

## **CCL 27/07/2022 – ADOPTION OF COUNCIL POLICIES**

<b>ITEM-58</b>	Page 2	<b>Attachment A: Newcastle Heritage Policy</b>
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## **CCL 27/07/2022 – ADOPTION OF COUNCIL POLICIES**

**ITEM-58 Attachment A: Newcastle Heritage Policy**

Page 3 Attachment A.1: Summary of Policy and tracked changes

Page 4 Attachment A.2: Newcastle Heritage Policy  
(tracked changes)

Page 17 Attachment A.3: Newcastle Heritage Policy  
(clean version)

## **Attachment A.1**

**POLICY TITLE:** Newcastle Heritage Policy

**POLICY OWNERS:** Director Governance and Chief Financial Officer / Manager  
Regulatory, Planning and Assessment

### **SUMMARY OF POLICY**

1. The Newcastle Heritage Policy (the Policy) was last adopted on 22 June 2013. The purpose of the Policy is to outline CN's commitment to heritage conservation through the identification, preservation, conservation, celebration and promotion of the city's rich cultural heritage.
2. The Policy has been updated to ensure alignment with the new Heritage Strategy 2020-2030, adopted in October 2020.

### **SUMMARY OF PROPOSED CHANGES TO POLICY**

3. The proposed Policy (with tracked changes) is set out at **Attachment A.2** and a clean version is at **Attachment A.3**.
4. The key differences between the revised Policy and CN's current Policy are as follows:
  - i. A strengthened commitment to recognise, acknowledge and celebrate Aboriginal culture and heritage (cl. 3.1.1);
  - ii. The research and publication of cultural knowledge and date is Indigenous-led, ethical and responsible, ensuring it has a positive impact on and for Indigenous people (cl. 3.1.2)
  - iii. The contribution of heritage to environmental sustainability and curtailing climate change (cl. 3.1.3);
  - iv. CN decision making and activities informed by CN engagement with local communities (cl. 3.1.5);
  - v. Maintaining a comprehensive inventory of moveable cultural heritage assets on the Collections Database (cl. 4.1.9); and
  - vi. Providing guidelines that encourages the on-going and adaptive reuse of heritage places that includes sensitive interventions to facilitate equitable access and on-site production of renewable energy (cl. 5.1.5).

# Newcastle Heritage Policy

July 2022

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City of  
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## INTRODUCTION

### 1 Purpose~~Background~~

1.1 The purpose of the Policy is to provide a statement of commitment by the City of Newcastle (CN) to the principles of heritage conservation.

4.1.2 The Policy underpins the identification, preservation, conservation, celebration, and promotion of the City's rich cultural heritage, based on the principles and processes of the Burra Charter and best practice.

4.2.3 The Policy recognises the importance and diversity of heritage, including Aboriginal cultural heritage; buildings; structures; precincts; streetscapes; monuments; memorials; moveable heritage; industrial and maritime relics; trees; archaeological sites and artefacts; objects and stories recorded~~items~~ in institutional collections; and the cultural landscapes that comprise the environment of the Newcastle Local Government Area (LGA).

4.3.4 ~~The Policy is aligned with the Newcastle 2030 Community Strategic Plan, the Heritage Council of NSW Local Government Heritage Guidelines 2002, the NSW Heritage Office Recommendations for Local Council Heritage Management 2001 (revised 2009) and the Department of Environment and Climate Change NSW Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW 2010.~~

#### **Purpose**

4.4.1 ~~The purpose of the Policy is to provide a statement of commitment by the City of Newcastle (CN) to the principles of heritage conservation.~~

### 2 **Scope**

2.1 The Policy applies to the City of Newcastle all CN Officials, and all works and activities of CN.

### 3 **Principles**

3.1 ~~Council will be guided by CN~~ commits itself to the following principles:

a) Aboriginal culture and heritage – Recognise, acknowledge, and celebrate Aboriginal peoples past and present as the first people of Australia and the Traditional Custodians of the land and waters of the Newcastle LGA, their Council acknowledges and respects local Aboriginal history, languages, spiritual beliefs, cultural heritage, and peoples, past an present and enduring reciprocal relationship with the land.

b) Indigenous cultural heritage research – the research and publication of cultural knowledge and data is Indigenous-led, ethical and responsible, ensuring it has a positive impact on and for Indigenous people. Cultural knowledge gathered from Aboriginal and Torres Strait Islander peoples must only be obtained with free, prior and informed consent. Indigenous Cultural and Intellectual Property (ICIP) rights are respected, with the rights of Aboriginal and Torres Strait Islander peoples to own and control their cultural heritage recognised and protected.

~~b)c~~ Contribution of heritage – The heritage of the Newcastle LGA contributes to a liveable and distinct built environment, sustainable and inclusive global city, with protected and enhanced built and natural environment, great spaces and well-designed places, a connected and inclusive community, environmental sustainability and curtailing climate change.

~~c)~~ The heritage of the Newcastle local government area contributes to a protected and enhanced built and natural environment.

~~d)~~ The heritage of the Newcastle local government area contributes to a caring and inclusive community.

~~e)d~~ Sense of identity and place – The heritage of the Newcastle LGA provides local

character and enhances our distinctive sense of identity and place and reflects the rich history and cultural diversity of the Newcastle LGA.

- f) **Decision making and activities** – Newcastle’s culture, heritage and place are strengthened by CN Council decision making and activities and informed by CN engagement with local communities.
- g) **Heritage is evolving and dynamic** – The heritage of the Newcastle LGA and the different components of a place that may contribute to its heritage significance is evolving and dynamic, it may change over time and with use.
- h) **Long-term planning** – Newcastle’s heritage is considered in long-term planning for the Newcastle LGA.
- i) **Heritage management** – The principles and processes of the Burra Charter and best practice in heritage conservation underpin CN Council's approach to heritage management including a cautious approach to change: do as much as necessary to care for the place and to make it useable, but otherwise change it as little as possible so that its heritage significance is retained. An understanding of heritage significance comes first, then development of Policy and finally management of the place in accordance with the Policy.
- j) ~~Council’s heritage program aligns with the Newcastle 2030 Community Strategic Plan, and relevant guidelines of the Office and Environment and Heritage and the Heritage Council of NSW.~~
- k) ~~Council’s heritage management framework is underpinned by best practice in heritage conservation.~~
- i) **CN’s heritage management framework** – The framework includes this Policy, CN’s Heritage Strategy 2020-2030, CN’s Heritage Strategy 2020-2030 Action Plan, CN’s Aboriginal Heritage Management Strategy 2018-21, CN’s Newcastle Archaeological Management Strategy, CN’s Heritage Places Strategic Plan and Plans of Management, Aboriginal Heritage Study: Newcastle Local Government Area 2005, Newcastle Archaeological Management Plan 1997, Newcastle Archaeological Management Plan Review 2013, Newcastle City Wide Heritage Study 1997, Newcastle Local Environmental Plan 2012, Newcastle Development Control Plan 2012 and Heritage Technical Manual. It is underpinned by the principles and processes of the Burra Charter and best practice in heritage conservation.
- h) **Alignment with CN strategies** – The Policy aligns with CN priorities outlined in the Newcastle Community Strategic Plan, CN’s Heritage Strategy 2020-2030, CN’s Heritage Strategy 2020-2030 Action Plan, CN’s Aboriginal Heritage Management Strategy 2018-21, CN’s Newcastle Archaeological Management Strategy and CN’s Heritage Places Strategic Plan and Plans of Management. It is recognised the Heritage Strategy 2020-2030 Action Plan is a live document, which aligns with CN’s delivery plan and is regularly reviewed as actions and tasks are completed and to reflect changes in Federal, State or Local priorities as well as resources and budgets.

## **APPROACH STRATEGIES**

### **4 Knowing our heritage**

4.1 CN Council is committed to the following approach:

- a) Recognising, documenting and presenting the indigenous heritage of the city in partnership consultation with the Guraki Aboriginal Advisory Committee and the local Aboriginal and Torres Strait Islander communities.
- b) Engaging Actively consulting with the Guraki Aboriginal Advisory Committee and the local Aboriginal community, Local Aboriginal Land Councils, and other interested members of local Aboriginal and Torres Strait Islander communities,

- recognising the continuation of a vibrant and living indigenous heritage for future works and projects.
- c) Working with the Guraki Aboriginal Advisory Committee and the local Aboriginal communities to achieve the dual naming of sites and places across the Newcastle LGA as required.
  - d) Ensuring an on-going process for the identification and recording of all items and places of heritage significance across the Newcastle LGA, including historic streetscapes, village centres, heritage parks, natural areas, and residential areas.
  - e) Ensuring that the diversity of the city's heritage is recognised and represented in statutory heritage listings covering the spectrum of heritage items and places: including Aboriginal cultural heritage; buildings; structures; heritage parks; natural areas; precincts; streetscapes; monuments; memorials; industrial and maritime relics; trees; archaeological sites and artefacts; heritage items in institutional collections; and the cultural landscapes that comprise the environment of Newcastle.
  - f) Working with the community and stakeholders to obtain information that adds value to the process of identifying and assessing the heritage significance of new heritage items and places and heritage conservation areas.
  - g) Maintaining a comprehensive inventory of heritage items on Council's website, including current condition and heritage significance of heritage items and places.
  - h) Acknowledging the heritage value of objects in institutional collections such as libraries, galleries, and museums.
  - i) Maintaining a comprehensive inventory of moveable cultural heritage assets on the Collections Database.
  - j) Engaging with local communities at the concept design stage of CN assets projects and works, to identify cultural significance and incorporate where appropriate, high quality interpretative treatments of CN owned or managed sites that increase understanding of the heritage significance of such places in development projects.

