.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Osborne
Councillor Osborne declared a less than significant non pecuniary interest for Item 1 DA 2016/00893 - 122 Parry Street Newcastle indicating as a Chartered Engineer he is a member of a professional membership body, Engineers Australia who was consulted during the scope of development.
PUBLIC VOICE SESSIONS

ITEM-1 PV REPORT - DA 2016/00893 - 122 PARRY STREET NEWCASTLE

An application has been received seeking consent to demolish two existing single-storey commercial buildings at 122 and 124 Parry Street, Newcastle West and to erect an 8-storey mixed commercial / residential building, comprising a commercial unit at ground floor level, with 31 residential apartments on the upper levels and 45 car parking spaces over two levels.

The application has been notified to neighbouring properties in accordance with Council's Public Notification Policy and four objections were received. The objectors scheduled to attend the Public Voice session had withdrew their application on 15 November 2016.

Mr Ben Young from KDC Planning Development Property addressed Council and outlined the:

- Scope of Development designed by EJE Architects.
- Issues and matters raised by objectors that have since been addressed.

The meeting concluded 5.49pm
MINUTES - BRIEFING COMMITTEE 15 NOVEMBER 2016

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 111615 Briefing Committee Minutes

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au
Minutes of the Briefing Committee Meeting held in the Council Chambers, 2nd Floor City Hall on 15 November 2016 at 5.50pm.

PRESENT
The Lord Mayor (Councillor N Nelmes), Councillors D Clausen (arrived 6.07pm), T Doyle, J Dunn, B Luke, M Osborne, S Posniak, A Robinson, A Rufo and S Waterhouse.

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

APOLOGIES

MOTION
Moved by Cr Rufo, seconded by Cr Posniak.

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

Carried

Note Councillor Tierney was not present at the meeting.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Doyle
Councillor Doyle declared a less than significant non-pecuniary interest in Item 9 - BR 15/11/16 - Amendment to Newcastle LEP - land bounded by Mosbri Crescent and Kitchener Parade, The Hill as her place of residence is located within the vicinity.

Councillor Posniak
Councillor Posniak declared Councillor Posniak declared a non-pecuniary less than significant interest in Item 9- BR 15/11/16 - Land bounded by Mosbri Crescent and Kitchener Parade The Hill - endorsement of amendment to Newcastle Local Environmental Plan 2012 and Development Control Plan 2012 and said that a close friend and associate resided within the vicinity of the land.

Lord Mayor Cr Nelmes
Lord Mayor Cr Nelmes declared a less than significant non pecuniary interest in Item 9 - BR 15/11/16 - Amendment to Newcastle LEP - land bounded by Mosbri Crescent


and Kitchener Parade, The Hill as a former Councillor and colleague lives within the vicinity.

**All Councillors**
All Councillors present declared a less than significant non pecuniary interest in Item 8 Br 15/11/16 - Defence Housing Australia - Planning Proposal for Fort Wallace Stockton as Councillors have in the past communicated with Mr Martin Coates Regional Director Hunter, Defence Housing Australia (DHA) in his former role as a Director employed by Newcastle City Council.

**BRIEFING COMMITTEE REPORTS**

**ITEM-8 BR 15/11/16 - DEFENCE HOUSING AUSTRALIA - PLANNING PROPOSAL FOR FORT WALLACE STOCKTON**

The briefing was presented by Martin Coates, Regional Director Hunter, Defence Housing Australia (DHA), Jane Freeman, Associate, Architectus and Gully Coote, Development Manager, Defence Housing Australia (DHA).

Mr Coates provided an overview of DHA and its establishment as a self-funded organisation and purpose.

Mr Coote spoke on the difficulties in providing housing within a prescribed area to Defence Force Australia locations and noted the Fort Wallace site vested to DHA is within the zone. The need for housing is continuous and ongoing.

Ms Freeman provided an overview of the site, the development proposal and Master Plan. The designs are site sensitive with a focus on utilising renewable energy, sustainable building materials and vegetation.

A community consultation is scheduled for 8 December 2016 to cover both the Fort Wallace and the Rifle Range sites. It is anticipated the Fort Wallace Planning Proposal will be lodged at the end of December 2016.

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

The briefing be received.

**ITEM-9 BR 15/11/16 - AMENDMENT TO NEWCASTLE LEP 2012 - LAND BOUNDED BY MOSBRI CRESCENT AND KITCHENER PARADE THE HILL**

The briefing was presented by Steve Masia, Senior Urban Planner and Patty McCarthy, Team Coordinator both from Strategic Planning, NCC.
Mr Masia provided an overview of the amendment request together with a background on the purpose of a Local Planning Strategy. It was noted that the report going to Council is not a Development Application but a Master Plan identifying what the site can facilitate.

The Master Plan recognised additional land to the west of the site to be included in the rezoning in this area, together with recommended key design elements to ensure proposed street frontages including height levels are consistent with existing neighbouring properties.

Mr Masia noted that a DCP guideline is anticipated for the sites. A DCP is the only mechanism to control footprints for sites as there is no provision for this in a LEP.

Mr Masia took Councillor Osborne's question on notice on the proposed height of the building along Wolfe Street, Merewether.

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

The briefing be received. **Carried**

The meeting concluded at 6.55pm
MINUTES - ORDINARY COUNCIL MEETING 22 NOVEMBER 2016

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 161122 Ordinary Council Meeting Minutes

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au
PRESENT
The Lord Mayor (Councillor N Nelmes), Councillors D Clausen, D Compton (arrived 5.42pm), T Doyle, J Dunn, B Luke, M Osborne, S Posniak, A Robinson (arrived 5.42pm) and S Waterhouse.

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

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

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

APOLOGIES

MOTION
Moved by Cr Luke, seconded by Cr Osborne

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

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor B Luke
Councillor Luke declared a non-pecuniary less than significant conflict of interest in Item-94 Executive Monthly Performance Report as Council may invest with businesses he is associated with. Councillor Luke said the interest was less than significant as the report to Council was to be received and he was not involved in any decision making processes.
Councillor T Doyle
Councillor Doyle declared a non-pecuniary less than significant interest in Item 101 - Land bounded by Mosbri Crescent and Kitchener Parade The Hill - endorsement of amendment to Newcastle Local Environmental Plan 2012 and Development Control Plan 2012 and said that she resided within the vicinity of the land.

Councillor S Posniak
Councillor Posniak declared a non-pecuniary less than significant interest in Item 101 - Land bounded by Mosbri Crescent and Kitchener Parade The Hill - endorsement of amendment to Newcastle Local Environmental Plan 2012 and Development Control Plan 2012 and said that a close friend and associate resided within the vicinity of the land.

Councillor Clausen
Councillor Clausen declared a non-pecuniary less than significant interest in Item 101 - Land bounded by Mosbri Crescent and Kitchener Parade The Hill - endorsement of amendment to Newcastle Local Environmental Plan 2012 and Development Control Plan 2012 and said that a former Councillor and associate resided within the vicinity of the land.

Councillor N Nelmes
Councillor Nelmes declared a non-pecuniary less than significant interest in Item 101 - Land bounded by Mosbri Crescent and Kitchener Parade The Hill - endorsement of amendment to Newcastle Local Environmental Plan 2012 and Development Control Plan 2012 and said that a former Councillor and associate resided within the vicinity of the land.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - BRIEFING COMMITTEE HELD 10 OCTOBER 2016
MINUTES - PUBLIC VOICE HELD 10 OCTOBER 2016
MINUTES - PUBLIC VOICE COMMITTEE 18 OCTOBER 2016
MINUTES - BRIEFING COMMITTEE HELD 18 OCTOBER 2016
MINUTES - ORDINARY COUNCIL MEETING HELD 25 OCTOBER 2016

MOTION
Moved by Cr Doyle, seconded by Cr Posniak

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

Carried
LORD MAYORAL MINUTE

ITEM-9   LMM 22/11/16 - GREATER NEWCASTLE CITY DEAL

MOTION
Moved by Lord Mayor, Cr Nelmes

That Newcastle City Council

1. Collaborates with the NSW Government and the Federal Government to secure a City Deal.

2. Submits a formal application when the City Deal process is released.

3. Authorise the ICEO and Lord Mayor to execute required documentation.

4. Any agreement to come before Council for determination unless time constraints preclude that possibility.

Carried unanimously

REPORTS BY COUNCIL OFFICERS

ITEM-94   CCL 22/11/16 - EXECUTIVE MONTHLY PERFORMANCE REPORT - OCTOBER 2016

MOTION
Moved by Cr Osborne, seconded by Cr Posniak

The report be received.

Carried

ITEM-95   CCL 22/11/16 - QUARTERLY BUDGET REVIEW STATEMENT - SEPTEMBER 2016

MOTION
Moved by Cr Osborne, seconded by Cr Posniak

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

Carried
MOTION
 Moved by Cr Osborne, seconded by Cr Doyle

That Council:

Adopts the following meeting schedule for 2017 with scheduled meetings to commence from 5.30pm:

(a) For the period February to November 2017:

| Week 1 – Tuesday | No scheduled meetings |
| Week 2 – Tuesday | Councillor Workshops |
| Week 3 – Tuesday | Committee Meetings (as required):
  | Public Voice Committee |
  | Briefings Committee |
  | Development Applications Committee |
| Week 4 – Tuesday | Ordinary Council Meeting |
| Week 5 – Tuesday | No scheduled meetings |

(b) For December 2017:

| Week 1 – Tuesday (5 December 2017) | Committee Meetings (as required):
  | Public Voice Committee |
  | Briefings Committee |
  | Development Applications Committee |
| Week 2 – Tuesday (12 December 2017) | Ordinary Council Meeting |
| Week 3 – Tuesday (19 December 2017) | No scheduled meetings |
| Week 4 – Tuesday (26 December 2017) | No meetings - Christmas break |

Carried
ITEM-98 CCL 22/11/16 - SAMDON STREET, HAMILTON - PROPOSED PEDESTRIAN REFUGES AND SPEED CUSHIONS BETWEEN DONALD AND BELFORD STREETS

MOTION
Moved by Cr Osborne, seconded by Cr Doyle

That Council approve:

1. the pedestrian refuges in Samdon Street south of Cleary and Lindsay Street as well as in Lindsay Street east of Samdon Street, as shown in Attachment A, and

2. the speed cushions in Samdon Street between Donald Street and Tudor Street and kerb extensions in Samdon Street at the Tudor Street intersection as shown in Attachment A.

Carried

ITEM-100 CCL 22/11/16 - UNNAMED LANEWAY, ISLINGTON - PROPOSED ONE WAY TRAFFIC FLOW IN LANEWAY EAST OF IVY STREET

MOTION
Moved by Cr Osborne, seconded by Cr Waterhouse

Council approve the change of two-way traffic flow to one-way traffic flow in an eastbound direction in the unnamed laneway off Fern Street east of Ivy Street, Islington.

Carried

ITEM-103 CCL 22/11/16 - EXHIBITION OF DRAFT AMENDMENT TO NEWCASTLE DEVELOPMENT CONTROL PLAN 2012 - SECTION 7.09 OUTDOOR ADVERTISING AND SIGNAGE

MOTION
Moved by Cr Osborne, seconded by Cr Doyle

Council resolves to place draft amendments to Section 7.09 Advertising and Signage and Section 9.00 Glossary of Newcastle Development Control Plan 2012, as provided in Attachment A, on public exhibition for a period of four weeks.

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

Against the Motion: Nil.

Carried
ITEM-93  CCL 22/11/16 - 2015/16 ANNUAL REPORT

The Director Corporate Services tabled a memo regarding the Mayoral and Councillor Expenses Regulation CI 217(1)(A1) which corrected a table on page 73 of the Annual Report containing typographical errors.

The amended information was included in the motion moved by Councillors Posniak and Osborne.

MOTION
Moved by Cr Posniak, seconded by Cr Osborne

That Council receives Newcastle City Council's 2015/16 Annual Report in respect of the year ended 30 June 2016, and as per the amendment tabled at the Council meeting 22 November 2016, and notes that it will be submitted to the NSW Minister for Local Government by 30 November 2016.

Carried

Council acknowledged and congratulated Council staff involved in the preparation of the Annual Report.

ITEM-96  CCL 22/11/16 - APPLICATION TO THE MINISTER NOT TO FILL THE CASUAL VACANCY IN THE OFFICE OF A WARD 2 COUNCILLOR

MOTION
Moved by Cr Posniak, seconded by Cr Osborne

1 That Council:

Lodge an application with the Minister for Local Government (Minister) in accordance with s. 294(2)(a) of the Local Government Act, 1993 that the Minister order that the casual vacancy in the office of the Ward 2 Councillor not be filled; and

2 Delegates authority to the Interim Chief Executive Officer to prepare and sign the s. 294(2)(a) application on behalf of Council and to lodge the application with the Minister.

Carried unanimously
ITEM-99 CCL 22/11/16 - ADOPTION OF NEWCASTLE COASTAL ZONE MANAGEMENT PLAN

Council acknowledged and congratulated the Council staff and consultants involved in the preparation of the Newcastle Coastal Zone Management Plan.

MOTION
Moved by Cr Osborne, seconded by Cr Clausen

A Council adopts the Newcastle Coastal Zone Management Plan (Attachment A) and endorses the Newcastle Coastal Zone Hazard Study (Attachment B) and Newcastle Coastal Zone Management Study (Attachment C).

B A workshop be held on the Plan of Management and grant opportunities for coastal sites.

Carried unanimously


MOTION
Moved by Cr Luke, seconded by Cr Waterhouse

Council resolves to:

i) Endorse the attached Planning Proposal (Attachment A of CCL 25/10/16), prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act), to amend Newcastle LEP 2012 to enable medium density residential development on the following land bounded by Mosbri Crescent and Kitchener Parade, The Hill:

a) SP6373, SP3058, Lots 10, 12, 13 DP 216346 and Lot 1 DP204077, Nos 1 - 17 Mosbri Crescent, and

b) Lot 8 DP216346, SP19610 and Lot 62 DP522440, Nos. 31, 37 and 41 Kitchener Parade, The Hill.

ii) Forward the Planning Proposal to the Minister for Planning and Environment for Gateway determination pursuant to Section 56 of the EP&A Act.

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

iv) Consult with the community and relevant government agencies as instructed by the gateway determination.
v) Place the draft Section 6.14 - 11 Mosbri Crescent, The Hill to the Newcastle Development Control Plan 2012, as provided in Attachment B of CCL 25/10/16, on public exhibition for a minimum period of 28 days, concurrently with the Planning Proposal.

vi) Receive a report back on the Planning Proposal and draft Development Control Plan guidelines as per the requirements of Section 57 of the EP&A Act.

**For the Motion:** Lord Mayor Cr Nelmes, Councillors Compton, Clausen, Dunn, Luke, Posniak, Robinson and Waterhouse.

**Against the Motion:** Councillors Doyle and Osborne.

**Carried**

**ITEM-102 CCL 22/11/16 - STREETSAFE NIGHT-TIME OUTREACH PROGRAM**

**MOTION**

Moved by Cr Osborne, seconded by Cr Doyle

That Council:

i) Notes the Streetsafe Pilot Project Evaluation contained at (Attachment A);

ii) Notes the continuation of the official Streetsafe Project for a further 12 month period commencing in November 2016;

iii) Notes and supports the extension of the service to Hamilton; and

iv) Thanks the organisers for the good work they do for the City.

**Carried**

**ITEM-104 CCL 22/11/16 - 26 EDITH STREET WARATAH (WRIGHTSON RESERVE) AND RD 20435 - ENDORSEMENT OF PROPOSED AMENDMENT TO NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012**

**MOTION**

Moved by Cr Clausen, seconded by Cr Posniak

1 Council resolves to:

i) Endorse the attached Planning Proposal (Attachment A), pursuant to Section 55 of the Environmental Planning and Assessment (EP&A) Act 1979, in order to amend Newcastle Local Environmental Plan 2012 for land at 26 Edith Street, Waratah and RD 20435, as follows:
a) Amend the Land Zoning Map to rezone Wrightson Reserve from RE1 Public Recreation to SP2 Health Services Facility and rezone RD 20435 from RE1 Public Recreation to R2 Low Density Residential;

b) Amend the Height of Buildings Map for RD 20435 to include a maximum building height of 8.5 metres;

c) Amend the Floor Space Ratio (FSR) Map for RD 20435 to include a maximum permissible FSR of 0.75;

d) Amend the Minimum Lot Size Map to remove the minimum lot size for Wrightson Reserve and reduce the minimum lot size of 40 hectares to 450m² for RD 20435; and

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

- Column 1 to read “Waratah”
- Column 2 to read “Lot 374, DP 755247”
- Column 3 to read “Nil”

ii) Forward the Planning Proposal to the Minister for Planning and Environment for Gateway Determination pursuant to Section 56 of the EP&A Act 1979.

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

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

v) Receive a report back on the Planning Proposal following completion of the required consultation.