## 5 Protecting our heritage

### 5.1 Council is committed to the following approach:

- a) Ensuring an on-going process for the statutory listing of items or places that have been assessed as having heritage significance.
- b) Ensuring that the diversity of heritage is represented in the statutory listing of heritage items and places.
- c) Ensuring that sites and places of Aboriginal cultural significance are statutorily protected.
- d) Providing guidelines for the management of heritage places that supports the conservation and preservation of heritage items and places including retaining the character of historic streetscapes, distinct village centres and residential areas.
- e) Providing guidelines that encourages for the on-going use and sympathetic recycling or adaptation of heritage items and places, including sensitive interventions to facilitate equitable access and on-site production of renewable energy.
- f) Producing guidelines that are based on the principles of the Burra Charter and world's best practice and technical expertise.
- g) Providing guidelines which facilitate effective due diligence assessment to identify and investigate known and potential Aboriginal cultural heritage affected sites.
- g)h) Maintaining an effective development assessment service to ensure heritage conservation and sites with archaeological and Aboriginal cultural heritage potential is-are given appropriate consideration in the development assessment process, and development is sympathetic to the heritage significance of the item or place. This includes those heritage items and places privately owned and listed in the heritage

schedule of the Newcastle Local Environmental Plan 2012 and the Newcastle Archaeological Management Plans of 1997 and 2013.

- i) The assessment of proposed maintenance, infrastructure and landscape works under CN's care and control gives appropriate consideration to heritage conservation, including heritage items and heritage conservation areas, heritage road assets, archaeological sites, and Aboriginal objects.
- ~~h)j)~~ Providing leadership and training so CN Officials ~~our employees~~ can implement policy and continuing to build the capacity of our workforce to protect and respect the city's heritage.
- ~~i)k)~~ Maintaining an effective compliance service to ensure heritage items and places are ~~is~~ protected and conserved~~enhanced~~.

## 6 Supporting our heritage

6.1 ~~CN Council~~ is committed to the following approach:

- a) Providing incentives to support the restoration and repair of heritage items and places in private ownership.
- b) Providing technical expertise to assist with the conservation and longevity of heritage items and places.
- c) Ensuring zoning and other regulatory incentives are in place to enable the on-going use and occupation of heritage items.
- d) Providing the knowledge and resourcing ~~Building~~ capacity in the organisation to achieve positive heritage outcomes.
- e) Leading by example by sensitively maintaining and carefully managing heritage buildings and structures, parks and landscapes, heritage conservation areas and archaeological sites listed in the heritage schedule of the Newcastle Local Environmental Plan 2012 and the Newcastle Archaeological Management Plans of 1997 and 2013, heritage road assets, and heritage related collections under ~~CN Council's~~ care and control using the processes of conservation as defined in the Australia ICOMOS Burra Charter.
- f) Encouraging innovation in the business sector, art, and creative communities to enable the interpretation and adaptive re-use of heritage items.
- g) Seeking external sources of funding for heritage projects across ~~CN Council~~.
- h) Providing advice and support to the private sector and heritage property owners in attracting funding for the management of heritage items.
- i) Providing support to Local Aboriginal Land Councils and other interested members of the local Aboriginal communities to respectfully repatriate ancestral human remains, objects, artefacts and relics back to Country.
- j) Ensure that works to CN owned or managed sites with Aboriginal cultural heritage potential proceeds with caution, with any unexpected Aboriginal objects discovered during works (which are additional to the assessment or approval), are identified by the works team and the National Parks and Wildlife Act 1974 followed to cease work in the immediate vicinity of the discovery and notify the Heritage Council of NSW, to determine appropriate course of action before recommencement of work in the area of the discovery.
- ~~i)k)~~ Ensure that works to CN owned or managed sites with archaeological potential proceeds with caution, with any unexpected archaeological deposits or relics discovered during works (which are additional to the assessment or approval), are identified by the works team and the Heritage Act 1977 followed to cease work in the immediate vicinity of the discovery and notify the Heritage Council of NSW, to determine appropriate course of action before recommencement of work in the area of the discovery.

## 7 Promoting our heritage

### 7.1 Council is committed to the following approach:

- a) Working with local ~~the~~ Aboriginal communities iesy to raise awareness of the indigenous history, sites, languages, and cultures of the Newcastle LGA.
- b) Engage with local Aboriginal communities to incorporate Aboriginal cultural information and content in CN asset projects and works where appropriate.
- c) Work with local Indigenous communities to co-curate exhibitions, shows and performances for public consumption at CN's cultural institutions which includes Aboriginal and Torres Strait Islander narratives and culture.
- ~~b)d)~~ Encouraging, sharing, and promoting the value of heritage items and places to the environmental, social, and economic wellbeing of the Newcastle LGA.
- ~~e)e)~~ Encouraging high quality interpretative treatments and archival record of heritage items and places, and archaeological sites that increases understanding of the heritage significance of such places in development projects ~~and supporting community events that promote Newcastle's heritage.~~
- ~~d)f)~~ Raising awareness of the contribution of heritage in achieving environmental sustainability by conserving the embodied energy in buildings and reducing building waste sent to landfill.
- ~~e)g)~~ Promoting the heritage of Newcastle as a drawcard for tourism ~~and film activity~~, creativity, and design innovation, and as a generator of economic development.
- ~~f)h)~~ Collaborating with stakeholders in activities that celebrate and increase awareness of Newcastle's heritage including heritage groups, business incubation bodies, collection and education institutions, and the wider community.
- ~~g)i)~~ Promoting the invigoration of heritage places and items as a potential stimulator of economic activity across all sectors of the city.
- ~~h)j)~~ Promoting the benefits of owning heritage items to relevant property owners.
- ~~i)k)~~ Promoting the value of and collecting stories and oral histories that present a lived historical experience.
- ~~j)l)~~ Promoting the services Council provides for family and local studies, photographic collections, historical data, artwork, and reference material that demonstrate local heritage value and supports the community's desire for heritage information.
- m) Supporting community events that promote Newcastle's cultural heritage.

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## **ROLES AND RESPONSIBILITIES**

### **8 Leadership Team**

8.1 The Leadership Team are responsible for:

- a) Supporting Council Officials to apply the principles and approach of this Policy.
- b) Ensuring compliance with this Policy.
- c) Implementation of the actions and tasks identified in the Heritage Strategy 2020-2030 Action Plan.

### **9 CN Officials**

9.1 CN Officials are responsible for:

- a) Familiarising themselves with this Policy.
- b) Consideration of heritage in decision making, and day-to-day operations.
- c) Integrating the principles and the approach of this Policy into day-to-day operations and decision-making processes.

## **COMPLIANCE, MONITORING AND REVIEW**

### **10 Reporting**

10.1 No reporting is required.

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## ANNEXURE A - DEFINITIONS

**Aboriginal cultural significance** means the living, traditional and historical practices, representations, expressions, beliefs, knowledge, and skills (together with the associated environment, landscape, places, objects, ancestral remains and materials) that Aboriginal people value as part of their cultural heritage and identity, an item, place or object that has special meaning to Aboriginal and Torres Strait Islander people or persons.

**Aboriginal object** means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

**Archaeological Site** means a place that contains one or more relics. Relic means any deposit, artefact, object or material evidence that relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and is of State or local heritage significance.

**Burra Charter** means the publication - Australia ICOMOS the Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance 2013.

**CEO** means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

**City of Newcastle (CN) Council** means Newcastle City Council.

**CN Official** means a Councillor, CN employee (including part-time, temporary or casual staff), individuals engaged by CN under a contract (including consultants and contractors); or individuals who have public official functions.

**Collections Database** means a digital inventory of moveable cultural heritage assets of significance to the people of Newcastle and the Hunter Region, acquired by and under the custodianship of City of Newcastle's collecting institutions, including works of art, ceramics, museum artefacts, natural history, archaeological material, Aboriginal objects, paper-based records, newspapers, archives, books, maps, photographs, plans, family history research, and oral history.

**Conservation** means all of the processes of looking after a place so as to retain its heritage significance caring for heritage items as defined by the Burra Charter including retention or reintroduction of use, retention of associations and meanings, maintenance, stabilisation, preservation, restoration, reconstruction, adaptation, and interpretation.

**Heritage Conservation Area** means an area of land containing a group of buildings and elements that has been identified collectively as having heritage significance and is listed on the heritage schedule of the Newcastle Local Environmental Plan 2012 or the State Heritage Register.

**Heritage Item** means a place, building, work, relic, tree, moveable object, archaeological site, precinct, or other item of the environment that has been identified as having heritage significance and is listed on the heritage schedule of the Newcastle Local Environmental Plan 2012 or the State Heritage Register.

**Heritage Road Asset** means an infrastructure asset located in the public domain under the care and control of City of Newcastle which is of heritage significance. Includes cross hatch and rising sun pavers, concrete flagstone paving, etched concrete footways and driveways, sandstone culverts and brick surface drains, sandstone walls and steps, and sandstone kerbs and gutters.

**Heritage significance** means aesthetic, historic, scientific, social or spiritual value for past, present or future generations. It is embodied in the place itself, its fabric, setting, use, associations, meanings, records, related places and related objects. Places may have a range of values for different individuals or groups.

**Indigenous Cultural and Intellectual Property (ICIP)** means the rights that Indigenous

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people have and want to have to protect all aspects of Indigenous peoples' cultural heritage, including the tangible and intangible. It includes, but is not limited to, traditional knowledge and stories, traditional cultural expression, performances, cultural objects, human remains, the secret and sacred material and information, and documentation of Indigenous peoples' heritage in all forms of media.

**Leadership Team** means the CEO, Directors, and Service Unit Managers of CN.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

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**ANNEXURE B - POLICY AUTHORISATIONS**

Title of authorisation	Description of authorisation	Position Number & Title
Nil.		

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**DOCUMENT CONTROL**

Policy title	Newcastle Heritage Policy
Policy owner	Manager Regulatory, Planning and Assessment
Policy expert/writer	Heritage Planner
Associated Guideline or Procedure Title	Nil.
Guideline or Procedure owner	N/A
Prepared by	Regulatory, Planning and Assessment
Approved by	Council
Date approved	To be completed by Legal
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal
Next review date	To be completed by Legal
Termination date	To be completed by Legal (one year post revision date)
Version #	Version number 3
Category	Planning, Development and Local Approvals
Details of previous versions	Version #2 – ECM: 4356404
Keywords	Conservation, preservation, heritage, heritage management, heritage assets, Aboriginal cultural heritage, culture, best practice, Burra Charter
Relevant strategy	Newcastle Community Strategic Plan Heritage Strategy 2020-2030 Heritage Strategy 2020-2030 Action Plan Aboriginal Heritage Management Strategy 2018-21 Newcastle Archaeological Management Strategy Heritage Places Strategic Plan and Plans of Management
Relevant legislation/codes (reference specific sections)	This Policy supports CN's compliance with the following legislation: <ul style="list-style-type: none"> <li>– <i>Environmental Planning and Assessment Act 1979</i></li> <li>– <i>National Parks and Wildlife Act 1974</i></li> <li>– <i>Heritage Act 1977</i></li> <li>– <i>Local Government Act 1993</i></li> <li>– Australia ICOMOS The Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance 2013</li> <li>– Department of Environment, Climate Change &amp; Water NSW Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW 2010</li> <li>– NSW Heritage Office Local Government Heritage Guidelines 2002</li> <li>– NSW Office of Environment &amp; Heritage Recommendations for Local Council Heritage</li> </ul>

	Management 2013
Other related documents	Aboriginal Heritage Study: Newcastle Local Government Area 2005 City of Newcastle Reconciliation Action Plan 2021-2024 Newcastle Archaeological Management Plan 1997 Newcastle Archaeological Management Plan Review 2013 Newcastle City Wide Heritage Study 1997 Newcastle Local Environmental Plan 2012 Newcastle Development Control Plan 2012 & Heritage Technical Manual
Related forms	Nil.
Required on website	Yes
Authorisations	Functions authorised under this Policy at Annexure B

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# Newcastle Heritage Policy

July 2022

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## INTRODUCTION

### 1 Purpose

- 1.1 The purpose of the Policy is to provide a statement of commitment by the City of Newcastle (CN) to the principles of heritage conservation.
- 1.2 The Policy underpins the identification, preservation, conservation, celebration, and promotion of the City's rich cultural heritage, based on the principles and processes of the Burra Charter and best practice.
- 1.3 The Policy recognises the importance and diversity of heritage, including Aboriginal cultural heritage; buildings; structures; precincts; streetscapes; monuments; memorials; moveable heritage; industrial and maritime relics; trees; archaeological sites and artefacts; objects and stories recorded in institutional collections; and the cultural landscapes that comprise the environment of the Newcastle Local Government Area (LGA).

### 2 Scope

- 2.1 The Policy applies to all CN Officials, and all works and activities of CN.

### 3 Principles

- 3.1 CN commits itself to the following principles:
  - a) **Aboriginal culture and heritage** – Recognise, acknowledge, and celebrate Aboriginal peoples past and present as the first people of Australia and the Traditional Custodians of the land and waters of the Newcastle LGA, their local Aboriginal history, languages, spiritual beliefs, cultural heritage, and enduring reciprocal relationship with the land.
  - b) **Indigenous cultural heritage research** – the research and publication of cultural knowledge and data is Indigenous-led, ethical and responsible, ensuring it has a positive impact on and for Indigenous people. Cultural knowledge gathered from Aboriginal and Torres Strait Islander peoples must only be obtained with free, prior and informed consent. Indigenous Cultural and Intellectual Property (ICIP) rights are respected, with the rights of Aboriginal and Torres Strait Islander peoples to own and control their cultural heritage recognised and protected.
  - c) **Contribution of heritage** – The heritage of the Newcastle LGA contributes to a liveable, sustainable and inclusive global city, with protected and enhanced built and natural environment, great spaces and well-designed places, a connected and inclusive community, environmental sustainability and curtailing climate change.
  - d) **Sense of identity and place** – The heritage of the Newcastle LGA provides local character and enhances our distinctive sense of identity and place and reflects the rich history and cultural diversity of the Newcastle LGA.
  - e) **Decision making and activities** – Newcastle's culture, heritage and place are strengthened by CN decision making and activities and informed by CN engagement with local communities.
  - f) **Heritage is evolving and dynamic** – The heritage of the Newcastle LGA and the different components of a place that may contribute to its heritage significance is evolving and dynamic, it may change over time and with use.
  - g) **Long-term planning** – Newcastle's heritage is considered in long-term planning for the Newcastle LGA.
  - h) **Heritage management** – The principles and processes of the Burra Charter and best practice in heritage conservation underpin CN's approach to heritage management including a cautious approach to change: do as much as necessary to care for the place and to make it useable, but otherwise change it as little as possible so that its heritage significance is retained. An understanding of heritage significance comes first, then development of Policy and finally management of the

place in accordance with the Policy.

- i) **CN's heritage management framework** – The framework includes this Policy, CN's Heritage Strategy 2020-2030, CN's Heritage Strategy 2020-2030 Action Plan, CN's Aboriginal Heritage Management Strategy 2018-21, CN's Newcastle Archaeological Management Strategy, CN's Heritage Places Strategic Plan and Plans of Management, Aboriginal Heritage Study: Newcastle Local Government Area 2005, Newcastle Archaeological Management Plan 1997, Newcastle Archaeological Management Plan Review 2013, Newcastle City Wide Heritage Study 1997, Newcastle Local Environmental Plan 2012, Newcastle Development Control Plan 2012 and Heritage Technical Manual. It is underpinned by the principles and processes of the Burra Charter and best practice in heritage conservation.
- j) **Alignment with CN strategies** – The Policy aligns with CN priorities outlined in the Newcastle Community Strategic Plan, CN's Heritage Strategy 2020-2030, CN's Heritage Strategy 2020-2030 Action Plan, CN's Aboriginal Heritage Management Strategy 2018-21, CN's Newcastle Archaeological Management Strategy and CN's Heritage Places Strategic Plan and Plans of Management. It is recognised the Heritage Strategy 2020-2030 Action Plan is a live document, which aligns with CN's delivery plan and is regularly reviewed as actions and tasks are completed and to reflect changes in Federal, State or Local priorities as well as resources and budgets.

## APPROACH

### 4 Knowing our heritage

#### 4.1 CN is committed to the following approach:

- a) Recognising, documenting and presenting the indigenous heritage of the city in partnership with the Guraki Aboriginal Advisory Committee and the local Aboriginal and Torres Strait Islander communities.
- b) Engaging with the Guraki Aboriginal Advisory Committee, Local Aboriginal Land Councils, and other interested members of local Aboriginal and Torres Strait Islander communities, recognising the continuation of a vibrant and living indigenous heritage for future works and projects.
- c) Working with the Guraki Aboriginal Advisory Committee and the local Aboriginal communities to achieve the dual naming of sites and places across the Newcastle LGA as required.
- d) Ensuring an on-going process for the identification and recording of all items and places of heritage significance across the Newcastle LGA, including historic streetscapes, village centres, heritage parks, natural areas, and residential areas.
- e) Ensuring that the diversity of the city's heritage is recognised and represented in statutory heritage listings covering the spectrum of heritage items and places: including Aboriginal cultural heritage; buildings; structures; heritage parks; natural areas; precincts; streetscapes; monuments; memorials; industrial and maritime relics; trees; archaeological sites and artefacts; heritage items in institutional collections; and the cultural landscapes that comprise the environment of Newcastle.
- f) Working with the community and stakeholders to obtain information that adds value to the process of identifying and assessing the heritage significance of new heritage items and places and heritage conservation areas.
- g) Maintaining a comprehensive inventory of heritage items on CN's website, including current condition and heritage significance of heritage items and places.
- h) Acknowledging the heritage value of objects in institutional collections such as libraries, galleries, and museums.

- i) Maintaining a comprehensive inventory of moveable cultural heritage assets on the Collections Database.
- j) Engaging with local communities at the concept design stage of CN assets projects and works, to identify cultural significance and incorporate where appropriate, high quality interpretative treatments of CN owned or managed sites that increase understanding of the heritage significance of such places in development projects.

## **5 Protecting our heritage**

### **5.1 CN is committed to the following approach:**

- a) Ensuring an on-going process for the statutory listing of items or places that have been assessed as having heritage significance.
- b) Ensuring that the diversity of heritage is represented in the statutory listing of heritage items and places.
- c) Ensuring that sites and places of Aboriginal cultural significance are statutorily protected.
- d) Providing guidelines for the management of heritage places that supports the conservation and preservation of heritage items and places including retaining the character of historic streetscapes, distinct village centres and residential areas.
- e) Providing guidelines that encourages the on-going use and sympathetic recycling or adaptation of heritage items and places, including sensitive interventions to facilitate equitable access and on-site production of renewable energy.
- f) Producing guidelines that are based on the principles of the Burra Charter and world's best practice and technical expertise.
- g) Providing guidelines which facilitate effective due diligence assessment to identify and investigate known and potential Aboriginal cultural heritage affected sites.
- h) Maintaining an effective development assessment service to ensure heritage conservation and sites with archaeological and Aboriginal cultural heritage potential are given appropriate consideration in the development assessment process, and development is sympathetic to the heritage significance of the item or place. This includes those heritage items and places privately owned and listed in the heritage schedule of the Newcastle Local Environmental Plan 2012 and the Newcastle Archaeological Management Plans of 1997 and 2013.
- i) The assessment of proposed maintenance, infrastructure and landscape works under CN's care and control gives appropriate consideration to heritage conservation, including heritage items and heritage conservation areas, heritage road assets, archaeological sites, and Aboriginal objects.
- j) Providing leadership and training so our CN Officials can implement policy and continue to build the capacity of our workforce to protect and respect the city's heritage.
- k) Maintaining an effective compliance service to ensure heritage items and places are protected and conserved.

## **6 Supporting our heritage**

### **6.1 CN is committed to the following approach:**

- a) Providing incentives to support the restoration and repair of heritage items and places in private ownership.
- b) Providing technical expertise to assist with the conservation and longevity of heritage items and places.
- c) Ensuring zoning and other regulatory incentives are in place to enable the on-going use and occupation of heritage items.
- d) Providing the knowledge and resourcing capacity in the organisation to achieve positive heritage outcomes.