2 That Council receives a report on any proceeds from possible future land sales from this site to be invested into public open space, infrastructure and community and recreation land in Waratah and Waratah West.

Councillor Luke moved the Officer's recommendation as an amendment.
CITY OF NEWCASTLE

Ordinary Council Meeting 13 December 2016

AMENDMENT
Moved by Cr Luke, seconded by Cr Compton

Council resolves to:

i) Endorse the attached Planning Proposal (Attachment A), pursuant to Section 55 of the Environmental Planning and Assessment (EP&A) Act 1979, in order to amend Newcastle Local Environmental Plan 2012 for land at 26 Edith Street, Waratah and RD 20435, as follows:

a) Amend the Land Zoning Map to rezone Wrightson Reserve from RE1 Public Recreation to SP2 Health Services Facility and rezone RD 20435 from RE1 Public Recreation to R2 Low Density Residential;

b) Amend the Height of Buildings Map for RD 20435 to include a maximum building height of 8.5 metres;

c) Amend the Floor Space Ratio (FSR) Map for RD 20435 to include a maximum permissible FSR of 0.75;

d) Amend the Minimum Lot Size Map to remove the minimum lot size for Wrightson Reserve and reduce the minimum lot size of 40 hectares to 450m² for RD 20435; and

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

- Column 1 to read “Waratah”
- Column 2 to read “Lot 374, DP 755247”
- Column 3 to read “Nil”

ii) Forward the Planning Proposal to the Minister for Planning and Environment for Gateway Determination pursuant to Section 56 of the EP&A Act 1979.

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

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

v) Receive a report back on the Planning Proposal following completion of the required consultation.
The amendment moved by Councillors Luke and Compton was put to the meeting.

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

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

*Defeated*

The motion moved by Councillors Clausen and Posniak was put to the meeting.

**For the Motion:** The Lord Mayor, Cr Nelmes, Councillors Clausen, Compton, Posniak and Waterhouse.

**Against the Motion:** Councillors Doyle, Dunn, Luke, Osborne and Robinson.

*Carried*

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

**NOTICES OF MOTION**

**ITEM-16 NOM 22/11/16 - SUPERCARS CONSULTATION**

Councillor Waterhouse declared a non-pecuniary and non-significant interest in Notice of Motion 16 - Supercars Consultation stating that her residence was in close proximity to the event. Councillor Waterhouse left the Chamber for the determination of the item.

Councillors Doyle and Osborne tabled an alternate motion at the meeting.

**ORIGINAL MOTION**

Moved by Cr Doyle, seconded by Cr Osborne

That Council conducts a series of consultation and information sessions with residents of Newcastle East regarding the Supercars event that is to happen in Newcastle during 2017.

These consultation and information meetings should cover:

1. Council's role in the event
2. The proposed route
3. Vehicle access including emergency vehicles
4. Governance of noise control and abatement measures
5. Agency responsibilities
6. Long term road safety management
7. Benefits to local community and Council from this event
8. Potential environmental effects on heritage buildings
ALTERNATE MOTION
Moved by Cr Doyle, seconded by Cr Osborne

That Council, in collaboration with Destination NSW and Supercars Australia, conducts a series of consultation and information sessions with residents of Newcastle East regarding the Supercars event that is to happen in Newcastle during 2017.

These consultation and information meetings should cover:

1. Council's role in the event,
2. The proposed route,
3. Vehicle access, including emergency vehicles,
4. Governance of noise control and abatement measures,
5. Agency responsibilities
6. Long term road safety management
7. Benefits to local community and Council from this event,
8. Potential environmental effects on heritage buildings.
9. Potential effects on parkland.

Council Officers to provide an update and briefing to Council at the Briefings meeting in February 2017.

The alternate motion moved by Councillors Doyle and Osborne was put to the meeting.  

Carried unanimously

Councillor Waterhouse returned to the Chamber at the conclusion of this item.

ITEM-17 NOM 22/11/2016 - LISTENING TO THE COMMUNITY

MOTION
Moved by Cr Osborne, seconded by Cr Doyle

Council hear from resident Naomi Isaacs and a representative from the Tighes Hill Community Group regarding DA 2016/00820.

Council initiate the process to amend its Public Voice Policy (1999) so that the criteria for public voice applications relating to development applications be to give the local community a fair hearing in circumstances that do not unduly delay the development assessment process.
AMENDMENT
Moved by Cr Clausen

Council hear from resident Naomi Isaacs and a representative from the Tighes Hill Community Group and the proponent regarding DA2016/00820. This public voice is to be held immediately before the Development Applications Committee on 6 December 2016.

Council notes the resolution of 28 June 2016 regarding Open and Collaborative Leadership includes revising its Public Voice Policy (1999) so that the criteria for public voice applications relating to development applications be to give the local community a fair hearing in circumstances that do not unduly delay the development assessment process.

Councillors Osborne and Doyle accepted the amendment into the motion.

The motion, as amended, was put to the meeting. Carried

Councillor Clausen tabled a petition from Donna Rehbien of Georgetown on behalf of residents in numerous suburbs requesting Council to provide an off-leash area for Waratah Park and presented the petition to the Interim Chief Executive Officer.

The meeting concluded at 8.08pm.
ITEM-105 CCL 13/12/16 - ADOPTION OF AMENDED MEETING SCHEDULE FOR APRIL 2017

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

PURPOSE

Council to adopt an amended council meeting schedule for April 2017.

RECOMMENDATION

1 That Council adopts the following meeting schedule for April 2017 with scheduled meetings to commence from 5.30pm:

(a) For the month of April 2017:

<table>
<thead>
<tr>
<th>Week 1 – Tuesday</th>
<th>Councillor Workshops</th>
</tr>
</thead>
<tbody>
<tr>
<td>Week 2 – Tuesday</td>
<td>Committee Meetings (as required):</td>
</tr>
<tr>
<td></td>
<td>• Public Voice Committee</td>
</tr>
<tr>
<td></td>
<td>• Briefings Committee</td>
</tr>
<tr>
<td></td>
<td>• Development Applications Committee</td>
</tr>
<tr>
<td>Week 3 – Tuesday</td>
<td>Ordinary Council Meeting</td>
</tr>
<tr>
<td>Week 4 – Tuesday</td>
<td>No scheduled meeting (Anzac Day)</td>
</tr>
</tbody>
</table>

KEY ISSUES

2 On 22 November 2016, Council endorsed the meeting schedule for 2017. It has since been noted that Anzac Day falls on the fourth Tuesday of April 2017, therefore, an alternative meeting schedule is required for April 2017.

FINANCIAL IMPACT

3 Nil.

COMMUNITY STRATEGIC PLAN ALIGNMENT

4 Open and collaborative leadership.
IMPLEMENTATION PLAN/IMPLICATIONS

5 In accordance with the requirements in the Local Government Act 1993 (Act), Council advertises the meeting dates and times in the Newcastle Herald on a regular, monthly, basis.

RISK ASSESSMENT AND MITIGATION

6 The proposed amended meeting schedule for April 2017 is consistent with the Act and Council’s Code of Meeting Practice.

RELATED PREVIOUS DECISIONS

7 On 22 November 2016 Council endorsed the Council meeting schedule for 2017.

CONSULTATION

8 N/A.

OPTIONS

Option 1

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

Option 2

10 Any alternative meeting schedule proposal for April 2017 put forward by Councillors provided that it allows for a total of ten council meetings in 2017, with each meeting being in a different month. This is not the recommended option.

BACKGROUND

Nil.

REFERENCES

ATTACHMENTS

Nil.
ITEM-106 CCL 13/12/16 - TABLING OF PECUNIARY INTEREST RETURNS

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

PURPOSE

For the Interim Chief Executive Officer to table the pecuniary interest returns of 'designated persons' who commenced employment with Council between 1 July 2016 and 31 October 2016.

RECOMMENDATION

1 That Council notes the pecuniary interest returns as tabled by the Interim Chief Executive Officer for the period 1 July 2016 and 31 October 2016.

KEY ISSUES

2 Section 449(1) of the Local Government Act 1993 (NSW) (Act) requires councillors and designated persons to lodge a pecuniary interest return in the form prescribed by the Local Government (General) Regulation 2005 (NSW) within three months after becoming a councillor or designated person. Since the tabling of the pecuniary interest returns on 25 October 2016, three 'designated persons' have commenced employment with Council.

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

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

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

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

FINANCIAL IMPACT

6 Not applicable.

COMMUNITY STRATEGIC PLAN ALIGNMENT

7 Open and collaborative leadership.

IMPLEMENTATION PLAN/IMPLICATIONS

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

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

RISK ASSESSMENT AND MITIGATION

10 Not applicable.

RELATED PREVIOUS DECISIONS

11 Pecuniary interest returns were last tabled at Council’s meeting on 25 October 2016 (for the period 1 June 2015 to 31 July 2016).

CONSULTATION

12 Not applicable.

OPTIONS

Option 1

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

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

BACKGROUND

15 Not applicable.

REFERENCES

ATTACHMENTS

Nil.
ITEM-107  CCL 13/12/16 - CODE OF CONDUCT COMPLAINTS STATISTICS REPORT

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

PURPOSE

To provide Councillors with a copy of Council’s annual Code of Conduct Complaints Statistics Report for the period 1 September 2015 to 31 August 2016.

RECOMMENDATION

1 That Council receive and note Council’s Code of Conduct Statistics Report for the period 1 September 2015 to 31 August 2016 at Attachment A.

KEY ISSUES

2 Clause 12.1 of the Office of Local Government’s Procedures for the Administration of the Code of Conduct (March 2013), requires Council to lodge a report to the Office of Local Government providing statistical information about Code of Conduct complaints made against the General Manager and Councillors, received and finalised during the period 1 September – 31 August each year, (the Report).

3 The Report is required to be lodged by 31 December each year, however, the Office of Local Government have requested that councils lodge reports by 30 November 2016 and Council’s Report was lodged to meet this timeframe.

4 The annual report must contain the following statistics:
   (a) the total number of Code of Conduct complaints made about Councillors and the General Manager under the Code of Conduct in the year to September;
   (b) the number of Code of Conduct complaints referred to a Conduct Reviewer;
   (c) the number of Code of Conduct complaints finalised by a Conduct Reviewer at the preliminary assessment stage and the outcome of those complaints;
   (d) the number of Code of Conduct complaints investigated by a Conduct Reviewer;
   (e) the number of Code of Conduct complaints investigated by a Conduct Review Committee;
   (f) without identifying particular matters, the outcome of Code of Conduct complaints investigated by a Conduct Reviewer or Conduct Review Committee under these procedures;
   (g) the number of matters reviewed by the Division of Local Government and, without identifying particular matters, the outcome of the reviews; and
   (h) the total cost of dealing with Code of Conduct complaints made about Councillors and the General Manager in the year to September, including staff costs.
FINANCIAL IMPACT

5 The total cost of dealing with Code of Conduct complaints, including staff costs, for the period 1 September 2015 – 31 August 2016, was $39,400.

COMMUNITY STRATEGIC PLAN ALIGNMENT

6 Open and collaborative leadership.

IMPLEMENTATION PLAN/IMPLICATIONS

7 Nil.

RISK ASSESSMENT AND MITIGATION

8 There is a risk to Council's reputation and public confidence in local government associated with Code of Conduct complaints and breaches of the Code of Conduct.

RELATED PREVIOUS DECISIONS

9 On 8 December 2015, Council noted the annual report on Code of Conduct complaints for the period 1 September 2014 to 31 August 2015.

CONSULTATION

10 Nil.

OPTIONS

Option 1

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

Option 2

12 Council not receive and note the report. This is not the recommended option as Council's Complaints Coordinator (Manager - Legal and Governance) has a legislative obligation to lodge the report with the Office of Local Government.

BACKGROUND

13 Nil.
REFERENCES

ATTACHMENTS

Attachment A: Annual report on Code of Conduct Complaints for the period 1 September 2015 to 31 August 2016.
## Model Code of Conduct Complaints Statistics

### Newcastle City Council

<table>
<thead>
<tr>
<th>Number of Complaints</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. a The total number of complaints <strong>received</strong> in the period about councillors and</td>
<td>9</td>
</tr>
<tr>
<td>the General Manager (GM) under the code of conduct</td>
<td></td>
</tr>
<tr>
<td>1. b The total number of complaints <strong>finalised</strong> in the period about councillors and</td>
<td>9</td>
</tr>
<tr>
<td>the GM under the code of conduct</td>
<td></td>
</tr>
</tbody>
</table>

### Overview of Complaints and Cost

<table>
<thead>
<tr>
<th>Description</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2. a The number of complaints <strong>finalised at the outset</strong> by alternative means by the GM or</td>
<td>1</td>
</tr>
<tr>
<td>Mayor</td>
<td></td>
</tr>
<tr>
<td>2. b The number of complaints <strong>referred to the Office of Local Government</strong> under a special</td>
<td>0</td>
</tr>
<tr>
<td>complaints management arrangement</td>
<td></td>
</tr>
<tr>
<td>2. c The number of code of conduct complaints <strong>referred to a conduct reviewer</strong></td>
<td>6</td>
</tr>
<tr>
<td>2. d The number of code of conduct complaints <strong>finalised at preliminary assessment</strong> by</td>
<td>3</td>
</tr>
<tr>
<td>conduct reviewer</td>
<td></td>
</tr>
<tr>
<td>2. e The number of code of conduct complaints <strong>referred back to GM or Mayor</strong> for resolution</td>
<td>0</td>
</tr>
<tr>
<td>after preliminary assessment by conduct reviewer</td>
<td></td>
</tr>
<tr>
<td>2. f The number of finalised code of conduct complaints <strong>investigated by a conduct reviewer</strong></td>
<td>4</td>
</tr>
<tr>
<td>2. g The number of finalised code of conduct complaints **investigated by a conduct review</td>
<td>0</td>
</tr>
<tr>
<td>committee</td>
<td></td>
</tr>
<tr>
<td>2. h The number of finalised complaints Investigated where there was found to be <strong>no breach</strong></td>
<td>0</td>
</tr>
<tr>
<td>2. i The number of finalised complaints Investigated where there was found to be <strong>a breach</strong></td>
<td>4</td>
</tr>
<tr>
<td>2. j The number of complaints referred by the GM or Mayor <strong>to another agency</strong> or body such</td>
<td>0</td>
</tr>
<tr>
<td>as the ICAC, the NSW Ombudsman, the Office or the Police</td>
<td></td>
</tr>
<tr>
<td>2. k The number of complaints being investigated that are <strong>not yet finalised</strong></td>
<td>0</td>
</tr>
<tr>
<td>2. l The total <strong>cost</strong> of dealing with code of conduct complaints within the period made about</td>
<td></td>
</tr>
<tr>
<td>councillors and the GM including staff costs</td>
<td>39,400</td>
</tr>
</tbody>
</table>
### Preliminary Assessment Statistics

3. The number of complaints determined by the conduct reviewer at the preliminary assessment stage by each of the following actions:
   - a. To take no action: 3
   - b. To resolve the complaint by alternative and appropriate strategies: 0
   - c. To refer the matter back to the GM or the Mayor, for resolution by alternative and appropriate strategies: 0
   - d. To refer the matter to another agency or body such as the ICAC, the NSW Ombudsman, the Office or the Police: 0
   - e. To investigate the matter: 4
   - f. To recommend that the complaints coordinator convene a conduct review committee to investigate the matter: 0

### Investigation Statistics

4. The number of investigated complaints resulting in a determination that there was no breach, in which the following recommendations were made:
   - a. That the council revise its policies or procedures: 0
   - b. That a person or persons undertake training or other education: 0

5. The number of investigated complaints resulting in a determination that there was a breach in which the following recommendations were made:
   - a. That the council revise any of its policies or procedures: 1
   - b. That the subject person undertake any training or other education relevant to the conduct giving rise to the breach: 4
   - c. That the subject person be counselled for their conduct: 0
   - d. That the subject person apologise to any person or organisation affected by the breach: 0
   - e. That findings of inappropriate conduct be made public: 0
   - f. In the case of a breach by the GM, that action be taken under the GM’s contract for the breach: 0
   - g. In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993: 0
   - h. In the case of a breach by a councillor, that the matter be referred to the Office for further action: 0

6. Matter referred or resolved after commencement of an investigation under clause 8.20 of the Procedures: 0
### Categories of misconduct

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>The number of investigated complaints resulting in a determination that there was a breach with respect to each of the following categories of conduct:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>a. General conduct (Part 3)</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>b. Conflict of interest (Part 4)</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>c. Personal benefit (Part 5)</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>d. Relationship between council officials (Part 6)</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>e. Access to information and resources (Part 7)</td>
<td>4</td>
</tr>
</tbody>
</table>

### Outcome of determinations

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>The number of investigated complaints resulting in a determination that there was a breach in which the council failed to adopt the conduct reviewers recommendation</td>
<td>0</td>
</tr>
<tr>
<td>9</td>
<td>The number of investigated complaints resulting in a determination that there was a breach in which the council’s decision was overturned following a review by the Office</td>
<td>0</td>
</tr>
</tbody>
</table>
ITEM-108  CCL 13/12/16 - AUDIT REPORT COMMITTEE AND INTERNAL AUDIT ANNUAL REPORT
REPORT BY: AUDIT COMMITTEE CHAIR
CONTACT: INTERIM CEO

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

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

RECOMMENDATION
1 That Council receives the Audit Committee and internal audit annual report for the 2015/2016 financial year.

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

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

4 The Audit Committee Charter was scheduled for review in October 2016, but this has been delayed pending a decision by the NSW State Government on Council's merger proposal. No Audit Committee Charter amendments are currently proposed.

FINANCIAL IMPACT
5 The payment of external Audit Committee members has a moderate financial impact on Council. The total annual payment to Audit Committee external members was $22,058 for the 2015/2016 financial year which was within the operational budget.

6 The amount of $25,833 was approved in the 2016/2017 budget for the Audit Committee. Councillor members of the Audit Committee are not paid.
COMMUNITY STRATEGIC PLAN ALIGNMENT

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

IMPLEMENTATION PLAN/IMPLICATIONS

8 Internal Audit and the Audit Committee support the ICEO to oversee Council's risk management and controls. Both functions are referenced in Council's enterprise risk management framework.

RISK ASSESSMENT AND MITIGATION

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

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

RELATED PREVIOUS DECISIONS

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

12 On 9 October 2012, Council adopted the Audit Committee Charter to replace the previous Audit Committee Constitution. Councillors Dunn and Tierney were appointed as Councillor members to the Audit Committee.

13 On 23 September 2014, Council approved the appointment of Cr Waterhouse to replace Cr Tierney as the second Councillor member of Council's Audit Committee, such appointment to be effective immediately.

CONSULTATION

14 This report was approved by the Audit Committee on 17 November 2016.

OPTIONS

Option 1

15 The recommendation as at paragraph 1. This is the recommended option.
Option 2

16 Council resolves not to adopt the recommendation at paragraph 1. This is not the recommended option.

BACKGROUND

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

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

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

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

ADDITIONAL INFORMATION

The Audit Committee

21 The current status of external members is:

- Dr Col Gellatly (Chair), was appointed on 3 September 2013 for an initial 12 month term and his contract was extended until 3 September 2017;
- Micah Jenkins, was initially appointed until 30 June 2015 and had his contract extended for a period of 12 months to 30 June 2016, and extended again, pending the NSW State Government making a decision on the current Council merger proposal; and
- Martin Matthews, was initially appointed until 30 June 2015 and had his contract extended for a period of 24 months to 30 June 2017.

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

23 Audit Committee activity since November 2015 has included:

- Conducting five ordinary meetings
- Approval of the 2016-2019 three-year Forward Internal Audit Plan
• Endorsement of completed internal audits and implementation actions

• Receipt of briefings from PricewaterhouseCoopers on Council’s annual external financial audit plan and draft audit report

• Receipt of reporting on the investigation and court proceedings relating to a fraud matter

• Receipt at each meeting of the most recent Monthly Financial Performance Report

• Receipt of progress reporting at each meeting on the implementation of Enterprise Resource Planning (OneCouncil)

• Reviewing Internal Audit performance results against adopted indicators

• Participating in a performance self-assessment

24 A number of standing items are included in the Audit Committee business cycle. These are:

• Annual insurance report
• Bi-annual review of Work Health & Safety statistics
• Risk management report at each meeting
• Annual report on large write-offs
• Review of the annual external audit plan and briefing on the draft external audit report
• Bi-annual report on the performance and financial statements for Business Improvement Associations

Risk Management

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

Performance Self-assessment

26 The Audit Committee performance self-assessment was conducted during July 2016. A questionnaire was used with the objectives to:

a) determine the extent to which the Audit Committee is achieving its overall objective to provide independent assurance and assistance to Council on risk management, control, governance, and legal and regulatory obligations; and

b) assess the performance of Council's internal audit.
27 Four out of five members responded to the questionnaire. This represents an 80% response rate.

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

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

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

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

**Internal Audit**

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

33 Reliance on internal resources is increasing. Internal resources were allocated to complete four audit engagements in the 2015/16 internal audit program.

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

35 This is a non-exclusive agreement that allows Council to appoint other, specialist audit providers as necessary.

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

37 The 10 internal audits completed for the 2015/2016 program were:

- RMS DRIVES audit
- Council's fees and charges
- Biennial tenders for Council's hired plant
- Grants management and administration
- Internal Audit self-assessment and independent validation
- Legislative compliance
- Risk management
• National Heavy Vehicle Accreditation Scheme
• Sponsorship
• Beresfield Child Care Centre cash handling, procurement and fund-raising processes

38 An audit of compliance with the conditions of consent for Summerhill Waste Management Centre was commenced but deferred to conduct other audits which supported merger planning and preparation work. This review will progress during December 2016.

39 An audit of Council's Payroll was deferred until third quarter 2016/2017, due to the conduct of a payroll review project, which is currently underway.

40 An Internal audit of fire safety compliance management was deferred until second quarter 2016/17.

Forward Internal Audit Plan

41 Management takes a risk-based approach to formulate a three year, rolling forward internal audit plan. The 2016-2019 forward internal audit plan was approved by the Audit Committee on 26 May 2016.

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

43 Completion of the audit program will be subject to the management of audit costs within the budget allocated for internal audit services. The allocated operational budget for internal audit for 2016/17 is $128,975, being approximately 2.4% higher than the budget for the previous year.

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

External Audit

45 The Audit Committee has continued to review Council's financial position and commitment towards achieving financial sustainability.

46 At a meeting on 18 August 2016, the Audit Committee was provided with a briefing on the External Auditor's plan for the annual external audit, along with comments on interim findings.

47 The Audit Committee met on 13 October 2016 to receive briefings on the draft audit opinion and Council's financial statements in respect of the year ended 30 June 2016. A management report of significant financial matters for year ended 30 June 2016 was reviewed. The report provided summary comparative information on key financial indicators and provided an update on Council's
implementation of the Audit Committee financial sustainability recommendations made in March 2013.

48 The Audit Committee noted Council's positive financial position.

REFERENCES

ATTACHMENTS

Nil
ITEM-109  CCL 13/12/16 - PROPOSED ROAD CLOSURE AND SALE OF PART OF LAND OFF NEWCOMEN STREET, NEWCASTLE

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

PURPOSE

To seek a Council resolution to close a small part of a lane off Newcomen Street and located at the rear of 41-45 Newcomen Street, Newcastle, shown in Attachment A and sell the land to the adjoining property owner, Biztam Pty Ltd, Newcastle. The land is currently designated as a road and is approximately 50.43m² in area.

RECOMMENDATION

1 (i) Council endorses the closure of the end of the lane off Newcomen Street, Newcastle, adjacent to Lot 1 DP 981842;

(ii) Subject to receiving approval for the road closure from the Crown (NSW Department of Primary Industries - Crown Lands), Council approves the sale of the parcel of land to the adjoining owner for $60,000 (plus GST) as determined by an independent certified valuer. All costs including legal, survey and service relocation will be borne by the applicant;

(iii) Authority be granted to the Interim Chief Executive Officer or his delegate to execute all relevant documentation to effect the transactions; and

(iv) The revenue received by Council from the sale of the land be transferred to the Land and Property Reserve.

KEY ISSUES

2 The road closure is subject to approval by the Crown (NSW Department of Primary Industries - Crown Lands) and Ministerial consent, following Council's endorsement to close the road.

3 The applicant for the road closure and the proposed purchaser of the property is the owner of the adjacent property. The applicant has agreed to consolidate the road closure lot with its property. The applicant has also agreed to pay all costs associated with the closure. The proposed purchase price of $60,000 (plus GST) is based on an independent valuation of the land following the road closure.

4 The proposed road closure and sale of the land would have no impact on vehicular traffic or pedestrian movements, as there is no through traffic in the lane and the portion to be closed and sold is located at end of the lane and at the rear of the proposed purchaser's property.
5 The valuation was conducted by Skelton valuers and was based on direct comparisons and adjoining property land values.

6 Any development of the land sold to the adjoining owner or any future owner would be subject to separate development consent.

7 The proposed road closure will be advertised and any submissions received from the public will be forwarded with the application to Land and Property Information (LPI) for consideration.

FINANCIAL IMPACT

8 Council will receive $60,000 (plus GST) from the closure and sale and all costs including legal, survey and service relocation will be borne by the applicant.

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

COMMUNITY STRATEGIC PLAN ALIGNMENT

10 The decision to close the underutilised lane and sell the land aligns with Council’s Newcastle 2030 Community Strategic Plan under the strategic direction of ‘Smart and Innovative City’.

IMPLEMENTATION PLAN/IMPLICATIONS

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

12 The road closure process involves public notification of the proposed road closure for 28 days and Council entering into a deed of agreement with the adjoining owner. The applicant is then required to arrange and provide a survey plan, lodge a Development Application and Subdivision Application at Council for endorsement of the road closure plan, thereby creating a separate lot for sale.

13 After endorsement and registration of the plan at the LPI, the Crown then publishes the closure in the NSW Government Gazette. After amendments to the title, the land will be sold to the applicant.

14 The anticipated timeframe for the road closure process is expected to be 36 months.

RISK ASSESSMENT AND MITIGATION

15 There is a risk of the road closure not being approved by the NSW Department of Primary Industry - Crown Lands. However the applicant will pay all outgoings associated with the application so Council is not financially exposed.
RELATED PREVIOUS DECISIONS

16 There are no previous related road closure decisions for the lane off Newcomen Street, Newcastle.

CONSULTATION

17 Relevant Council officers have been consulted and raised no objections to the proposed road closure. Staff from Council's Traffic, Infrastructure Planning and Building and Development teams were consulted.

18 The road closure will be advertised for public comment, for a period of 28 days, with the adjoining property owners being notified directly by mail.

OPTIONS

Option 1

19 The recommendation as at Paragraph 1 (i) – (iv). This is the recommended option.

Option 2

20 Council resolves not to consent to the proposed closure and subsequent sale of part of the lane off Newcomen Street, Newcastle. This is not the recommended option.

BACKGROUND

21 The lane off Newcomen Street was re-marked on 24 September 1982 by plan DP 42637 and was formally part of the 'Town of Newcastle' subdivision, DP 52154.

22 Council was originally approached in July 2002 by Peter Evans & Associates (acting for Biztam Pty Ltd), enquiring about the dedication status of the lane. Council responded stating it was of the opinion that the lane was a public road as it was listed in Council's road register.

23 After a further letter and discussions with the applicant and their surveyor, Council responded with a letter on 17 February 2003 stating that any acquisition of any part of the lane would need to be a road closure application.

24 On 24 February 2015, Peter Evans & Associates, solicitors acting for the applicant (Biztam Pty Ltd), sent a letter to Council, requesting advice on acquiring the lane adjoining their client's property. Council informed the solicitors that acquiring the end section of the lane may be more successful than an attempt to acquire the whole lane.
Consequently, on 10 August 2016, Council received an application for road closure from the solicitors and an application fee of $1,191.80.

The section of the lane/road reserve proposed to be closed and sold to the owner of 41-45 Newcomen Street, Newcastle will be a parcel approximately 3.66 metres wide and 13.78 metres long, having a total area of 50.43m$^2$ (subject to final survey) and is adjacent to the applicant’s property (Attachment A). The lane is a dead end and only services the adjoining property owners and has no through traffic and the closure of the lane will not impact on traffic and it is not designed to affect any physical access rights.

ATTACHMENTS

Attachment A: Aerial site diagram Newcomen Street Newcastle
ITEM-110 CCL 13/12/16 - ADOPTION OF HUNTER ESTUARY COASTAL ZONE MANAGEMENT PLAN

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

PURPOSE

The purpose of this report is to seek Council's adoption of the revised Hunter Estuary Coastal Zone Management Plan (the Plan) at Attachment A.

RECOMMENDATION

1 Council adopts the Hunter Estuary Coastal Zone Management Plan (Attachment A).

KEY ISSUES

2 The Plan outlines the proposed actions that Newcastle, Port Stephens and Maitland Councils (as well as other relevant stakeholders) will undertake to manage priority issues in the Hunter Estuary. Council previously adopted the Plan on 6 October 2009. The Plan was also adopted by Port Stephens and Maitland Councils, as the three councils share management of the Hunter Estuary. In 2016, the three Councils made some minor revisions to the Plan in preparation for submission to the Minister for Planning for certification.

3 The draft Plan was placed on public exhibition for a period of 21 days from Wednesday 26 October to Tuesday 15 November 2016. No public submissions were received during the public exhibition period, however government agency comments were received and are addressed in Attachment B.

4 In 2016, the NSW Government announced that councils would no longer have access to funding under the Estuary Grants Program unless the council has an estuary coastal zone management plan that has been certified by the Minister for Planning. Council is therefore proposing to seek Ministerial certification of the Plan.

5 The Plan is required to be forwarded to the Minister for certification before the end of December 2016. If it does not meet this deadline Council would have to revise the draft Plan to meet the requirements of the new Coastal Management Act 2016, which is expected to commence early in 2017. This revision would take a number of years to complete as extensive revision of the accompanying technical documents (the Hunter Estuary Process Study (MHL 2003) and Hunter Estuary Management Study (WBM 2009)) would be required, as well as significant community and NSW Government consultation.
FINANCIAL IMPACT

6 The proposed actions in the Plan will be undertaken as funding and resources allow. Adoption of the Plan would allow Council to apply for funding under the NSW Government's Estuary Grants Program. Earlier this year, the NSW Government announced that $83.6 million would be made available in funding over the next five years for coastal/estuary grants. Council will not be eligible for this funding if the Plan is not received by the Minister for Planning in December 2016.

7 Implementation of the Hunter Estuary Coastal Zone Management Plan is expected to be funded through a variety of mechanisms; including government and non-government grant schemes, and in-kind contributions. The availability of funds for the Plan will depend on relevant government programs. The identification, application and success of grants will be an important component of the implementation of this Plan.

8 Given the timeframe of this Plan (ie up to ten years), it is likely that specific opportunities for funding various elements of the Plan will change. As such, specific funding programs have not been detailed here. Provided below is an overview of the types of funding that could be pursued to help with implementation of this Plan.

COMMUNITY STRATEGIC PLAN ALIGNMENT

9 The Plan is consistent with the Community Strategic Plan Strategies, Protected and Enhanced Environment, Vibrant and Activated Public Places, and Liveable and Distinctive Built Environment.

IMPLEMENTATION PLAN/IMPLICATIONS

10 Management actions requiring funding will be identified in Council's Delivery Program and annual Operational Plans, allowing Council to undertake the actions as funding/resources allow.

RISK ASSESSMENT AND MITIGATION

11 Council is seeking Ministerial certification of the Plan, in partnership with Maitland and Port Stephens Councils. Council will implement management actions as funding and resources allow.

RELATED PREVIOUS DECISIONS

12 On 6 October 2009, Council adopted the Hunter Estuary Coastal Zone Management Plan and accompanying Hunter Estuary Management Study. Council has recently revised the Hunter Estuary Coastal Zone Management Plan and is requesting adoption of the revised Plan. The Hunter Estuary Management Study has not been revised since its adoption in 2009 (it does not require revision at this point in time).
CONSULTATION

13 Significant public consultation was undertaken over a number of years to develop the Hunter Estuary Processes Study, Management Study and Management Plan. Consultation undertaken during the 2016 revision of the Plan was largely facilitated through the Hunter Estuary Technical Working Group. The Plan was placed on public exhibition for a period of 21 days. No submissions were received during the public exhibition period. This may be because the Plan was previously adopted in 2009 and only minor revisions were made to the Plan during the 2016 review. However government agency comments were received and are addressed in Attachment B.

OPTIONS

Option 1

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

Option 2

15 Council does not adopt the Hunter Estuary Coastal Zone Management Plan. This is not the recommended option.

BACKGROUND

16 The new Coastal Management Act 2016 has passed through Parliament and is expected to commence early in 2017.

ATTACHMENTS

Attachment A: Hunter Estuary Coastal Zone Management Plan
Attachment B: Summary of Government Agency Submissions

Attachments are distributed under separate cover.
ITEM-111  CCL 13/12/16 - WESTERN CORRIDOR DISTRICT SPORT AND RECREATION COMPLEX

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

PURPOSE

The purpose of this report is to seek Council’s approval for the transfer of ownership of 40 Creek Rd Maryland (15.5Ha site) from The Newcastle Wallsend Coal Company Pty Ltd (NWCC). The land is to be held for the purpose of developing a district sporting and recreation complex to service the growing western corridor area.

RECOMMENDATION

1 Council approve the acquisition of the property 40 Creek Road Maryland, Lot 2 DP 80158 and Lot 25 DP 599877, as a donation by Glencore Pty Ltd (Glencore) the parent company of NWCC, according to the terms and conditions detailed in a letter from Glencore Pty Ltd (see Attachment C).