- e) Leading by example by sensitively maintaining and managing heritage buildings and structures, parks and landscapes, heritage conservation areas and archaeological sites listed in the heritage schedule of the Newcastle Local Environmental Plan 2012 and the Newcastle Archaeological Management Plans of 1997 and 2013, heritage road assets, and heritage related collections under CN's care and control using the processes of conservation as defined in the Australia ICOMOS Burra Charter.
- f) Encouraging innovation in the business sector, art, and creative communities to enable the interpretation and adaptive reuse of heritage items.
- g) Seeking external sources of funding for heritage projects across CN.
- h) Providing advice and support to the private sector and heritage property owners in attracting funding for the management of heritage items.
- i) Providing support to Local Aboriginal Land Councils and other interested members of the local Aboriginal communities to respectfully repatriate ancestral human remains, objects, artefacts and relics back to Country.
- j) Ensure that works to CN owned or managed sites with Aboriginal cultural heritage potential proceeds with caution, with any unexpected Aboriginal objects discovered during works (which are additional to the assessment or approval), are identified by the works team and the National Parks and Wildlife Act 1974 followed to cease work in the immediate vicinity of the discovery and notify the Heritage Council of NSW, to determine appropriate course of action before recommencement of work in the area of the discovery.
- k) Ensure that works to CN owned or managed sites with archaeological potential proceeds with caution, with any unexpected archaeological deposits or relics discovered during works (which are additional to the assessment or approval), are identified by the works team and the Heritage Act 1977 followed to cease work in the immediate vicinity of the discovery and notify the Heritage Council of NSW, to determine appropriate course of action before recommencement of work in the area of the discovery.

## **7 Promoting our heritage**

### **7.1 CN is committed to the following approach:**

- a) Working with local Aboriginal communities to raise awareness of the indigenous history, sites, languages, and cultures of the Newcastle LGA.
- b) Engage with local Aboriginal communities to incorporate Aboriginal cultural information and content in CN asset projects and works where appropriate.
- c) Work with local Indigenous communities to co-curate exhibitions, shows and performances for public consumption at CN's cultural institutions which includes Aboriginal and Torres Strait Islander narratives and culture.
- d) Encouraging, sharing, and promoting the value of heritage items and places to the environmental, social, and economic wellbeing of the Newcastle LGA.
- e) Encouraging high quality interpretative treatments and archival record of heritage items and places, and archaeological sites that increases understanding of the heritage significance of such places in development projects.
- f) Raising awareness of the contribution of heritage in achieving environmental sustainability by conserving the embodied energy in buildings and reducing building waste sent to landfill.
- g) Promoting the heritage of Newcastle as a drawcard for tourism, creativity, and design innovation, and as a generator of economic development.
- h) Collaborating with stakeholders in activities that celebrate and increase awareness of Newcastle's heritage including heritage groups, business incubation bodies, collection and education institutions, and the wider community.

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- i) Promoting the invigoration of heritage places and items as a potential stimulator of economic activity across all sectors of the city.
  - j) Promoting the benefits of owning heritage items to relevant property owners.
  - k) Promoting the value of and collecting stories and oral histories that present a lived historical experience.
  - l) Promoting the services CN provides for family and local studies, photographic collections, historical data, artwork, and reference material that demonstrate local heritage value and supports the community's desire for heritage information.
  - m) Supporting community events that promote Newcastle's cultural heritage.

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## **ROLES AND RESPONSIBILITIES**

### **8 Leadership Team**

- 8.1 The Leadership Team are responsible for:
- a) Supporting Council Officials to apply the principles and approach of this Policy.
  - b) Ensuring compliance with this Policy.
  - c) Implementation of the actions and tasks identified in the Heritage Strategy 2020-2030 Action Plan.

### **9 CN Officials**

- 9.1 CN Officials are responsible for:
- a) Familiarising themselves with this Policy.
  - b) Consideration of heritage in decision making, and day-to-day operations.
  - c) Integrating the principles and the approach of this Policy into day-to-day operations and decision-making processes.

## **COMPLIANCE, MONITORING AND REVIEW**

### **10 Reporting**

- 10.1 No reporting is required.

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## ANNEXURE A - DEFINITIONS

**Aboriginal cultural significance** means the living, traditional and historical practices, representations, expressions, beliefs, knowledge, and skills (together with the associated environment, landscape, places, objects, ancestral remains and materials) that Aboriginal people value as part of their cultural heritage and identity.

**Aboriginal object** means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

**Archaeological Site** means a place that contains one or more relics. Relic means any deposit, artefact, object or material evidence that relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and is of State or local heritage significance.

**Burra Charter** means the publication - Australia ICOMOS the Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance 2013.

**CEO** means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

**City of Newcastle (CN)** means Newcastle City Council.

**CN Official** means a Councillor, CN employee (including part-time, temporary or casual staff), individuals engaged by CN under a contract (including consultants and contractors); or individuals who have public official functions.

**Collections Database** means a digital inventory of moveable cultural heritage assets of significance to the people of Newcastle and the Hunter Region, acquired by and under the custodianship of City of Newcastle's collecting institutions, including works of art, ceramics, museum artefacts, natural history, archaeological material, Aboriginal objects, paper-based records, newspapers, archives, books, maps, photographs, plans, family history research, and oral history.

**Conservation** means all of the processes of looking after a place so as to retain its heritage significance as defined by the Burra Charter including retention or reintroduction of use, retention of associations and meanings, maintenance, preservation, restoration, reconstruction, adaptation, and interpretation.

**Heritage Conservation Area** means an area of land containing a group of buildings and elements that has been identified collectively as having heritage significance and is listed on the heritage schedule of the Newcastle Local Environmental Plan 2012 or the State Heritage Register.

**Heritage Item** means a place, building, work, relic, tree, moveable object, archaeological site, precinct, or other item of the environment that has been identified as having heritage significance and is listed on the heritage schedule of the Newcastle Local Environmental Plan 2012 or the State Heritage Register.

**Heritage Road Asset** means an infrastructure asset located in the public domain under the care and control of City of Newcastle which is of heritage significance. Includes cross hatch and rising sun pavers, concrete flagstone paving, etched concrete footways and driveways, sandstone culverts and brick surface drains, sandstone walls and steps, and sandstone kerbs and gutters.

**Heritage significance** means aesthetic, historic, scientific, social or spiritual value for past, present or future generations. It is embodied in the place itself, its fabric, setting, use, associations, meanings, records, related places and related objects. Places may have a range of values for different individuals or groups.

**Indigenous Cultural and Intellectual Property (ICIP)** means the rights that Indigenous people have and want to have to protect all aspects of Indigenous peoples' cultural heritage,

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including the tangible and intangible. It includes, but is not limited to, traditional knowledge and stories, traditional cultural expression, performances, cultural objects, human remains, the secret and sacred material and information, and documentation of Indigenous peoples' heritage in all forms of media.

**Leadership Team** means the CEO, Directors, and Service Unit Managers of CN.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

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**ANNEXURE B - POLICY AUTHORISATIONS**

Title of authorisation	Description of authorisation	Position Number & Title
Nil.		

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**DOCUMENT CONTROL**

Policy title	Newcastle Heritage Policy
Policy owner	Manager Regulatory, Planning and Assessment
Policy expert/writer	Heritage Planner
Associated Guideline or Procedure Title	Nil.
Guideline or Procedure owner	N/A
Prepared by	Regulatory, Planning and Assessment
Approved by	Council
Date approved	To be completed by Legal
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal
Next review date	To be completed by Legal
Termination date	To be completed by Legal (one year post revision date)
Version #	Version number 3
Category	Planning, Development and Local Approvals
Details of previous versions	Version #2 – ECM: 4356404
Keywords	Conservation, preservation, heritage, heritage management, heritage assets, Aboriginal cultural heritage, culture, best practice, Burra Charter
Relevant strategy	Newcastle Community Strategic Plan Heritage Strategy 2020-2030 Heritage Strategy 2020-2030 Action Plan Aboriginal Heritage Management Strategy 2018-21 Newcastle Archaeological Management Strategy Heritage Places Strategic Plan and Plans of Management
Relevant legislation/codes (reference specific sections)	This Policy supports CN's compliance with the following legislation: <ul style="list-style-type: none"> <li>– <i>Environmental Planning and Assessment Act 1979</i></li> <li>– <i>National Parks and Wildlife Act 1974</i></li> <li>– <i>Heritage Act 1977</i></li> <li>– <i>Local Government Act 1993</i></li> <li>– Australia ICOMOS The Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance 2013</li> <li>– Department of Environment, Climate Change &amp; Water NSW Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW 2010</li> <li>– NSW Heritage Office Local Government Heritage Guidelines 2002</li> <li>– NSW Office of Environment &amp; Heritage Recommendations for Local Council Heritage</li> </ul>

	Management 2013
Other related documents	Aboriginal Heritage Study: Newcastle Local Government Area 2005 City of Newcastle Reconciliation Action Plan 2021-2024 Newcastle Archaeological Management Plan 1997 Newcastle Archaeological Management Plan Review 2013 Newcastle City Wide Heritage Study 1997 Newcastle Local Environmental Plan 2012 Newcastle Development Control Plan 2012 & Heritage Technical Manual
Related forms	Nil.
Required on website	Yes
Authorisations	Functions authorised under this Policy at Annexure B

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**CCL 27/07/2022 – ADOPTION OF COUNCIL POLICIES**

**ITEM-58 Attachment B: Public Voice and Public Briefings Policy**

Page 31 Attachment B.1: Summary of Policy and tracked changes

Page 32 Attachment B.2: Public Voice and Public Briefings Policy  
(tracked changes)

Page 45 Attachment B.3: Public Voice and Public Briefings Policy  
(clean version)

## **Attachment B.1**

**POLICY TITLE:** Public Voice and Public Briefing Policy

**POLICY OWNERS:** Director Governance and Chief Financial Officer / Manager Legal

### **SUMMARY OF POLICY**

1. The current version of the Public Voice and Public Briefing Policy (the Policy) was adopted in August 2019. The purpose of the Policy is to provide a framework for members of the public to address the elected Council on issues relevant to City of Newcastle's (CN's) functions.
2. There are no legislative or regulatory obligations related to the Policy. The Policy provides for public participation above that of the requirements of the *Local Government Act 1993* (NSW) and the NSW Model Code of Meeting Practice.

### **SUMMARY OF PROPOSED CHANGES TO POLICY**

3. The proposed Policy (with tracked changes) is set out at **Attachment B.2** and a clean version is at **Attachment B.3**.
4. The key difference between CN's current Policy and the revised Policy is clarification that Public Voice sessions are for presentations to the Council on Development Applications that are determined by CN's Development Applications Committee (cl. 4.1). For other significant CN matters, members of the public may apply for a Public Briefing session.
5. All other changes are minor in nature including:
  - i. ensuring consistency with Public Voice and Public Briefing sessions where relevant;
  - ii. some changes to structure to better align information to assist members of the public in understanding the Policy; and
  - iii. confirmation that Public Voice applications will be determined by the Manage Regulatory, Planning and Assessment in conjunction with the CEO and Director Governance and Chief Financial Officer.

Attachment B.2

# Public Voice and Public Briefing Policy

July 2022

[newcastle.nsw.gov.au](http://newcastle.nsw.gov.au)



City of  
Newcastle

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## INTRODUCTION

### 1 Purpose

- 1.1 The purpose of this Policy is to provide a framework to allow members of the public to address the Council on issues relevant to City of Newcastle's (CN's) functions.
- 1.2 The Council does not make decisions at Public Voice or Public Briefing sessions. The sessions are an opportunity for discussion only.

### 2 Scope

2.1 This Policy applies to Public Voice and Public Briefing sessions.

2.2 Public Voice sessions (refer Section 4) provide an opportunity for members of the public to make presentations to the Council on Development Applications (DAs) that are to be determined by CN's Development Applications Committee at a future meeting.

2.3 Public Briefing sessions (refer Section 5) provide an opportunity for members of the public to make presentations to the Council relating to significant issues of a general, strategic or policy nature relevant to CN's functions, facilities or services.

### 3 Principles

- 3.1 CN commits itself to the following:
  - a) **Accountability and transparency** – This Policy enables members of the public to bring before the Council issues of a general, strategic or policy nature relevant to CN's functions, facilities or services. This Policy ensures decisions are made in a way that is open and accountable.
  - b) **Alignment with Council strategies** - This Policy aligns with Council priorities outlined in the Open and Transparent Governance Strategy, CN's Newcastle 2040 Community Strategic Plan.
  - c) **Openness** – This Policy enables members of the public to communicate opinions or concerns directly to Councillors by way of an address to the Council in an open forum session.

## PUBLIC VOICE SESSIONS

### 4 What are Public Voice sessions?

- 4.1 Public Voice sessions provide an opportunity for members of the public to make presentations to the Council on:
- 4.2 significant issues relevant to CN's functions, facilities or services under the *Local Government Act 1993* (NSW); or
- 4.34.1 Development Applications (DAs) that are to be determined by CN's Development Applications Committee at a future meeting.

### 5 Procedure for applying for Public Voice (significant issues) session and assessment criteria

#### Frequency of sessions

- 5.1 Once per month (when scheduled) or in accordance with Council's adopted meeting cycle.

#### Lodging an application

- 5.2 Applications are to be submitted on the approved Public Voice/Public Briefing Application Form (available on CN's website) with all sections of the form being completed. Incomplete forms will not be processed.

#### Criteria for assessing applications

- 5.3 Applications about significant issues will be assessed against the following criteria:
- d) The application does not relate to a DA; and
  - e) The applicant has previously raised the matter with the relevant area of CN or Ward Councillor (details will be required of this and are to be attached to the application form—for example, copy of the response provided); and
  - f) The applicant has not presented the matter to a Public Voice session in the past two years or the application does not relate to the same subject matter of a Public Voice application that has been refused by CN in the past two years, unless the CEO determines the matter has significantly changed or the Council request by resolution a Public Voice session; and
  - g) The application does not request a decision or commitment of Council (such an issue would need to go before a Council Meeting); and
  - h) The matter is not vexatious, defamatory, an abuse of process or outside the scope of CN.

#### Assessment of applications

- 5.4 The relevant Service Unit Manager/Director, in consultation with the CEO and Manager Legal, will assess and determine applications against the criteria set out in clause 5.3.

#### Notice to applicants

- 5.5 Applications will be acknowledged within 2 business days of receipt.
- 5.6 Within 28 business days of receiving an application, CN will advise the applicant:
- a) if the application is successful and associated details relating to the scheduling of a Public Voice session (subject to timing considerations in section 7); or
  - b) if the application is unsuccessful with reasons (taking into account the criteria set out in section 5.3).

**Commented [A1]:** Significant issues are covered as part of a Briefing session and as such this section is no longer required under Public Voice

## **65 Procedure for applying for Public Voice (DA) sessions and assessment criteria**

### Frequency of sessions

5.1 One Public Voice Committee Meeting per month (generally the third Tuesday of the month when scheduled) or in accordance with Council's adopted meeting cycle.

5.2 A maximum of four items will be scheduled for each Public Voice Committee Meeting.

6.45.3 Sessions are normally scheduled to occur at least one month prior to the DA being scheduled for determination by CN's Development Applications Committee.

### Availability

6.25.4 Sessions will be offered where a matter is to be determined by the Development Applications Committee and either on the basis of:

- a) 25 or more unresolved Individual Written Objections were received during the DA notification period; or
- b) Two or more Councillors call the matter to a Public Voice session the Development Applications Committee.

### Invitation to submit application

6.35.5 When a session is to be offered in accordance with clause 6.25.4, an invitation to submit an application to address a Public Voice session will be made to any person who submitted an Individual Written Objection. Any application received prior to the invitation being issued will not be considered.

### Assessment of applications

6.45.6 Applications will be registered in the order they are received.

6.55.7 The first two applicants will be invited to address the Public Voice (DA) session.

5.8 If no applications are received by the deadline provided in the invitation, the Public Voice (DA) session will not proceed.

6.65.9 The final decision to accept or decline a Public Voice application rests with the Manager, Regulatory, Planning and Assessment in consultation with the CEO and Director Governance and Chief Financial Officer.

### Invitation to DA applicant

6.75.10 Once it is confirmed that a Public Voice session will proceed, the DA applicant will also be invited to address Council.

### Notice to applicants of Public Voice session

6.8 Sessions are normally scheduled to occur at least one month prior (generally the third Tuesday of the month) to the DA being scheduled for determination by CN's Development Applications Committee.

6.95.11 Notice to all applicants advising of a Public Voice session will be provided as soon as possible after applications are received and assessed in accordance with clause 5.66.4.

6.105.12 Confirmation of the arrangements for the Public Voice (DA) session will be provided at least 7 days in advance of the scheduled meeting including an invitation to submit presentations or supporting materials in advance of the meeting. Supporting material must be provided by close of business the day prior to the scheduled session.

## **76 Conduct of Public Voice sessions (significant issues and DA)**

~~7.16.1~~ Prior to a Public Voice session, Councillors are to be provided with and Agenda and Business Papers, including any reports outlining the key issues of the each session. The report Business Papers will also be made available to the public in advance on the Council meeting on CN's website.

~~7.2~~ For Public Voice (DA sessions), where the DA is to be determined by the Development Applications Committee, Councillors are provided with a report making a recommendation on determination of the DA which will include a summary of the submissions made at a Public Voice session. The report will also be made available to the public in advance on the Council meeting.

~~7.36.2~~ Sessions are 30 minutes in duration, subject to the discretion of the Chairperson and are conducted as a Committee of the Whole in accordance with the CN's Code of Meeting Practice.

~~7.4~~ A maximum of four sessions will be scheduled for each Public Voice Committee meeting.

~~7.56.3~~ Each session is limited to (in the following speaking order):

- a) two speakers on behalf of objectors to the DA for an issue (10 minutes in total);
- b) two speakers on behalf of the DA applicant against an issue (10 minutes in total); and
- c) questions from Councillors (10 minutes in total).

~~7.6~~ In respect of a Public Voice (DA) session, objectors to a DA proposal will speak first.

~~7.76.4~~ Speakers are to confine their address to Council to the matters identified in their application.

~~7.8~~ Councillors will receive an Agenda and Business Papers in connection with the Public Voice session in advance of the meeting. The Business Papers are available to members of the public on CN's website.

~~7.96.5~~ The Chairperson may direct a speaker to cease their address if the speaker does not conduct themselves in accordance with this Policy or the CN's Code of Meeting Practice.

~~7.106.6~~ All supporting material sought to be presented to Councillors must be provided to CN by close of business the day prior to the scheduled session. Speakers are not permitted should not attempt to provide additional supporting material to Councillors immediately before, or during, a Public Voice session. Supporting material must be provided by close of business the day prior to the scheduled session.

~~7.146.7~~ Sessions are webcast and open to the public. As such speakers should not:

- a) make personal reflections on any person; or
- b) make statements that may cause offence or be defamatory or insulting.

~~6.8~~ The minutes of the Public Voice session are a summary record of the session. The minutes are available to members of the public on CN's website following the meeting after the Ordinary Council Meeting the following month.

~~7.126.9~~ Where the DA is to be determined by the Development Applications Committee, Councillors are provided with a report making a recommendation on determination of the DA, which will include a summary of the submissions made at a Public Voice session. The report will also be made available to the public in advance of the Council meeting.

## **87 Alternatives to a Public Voice session**

~~8.17.1~~ As an alternative to applying for Public Voice, members of the public are encouraged to communicate or raise issues regarding a DA with CN by:

- a) submitting a Customer Service Request;
- b) engaging with CN through DA assessment, public exhibitions, events and activities; or

- 
- c) writing to Councillors directly using the contact details available on the CN website.

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## PUBLIC BRIEFING SESSIONS

### 98 What are Public Briefing sessions?

8.1 Public Briefing sessions provide an opportunity for members of the public to make short presentations relating to significant issues of a general, strategic or policy nature ~~including in relation to Planning Proposals~~, relevant to CN's functions, facilities or services.