2 Council authorizes the Interim Chief Executive Offer, or his delegate, to execute all the relevant documentation to effect the proposed transfer and to authorize Council to pay all of Newcastle Wallsend Coal Company Pty Ltd's costs associated with the transfer, including but not limited to, legal, survey, valuation, transfer, registration, costs and stamp duty.

KEY ISSUES

3 There are currently no district sports facilities that service the western corridor. Presently there is one regional complex and two district complexes within the eastern region of the LGA and three district complexes located centrally in the LGA. The closest district facility to the western corridor is the New Lambton complex.

4 Analysis was undertaken of existing venues within the western corridor to provide a district facility, but due to the projected size requirements of the site (15-20Ha), and the current usage of the venues, there were no viable options (see Attachment A). Additionally, due to the topography of the Fletcher/Minmi area, there are no possible future green field sites of the required size within proposed new development areas.

5 A high priority action identified in the Parkland and Recreation Strategy adopted in March 2014 is that a partnership be established for the land at 40 Creek Road Maryland to develop a district recreation complex to service the future population. Another action states that commencement of detailed design for the complex should be undertaken as a medium priority.
6 The 40 Creek Road, Maryland site was identified a number of years ago as a potential future site, and liaison with owner, NWCC, was undertaken to examine the potential of the site to be developed for this purpose. Independent contractors were appointed by Council to undertake a feasibility study to ensure the viability of the site for sport and recreation purposes, and a further geotechnical study was completed. Both reports revealed that it would be a viable location.

7 The Creek Road site is adjacent to Fletcher Park, which is Council owned community land. This site is currently utilised by the Wallsend New Lambton Pony Club. It is proposed that the Fletcher Park (4.6Ha) site be combined with the Creek Road land to provide a 20Ha site for a future district sport and recreation complex (see Attachment B). To enable this, the existing user, the pony club, would need to be relocated at some future date. A Memorandum of Understanding would be developed between Council and the pony club to ensure they would be relocated to an alternate site with equivalent facilities. It is not anticipated that the relocation would take place for some years.

8 The NWCC have agreed to transfer 40 Creek Road, Maryland (Lot 2 DP 80158, Lot 25 DP 599877) to Council under the conditions stated in a letter to Council dated 3 September 2015 (see Attachment C). These conditions include a covenant on the land so that it can only be used for public sporting, recreation, and community purposes; Council accepts the land in its current condition and releases NWCC from any liability; Council to pay all legal costs in transferring the land; and NWCC and Council work together on a Communications Strategy to promote the community benefit of the transfer.

9 Development of the district facility is anticipated to take between 5-10 years and would be staged. To understand what could be achieved within the proposed site, a concept plan was developed (see Attachment D). This concept plan does not depict what would be developed, but instead depicts the size and configuration options of the site.

10 A masterplan would need to be developed for the site, and it is proposed that the adjacent sites of 1A Minmi Road, and Federal Park be included in this masterplan. This would ensure a holistic approach to the region and provide diverse options for sport, passive recreation and natural area recreation areas (see Attachment E).

FINANCIAL IMPACT

11 Costs associated with the transfer of the land to Council are estimated to be in between $5,000 to $10,000. Costs to develop the site into a district complex are unknown until a final design is completed. For indicative purposes only, the concept design illustrated in Attachment D would require a budget, including contingencies, of approximately $12 million. Any future development of the site would be staged to ensure it falls between budgetary constraints.
COMMUNITY STRATEGIC PLAN ALIGNMENT

12 Establishing a district sporting and recreation complex for the western corridor is in alignment with three strategic objectives including:

(i) public places that provide for diverse activity and strengthen our social connections;

(ii) active and healthy communities with physical, mental and spiritual wellbeing;

(iii) integrated, sustainable long-term planning for Newcastle and the region.

IMPLEMENTATION PLAN/IMPLICATIONS

13 If approved, Council would liaise with Glencore to initiate the transfer of the two lots to Council as community land. A master plan would be developed in the future for the land identified in Attachment E.

RISK ASSESSMENT AND MITIGATION

14 To minimise any potential risk with acquiring the land for the intended purpose of developing a district sport and recreation facility, Council has undertaken a feasibility study and a geotechnical report. The feasibility study conducted by ADW Johnson, examined the constraints of the site, the feasibility and the likely development costs. The investigations revealed that the project was viable and able to provide a range of sporting and recreational facilities across both the NWCC site and Council's Fletcher Park. It was well located, near the district centre of Wallsend and accessible by major public and private transport routes.

15 The Geotechnical report conducted by Douglas Partners Pty Ltd, examined the subsurface conditions, the presence of contamination and provided advice on the suitability of fill for the proposed development. Investigations included a site history review, excavation of 31 pit tests and 5 boreholes across the site, water surface sampling and testing. The results indicated a general absence of gross contamination, and some local contamination of asbestos material, and slag materials most likely from opportunistic dumping. The natural underlying soils are acid sulphate which would require a Management Plan if disturbed during redevelopment. Overall, it was determined that subject to appropriate earthworks construction, remediation and validation the site was suitable for the proposed use.

16 A vegetation assessment identified the proposal would require the removal/modification of native vegetation including two endangered ecological communities (EEC) species (Swamp Oak, Freshwater EEC). Advice from staff is an ecological assessment 7 part test would be required to inform future detailed design and DA lodgement. Given the small area of native vegetation it is unlikely the proposal would have a significant impact on any threatened species or ecological communities.
RELATED PREVIOUS DECISIONS

17 At the Ordinary Council meeting of 25 March 2014, Council resolved to adopt the Parkland and Recreation Strategy 2014.

CONSULTATION

18 The proposed land transfer was discussed at two Asset Advisory Committee meetings. The Committee agreed to accept Glencore’s proposal and to put the land transfer proposal to Council for a decision.

19 A Councillor Workshop was held on Tuesday 8 November 2016 to provide detail on the land transfer proposal and an opportunity for Councillors to ask questions prior to the Council meeting.

20 A meeting is proposed to be held with the Wallsend New Lambton Pony Club to discuss the proposal and to advise that Council will develop a Memorandum of Understanding to provide assurance to the club that they will not be relocated from the Fletcher Park site until an alternate venue is available. Investigations are currently underway to review options to accommodate this relocation. Given the timeframe of the project, it is anticipated that the relocation would not need to occur for some years.

21 If the land transfer is approved, Council’s Communication unit will liaise with Glencore to develop a media release to advise the community of the land transfer and proposal to develop a district sport and recreation complex for the Western Corridor.

OPTIONS

Option 1

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

Option 2

23 Council does not accept the transfer of 40 Creek Road Maryland. Not accepting the land transfer will leave Council with no viable options to develop the only district sporting and recreation complex that will service the growing western corridor. This is not the recommended option.

BACKGROUND

24 It has been identified by Council officers that there is a need for a district sporting and recreation complex for the growing western corridor. The Parkland and Recreation Strategy, adopted by Council in March 2014, supports this and
specifically identified the subject land at Creek Rd Maryland as the location for this development.

25 It is proposed the development on the subject site and Fletcher Park would include a mix of enclosed and open sporting facilities, recreational opportunities, pathway connections and associated amenities and support infrastructure. The site will also provide a special event venue to host events in the western region of the LGA.

26 A masterplan would be developed to include the above sites and Federal Park and 1A Minmi Road located opposite. The inclusion of all sites will ensure a strategic approach to the provision of community based infrastructure for sporting and recreational purposes. The 1a Minmi Road site will provide an alternate recreational opportunity with a natural focus, and serve to link the sites.

27 It is forecast that the Fletcher/Minmi population will increase from 11,120 (2011) to 27,965 (2036). This is an increase of over 151% in 25 years. In 2036 it is forecast that this population breakdown will entail 25% in 5-19 year age bracket and 55% in the 20-59 year age bracket. Due to the lack of alternate sites in the western corridor, including green field sites, to develop a district facility, the Creek Road/Fletcher Park site is the only viable option for Council to service this growing community.

REFERENCES

ATTACHMENTS

Attachment A: Analysis of Land for District Complex
Attachment B: Proposed site - NWCC Land and Fletcher Park
Attachment C: Glencore’s Letter of Offer for Land Transfer
Attachment D: ADW Johnson Concept Plan
Attachment E: Land proposed to be included in Masterplan
Attachment A - Analysis of Land for a District Complex

REQUIREMENTS FOR A DISTRICT SPORTING AND RECREATION FACILITY

To undertake an analysis of the surrounding options for a district level sporting and recreation facility for the western corridor, the requirements for this type of facility need to be identified.

Council currently has three tiers of sporting and recreation complexes. They are local, district and regional complexes. The range of facilities can vary in each of these three tiers.

Regional sporting and recreation complexes attract visitors from across the LGA and beyond. They cater for large numbers of people or teams due to their uniqueness, opportunity offered or the scale of events that may be staged. They are of the highest standard and receive the highest levels of service of the three tiers.

National Park is the only Council owned/managed regional sporting and recreation complex. This site is approximately 20 hectares, contains two regional standard grass fields and ancillary buildings, a regional netball complex, a district level athletics track and grass football field and three local level sporting fields. In addition it also has four petanque fields, an area that formally housed eight tennis courts, a scout hall, an administration building, a playground and a site currently used by Life Without Barriers.

District level sporting and recreation complexes are well developed spaces that offer a broad range of quality recreation opportunities. They attract visitors from across a number of suburbs, however they do not have the same level of infrastructure that regional complex has.

The Newcastle LGA has a number of district sporting and recreation complexes. Three examples include Waratah, New Lambton, and Adamstown. These complexes include at least one enclosed district level playing field, a number of local level playing fields, playgrounds and can include courts for tennis or netball. Waratah is approximately 11 hectares, New Lambton (including Harker, Ford, Kentish, Arthur Edden, Wallarah, Blackley and surrounding courts and passive spaces) is almost 17 hectares, and Adamstown (excluding the velodrome) is approximately 13 hectares.

Local sporting and recreation complexes are defined spaces which primarily service the local population. They provide a limited range of facilities to support recreational pursuits and receive the third level of service. Local complexes vary greatly across the LGA due to the historical nature of the city. However an ideal standard that Council would aim to meet is the new Kurraka complex at Fletcher. This facility is 5 hectares and provides two grass playing fields, amenities, community facility, court space, playground space and shared pathways connections.

It should be noted that the most western district sporting and recreation complex is the New Lambton complex which is located centrally within the LGA. Subsequently, there are no district level facilities that currently service the western corridor.

From this information it is safe to assume that the requirements of size for a new district level facility would be in the vicinity of 10 to 18 hectares. At this time there are no district facilities in the western corridor and no opportunity in the proposed new residential developments in the Blue Gum Hills area due to the topography.
Attachment A - Analysis of Land for a District Complex

OPPORTUNITIES TO DEVELOP A DISTRICT FACILITY AT AN ALTERNATE SITE

Below is a summary of the existing sporting and recreation complexes and other Council sites within the Wallsend, Maryland and Blue Gum Hills area.

Wallsend

Wallsend Park is an approximate 8.5 hectare local complex and includes two cricket fields/football fields and associated amenities, cricket training nets, a district skate park, community facility, playground and large passive green space. The facility is used for cricket in the summer season for training and weekend competition, and by soccer in the winter season for both training during the week and weekend competitions.

Upper Reserve is an approximate 10 hectare local complex and contains three cricket fields/large number of touch football fields, associated amenities and three netball courts. It has high use throughout the year with the Wallsend Touch Football Association running competitions on a number of nights during the week. Cricket utilise the facilities on weekends throughout the summer season.

Federal Park is an approximate 7 hectare local complex the provides a grass athletics track and associated facilities, four football fields and three cricket fields. All fields are dual use. There is also associated amenities and playground. The site is used by athletics and cricket in the summer season and football for training and weekend competition in the winter season.

1A Minmi Rd is an approximate 6 hectare site that had previously been slated as the site for a district level complex (approx. 20 years ago). The site had some preliminary works undertaken to prepare the area for fill, however the fill was not placed on the site, and the area has since turned into a freshwater wetland area. It is not considered that this site would be able to be developed into a sporting complex due to the developed wetland and natural environment.

Plattsburg Park is an approximate 4.6 hectare local complex that has had the main developed area converted into a dedicated baseball facility. It is only the second dedicated baseball facility on land owned and managed by Council, the other being Stevenson Park. It is used throughout the winter season and for pre season training in the summer season.

Maryland

Maryland Dr Reserve is an approximate 7.5 hectare local complex. The site is limited both in its linear nature and power lines that run through the site and the creek that runs along the eastern edge. The site suffers from flooding in periods of wet weather. Due to these limitations the site has no current regular use other than the northern section being a dedicated off leash dog exercise area.

Bill Elliot Oval is an approximate 5 hectare local complex. The site contains an AFL field/cricket field and associated amenities field. An area at the back known as Shortland Close Reserve has also previously used as a rugby field. It has minimal use by a junior AFL club in the winter season for training and weekend competition and is used by cricket in the summer season for weekend competition.
Attachment A - Analysis of Land for a District Complex

Grange Ave Reserve is an approximate 4 hectare local complex. The complex provides a rugby league field and associated amenities, a passive park area, playground, local skate park and two netball courts. The football field is small in size and limits the ability for this site to be developed appropriately for senior rugby league.

Fletcher

Kurraka Oval is an approximate 5 hectare local complex. The complex provides two grass playing fields, amenities, community facility, court space, playground space and shared pathways connections. It is used by soccer in the winter for both training and weekend competition and is used by cricket in the summer season for weekend competition.

Minmi

Minmi Sportsground is an approximate 2 hectare local complex. The complex provides two football fields and one cricket wicket, two cricket training nets and associated amenities. It is used by soccer in the winter season for training and weekend competition and cricket for training and competition in the summer season.

Summary

From the above analysis of other potential sites, it is clear none of the sites met the land size and shape requirements for a district sporting and recreation complex to service the western corridor. While Upper Reserve is 10 hectares, this site receives the highest use of all of the above sites and has limitations in the shape of the land and a creek that dissect the land into two halves. Despite the lack of size requirements, to change any of the existing sites to a district facility will mean displacing existing users from the land and the requirements to find suitable sites elsewhere. While the same could be said for the Pony Club, the Pony club is adjacent to the 40 Creek Rd site and together these sites equate to an approximate 20 hectare site for a district level sporting and recreation complex.

In order to develop a district sport and recreation facility at this location, Wallsend Pony Club current users of Fletcher Park, will require relocation. To alleviate potential fears the club may have of becoming ‘homeless’, a Memorandum of Understanding (MOU), stipulating that Council officers will work with the pony club to identify and examine alternative equestrian facility locations, will be developed.

As previously mentioned, the topography of the western corridor is such that the availability of large, flat and relatively unencumbered land will be extremely rare. Outside of Council owned and managed sites, Council would have to purchase new land at market rates which would in all likelihood be cost prohibitive for the size of the land required. The 40 Creek Rd site would be dedicated to Council at no cost (except legal fees), with requirements that it is used and developed for recreation and community purposes. Subsequently, this site may represent the only realistic opportunity to develop the only district level sporting and recreation complex servicing the western corridor.
Attachment B - Proposed Site - NWCC Land and Fletcher Park
3 September 2015

Property Development Coordinator
Strategic Property Management Services-City Assets
Newcastle City Council
City Administration Centre
262 King Street
NEWCASTLE NSW 2300

Attention: David Guest

Dear David,

Re: 40 Creek Road Maryland, NSW

I refer to our previous correspondence on this matter and our meeting with Phil Moore, Stephen Prince and Kathleen Hyland of Newcastle City Council (NCC) on 26 May 2015 regarding Lots 2 & 25 DP 80158 & Lot 2 DP 599877 at Creek Road Maryland (the Land), which is owned by The Newcastle Wallsend Coal Company (NWCC).

Further to our meeting I am pleased to confirm that subject to final board approval NWCC agrees to donate the Land to NCC for nil consideration, based on the intention that the Land is to be developed and used by NCC for purposes beneficial to the community.

NWCC has agreed to transfer the Land to NCC subject to certain conditions and restrictions on the NCC’s use of the Land and any transfer, lease or licence of the Property as set out below.

1. **Restriction on Use of the Land**

   (a) NCC must only develop and use the Land now or in the future for public sporting, recreational or community purposes and must procure any other person or party using, licensing or leasing the Land to do the same; and

   (b) The proposed transfer of the Land from NWCC to NCC will involve the registration on the title of the Land a number of restrictive covenants, which will, in essence, restrict the use of the Land in accordance with clause 1(a) and provide that:

      i. At no time will any other organisation which operates from the Land (e.g. sporting organisations) have any right, title or interest in the Land. Accordingly, these organisations will not acquire any interest in the Land; and

      ii. In the event that NCC intends to use the land for purposes other than those outlined in 1(a) or sell the Land, the written approval of NWCC must be obtained prior to any such use or sale.

P. J. a.

Private Mail Bag 8, Singleton, NSW 2330
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T + 61 2 6590 3416  F + 61 2 6590 3280  www.glencore.com

Glencore Coal Australia Pty Limited ACN 160 821 298
2. **Release and Indemnity**
   
   (a) NCC accepts the transfer of the Land in its current condition and state and has relied on its own inspections, studies and inquiries;
   
   (b) NCC will release and indemnify NWCC (and its parent company Glencore) from any liability or obligation to NCC (or any person claiming through or on behalf of NCC) in respect of the Land now and in the future; and
   
   (c) NWCC makes no warranty that the Land is suitable for the purposes of the NCC.

3. **Costs**
   
   (a) NCC will pay all of NWCC’s reasonable fees incurred in the process of transferring the Land to NCC, including but not limited to legal, survey, valuation, transfer and registration costs.
   
   (b) NCC will be liable for any stamp duty liability in relation to this donation.

4. **Recognition**
   
   (a) The parties agree to work co-operatively on a Communications Strategy to promote the expected substantial community benefits resulting from NWCC’s donation.

5. **Confidentiality**
   
   (a) No public announcement or statement regarding the donation of the Land will be made without prior written agreement of both parties.
   
   (a) Both parties agree to keep confidential information which is marked confidential or which either party notifies as confidential.

In consideration of NWCC’s desire to ensure that the Land is and will continue to be used for sporting and recreational purposes beneficial to the community, NCC agrees to accept the transfer of the Property subject to the conditions and restrictions set out above. Once NCC confirms its acceptance, we will arrange for our solicitors to make contact with NCC so that preparation of the required legal and other documents can commence.

We look forward to working with Council to finalise the transfer and if you have any further questions, please do not hesitate to contact me on 0407 231785.

Yours sincerely,

Nigel Charnock
Manager - Land & Property
Coal Assets Australia, Glencore
ITEM-112 CCL 13/12/16 - ADOPTION OF THE GENERAL COMMUNITY USE PLAN OF MANAGEMENT

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

PURPOSE

An amendment to the General Community Use Plan of Management (GCU PoM) was prepared to include part of Lindsay Memorial Park Beresfield and was then publicly exhibited according to the Local Government Act 1993 (the Act).

The purpose of this report is to seek Council’s adoption of the draft amended GCU PoM following a four week public exhibition period.

RECOMMENDATION

1 The draft GCU PoM (Attachment A) be adopted in accordance with s.40 of the Local Government Act 1993.

KEY ISSUES

2 As required under the Act the draft amended GCU PoM was publicly exhibited during the period 26 October 2016 to 15 November 2016 and a public hearing was held on 19 October 2016. No submissions were received during this time and no one attended the public hearing.

FINANCIAL IMPACT

3 There are no financial impacts in adopting this plan of management.

COMMUNITY STRATEGIC PLAN ALIGNMENT

4 The proposed amendments to the draft PoM are in alignment with two strategic objectives including public places that provide for diverse activity and strengthen our social connections; and considered decision making based on collaborative, transparent and accountable leadership.

IMPLEMENTATION PLAN/IMPLICATIONS

5 The amendment to the GCU PoM was to allow the inclusion of community land that had not been previously included in a plan of management as required by the Act. The amendment also allows the site to be leased subject to appropriate legislation approvals.
RISK ASSESSMENT AND MITIGATION

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

RELATED PREVIOUS DECISIONS

7 At the meeting of 27 September 2016 Council resolved:

(a) The draft GCU PoM (Attachment A) be placed on public exhibition in accordance with the Local Government Act 1993 for 28 days.

(b) A public hearing be held during the exhibition period as per the Local Government Act 1993.

(c) Council receive a report on the outcome of the exhibition when considering the adoption of the draft GCU PoM.

CONSULTATION

8 The draft amended GCU PoM was exhibited for the statutory period under the Act. In that time no submissions were received.

9 In accordance with the Act a public hearing was held in relation to community land that was categorised for the first time. The public hearing was held on Wednesday 19 October 2016 and was run by an independent facilitator. No one attended the public hearing. The report from the public hearing can be found at Attachment B.

OPTIONS

Option 1

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

Option 2

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

BACKGROUND

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

REFERENCES

ATTACHMENTS

Attachment A: General Community Use Plan of Management
Attachment B: Public Hearing Report
Attachment A: General Community Use Plan of Management
## Amendment History

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

1.1 BACKGROUND

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

Benefits of this Management Plan

The benefits of this Management Plan are that it:

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

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

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

1.2 LOCAL GOVERNMENT ACT 1993

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

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

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

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

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

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

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

1.3 GENERAL COMMUNITY USE - LAND

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

1.4 STRUCTURE OF THIS DOCUMENT

The plan reflects the needs of:

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

Basis for Management

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

Implementation Plan

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

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

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

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

2.1 CONTEXT AND ROLE OF GENERAL COMMUNITY USE LAND IN NEWCASTLE

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

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

2.2 ISSUES THAT AFFECT THE VALUES OF GENERAL COMMUNITY USE LAND

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

2.3 OBJECTIVES FOR GENERAL COMMUNITY USE LAND

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

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

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

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

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

Codes used in the Implementation Plan are as follows:

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

<table>
<thead>
<tr>
<th>Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>AMP</td>
</tr>
<tr>
<td>CWP</td>
</tr>
<tr>
<td>RMP</td>
</tr>
</tbody>
</table>

NB: Others Specific programs identified in Plan

<table>
<thead>
<tr>
<th>Code</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>NA</td>
<td>Not Applicable - no major capital works, generally within existing resources</td>
</tr>
<tr>
<td>$?</td>
<td>Cost to be Determined - investigate scope of works to determine impact of funding</td>
</tr>
<tr>
<td>ER</td>
<td>Existing Role – being part of an existing job role or team role.</td>
</tr>
</tbody>
</table>

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

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

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

*Role in open space developed by default*

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

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

*High visibility but low or poor maintenance*

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

---

**CONDUCIVE COMMUNITY USE – LAND PLAN OF MANAGEMENT**

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

*Neglected land, not identified in budgets*

<table>
<thead>
<tr>
<th>Strategy</th>
<th>Action</th>
<th>Program &amp; Responsibility</th>
<th>Cost Estimate</th>
<th>Priority</th>
<th>Performance Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrate within works program and asset preservation budgets</td>
<td>Develop program</td>
<td>CS/CSILP</td>
<td>NA</td>
<td>Medium</td>
<td>Appropriate funds identified by 2005/2006</td>
</tr>
</tbody>
</table>

---

General Community Use – Land Plan of Management  
11/11/16
### 3.1 GENERAL COMMUNITY USE LAND: FIVE-YEAR ACTION PLAN

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

<table>
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<tr>
<th>COUNT</th>
<th>PARK NAME</th>
<th>AREA</th>
<th>LAND REGISTER NO</th>
<th>DP NO</th>
<th>LOCATION</th>
<th>OWNERSHIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Backwood Park</td>
<td>0.482</td>
<td>C194</td>
<td>Lot 1 113-118 DP 85185</td>
<td>562 King Street</td>
<td>NCC</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Lot 126-129 DP 95185</td>
<td>Newcastle West NSW 2302</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Lot 1 DP 559112</td>
<td></td>
<td></td>
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<td>2</td>
<td>Blue Gum Road Reserve</td>
<td>0.107</td>
<td>C102</td>
<td>Lot 103 DP 608143</td>
<td>63 Blue Gum Road</td>
<td>NCC</td>
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<td></td>
<td></td>
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<td></td>
<td></td>
<td>Jesmond NSW 2299</td>
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<td>3</td>
<td>Bruce Street Plantation Reserve</td>
<td>0.016</td>
<td>C301</td>
<td>Lot 151 DP 153423</td>
<td>Plantation Reserve</td>
<td>NCC</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>148 Bruce Street</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Cockle Hill NSW 2300</td>
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<td>4</td>
<td>Bull and Terrie Street Reserve</td>
<td>2.077</td>
<td>C128</td>
<td>Lot 17 DP 108250</td>
<td>81 Bull Street</td>
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<td></td>
<td></td>
<td></td>
<td></td>
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<td>Mayfield West NSW 2304</td>
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<tr>
<td>5</td>
<td>Carara Place Reserve</td>
<td>0.85</td>
<td>C201</td>
<td>Lot 7 DP 804085</td>
<td>157 University Drive</td>
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<td></td>
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<td>North Lambton NSW 2299</td>
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<td>6</td>
<td>Cumbumbung Road Reserve</td>
<td>0.1</td>
<td>C127</td>
<td>Lot 217 &amp; 218</td>
<td>4DA Lambton Road</td>
<td>NCC</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Lots 1 &amp; 2 DP 171529</td>
<td>Cumbumbung Rd</td>
<td></td>
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<td></td>
<td></td>
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<td>Broadmeadow NSW 2292</td>
<td></td>
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<tr>
<td>7</td>
<td>Cooper Street Reserve</td>
<td>0.873</td>
<td>C137</td>
<td>Ms. 4442 Mov.</td>
<td>16A Cooper Street North</td>
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<tr>
<td></td>
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<td></td>
<td></td>
<td>Carrington NSW 2294</td>
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General Community Use – Land Plan of Management 11/11/16
## SCHEDULE OF LAND: GENERAL COMMUNITY USE

<table>
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<th>PARK NAME</th>
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<th>DP NO</th>
<th>LOCATION</th>
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<tbody>
<tr>
<td>16</td>
<td>Lambton Road Reserve</td>
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<td>C172</td>
<td></td>
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<tr>
<td>17</td>
<td>Lindsay Memorial Park Swimming Centre and 2 Akuna St</td>
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<td>C21 C22</td>
<td></td>
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<tr>
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<td>Matraville Road Reserve</td>
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<td>C220</td>
<td></td>
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<tr>
<td>21</td>
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</tr>
<tr>
<td>22</td>
<td>Newcastle Road Reserve</td>
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<td>C158</td>
<td></td>
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<td>NCC</td>
</tr>
<tr>
<td>23</td>
<td>Paddison Highway Reserve</td>
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<td>C23</td>
<td></td>
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<tr>
<td>24</td>
<td>Palmer Street Reserve</td>
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<td>C910</td>
<td></td>
<td></td>
<td>CR</td>
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<td>25</td>
<td>Farrer Street Reserve</td>
<td>0.034</td>
<td>C190</td>
<td></td>
<td></td>
<td>NCC</td>
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<tr>
<td>26</td>
<td>RAM 85 Reserve (Swimming Centre only)</td>
<td>0.041</td>
<td>C1559</td>
<td></td>
<td></td>
<td>NCC</td>
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<tr>
<td>27</td>
<td>Plantation Park</td>
<td>0.055</td>
<td>C73</td>
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General Community Use – Land Plan of Management 11/11/16

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## SCHEDULE OF LAND: GENERAL COMMUNITY USE

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<th>PARK NAME</th>
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<th>LAND REGISTER NO</th>
<th>DP NO</th>
<th>LOCATION</th>
<th>OWNERSHIP</th>
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<tr>
<td>28</td>
<td>Railway Reserve</td>
<td>0.46</td>
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<td></td>
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<tr>
<td>29</td>
<td>Rankin Drive Reserve North</td>
<td>0.6</td>
<td>C30</td>
<td></td>
<td></td>
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<tr>
<td>30</td>
<td>Rankin Drive Reserve South</td>
<td>0.25</td>
<td>C209, 0.231</td>
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<td>NCC</td>
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<tr>
<td>31</td>
<td>Robinson Reserve</td>
<td>0.273</td>
<td>C149</td>
<td></td>
<td></td>
<td>NCC</td>
</tr>
<tr>
<td>32</td>
<td>Rotary Park</td>
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<td>C28</td>
<td></td>
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<td>NCC</td>
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<tr>
<td>33</td>
<td>Rowland Park</td>
<td>0.36</td>
<td>C24</td>
<td></td>
<td></td>
<td>NCC</td>
</tr>
<tr>
<td>34</td>
<td>Silver Ridge Estate Community Hall</td>
<td>0.137</td>
<td>C310</td>
<td></td>
<td></td>
<td>NCC</td>
</tr>
<tr>
<td>35</td>
<td>South Wallsend Park</td>
<td>0.254</td>
<td>C53</td>
<td></td>
<td></td>
<td>NCC</td>
</tr>
<tr>
<td>36</td>
<td>St James Road Reserve</td>
<td>0.333</td>
<td>C315</td>
<td></td>
<td></td>
<td>NCC</td>
</tr>
<tr>
<td>37</td>
<td>Tauranga Road Reserve</td>
<td>0.193</td>
<td>C181</td>
<td></td>
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</tbody>
</table>

General Community Use – Land Plan of Management 11/11/16
<table>
<thead>
<tr>
<th>COUNT</th>
<th>PARK NAME</th>
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<th>LAND REG NO</th>
<th>DP NO</th>
<th>LOCATION</th>
<th>OWNERSHIP</th>
</tr>
</thead>
</table>
| 38    | Tramway Reserve               | 0.325| C192     | Ms 3523 Md  | Lot 9 DP 150032 | The Esplanade  
NSWCASTLE EAST NSW  2300 | NCC       |
| 39    | Turnbull Street Reserve       | 0.04 | C74      | Lot 9 DP 150032 | 100A Gleeson Ave  
HAMILTON SOUTH NSW  2303 | NCC       |
| 40    | Turton Road Reserve           | 0.375| C202     | Pt Lots 722, 723, 724, 725 & 726 DP 755247 | Turton & Crescent Roads  
WARATAH NSW  2298 | NCC       |
| 41    | Walkendon Community Hall (Pioneer Hall) | 0.15 | C273     | Lot 2 DP 228626 | 54 Cowper St  
WALLSEND NSW  2287 | NCC       |
| 42    | Walkendon Road Reserve        | 0.808| C233     | Lots 2915 & 2916 DP 755247 | Walkendon & Pacific Highway  
SANDGATE NSW  2304 | NCC       |
| 43    | Walkendon Swimming Pool       | 1.674| C299     | Per Lot 2 DP 1181207  
Lot 12 DP 396183  
Lot 1, 2, 3 DP 255956  
Lot 1 DP 254014  
Per Lot 14 DP 856202 | 6 Francis St  
WALLSEND NSW  2287 | NCC       |
| 44    | Warwick Community Centre      | 0.281| C311     | Lot 1 DP 855902 | 6 Angophora Drive  
WARABROOK NSW  2304 | NCC       |
| 45    | Wine Park                     | 0.027| C136     | Pt Lot 4 Sec K DP 976483 | 23 Victoria Street  
MAYFIELD NSW  2304 | NCC       |
| 46    | Young Street Reserve          | 0.177| C60      | Lot 2 Sec 51 DP 755247 | 1A Young Street  
CARRINGTON NSW  2294 | NCC       |
APPENDIX 2

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

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

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

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

Under the Local Government Act 1993:

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

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

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

General Community Use – Land Plan of Management 11/11/16
APPENDIX 3

GUIDELINES FOR THE CATEGORISATION OF GENERAL COMMUNITY USE LAND

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

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

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

Public Hearing Report

Categorisation of Community Land
General Community Use Plan of Management

Wednesday 19th October 2016
Beresfield Senior Citizens Centre
19 Irving Street Beresfield

Michael Murray & Associates Pty Ltd
4 Kanwary Close
Raymond Terrace NSW 2324

Phone: 0419 638344
Email: mm@mmurray.com.au
Background

A public hearing was conducted in the Beresfield Senior Citizens Centre at 19 Irving Street Beresfield on Wednesday 19th October 2016, to enable members of the community to express, and have recorded, their views on the proposed categorisation of land in the General Community Use Plan of Management.

The public hearing had been advertised by Council in the local press in accordance with the regulatory requirements.

Attendance

The meeting was attended by Council employee Donna Mitchell, Sport and Recreation Officer, and the independent facilitator, Michael Murray.

There were no members of the public in attendance to provide feedback on this proposal.

The Process

The Hearing was formally opened at the scheduled start time of 6.00pm.

The Feedback

No feedback was available due to the lack of attendance by the community.

Meeting Close

The meeting was formally closed at 6.45pm.

Conclusion

I am satisfied as the independent facilitator that the hearing was advertised in accordance with the legal requirements and confirm that no members of the community attended the hearing to provide feedback on the proposal.

Michael Murray
Managing Director, Michael Murray & Associates
20th October 2016
ITEM-113  CCL 13/12/16 - ADOPTION OF THE NEWCASTLE SAFE CITY PLAN 2017 - 2020

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

PURPOSE

The purpose of this report is to adopt the Newcastle Safe City Plan 2017 - 2020 following a four week public exhibition period.

RECOMMENDATION

1 Council resolves to adopt the Newcastle Safe City Plan 2017 - 2020 (Plan) as provided in Attachment A.

KEY ISSUES

2 The draft Plan was placed on public exhibition for a period of four weeks as per the Council resolution of 25 October 2016.

3 As a result of the exhibition period, 2 submissions were received and analysed by Council staff. Feedback contained in these submissions was strongly positive. Feedback is summarised in Attachment B.