~~9.48.2~~ Public Briefing sessions are not for DAs but can include matters relating to Planning Proposals.

### 109 Procedure for applying for Public Briefing session and assessment criteria

#### Frequency of sessions

~~40.49.1~~ Once Public Briefing Committee Meeting per month (when scheduled) or in accordance with Council's adopted meeting cycle.

#### Lodging a Public Briefing application

~~40.29.2~~ Applications are to be submitted on the approved Public Voice/Public Briefing Application Form (available on CN's website) with all sections of the form being completed. Incomplete forms will can not be processed.

~~40.39.3~~ Public Briefings may also be scheduled at the direction of the CEO or by resolution of Council.

#### Criteria for assessing Public Briefing applications

~~40.49.4~~ Public Briefing applications will be assessed against the following criteria:

- a) the application relates to an aspect of CN's functions, facilities or services;
- b) the application does not relate to DAs;
- c) the applicant has not presented on the issue to a Public Briefing session in the past two years or the application does not relate to the same subject matter of a Public Briefing application that has been refused by CN in the past two years, unless the CEO determines the matter has significantly changed or the Council request a Public Briefing session;
- d) the application does not request a decision or commitment of Council (such an issue would need to go before a Council Meeting); and
- e) the matter is not vexatious, defamatory, an abuse of process or outside the scope of CN.

#### Assessment of applications

~~40.59.5~~ The relevant Service Unit Manager/Director, in consultation with the CEO and Manager Legal, will assess and determine applications against the criteria in clause ~~40.4~~.

#### Acknowledgement and Notification to applicants

~~40.69.6~~ Public Briefing applications will be acknowledged within 25 business days of receipt.

~~40.79.7~~ Within 28 business days of receiving an application for a Public Briefing session, CN will advise the applicant:

- a) if the application is successful and associated details for the scheduled Public Briefing session ~~(subject to timing considerations in clause 10.6) and advise the applicant of the details;~~ or
- b) if the application is unsuccessful with reasons (taking into account the criteria set out in clause ~~40.39.4~~).

## **44.10 Conduct of Public Briefing sessions**

10.1 Prior to a Public Briefing session, Councillors are to be provided with an Agenda and Business Papers, including any reports outlining the key issues of each session. The Business Papers will be made available to the public on CN's website.

44.410.2 Sessions are 30 minutes in duration, subject to the discretion of the Chairperson and are conducted in accordance with CN's Code of Meeting Practice.

44.210.3 A maximum of two sessions will be scheduled for each Public Briefing Committee Meeting.

44.310.4 Each session is limited to:

- a) ~~two~~ speakers on an issue, which may include CN Staff (20 minutes in total); and
- b) questions from Councillors (10 minutes in total).

44.410.5 Speakers are to confine their address to Council to the matters identified in their application.

~~44.5~~ Councillors will receive an Agenda and Business Papers in connection with the Briefing session in advance of the meeting. ~~The Business Papers are available to members of the public on CN's website.~~

44.610.6 The Chairperson may direct a speaker to cease their address if the speaker does not conduct themselves in accordance with this Policy or CN's Code of Meeting Practice.

44.710.7 Speakers should not attempt to provide additional supporting material to Councillors immediately before, or during, a Public Briefing session. Supporting material must be provided by close of business the day prior to the scheduled session.

44.810.8 Sessions are webcast and open to the public. As such speakers should not:

- a) make personal reflections on any person; or
- b) make statements that may cause offence or be defamatory or insulting.

10.9 The minutes of the Public Briefing session are a summary record of the session. The minutes are available to members of the public on CN's website after the Ordinary Council Meeting the following month following the meeting.

## **11 Alternatives to a Public Briefing session**

11.1 As an alternative to applying for a Public Briefing session, members of the public are encouraged to communicate or raise issues with CN by:

- a) Submitting a Customer Service Request;
- b) Engaging with CN through public exhibitions, events and activities; or
- c) Writing to Councillors directly using the contact details available on the CN website.

**Commented [A2]:** This section has been added for consistency with Public Voice

## ANNEXURE A - DEFINITIONS

[Agenda](#) has the same meaning as in CN's Code of Meeting Practice.

**Application** means a request submitted on the approved Public Voice/Public Briefing Application Form (available on CN's website).

[Business Papers](#) has the same meaning as in CN's Code of Meeting Practice.

**CEO** means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

**Chairperson** means the Lord Mayor, or Councillor, chairing the Public Voice Committee or Public Briefing Committee Meeting [in accordance with CN's Code of Meeting Practice](#).

**City of Newcastle (CN)** means Newcastle City Council.

**Council** means the elected Council.

[Development Application \(DA\)](#) means a formal application for development that requires consent under the *Environmental Planning and Assessment Act 1979* (NSW).

**Individual Written Objection** means a written submission opposing a Development Application emanating from an individual household submitted during the DA public notification period. For clarity, more than written objection received from the same individual household will be counted collectively as one objection.

[Planning Proposal](#) means a document that explains the intended effect of a proposed Local Environmental Plan and sets out the justification for making that plan.

[Public Voice session](#) means a session to provide an opportunity for members of the public to make presentations to the Council on Development Applications (DAs) that are to be determined by CN's Development Applications Committee at a future meeting.

[Public Briefing session](#) means a session to provide an opportunity for members of the public to make short presentations relating to significant issues of a general, strategic or policy nature, relevant to CN's functions, facilities or services.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

**ANNEXURE B - POLICY AUTHORISATIONS**

Title of Authorisation	Description of Authorisation	Position Title and Number
Assess and determine Public Briefing applications	Authority to assess and determine, in consultation with the CEO and Manager Legal, applications for a <del>Public Voice or</del> Public Briefing session against the criteria of the Policy.	<p><u><a href="#">Service Unit Managers/Directors P20674   Director City Wide Services</a></u></p> <p><u><a href="#">P20676   Director Governance and Chief Financial Officer</a></u></p> <p><u><a href="#">P60299   Director and Interim Chief Information Officer</a></u></p> <p><u><a href="#">P90001   Director Infrastructure and Property</a></u></p> <p><u><a href="#">P20675   Director Strategy and Engagement</a></u></p> <p><u><a href="#">P30051   Director People and Culture</a></u></p> <p><u><a href="#">P50179   Manager Assets and Projects</a></u></p> <p><u><a href="#">P20689   Manager Civic Services</a></u></p> <p><u><a href="#">P20679   Manager Civil Construction and Maintenance</a></u></p> <p><u><a href="#">P40160   Manager Community Strategy and Innovation</a></u></p> <p><u><a href="#">P30003   Manager Customer Experience</a></u></p> <p><u><a href="#">P50383   Manager Depot Operations</a></u></p> <p><u><a href="#">P20052   Manager Finance</a></u></p> <p><u><a href="#">P30025   Manager Legal</a></u></p> <p><u><a href="#">P40353   Manager Libraries and Learning</a></u></p> <p><u><a href="#">P20377   Manager Major Events and Corporate Affairs</a></u></p> <p><u><a href="#">P40015   Manager Regulatory, Planning and Assessment</a></u></p> <p><u><a href="#">P50915   Manager Parks and Recreation</a></u></p> <p><u><a href="#">P20677   Manager Property and Facilities</a></u></p> <p><u><a href="#">P20783   Manager Transport and Compliance</a></u></p> <p><u><a href="#">P20307   Manager Waste Services</a></u></p> <p><u><a href="#">P40005   Art Gallery Director</a></u></p> <p><u><a href="#">P40299   Museum Director</a></u></p>
Assess and determine Public Voice applications	<u><a href="#">Authority to assess and determine, in consultation with the CEO and Director Governance and Chief Financial Officer,</a></u>	<p><u><a href="#">P20676   Director Governance and Chief Financial Officer</a></u></p> <p><u><a href="#">P40015   Manager Regulatory, Planning and Assessment</a></u></p>

	<a href="#">applications for a Public Voice session against the criteria of this Policy.</a>	
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DRAFT

**DOCUMENT CONTROL**

Policy title	Public Voice and Public Briefing Policy
Policy owner	Manager Legal
Policy expert/writer	Manager Governance and Councillor Services
Associated Procedure Title	Nil
Procedure owner	Nil
Prepared by	Legal
Approved by	Council
Date approved	To be completed by Legal
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal
Next revision date	To be completed by Legal
Termination date	To be completed by Legal (one-year post revision date)
Version #	4
Category	Council
Keywords	Briefing, Council, Public Voice, Information, Session, Public
Details of previous versions	Version #3 - ECM 6108316
Legislative amendments	Nil
Relevant strategy	Nil
Relevant legislation/codes (reference specific sections)	Nil.
Other related documents	Code of Meeting Practice Codes of Conduct
Related forms	Public Voice/Public Briefing Application Form
Required on website	Yes
Authorisations	Refer to functions authorised under this Policy at Annexure B.

Attachment B.3

# Public Voice and Public Briefing Policy

July 2022

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## INTRODUCTION

### 1 Purpose

- 1.1 The purpose of this Policy is to provide a framework to allow members of the public to address the Council on issues relevant to City of Newcastle's (CN's) functions.
- 1.2 The Council does not make decisions at Public Voice or Public Briefing sessions. The sessions are an opportunity for discussion only.

### 2 Scope

- 2.1 This Policy applies to Public Voice and Public Briefing sessions.
- 2.2 Public Voice sessions (refer Section 4) provide an opportunity for members of the public to make presentations to the Council on Development Applications (DAs) that are to be determined by CN's Development Applications Committee at a future meeting.
- 2.3 Public Briefing sessions (refer Section 5) provide an opportunity for members of the public to make presentations to the Council relating to significant issues of a general, strategic or policy nature relevant to CN's functions, facilities or services.

### 3 Principles

- 3.1 CN commits itself to the following:
  - a) **Accountability and transparency** – This Policy enables members of the public to bring before the Council issues of a general, strategic or policy nature relevant to CN's functions, facilities or services. This Policy ensures decisions are made in a way that is open and accountable.
  - b) **Alignment with Council strategies** - This Policy aligns with Council priorities outlined in CN's Newcastle 2040 Community Strategic Plan.
  - c) **Openness** – This Policy enables members of the public to communicate opinions or concerns directly to Councillors by way of an address to the Council in an open forum.