FINANCIAL IMPACT

4 The Plan was developed within existing resources. For new programs, projects and services, funding will be sought through the Council's budget processes or through grant funding when available. This four year document will inform future actions in the Delivery Program and Operational Plan.

COMMUNITY STRATEGIC PLAN ALIGNMENT

5 The Plan focuses on achievable strategies and actions which deliver against the strategic objectives of Newcastle 2030.

Caring and Inclusive Community

- A welcoming community that cares and looks after each other
- Active and healthy communities with physical, mental and spiritual wellbeing
- A creative, culturally rich and vibrant community
Vibrant and Activated Public Places

- Public places that provide for diverse activity and strengthen our social connections
- Culture, heritage and place are valued, shared and celebrated
- Safe and activated places that are used by people day and night

Liveable and Distinctive Built Environment

- Mixed use urban villages supported by integrated transport networks
- Greater diversity of quality housing for current and future community needs
- A built environment that maintains and enhances our sense of identity

Smart and Innovative City

- A culture that supports and encourages innovation and creativity at all levels
- A thriving city that attracts people to live, work and visit

Open and Collaborative Leadership

- Active citizen engagement in local planning and decision making processes and a shared responsibility for achieving our goals.

IMPLEMENTATION PLAN/IMPLICATIONS

6 Successful implementation of the Plan requires extensive cross directorate collaboration. Many of the actions in the Plan will be funded through existing Council budgets. For the development of new programs and projects, funding will be sought through the Council's budget processes or through grant funding when available.

7 Pursuant to Part 4, Division 3 of The Children (Protection and Parental Responsibility) Act 1997, endorsement of the Plan will be sought from the NSW Attorney General as a safer community compact. Councils with endorsed safer community compact targets that prioritise crime reduction are eligible to apply for a grant to implement their plan.

RISK ASSESSMENT AND MITIGATION

8 There are no corporate risks associated with the Plan. There is likely to be media interest in the adoption of this strategy given the focus on improving community safety. Council's communications and community planning teams are working together to ensure that any media enquiries are responded to in an appropriate manner.
RELATED PREVIOUS DECISIONS

9 At the Ordinary Council Meeting held on 25 October 2016, Council resolved to:

i) Place the draft Newcastle Safe City Plan 2017 - 2020 as provided in Attachment A on public exhibition for a period of 4 weeks.

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

CONSULTATION

10 The draft Plan was placed on public exhibition for a four week period. This included:

i) Requests for submissions, particularly from key stakeholder groups and partner agencies.

ii) Newspaper, and online advertisements seeking community feedback.

11 The submissions received during the exhibition period were of a generally positive nature, however 1 submission did request that alterations relating to alcohol management be made to the document. This submission and Council’s response is summarised in Attachment B.

OPTIONS

Option 1

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

Option 2

13 Council resolve not to adopt the Newcastle Safe City Plan 2017 - 2020. This is not the recommended option.

BACKGROUND

14 The Plan will replace The City of Newcastle Crime Prevention Plan (2001). The Plan aligns with Newcastle 2030 Community Strategic Plan (CSP) strategic objectives for Safe and Vibrant Public Spaces and a Caring and Inclusive Community.

15 The Plan is a four year plan outlining the key relevant community safety issues evident in the Newcastle LGA both during the day and at night. This Plan has been developed as an action arising from Newcastle City Council’s Social Strategy (2016 - 2019).

16 The key challenges outlined in this Plan have been determined through evidence based research, data analysis and consultation with the community.
and key stakeholders including NSW Police. Strategies and actions outlined in the Plan are designed to decrease the prevalence of identified community safety issues within the Newcastle LGA and increase perceptions of safety amongst residents and visitors of Newcastle using a collaborative approach in partnership with agencies, stakeholders and the community.

17 This Plan has been developed to meet the requirements of *The Children (Protection and Parental Responsibility) Act 1997* and ensure there is a suite of community safety actions that will inform Council's Four Year Delivery Program. Further, community engagement will guide and inform the development of the Plan, annual operating plans and delivery plans over the next four years.

**ATTACHMENTS**

**Attachment A:** Newcastle Safe City Plan 2017 - 2020

**Attachment B:** Feedback received on the Plan from the public exhibition period.

*(To be distributed under separate cover)*
ITEM-114  CCL 13/12/16 - AMENDMENT TO NEWCASTLE DCP 2012 - NEW SECTION RESIDENTIAL ACCOMMODATION

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

PURPOSE

The purpose of this report is to:

i) Outline proposed amendments to the residential accommodation controls in Newcastle Development Control Plan 2012 and obtain a resolution of Council to place the draft amendments on public exhibition; and

ii) Advise Council of the proposed changes to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to permit some forms of medium density housing as complying development.

RECOMMENDATION

1 Council resolves to place the draft amendments to Newcastle Development Control Plan 2012 (DCP), incorporating a new Section 3.03 Residential Accommodation as provided in Attachment A and consequential amendments to Part 3 Land Use Specific Provisions, Part 6 Locality Specific Provisions and Part 7 Development Provisions of the DCP, as provided in Attachment B, on public exhibition for a minimum of 28 days.

KEY ISSUES

2 Council has previously identified through the Local Planning Strategy 2015 and stakeholder consultation, a need to review and update the planning guidelines for residential accommodation contained in the DCP. Residential accommodation is the 'group term' in the Newcastle Local Environmental Plan 2012 (LEP) which refers to various forms of residential buildings and includes: attached dwellings, boarding houses, dual occupancies, dwelling houses, group homes, hostels, multi dwelling housing, residential flat buildings, secondary dwellings, semi-detached dwellings, seniors housing and shop top housing.

3 Section 3.02 of the DCP - Single Dwellings and Ancillary Development was amended in 2014 (with further amendments completed earlier this year), to provide controls for single dwellings, secondary dwellings and ancillary development that are more consistent with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 while still allowing a flexible, merit based assessment of development applications.

4 It is now proposed to amend the DCP to consolidate the controls for the remaining types of residential buildings into a new section 'Residential
Accommodation', and to update controls that result in good quality residential buildings that are compatible with the desired character of the surrounding area.

5 During the preparation of the draft DCP, the Department of Planning and Environment (DPE) released for consultation a new draft Medium Density Design Guide (Design Guide) and Medium Density Housing Code (Housing Code). The draft Housing Code will allow some forms of medium density housing to be undertaken as complying development. The forms of medium density development that will be permissible as complying development are: two dwellings side by side; multi-dwelling housing (terraces); manor houses (a building on a single lot containing 3-4 dwellings) and dual occupancy (one over the other). Complying development will need to meet the criteria detailed in both the Housing Code and the Design Guide.

6 The draft Design Guide provides benchmarks for designing and assessing low rise (two storey) medium density housing types such as dual occupancies and multi dwelling housing. Council will have the option to adopt the Design Guide by reference in the DCP, so that it can also be applied to the assessment of development applications for medium density development.

7 In principle, Council officers support the draft Design Guide because:
   i) Controls for height, floor space ratio, landscaped area, building envelopes, setbacks, local character, car parking and stormwater are still contained in the LEP and DCP and can be tailored to suit the zone / locality.
   ii) It improves the design standard of medium density development.
   iii) It will provide a consistent base with the complying development standards while providing flexibility to demonstrate compliance with the objectives.
   iv) It includes guidance for building designers and Councils to assist in achieving good built form outcomes.
   v) It provides some accountability to building designers by requiring the submission of a design verification statement to show how the development meets the design criteria or objectives.

8 As the Design Guide is only in a draft form, Council cannot adopt it at this stage. However, it is recommended that Council proceed with the currently proposed amendments to the DCP for residential accommodation as the timeframe for implementing the Housing Code and Design Guide is unknown. The draft DCP has been structured in a way that will allow it to be easily amended to reference the Design Guide in the future, should Council choose to adopt it.

9 The first part of the draft DCP for Residential Accommodation contains the principal controls consisting of: front setbacks, side and rear setbacks and landscaped area (controls for floor space and height are contained in the LEP).
The principal controls have been tailored to the land use zone, to allow the various forms of residential accommodation to be consistent with the desired future character of each area. These principal controls would remain in place, if Council chooses to adopt the Design Guide in the future.

10 The second part of the draft Residential Accommodation section of the DCP contains controls for: siting the development, amenity, configuration and environment. These controls are based on the objectives and design criteria detailed in Section 3 of the draft Design Guide. If Council chooses to adopt the Design Guide in the future, these controls would be removed and reference made to the Design Guide instead.

11 The residential accommodation section has been amended so that each of the planning controls has performance criteria and acceptable solutions. The performance criteria provide a statement of the outcome that the planning controls are to achieve. The acceptable solutions are agreed ways to satisfy the performance criteria. A development application that complies with all the acceptable solutions can proceed more quickly through the assessment process.

12 Car parking requirements for residential accommodation are currently contained in Section 7.03 Traffic, Parking and Access. As part of the amendments to the residential accommodation controls it is proposed to amend the car parking rates detailed in Table 1. Currently, car parking rates are based on the type of residential accommodation. Single dwellings with a floor area greater than 125m², and dual occupancy and semi-detached dwellings with a floor area greater than 150m², require two spaces per dwelling. All other forms of residential accommodation require one space per dwelling. For complying development (two dwellings side by side; multi-dwelling housing (Terraces); Manor houses and dual occupancy (one over the other)), only one space per dwelling will be required. It is proposed to simplify the car parking rate to one space per dwelling, regardless of the building type.

13 A number of amendments are also proposed to other sections of the DCP as a consequence to the proposed new Residential Accommodation section. These include:

i) Existing sections 3.03 Dual Occupancy and Semi-Detached Dwellings, 3.04 Attached Dwellings and Multi Dwelling Housing, 3.05 Residential Flat Buildings, 3.06 Boarding Houses and Group Homes and 3.08 Seniors Housing will be deleted.

ii) 7.01 Building Design Criteria - this section will be deleted as the controls for residential development will be amended and located in the Residential Accommodation section of the DCP. The remaining controls that apply to commercial development will be relocated to 3.10 Commercial Uses.

iii) 7.02 Landscape, Open Space and Visual Amenity - 7.02.03 Residential Development will be deleted as this will now be amended and located in the Residential Accommodation section of the DCP.
iv) 7.05 Energy Efficiency and 7.07 Water Efficiency - 7.05.01 Residential development will be deleted and 7.07.01 will be amended to remove the residential accommodation requirements as these requirements will now be addressed in the Residential Accommodation section of the DCP.

iv) Section 6 - various locality specific controls will be amended to acknowledge the changes to 7.01 and 7.02 of the DCP.

14 Given that the exhibition period will be undertaken through the summer holidays, it is proposed to extend the exhibition period over 8 weeks, rather than the minimum 4 weeks that is required under the Act.

FINANCIAL IMPACT

15 The proposed amendments do not have a direct financial impact on the operations of Council. The provision of clear and consistent development guidelines for residential accommodation has an indirect benefit through more efficient processing of development applications. Keeping Council's development controls under regular review to ensure they remain up to date and efficient should assist in minimising costs for those in the housing industry which ultimately assists in housing delivery and affordability.

COMMUNITY STRATEGIC PLAN ALIGNMENT

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

17 The amendments are also consistent with the strategic directions of Council's Local Planning Strategy by facilitating more efficient housing delivery and therefore affordability.

IMPLEMENTATION PLAN/IMPLICATIONS

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

19 Following consideration of submissions, Council may approve the DCP (with or without amendments) or decide not to proceed with the DCP.

RISK ASSESSMENT AND MITIGATION

20 There are no risks to Council in the proposed amendments to the DCP. The legal process is being followed. The recommended public exhibition period will exceed the 28 days detailed in the plan making requirements under the Act.
RELATED PREVIOUS DECISIONS

21 There are no previous related decisions.

CONSULTATION

22 Consultation has occurred with Development and Building Officers. Development industry representatives and the wider community will be consulted during the public exhibition period.

OPTIONS

Option 1

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

Option 2

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

BACKGROUND

25 Development Officers have raised concerns that the development controls for residential accommodation, particularly multi dwelling housing, can result in developments that are inconsistent with the character of the surrounding area, particularly in the R2 Low Density Residential zones. Most development applications for multi dwelling development in the R2 Low Density Residential Zone attract substantial objections with the common concerns being development that is out of character with the surrounding area, privacy and overlooking impacts, visual impacts and car parking issues.

26 The proposed development controls have been designed to distinguish between the R2 Low Density, R3 Medium Density and R4 High Density zones by tailoring planning controls in relation to landscaping, setback, floor space ratio and building height for each zone.

ATTACHMENTS

Attachment A: Draft Section 3.03 Residential Accommodation


All attachments distributed under separate cover.
ITEM-115  CCL 13/12/16 - RECLASSIFICATION OF LAND AT 21 BRADFORD CLOSE KOTARA

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

PURPOSE

This report seeks Council’s endorsement of a planning proposal to commence the statutory process to prepare an amendment to Newcastle Local Environmental Plan 2012.

The planning proposal is in relation to land that Council owns at 21 Bradford Close, Kotara and involves the reclassification of the land from community to operational. The proposal does not involve rezoning the land.

RECOMMENDATION

1 Council resolves to:

   i) Endorse the attached planning proposal (Attachment A), pursuant to section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act), in order to amend Newcastle Local Environmental Plan 2012 (LEP) for land at 21 Bradford Close, Kotara as follows:

       a) Include the subject land within Part 1 – Land classified or reclassified, as operational land – no interests changed, Schedule 4 Classification and reclassification of public land, as follows:

          • Column 1 to read “Kotara”
          • Column 2 to read “Lot 182, DP 850168”

   ii) Forward the planning proposal to the Minister for Planning and Environment (DPE) for Gateway Determination pursuant to section 56 of the EP&A Act.

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

   iv) Receive a report back on the planning proposal following completion of the required consultation and noting section 29 of the Local Government Act 1993 requires a public hearing to be held in respect of the reclassification of land.
KEY ISSUES

2 The planning proposal (Attachment A) was prepared in accordance with the DPE guidelines and Council’s LEP – Request for Amendment Policy.

3 Council resolved at its Ordinary Council Meeting held on 24 February 2015 to endorse the sale of 21 Bradford Close, Kotara to BB Retail Capital Pty Ltd subject to the reclassification of the land and the registration and transfer of required easements and covenants. The land is located within the Kotara Homemaker Centre and contains a drainage channel, easements for infrastructure and shared pedestrian / cycleway.

4 In order for the land to be sold the LEP must be amended to reclassify the subject site from community to operational land. The land is zoned B2 Local Centre similar to surrounding land so that the land does not require rezoning.

5 If endorsed by Council, the planning proposal will be forwarded to the DPE for Gateway Determination. Gateway Determination will confirm initial support for the planning proposal, and identify what further technical studies and community consultation are required prior to the proposed amendment being determined.

6 Strategic Planning staff recommend that Council does not seek delegations under section 59(1) of the EP&A Act given the added impost on Council resources without any additional influence on the outcomes. These delegations oblige Council to prepare the final reporting, drafting and mapping for the Minister of Planning and Environment in order that the proposed amendments to the LEP can be made. Where Council does not exercise these delegations, the DPE undertakes these requirements.

FINANCIAL IMPACT

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

8 All costs associated with processing the proposal can be met within the current budget.

9 Any proceeds from the future sale of 21 Bradford Close Kotara will be credited to the Land and Property Reserve.

COMMUNITY STRATEGIC PLAN ALIGNMENT

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

IMPLEMENTATION PLAN/IMPLICATIONS

12 The preparation of the attached planning proposal was undertaken in accordance with Council’s LEP - 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.

RISK ASSESSMENT AND MITIGATION

13 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.

RELATED PREVIOUS DECISIONS

14 The LEP was adopted by Council on 21 June 2011.

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

16 On 24 February 2015 Council endorsed the sale of 21 Bradford Close, Kotara to BB Retail Capital Pty Ltd (owners of Kotara Homemaker Centre). The sale was subject to reclassification of the land and the registration and transfer of required easements and covenants.

CONSULTATION

17 The planning proposal outlines the level of consultation required as per the Planning NSW guidelines ‘Preparing Local Environmental Plans’. The planning proposal will be exhibited in accordance with the requirements of section 57 of the EP&A Act and section 29 of the Local Government Act 1993. The proposal will be placed on public exhibition for a minimum of 28 days.

18 A public hearing will be required to be held because the proposal is reclassifying land from community to operational. In accordance with the DPE’s Circular (PN 16-001) the public hearing will be held after the close of the exhibition period. Public notice of the public hearing will be published at least 21 days before the start of the public hearing.
19 The Gateway Determination will confirm which State agencies must be consulted on the planning proposal.

OPTIONS

Option 1

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

Option 2

21 Council resolves not to proceed with the planning proposal. This is not the recommended option.

BACKGROUND

22 On 24 February 2015 Council endorsed the sale of 21 Bradford Close, Kotara to BB Retail Capital Pty Ltd (owners of Kotara Homemaker Centre). The sale was subject to reclassification of the land and the registration and transfer of required easements and covenants.