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## PUBLIC VOICE SESSIONS

### 4 What are Public Voice sessions?

- 4.1 Public Voice sessions provide an opportunity for members of the public to make presentations to the Council on (DAs that are to be determined by CN's Development Applications Committee at a future meeting.

### 5 Procedure for applying for Public Voice sessions and assessment criteria

#### Frequency of sessions

- 5.1 One Public Voice Committee Meeting per month (generally the third Tuesday of the month when scheduled) or in accordance with Council's adopted meeting cycle.
- 5.2 A maximum of four items will be scheduled for each Public Voice Committee Meeting.
- 5.3 Sessions are normally scheduled to occur at least one month prior to the DA being scheduled for determination by CN's Development Applications Committee.

#### Availability

- 5.4 Sessions will be offered where a matter is to be determined by the Development Applications Committee and either:
- 25 or more unresolved Individual Written Objections were received during the DA notification period; or
  - Two or more Councillors call the matter to the Development Applications Committee.

#### Invitation to submit application

- 5.5 When a session is to be offered in accordance with clause 5.4, an invitation to submit an application to address a Public Voice session will be made to any person who submitted an Individual Written Objection. Any application received prior to the invitation being issued will not be considered.

#### Assessment of applications

- 5.6 Applications will be registered in the order they are received.
- 5.7 The first two applicants will be invited to address the Public Voice session.
- 5.8 If no applications are received by the deadline provided in the invitation, the Public Voice session will not proceed.
- 5.9 The final decision to accept or decline a Public Voice application rests with the Manager, Regulatory, Planning and Assessment in consultation with the CEO and Director Governance and Chief Financial Officer.

#### Invitation to DA applicant

- 5.10 Once it is confirmed that a Public Voice session will proceed, the DA applicant will also be invited to address Council.

#### Notice to applicants of Public Voice session

- 5.11 Notice to all applicants advising of a Public Voice session will be provided as soon as possible after applications are received and assessed in accordance with clause 5.6.
- 5.12 Confirmation of the arrangements for the Public Voice session will be provided at least 7 days in advance of the scheduled meeting including an invitation to submit presentations or supporting materials in advance of the meeting.

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## 6 Conduct of Public Voice sessions

- 6.1 Prior to a Public Voice session, Councillors are to be provided with an Agenda and Business Papers, including any reports outlining the key issues of each session. The Business Papers will be made available to the public on CN's website.
- 6.2 Sessions are 30 minutes in duration, subject to the discretion of the Chairperson and are conducted as a Committee of the Whole in accordance with CN's Code of Meeting Practice.
- 6.3 Each session is limited to (in the following speaking order):
  - a) two speakers on behalf of objectors to the DA (10 minutes in total);
  - b) two speakers on behalf of the DA applicant (10 minutes in total); and
  - c) questions from Councillors (10 minutes in total).
- 6.4 Speakers are to confine their address to Council to the matters identified in their application.
- 6.5 The Chairperson may direct a speaker to cease their address if the speaker does not conduct themselves in accordance with this Policy or CN's Code of Meeting Practice.
- 6.6 All supporting material sought to be presented to Councillors must be provided to CN by close of business the day prior to the scheduled session. Speakers are not permitted to provide additional supporting material to Councillors immediately before, or during, a Public Voice session.
- 6.7 Sessions are webcast and open to the public. As such speakers should not:
  - a) make personal reflections on any person; or
  - b) make statements that may cause offence or be defamatory or insulting.
- 6.8 The minutes of the Public Voice session are a summary record of the session. The minutes are available to members of the public on CN's website after the Ordinary Council Meeting the following month.
- 6.9 Where the DA is to be determined by the Development Applications Committee, Councillors are provided with a report making a recommendation on determination of the DA, which will include a summary of the submissions made at a Public Voice session. The report will also be made available to the public in advance of the Council meeting.

## 7 Alternatives to a Public Voice session

- 7.1 As an alternative to applying for Public Voice, members of the public are encouraged to communicate or raise issues regarding a DA with CN by:
  - a) submitting a Customer Service Request;
  - b) engaging with CN through DA assessment, public exhibitions, events and activities; or
  - c) writing to Councillors directly using the contact details available on the CN website.

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## PUBLIC BRIEFING SESSIONS

### 8 What are Public Briefing sessions?

- 8.1 Public Briefing sessions provide an opportunity for members of the public to make short presentations relating to significant issues of a general, strategic or policy nature relevant to CN's functions, facilities or services.
- 8.2 Public Briefing sessions are not for DAs but can include matters relating to Planning Proposals.

### 9 Procedure for applying for Public Briefing session and assessment criteria

#### Frequency of sessions

- 9.1 One Public Briefing Committee Meeting per month (when scheduled) or in accordance with Council's adopted meeting cycle.

#### Lodging a Public Briefing application

- 9.2 Applications are to be submitted on the approved Public Voice/Public Briefing Application Form (available on CN's website) with all sections of the form being completed. Incomplete forms can not be processed.
- 9.3 Public Briefings may also be scheduled at the direction of the CEO or by resolution of Council.

#### Criteria for assessing Public Briefing applications

- 9.4 Public Briefing applications will be assessed against the following criteria:
- the application relates to an aspect of CN's functions, facilities or services;
  - the application does not relate to DAs;
  - the applicant has not presented on the issue to a Public Briefing session in the past two years or the application does not relate to the same subject matter of a Public Briefing application that has been refused by CN in the past two years, unless the CEO determines the matter has significantly changed or the Council request a Public Briefing session;
  - the application does not request a decision or commitment of Council (such an issue would need to go before a Council Meeting); and
  - the matter is not vexatious, defamatory, an abuse of process or outside the scope of CN.

#### Assessment of applications

- 9.5 The relevant Service Unit Manager/Director, in consultation with the CEO and Manager Legal, will assess and determine applications against the criteria in clause 9.4.

#### Acknowledgement and notification to applicants

- 9.6 Public Briefing applications will be acknowledged within 5 business days of receipt.
- 9.7 Within 28 business days of receiving an application for a Public Briefing session, CN will advise the applicant:
- if the application is successful and associated details for the scheduled Public Briefing session; or
  - if the application is unsuccessful with reasons (taking into account the criteria set out in clause 9.4).

### 10 Conduct of Public Briefing sessions

- 10.1 Prior to a Public Briefing session, Councillors are to be provided with an Agenda and Business Papers, including any reports outlining the key issues of each session. The Business Papers will be made available to the public on CN's website.

- 
- 10.2 Sessions are 30 minutes in duration, subject to the discretion of the Chairperson and are conducted in accordance with CN's Code of Meeting Practice.
- 10.3 A maximum of two sessions will be scheduled for each Public Briefing Committee Meeting.
- 10.4 Each session is limited to:
- a) speakers on an issue, which may include CN Staff (20 minutes in total); and
  - b) questions from Councillors (10 minutes in total).
- 10.5 Speakers are to confine their address to Council to the matters identified in their application.
- 10.6 The Chairperson may direct a speaker to cease their address if the speaker does not conduct themselves in accordance with this Policy or CN's Code of Meeting Practice.
- 10.7 Speakers should not attempt to provide additional supporting material to Councillors immediately before, or during, a Public Briefing session. Supporting material must be provided by close of business the day prior to the scheduled session.
- 10.8 Sessions are webcast and open to the public. As such speakers should not:
- a) make personal reflections on any person; or
  - b) make statements that may cause offence or be defamatory or insulting.
- 10.9 The minutes of the Public Briefing session are a summary record of the session. The minutes are available to members of the public on CN's website after the Ordinary Council Meeting the following month..

## **11 Alternatives to a Public Briefing session**

- 11.1 As an alternative to applying for a Public Briefing session, members of the public are encouraged to communicate or raise issues with CN by:
- a) Submitting a Customer Service Request;
  - b) Engaging with CN through public exhibitions, events and activities; or
  - c) Writing to Councillors directly using the contact details available on the CN website.

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## ANNEXURE A - DEFINITIONS

**Agenda** has the same meaning as in CN's Code of Meeting Practice.

**Application** means a request submitted on the approved Public Voice/Public Briefing Application Form (available on CN's website).

**Business Papers** has the same meaning as in CN's Code of Meeting Practice.

**CEO** means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

**Chairperson** means the Lord Mayor, or Councillor, chairing the Public Voice Committee or Public Briefing Committee Meeting in accordance with CN's Code of Meeting Practice.

**City of Newcastle (CN)** means Newcastle City Council.

**Council** means the elected Council.

**Development Application (DA)** means a formal application for development that requires consent under the *Environmental Planning and Assessment Act 1979* (NSW).

**Individual Written Objection** means a written submission opposing a Development Application emanating from an individual household submitted during the DA public notification period. For clarity, more than written objection received from the same individual household will be counted collectively as one objection.

**Planning Proposal** means a document that explains the intended effect of a proposed Local Environmental Plan and sets out the justification for making that plan.

**Public Voice session** means a session to provide an opportunity for members of the public to make presentations to the Council on Development Applications (DAs) that are to be determined by CN's Development Applications Committee at a future meeting.