23 In August 2016 a planning proposal request for the reclassification of land from community to operational for 21 Bradford Close, Kotara was lodged with Council by BB Retail Capital Pty Ltd.

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

25 The planning proposal (Attachment A) provides the necessary justification to satisfy Council that the proposed amendment to the LEP may be endorsed and forwarded to the DPE to seek Gateway Determination.

ATTACHMENTS

Attachment A: Planning Proposal to amend Newcastle Local Environmental Plan 2012 - Reclassification 21 Bradford Close, Kotara
Attachment A

Planning Proposal to amend
Newcastle LEP 2012

Reclassification - 21 Bradford Close, Kotara

November 2016
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Reclassification - 21 Bradford Close, Kotara

Summary of Proposal

<table>
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<th>Proposal</th>
<th>Reclassification of part of 21 Bradford Close, Kotara from community to operational.</th>
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<td>Applicant Details</td>
<td>BB Retail Capital P/L</td>
</tr>
<tr>
<td></td>
<td>Level 14, 71 Macquarie Street</td>
</tr>
<tr>
<td></td>
<td>SYDNEY NSW 2000</td>
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Background

Council has received a request to amend Newcastle LEP 2012 in order to reclassify the subject site from community to operational. The subject parcel encompasses an existing drainage channel, sewer and pipeline easements, as well as a shared pedestrian path/cycleway. This parcel of land (within existing Kotara Home Centre) is the only portion of community land within the existing commercial centre.

The site is currently owned by Newcastle City Council. Council resolved on 24 February 2015 to sell the subject parcel to the owners of Kotara Home Centre (BB Retail Capital).

The Planning Proposal is not seeking to change the zoning of the land (which is currently B2), but simply change the classification of the land from community to operational in order to transfer the ownership to BB Retail Capital (owner of adjacent lots). The proposal is not seeking to expand the types of uses in the B2 zone which may be sensitive to the flood prone characteristics of the land.

Site

The site is at 21 Bradford Close, Kotara described as Lot 182, DP 850168. This parcel is approximately 4,700m² and contains a drainage channel, sewer and pipeline easements, as well as a shared pedestrian path/cycleway.

The site is within an existing retail centre (Kotara Home Centre) and abuts Kullaiba Rd to the south and Bradford Close to the north-east. In conjunction with the neighbouring Kotara Westfield, this area forms retail services and employment generating uses for the region.

(see Figure 1: Subject Site).
Part 1 - Objectives or Intended Outcomes

To reclassify 21 Bradford Close, Kotara from community to operational land.

Part 2 - Explanation of Provisions

It is proposed to amend the Newcastle Local Environmental Plan 2012 by:

- Including the subject land within Part 1 – Land classified or reclassified, as operational land – no interests changed within Schedule 4 Classification and reclassification of public land, as follows:
  - Column 1 to read “Kotara”
  - Column 2 to read “Lot 182, DP 850168”.

The effect of the proposed amendments is to reclassify 21 Bradford Close Kotara from community to operational land.
Part 3 – Justification

Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the result of a council resolution to sell the land to existing owners of the Kotara Homemaker Centre (BB Retail Capital P/L). This parcel of land is the only part of the existing retail centre not owned and managed by the Centre. The subject parcel of land is not defined as public reserve or public park under the Local Government Act 1993, and is considered not suitable for public open space other than continuance of the use of the shared pedestrian / cycleway which crosses the land. It is noted that this is to be maintained in perpetuity as a condition of sale including easements for public access.

The planning proposal has been prepared in accordance with Council's Public Land Reclassification Policy 2000. The policy sets out consistent and transparent criteria for determining requests or proposals to reclassify community land. The following steps were considered and the planning proposal is recommended to proceed to public exhibition and later a public hearing, as per the Local Government Act 1993.

**STEP 1**
Are there any significant public interest issues affecting the land and are these such as to require the special protection of the community land classification?
- biodiversity conservation
- significant natural features
- cultural significance
- public health and safety
- public access
- special legal status.

**REQUEST/PREOSEDUREED WITH, CLASSIFICATION AS COMMUNITY LAND RETAINED.**

**STEP 2**
Will reclassification enable a net positive benefit for the community?
- financial impact
- land management impact
- impact on community use opportunities
- impact on enjoyment of community land
- social impact
- economic impact.

Impacts summarised in an Impact Display Table, and a qualitative assessment carried out.

**REQUEST/PREOSEDUREED WITH, CLASSIFICATION AS COMMUNITY LAND RETAINED.**

The request/proposal may proceed in accordance with Part 2, Chapter 6 of the Local Government Act 1993.
Reclassification may only be effected by way of a local environmental plan. The draft local environmental plan must be publicly exhibited, and must be the subject of a public hearing under section 68 of the Environmental Planning and Assessment Act 1979.
2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, amending the Newcastle Local Environmental Plan 2012 is considered the best means of achieving the objectives of the planning proposal.

Section B - Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Hunter Regional Plan 2036

The Hunter Regional Plan applies to the land. Kotara is identified as a strategic centre in the Plan. The priorities for this centre are:

- Continue to provide regionally significant retail, and support growth and diversification of other employment and economic activities.

- Investigate opportunities for medium to high density housing (as shop top housing) or close to the centre, in areas not constrained by flooding.

- Enhance public transport access to other strategic centres in Greater Newcastle.

The reclassification and sale of this land will have no adverse impacts on the existing retail centre. The Kotara Home Centre can continue to operate as a viable shopping centre providing employment and retail services for the wider Newcastle community.

4. Is the planning proposal consistent with the local council’s Community Strategic Plan, or other local strategic plan?

Newcastle 2030 Community Strategic Plan

Council adopted the Newcastle 2030 Community Strategic Plan in February 2011, as revised in 2013. The CSP is supported by seven strategic directions. The planning proposal primarily 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 – community consultation of the Environmental Planning and Assessment (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”.

Local Planning Strategy

The Planning Proposal is consistent with the principles and strategic directions of the Local Planning Strategy. In particular, the land is not of usable size and quality for general open space and recreation land other than the existing shared pedestrian path/cycleway. This will be maintained for public access via easements as a condition of sale.
Parkland and Recreation Strategy

The subject parcel of land is not defined as public reserve or public park under the Local Government Act 1993, and is considered unusable for general open space and recreation land other than the existing shared pedestrian path/cycleway. This will be maintained for public access via easements as a condition of sale.

5. **Is the planning proposal consistent with applicable State Environmental Planning Policies?**

Consistency (of the planning proposal) with State Environmental Planning Policies is outlined in the table below.

**Table 1 - Consideration of State Environmental Planning Policies**

<table>
<thead>
<tr>
<th>Name of SEPP</th>
<th>Applicable</th>
<th>Consistency</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Environmental Planning Policy No 1 (Development Standards)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 14 (Coastal Wetlands)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 15 (Rural Land sharing Communities)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 19 (Bushland in Urban Areas)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 21 (Caravan Parks)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 26 (Littoral Rainforests)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 30 (Intensive Agriculture)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 33 (Hazardous and Offensive Development)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 36 (Manufactured Home Estates)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 44 (Koala Habitat Protection)</td>
<td>Yes</td>
<td>The SEPP applies to the entire LGA, however, the land is urban and does not consist of areas of koala habitat.</td>
</tr>
<tr>
<td>State Environmental Planning Policy No 47 (Moore Park Showground)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 50 (Canal Estate Development)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 52 (Farm Dams and Other Works in Land and Water Management Plan Areas)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 55 (Remediation of Land)</td>
<td>No</td>
<td>The land is not identified under Council records as contaminated.</td>
</tr>
<tr>
<td>State Environmental Planning Policy No 62 (Sustainable Aquaculture)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 64 (Advertising and Signage)</td>
<td>Yes</td>
<td>The SEPP applies to the entire LGA, however the SEPP in not applicable to this planning proposal.</td>
</tr>
<tr>
<td>Name of SEPP</td>
<td>Applicable</td>
<td>Consistency</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------</td>
<td>------------</td>
<td>-------------</td>
</tr>
<tr>
<td>State Environmental Planning Policy No 65</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>(Design Quality of Residential Flat Development)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 70</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>(Affordable Housing (Revised Schemes))</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy No 71</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>(Coastal Protection)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Affordable Rental Housing) 2009</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Infrastructure) 2007</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Kurnell Peninsula) 1889</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Mining, Petroleum Production and</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Extractive Industries) 2007</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy Penrith Lakes Scheme</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Rural Lands) 2008</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (State and Regional Development) 2011</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (State Significant Precincts) 2005</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Sydney Region Growth Centres) 2006</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Three Ports) 2013</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Urban Renewal) 2010</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Western Sydney Employment Area) 2009</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>State Environmental Planning Policy (Western Sydney Parklands) 2009</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>
6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Consistency (of the planning proposal) with State Environmental Planning Policies is outlined in the table below.

**Table 2 - Consideration of Section 117 Directions**

<table>
<thead>
<tr>
<th>S117 Direction</th>
<th>Applicable</th>
<th>Consistent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Employment and Resources</td>
<td></td>
<td>Consistent</td>
</tr>
<tr>
<td>1.1 Business and Industrial Zones</td>
<td>Yes</td>
<td>Consistent</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Consistent</td>
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<tr>
<td></td>
<td></td>
<td>Consistent</td>
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<td></td>
<td></td>
<td>Consistent</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Consistent</td>
</tr>
<tr>
<td>1.2 Rural Zones</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>1.3 Mining, Petroleum Production and Extractive Industries</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>1.4 Oyster Aquaculture</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>1.5 Rural Lands</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>2. Environment and Heritage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1 Environment Protection Zones</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>2.2 Coastal Protection</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>2.3 Heritage Conservation</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>2.4 Recreation Vehicle Areas</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>3. Housing, Infrastructure and Urban Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.1 Residential Zones</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>3.2 Caravan Parks and Manufactured Home Estates</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>3.3 Home Occupations</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>3.4 Integrating Land Use and Transport</td>
<td>Yes</td>
<td>Consistent</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Consistent</td>
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<td></td>
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<td>Consistent</td>
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<td></td>
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<td>Consistent</td>
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<tr>
<td></td>
<td></td>
<td>Consistent</td>
</tr>
<tr>
<td>3.5 Development Near Licensed Aerodromes</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>
### Table: S117 Direction

<table>
<thead>
<tr>
<th>S117 Direction</th>
<th>Applicable</th>
<th>Consistent</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Hazard and Risk</td>
<td></td>
<td>Consistent. The subject site is mapped as containing Class 5 soils on the Acid Sulfate Soils Map. Class 5 is the least critical category. Any future development of the site will be required to address acid sulfate soil management.</td>
</tr>
<tr>
<td>4.1 Acid Sulfate Soils</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>4.2 Mine Subsidence and Unstable Land</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>4.3 Flood Prone Land</td>
<td>Yes</td>
<td>Consistent. The land to which this Planning Proposal applies is a stormwater drainage channel that runs through an existing retail centre (Kotara Home Centre) owned by BB Retail Capital. The Planning Proposal is not seeking to change the zoning of the land (which is currently B2), but simply change the classification of the land from community to operational in order to transfer the ownership to BB Retail Capital (owner of adjacent lots). The proposal is not seeking to expand the types of uses in the B2 zone which may be sensitive to the flood prone characteristics of the land.</td>
</tr>
<tr>
<td>4.4 Planning for Bushfire Protection</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>5. Regional Planning</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.1 Implementation of Regional Strategies</td>
<td>Yes</td>
<td>Consistent. The Hunter Regional Plan 2036 applies and the planning proposal is consistent with this Plan.</td>
</tr>
<tr>
<td>5.2 Sydney Drinking Water Catchments</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>5.3 Farmland of State and Regional Significance on the NSW Far North Coast</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>5.4 Commercial and Retail Development along the Pacific Highway, North Coast</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>5.5 Development in the vicinity of Ettalong, Paton and Millfield (Cessnock LGA)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>5.7 Central Coast (Revoked 10 July 2008. See amended Direction 6.1)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>5.8 Second Sydney Airport; Badgerys Creek</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>6. Local Plan Making</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.1 Approval and Referral Requirements</td>
<td>Yes</td>
<td>Consistent. The planning proposal does not propose the introduction of any new referral or concurrence provisions.</td>
</tr>
<tr>
<td>6.2 Reserving Land for Public Purposes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>6.3 Site Specific Provisions</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>
The Department of Planning and Environment’s Practice Note PN 16-001 includes a checklist for proposals to classify or reclassify public land through an LEP. The information required to be addressed in the checklist for 21 Bradford Close Kotara is contained in Table 3.

**Table 3 - Consideration of PN 16-001**

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>The current and proposed classification of the land.</td>
<td>Current: Community&lt;br&gt;Proposed: Operational</td>
</tr>
<tr>
<td>Whether the land is a ‘public reserve’ (defined in the LG Act).</td>
<td>No. Council purchased the site in June 1995 for use as a cycleway. The site is not used as a public reserve and is not of suitable quality for general open space and recreation land other than the existing shared pedestrian path/cycleway.</td>
</tr>
<tr>
<td>The strategic and site specific merits of the reclassification and evidence to support this.</td>
<td>Refer to Part 3 (Justification) of the planning proposal for further information.</td>
</tr>
<tr>
<td>Whether the planning proposal is consistent with Council’s community plan or other local strategic plan.</td>
<td>Yes the planning proposal is consistent with Council’s Community Strategic Plan and Local Planning Strategy.</td>
</tr>
<tr>
<td>A summary of Council’s interests in the land:</td>
<td>Council purchased the site in June 1995 for use as a cycleway. It is a condition of sale that the maintenance and retention in perpetuity of the shared pedestrian path/cycleway and creation of associated public access easements.</td>
</tr>
<tr>
<td>- How and when the land was first acquired&lt;br&gt;- If council does not own the land, the land owners consent&lt;br&gt;- The nature of any trusts, dedications etc.</td>
<td></td>
</tr>
<tr>
<td>Whether any interest in land is proposed to be discharged and if so an explanation of the reasons why.</td>
<td>The site contains easements for drainage, sewer and pipeline. These easements will remain unchanged and will be maintained by the future owner. A condition of the sale is the maintenance and retention in perpetuity of the shared pedestrian path/cycleway and creation of associated public access easements.</td>
</tr>
<tr>
<td>The effect the reclassification (including the loss of public open space, the land ceased to be a public reserve or particular interests will be discharged).</td>
<td>The effect of the reclassification is to enable the sale of the land. The land comprises a drainage channel and adjacent shared pedestrian path/cycleway, and does not form part of Council’s formally managed parklands. A condition of sale is the maintenance and retention in perpetuity of the shared pedestrian path/cycleway and creation of associated public access easements.</td>
</tr>
<tr>
<td>Evidence of public reserve status or relevant interests, or lack thereof applying to the land. (eg. electronic searches, notice in Government Gazette, trust documents).</td>
<td>The land is not a public reserve. Council purchased the site in June 1995 for use as a cycleway. The site is not used as a public reserve and is not of suitable quality for general open space and recreation land other than the existing shared pedestrian path/cycleway.</td>
</tr>
<tr>
<td>Current use(s) of the land and whether uses are authorised or unauthorised.</td>
<td>The site is currently used as drainage channel and contains sewer and pipeline, along with a shared pedestrian/cycle path. The uses are authorised and will continue to operate in such manner after any change to land classification. A condition of sale is the maintenance and retention in perpetuity of the cycleway and creation of associated public access easements.</td>
</tr>
</tbody>
</table>
### Criteria

| Current or proposed lease or agreements applying to the land, together with their duration, terms and controls. | A condition of sale is the maintenance and retention in perpetuity of the cycleway and creation of associated public access easements. |
| Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time). | Council has agreed to sell the land to the owner of Kotara Home Centre (BB Retail Capital) following the reclassification of the land. BB Retail Capital currently own adjacent lots with 21 Bradford Close being the only lot (within the Kotara Home centre) under the ownership of Council. The zoning of the land will remain B2. Sale of the land will transfer responsibility for all future maintenance of the cycleway to the purchaser (BB Retail Capital). Responsibilities to other parties in relation to storm water and sewer infrastructure, easements and covenants will transfer to the purchaser on sale of the land. |
| Any rezoning associated with reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or Strategy). | N/A |
| How Council may or will benefit financially, and how these funds will be used. | The funds received by Council from the future sale of the land will be held in the Land and Property Reserve. The sale of the site will also provide ongoing income to Council through the levying of rates. |
| How Council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal. | The funds from the sale of land will be held in Council’s Land and Property Reserve. |
| A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot. | N/A |
| Preliminary comments by a relevant government agency, including an agency that dedicated the land to Council, if applicable. | N/A |

### Section C - Environmental, social, and economic impact

7. **Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The site is currently developed for urban purposes and the planning proposal has no potential for critical habitat or threatened species, populations or ecological communities, or their habitats, to be adversely affected.

8. **Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

**Mine Subsidence**

The site is not located within a Mine Subsidence District.
Hydrology and Water Management

Council’s records indicate that the site is ‘flood prone land’. Flood information has been sourced from the *Newcastle City Wide Floodplain Management Plan*, prepared in accordance with the *Floodplain Development Manual 2005* prepared by the State Government. The following key information is identified for the site:

- The risk to life is considered extreme and the site is unsuitable for habitation either residential or short stay.
- No building or structure is to be erected and no land is to be filled by way of the deposition of any material except minor alteration to existing ground level which does not significantly alter the fundamental flow pattern of the floodwater.

The site is part of an existing open drainage channel. It is proposed to maintain the channel in perpetuity.

Bushfire

According to Newcastle Bush Fire Hazard Map (2009) the land is not affected by bushfire risk or in the vicinity of such a risk.

Heritage

There are no listed items of environmental heritage on site or in the vicinity of the site.

Contamination

There is no known contamination of the land and the current and former uses of the land are unlikely to have cause risk of contamination.

Traffic Impacts and Vehicular and Pedestrian Access

There are no changes proposed to the adjacent road network, and the reclassification is not considered to intensify traffic movements. The existing shared pedestrian path/cycleway will be retained and provide a link throughout the existing retail centre. A condition of sale requires an easement for this shared pedestrian path/cycleway for public access.

BB Retail Capital are the owners of a vehicle and pedestrian bridge over the subject lot. A licence agreement is active with Hunter Water to facilitate access between Kullaiba Road and the northern side of the Kotara Home Centre.

9. Has the planning proposal adequately addressed any social and economic effects?

Social

The proposed reclassification will result in a loss of community land. The subject parcel of land is not defined as public reserve or public park under the *Local Government Act 1993*, and is considered unsuitable for community use with the exception of the existing shared pedestrian path/cycleway which will remain with appropriate easements for public access. Therefore, the reclassification and sale of this land is considered to have no adverse impacts upon the community. The ongoing provision of access and drainage is required in perpetuity as part of the sale of land.
Economic

The reclassification of the land and proposed future sale of the land will remove the existing maintenance and liability cost burden to Council.

Newcastle Council Public Land Reclassification Policy 2000

Council's Public Land Reclassification Policy 2000 applies to all proposals reclassifying public land from community to operational. The planning proposal has been assessed against Council’s Policy, see below:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Step 1: Are there any significant public issues affecting the land</strong></td>
<td></td>
</tr>
<tr>
<td>Biodiversity Conservation</td>
<td>N/A</td>
</tr>
<tr>
<td>Significant natural features</td>
<td>The land does not contain any significant natural features.</td>
</tr>
<tr>
<td>Cultural significance</td>
<td>The land does not contain items of cultural significance.</td>
</tr>
<tr>
<td>Public health and safety</td>
<td>The land is flood prone and affected by Class 5 Acid Sulphate Soils. It is unlikely that this parcel of land will be redeveloped, however should it be then these matters can be appropriately addressed in any future development application.</td>
</tr>
<tr>
<td>Public access</td>
<td>The land contains a public path/cycleway. The path/cycleway will be maintained by the new owners in perpetuity with easements for access established as a condition of sale.</td>
</tr>
<tr>
<td>Special legal status</td>
<td>Nil. The land was purchased by Council for use as a pedestrian path/cycleway.</td>
</tr>
<tr>
<td>Proceed to step 2?</td>
<td>No significant public interests have been raised: therefore the proposal may proceed to Step 2.</td>
</tr>
</tbody>
</table>

**Step 2: Will there be a net positive benefit for the community?**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial impact</td>
<td>The proposal will have a positive financial impact on Council. Council will not incur any external costs for the property transaction as the costs of reclassification, survey and all future maintenance responsibilities in relation to the land are proposed to be met by the purchaser (BB Retail Capital).</td>
</tr>
<tr>
<td>Land Management Impact</td>
<td>The land would be managed by the purchaser with easements to be maintained.</td>
</tr>
<tr>
<td>Impact on Community Uses and Opportunities</td>
<td>The planning proposal will result in a reduction in open space. However, the site is not of suitable quality for general open space and recreation land other than the existing shared pedestrian path/cycleway. This will be maintained for public access via easements as a condition of sale.</td>
</tr>
<tr>
<td>Impact on enjoyment of community land</td>
<td>The site is an open drainage channel and does not provide any parkland or reserve that was available to the public. The proposed sale of 21 Bradford Close, Kotara is considered to have no impact on the amount of open space in the local area. A condition of sale is the maintenance and retention in perpetuity of the cycleway and creation of associated public access easements.</td>
</tr>
</tbody>
</table>
### Issue | Comment
--- | ---
Social Impact | As above. The use of the existing channel for drainage and sewer services will remain. A condition of sale is the maintenance and retention in perpetuity of the cycleway and creation of associated public access easements.
Economic Impact | The reclassification of the land and proposed future sale of the land will remove the existing maintenance and liability cost burden to Council.

**Section D - State and Commonwealth interests**

**10. Is there adequate public infrastructure for the planning proposal?**

The subject site is within an established urban area, with available connection to all necessary services, such as water and sewage. The site also has good access to public transport and is within an existing commercial centre.

**11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

No other State and Commonwealth public authorities have been consulted at this stage but will be carried out in accordance with the requirements of the gateway determination.
Part 4 – Mapping

The Planning proposal does not seek to amend any maps within Newcastle LEP 2012.

The following maps illustrate the land proposed to be reclassified as a result of amending Schedule 4 - “Classification and reclassification of public land”.

Figure 2: Existing Land Classification - Community
Figure 3: Proposed Land Classification - Operational
Part 5 – Community Consultation

Council recommends that the Planning Proposal be exhibited in accordance with the requirements of section 57 of the EP&A Act 1979 and section 34 of the Local Government Act 1993. The Proposal will be placed on public exhibition for a minimum of 28 days.

Written notification of the community consultation will be provided in a local newspaper and on Council's website. The written notice will contain:

- a brief description of the intended outcomes of the planning proposal
- an indication of the land which is affected by the proposal
- information on where and when the planning proposal can be inspected
- the name and address of Council for the receipt of submissions
- the closing date for submissions.

During the public exhibition period the following documents will be placed on public exhibition:

- the planning proposal
- the gateway determination
- the council report
- the LEP practice note: Classification and reclassification of land through a Local Environmental Plan (PN 16-001)

As per section 29 of the Local Government Act 1993, a public hearing will follow the public exhibition period.
Part 6 – Project Timeline

The project is expected to be completed within ten (10) months from Gateway Determination. The following timetable is proposed:

<table>
<thead>
<tr>
<th>Task</th>
<th>Planning Proposal Timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue of Gateway Determination</td>
<td>Jan 17</td>
</tr>
<tr>
<td>Prepare any outstanding studies</td>
<td>Feb 17</td>
</tr>
<tr>
<td>Consult with required State Agencies</td>
<td>Mar 17</td>
</tr>
<tr>
<td>Exhibition of planning proposal and technical studies</td>
<td>Apr 17</td>
</tr>
<tr>
<td>Public Hearing</td>
<td>May 17</td>
</tr>
<tr>
<td>Review of submissions and preparation of report to Council</td>
<td>Jun 17</td>
</tr>
<tr>
<td>Report to Council following exhibition</td>
<td>Jul 17</td>
</tr>
<tr>
<td>Planning Proposal sent back to Department requesting that the draft LEP be prepared</td>
<td>Aug 17, Sep 17, Oct 17, Nov 17, Dec 17</td>
</tr>
</tbody>
</table>
ITEM-116  CCL 13/12/16 - RECLASSIFICATION AND REZONING OF LAND AT 162A NEWCASTLE ROAD WALLSEND

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

PURPOSE

This report discusses the outcomes of the community consultation, including a public hearing, carried out for the planning proposal to amend Newcastle Local Environmental Plan 2012 to reclassify land at 162A Newcastle Road, Wallsend from community to operational and to rezone the land from RE1 Public Recreation to R3 Medium Density Residential.

The report is seeking a Council resolution to endorse the planning proposal as provided in Attachment A.

RECOMMENDATION

1 Council resolves to:

   i) Endorse the attached planning proposal (Attachment A), pursuant to section 55 of the Environmental Planning and Assessment Act 1979 NSW (EP&A Act), to amend Newcastle Local Environmental Plan 2012 (LEP) in order to reclassify land at 162A Newcastle Road, Wallsend, described as Lot 110 DP 9755, from community to operational and to rezone the land from RE1 Public Recreation to R3 Medium Density Residential.

   ii) Forward the planning proposal 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 EP&A Act.

   iii) 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 concerns land at 162A Newcastle Road, Wallsend. The site is zoned RE1 Public Recreation and is classified as community land. Under the LEP there are no maximum floor space ratio or building height controls applying to the land, consistent with other RE1 zoned land. The land has a minimum lot size of 400,000sqm under the LEP which is applied consistently across all RE1 zoned land. The surrounding residential properties are zoned R3 Medium Density Residential with Newcastle Road, being a classified road, zoned SP2 Infrastructure. The surrounding properties have a maximum building height of 10m, maximum floor space ratio of 0.9:1 and
minimum lot size of 450sqm, under the LEP. See Attachment A for current LEP maps.

3 The existing RE1 Public Recreation zone is not appropriate for the land due to inconsistencies with the desired standards contained within the Parkland and Recreation Strategy 2014, for both parkland and recreational facilities in the Newcastle LGA. The configuration of the site limits its access to the community for public recreation.

4 Historically, the site has been used to provide vehicular access to the rear of the surrounding properties that front Drury Street and The Crescent, Wallsend. A number of garages have been constructed close to the rear of these properties with access to those garages from the subject land. During the public hearing a number of the residents stated that they would like to continue using 162A Newcastle Road, Wallsend as a lane way to provide for vehicular access to these garages and backyards. Retaining the use of the site for vehicular access is its most suitable use. See Attachment A for an aerial map of the subject site.

5 The planning proposal aims to amend the Newcastle LEP 2012 to reflect the use of the land for vehicular access to the rear of properties by applying surrounding planning controls in accordance with the DPE guidelines. The DPE's LEP practice note PN 10–001 Zoning for Infrastructure in LEPs', requires that all local roads "should be zoned in accordance with the adjoining land". This planning proposal is consistent with the practice note.

6 The southern access handle of the lot extends into the road reserve of Newcastle Road. Reclassifying the site will allow this portion of the main road to be subdivided and dedicated to Roads and Maritime Services. It will remain zoned SP2 Infrastructure consistent with Newcastle Road. This is in accordance with the DCP's LEP practice note PN 10–001 Zoning for Infrastructure in LEPs' which states that State owned roads, should be zoned SP2 Infrastructure.

7 While the land is not proposed for sale, the DCP's LEP practice note PN 16-001 Classification and reclassification of public land through a local environmental plan states that the community should be aware that "the public land in question is no longer protected under the Local Government Act 1993 NSW (LG Act) from potential future sale once it has been reclassified to operational".

8 The LG Act requires the Governor's approval when a reclassification proposal seeks to remove any public reserve status. The DEP's LEP practice note PN 16-001 Classification and reclassification of public land through a local environmental plan requires consideration of a number of factors including the impacts of removing the public reserve status. The principal issues are generally discussed under this report with specific matters detailed under Attachment B.
FINANCIAL IMPACT

9 There are no significant financial impacts in relation to finalising this planning proposal. The urban planning team will continue to progress the planning proposal through the formal LEP amendment process.

COMMUNITY STRATEGIC PLAN ALIGNMENT

10 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.

11 Compliance with the LEP amendment process, in particular section 57 of the EP&A Act has assisted in achieving the strategic objective to "consider decision-making based on collaborative, transparent and accountable leadership" and the identified strategy 7.2b to "provide opportunities for genuine and representative community engagement in local decision making".

12 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

13 The preparation of the attached planning proposal was undertaken in accordance with Council's LEP - 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.

14 It was also prepared having regard to the DPE's LEP practice note PN 16-001 Classification and reclassification of public land through a local environmental plan (refer Attachment C) and Council's Public Land Reclassification Policy 2000.

15 In accordance with the DPE's LEP practice note the planning proposal addresses the Secretary's requirements for reclassifications of public land.

RISK ASSESSMENT AND MITIGATION

16 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.

17 Council has adhered with the requirements of the original gateway determination issued on 1 March 2016 and amended on 29 July 2016 as outlined in the report. Further detail of the community consultation undertaken
RELATED PREVIOUS DECISIONS

18 Council resolved at its Ordinary Council meeting held on 8 December 2015 to endorse the planning proposal and forward it to DPE for gateway determination. The following resolution was implemented as outlined in this report.

On 8 December 2015 Council resolved to:

"a) Endorse the attached planning proposal, pursuant to section 55 of the Environmental Planning and Assessment Act 1979, in order to amend Newcastle Local Environmental Plan 2012 for land at 162A Newcastle Road, Wallsend as follows:

i) Amend the Land Zoning Map to rezone part of the site from RE1 Public Recreation to R3 Medium Density Residential;

ii) Amend the Height of Buildings Map to include a maximum permissible height of 10 metres over the land proposed to be zoned R3 Medium Density Residential;

iii) Amend the Floor Space Ratio (FSR) Map to include a maximum permissible FSR of 0.9 over the land proposed to be zoned R3 Medium Density Residential;

iv) Amend the Minimum Lot Size Map to reduce the minimum lot size of 40 hectares to 450m² over the land proposed to be zoned R3 Medium Density Residential; and

v) Include the subject land within Part 1 – Land classified or reclassified, as operational land – no interests changed within Schedule 4 Classification and reclassification of public land, as follows:

- Column 1 to read “Wallsend”
- Column 2 to read “Lot 110, DP9755, 162A Newcastle Road”.

b) Forward the planning proposal to the Minister for Planning and Environment for Gateway Determination pursuant to section 56 of the EP&A Act 1979 (NSW).

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

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

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

CONSULTATION

19 The planning proposal was exhibited for 28 days from 22 August 2016 to 19 September 2016, as required by the DPE gateway determination.

20 No submissions were received.

21 A public hearing was required by section 29 of the LG Act, as the planning proposal aims to reclassify land from community to operational. The public hearing was held on 11 October 2016 and was conducted by an independent facilitator. Four members of the public attended the public hearing. The public hearing report, prepared by an independent facilitator, is attached to the planning proposal (Attachment A).

22 Overall the community members expressed that they would like to keep using the land for vehicular access to the rear of their properties and also visitor parking, due to parking safety concerns associated with the large traffic volume along Newcastle Road.

OPTIONS

Option 1

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

Option 2

24 Council resolves not to proceed with planning proposal in Attachment A and thereby not amend Newcastle LEP 2012. This is not the recommended option.

BACKGROUND

25 The Parkland and Recreation Strategy was finalised in 2014. It included a number of desired standards of provision for both parkland and recreation facilities. In relation to 162A Newcastle Road, Wallsend it was considered unsuitable for recreation purposes due to its:

i) size and shape

ii) limited access and connectivity to nearby residential areas and

iii) closeness to other nearby parks or recreation facilities.
26 On 9 December 2014 a report to Council was prepared by Corporate Services. It recommended that Council further investigate the classification, zoning and sale of six parcels of Council owned land as they had been identified as surplus to Council and community needs and did not satisfy the desired standards of provision for both parkland and recreation facilities. Land at 162A Newcastle Road Wallsend was included in this report.

28 Upon further investigation and assessment of land use, it was identified that the site is currently used as vehicular access to a number of surrounding properties and its future use for residential purposes would be unlikely.

ATTACHMENTS

Attachment A: Planning Proposal to amend Newcastle LEP 2012 - reclassification and rezoning of land at 162A Newcastle Road, Wallsend.

*Note: The planning proposal includes a discussion on the public hearing and attaches a report prepared by the independent facilitator.*

Attachment B: Checklist for reclassifying public land.

Attachment C: Practice Note PN 16-001 Classification and reclassification of public land through a local environmental plan.

Attached Correspondence: Original and amended gateway determination.

Attachments are distributed under separate cover.
CONFIDENTIAL REPORTS

ITEM-37  CON 13/12/16 - CONTRACT FOR FURTHER INVESTIGATION OF FORMER WARATAH GASWORKS SITE - CONTRACT NO. 2017/222T
REPORT BY: REGULATORY SERVICES
CONTACT: ACTING DIRECTOR PLANNING AND REGULATORY / ACTING MANAGER REGULATORY SERVICES

PURPOSE

To award a contract for a further detailed site contamination investigation of the former Waratah Gasworks site.

As the value of the works exceeds $150,000, s.55(3)(i) Local Government Act 1993 requires Council's resolution to be exempted from the need to invite tenders.

REASON FOR CONFIDENTIALITY

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

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

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

GROUNDSD 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 section 10A(2)(d) of the Act as it involves the consideration of commercial information that has been provided to Council on the basis that it will be treated as commercial-in-confidence. It is contrary to the public interest to release this information as the information supplied includes sensitive commercial information that would, if disclosed, prejudice the commercial position of the person who supplied it. This would lead to a reduction in the supply of information relevant to Council's decision; and

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