**Public Briefing session** means a session to provide an opportunity for members of the public to make short presentations relating to significant issues of a general, strategic or policy nature, relevant to CN's functions, facilities or services.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

## ANNEXURE B - POLICY AUTHORISATIONS

Title of Authorisation	Description of Authorisation	Position Title and Number
Assess and determine Public Briefing applications	Authority to assess and determine, in consultation with the CEO and Manager Legal, applications for a Public Briefing session against the criteria of the Policy.	P20674   Director City Wide Services P20676   Director Governance and Chief Financial Officer P60299   Director and Interim Chief Information Officer P90001   Director Infrastructure and Property P20675   Director Strategy and Engagement P30051   Director People and Culture P50179   Manager Assets and Projects P20689   Manager Civic Services P20679   Manager Civil Construction and Maintenance P40160   Manager Community Strategy and Innovation P30003   Manager Customer Experience P50383   Manager Depot Operations P20052   Manager Finance P30025   Manager Legal P40353   Manager Libraries and Learning P20377   Manager Major Events and Corporate Affairs P40015   Manager Regulatory, Planning and Assessment P50915   Manager Parks and Recreation P20677   Manager Property and Facilities P20783   Manager Transport and Compliance P20307   Manager Waste Services P40005   Art Gallery Director P40299   Museum Director
Assess and determine Public Voice applications	Authority to assess and determine, in consultation with the CEO and Director Governance and Chief Financial Officer, applications for a Public	P20676   Director Governance and Chief Financial Officer P40015   Manager Regulatory, Planning and Assessment

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	Voice session against the criteria of this Policy.	
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## DOCUMENT CONTROL

Policy title	Public Voice and Public Briefing Policy
Policy owner	Manager Legal
Policy expert/writer	Manager Governance and Councillor Services
Associated Procedure Title	Nil
Procedure owner	Nil
Prepared by	Legal
Approved by	Council
Date approved	To be completed by Legal
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal
Next revision date	To be completed by Legal
Termination date	To be completed by Legal (one-year post revision date)
Version #	4
Category	Council
Keywords	Briefing, Council, Public Voice, Information, Session, Public
Details of previous versions	Version #3 - ECM 6108316
Legislative amendments	Nil
Relevant strategy	Nil
Relevant legislation/codes (reference specific sections)	Nil.
Other related documents	Code of Meeting Practice Codes of Conduct
Related forms	Public Voice/Public Briefing Application Form
Required on website	Yes
Authorisations	Refer to functions authorised under this Policy at Annexure B.

## **CCL 27/07/2022 – ADOPTION OF COUNCIL POLICIES**

**ITEM-58 Attachment C: Planning Agreements Policy**

Page 57 Attachment C.1: Summary of Policy and tracked changes

Page 58 Attachment C.2: Planning Agreements Policy  
(tracked changes)

Page 67 Attachment C.3: Planning Agreements Policy  
(clean version)

## **Attachment C.1**

**POLICY TITLE:** Planning Agreements Policy

**POLICY OWNERS:** Director Governance and Chief Financial Officer / Manager  
Regulatory, Planning and Assessment

### **SUMMARY OF POLICY**

1. The Planning Agreements Policy was adopted in May 2021. The purpose of the Policy is to set out CN's approach to planning agreements that Council may enter into with a developer who requests changes to the Newcastle Local Environmental Plan or has made, or proposes to make, a development application or application for a complying development certificate.
2. The Policy keeps with the provisions of the *Environmental Planning and Assessment Act 1979* (NSW) and the *Environmental Planning and Assessment Regulation 2021* (NSW). A Practice Note, prepared by the NSW Department of Planning states that planning agreements must be governed by a set of policy principles that ensure transparency, fairness and flexibility of planning decisions. This Policy supports this guidance.

### **SUMMARY OF PROPOSED CHANGES TO POLICY**

3. The proposed Policy (with minor tracked changes) is set out at **Attachment C.2** and a clean version is at **Attachment C.3**.
4. The key differences between the revised Policy and CN's current Policy are as follows:
  - i. Updates references to the Regulation to the new *Environmental Planning and Assessment Regulation 2021* (NSW).

# Planning Agreements Policy

July 2022

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## INTRODUCTION

### 1 Purpose

- 1.1 The Planning Agreements Policy (this Policy) sets out City of Newcastle's (CN's) approach to planning agreements, in keeping with the provisions of the *Environmental Planning and Assessment Act 1979* (NSW) (the Act) and the *Environmental Planning and Assessment Regulation 202100* (NSW) (the Regulation).

### 2 Scope

- 2.1 This Policy applies to planning agreements that Council may enter into with a developer who requests changes to the Newcastle Local Environmental Plan (LEP) through a Planning proposal or has made, or proposes to make, a Development application or application for a complying development certificate for land within the City of Newcastle Local Government Area (LGA).

### 3 Objectives

- 3.1 The objectives of this Policy are:
- To establish a fair, transparent and accountable framework governing the use of planning agreements by CN officers and Council.
  - To facilitate flexible and innovative delivery of public infrastructure, facilities, works services and social amenities in line with CN strategic planning objectives for planning proposals, development applications and/or complying development certificates.
  - To provide a means for stakeholders in development to have greater involvement in the delivery of appropriate public benefits identified by strategic planning plans and policies.
  - To facilitate public participation and allow the community to gain an understanding of the benefits of planning agreements for the provision of public benefit.

### 4 Principles

- 4.1 City of Newcastle (CN) Council is committed to the following:

#### Accountability and transparency

- Planning decisions will not be unduly influenced by planning agreements;
- Council will not allow planning agreements to improperly fetter the exercise of its functions under the Act, Regulation or any other Act or law;

#### Commitment to the community

- Planning agreements will be underpinned by proper strategic land use planning and support the local strategic planning framework, including CN's Community Strategic Plan (CSP), Newcastle Local Strategic Planning Statement (LSPS), Newcastle Local Housing Strategy (LHS) and other relevant adopted plans, policies and strategies;
- Development that is unacceptable on planning grounds will not be permitted regardless of public benefits offered by developers;

#### Fairness

- Council will not seek benefits under a planning agreement that are wholly unrelated to a development;
- When considering a development or Instrument change, Council will not give undue weight to a planning agreement;
- Council will not allow the interests of individuals or small groups to demand benefits, which otherwise outweigh the public interest;
- Council will not take advantage of an imbalance of bargaining power with the developer, for example, it will not improperly rely on its statutory position in order to

- extract unreasonable public benefits under a planning agreement;
- i) Planning agreements will not be used as a means of general revenue raising or to overcome revenue shortfalls.

## INTRODUCTION

### 5 Legislative Framework

- 5.1 Part 7, Division 7.1, Subdivision 2 of the *Environmental Planning and Assessment Act 1979* (the Act) provides the legislative framework for planning agreements considered.
- 5.2 Part 94, Division 1A of the *Environmental Planning and Assessment Regulation 2021* (the Regulation) has further requirements relating to the form and subject matter of planning agreements, making, amending and revocation of planning agreements, giving public notice and other procedural arrangements relating to planning agreements.
- 5.3 This Policy should be read in conjunction with the NSW Department of Planning, Industry and Environment's Planning Agreements Practice Note - February 2021. This Practice Note provides detailed guidance on the negotiation, administration and making of planning agreements.

## USE OF PLANNING AGREEMENTS

### 6 Circumstances in which Council may consider entering into a planning agreement

- 6.1 Council may consider entering into a planning agreement in the following instances (this is not an exhaustive list):
  - a) Major development sites or precincts that are owned by a single land-owner or a consortium of land-owners.
  - b) Where the developer has a direct incentive, such as bringing forward potential development, to be involved in the delivery of community infrastructure.
  - c) Where the developer wants to provide community infrastructure in addition to, or at a higher standard than, what has been specified under the Contributions plan.
  - d) Where Council and the developer agree to a different and better or more innovative outcome than can be achieved through imposing direct or indirect contributions. This may include the provision of publicly viewable and/or accessible art.
  - e) Where a proposed development has not been anticipated by Council thus works and facilities to cater for this development have not been identified. A planning agreement can be prepared to specifically target the needs of the development.
  - f) Where necessary infrastructure identified in an adopted contributions plan will be brought forward, or infrastructure not identified in such a plan, that achieves a net public benefit, will be delivered.

### 7 Land use planning and development objectives that can be addressed by Planning agreements

- 7.1 The following matters may be addressed through planning agreements (this is not an exhaustive list):
  - a) the demands created by the development for public amenities, public services, transport and other infrastructure;
  - b) conservation or enhancement of the natural environment;
  - c) provision of affordable housing;
  - d) any deficiency in the provision of public facilities in the City of Newcastle LGA;
  - e) inclusions in the development that meet specific planning objectives of CN;
  - f) source of funds for recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure;
  - g) monitoring the planning impacts of development;
  - h) securing planning benefits for the wider community.

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## **8 Acceptability test to be applied to all planning agreements**

- 8.1 CN officers will assess the planning agreement against the test below to determine the acceptability of a proposed planning agreement.
- 8.2 The acceptability test requires that planning agreements:
- Are directed towards legitimate planning purposes, that can be identified in the statutory planning controls and other adopted planning strategies and policies applying to development;
  - Provide for the delivery of infrastructure or public benefits not wholly unrelated to the development;
  - Produce outcomes that meet the general values and expectations of the public and protect the overall public interest;
  - Provide for a reasonable means of achieving the desired outcomes and securing the benefits;
  - Protect the community against adverse planning decisions.
- 8.3 Planning agreements that seek to change the purpose, use or ownership of CN land, including the dedication of land to Council, will involve consultation with relevant internal stakeholders, including CN's Asset Advisory Committee if deemed appropriate.

## **9 Preparation and form of a planning agreement**

- 9.1 The developer must prepare a planning agreement relating to a particular application for an Instrument change, Development application or complying development certificate which reflects Council policy and CN's procedures and adheres to all relevant legislation. Relevant fees prescribed by Council's adopted fees and charges must also be paid.

## **10 Preparing a draft planning agreement on behalf of Council**

- 10.1 CN officers will liaise with the developer and prepare a draft planning agreement on behalf of Council. Councillors are not involved in discussions with the developer on the planning agreement.

## **11 Separation of CN's commercial and planning assessment roles**

- 11.1 If CN has a commercial interest in the subject matter of a planning agreement as a landowner, developer or financier, we will ensure that the person who assesses the application to which a planning agreement relates is not the same person, or a subordinate of the person, who negotiated the terms of the planning agreement on behalf of Council.

## **12 Public comment on planning agreements prior to adoption by Council**

- 12.1 CN encourages the public to make submissions on planning agreements. This will allow Council to better understand local needs and permit fine tuning of the planning obligations set out in any planning agreement.
- 12.2 Council will consider any submissions received during the formal exhibition period. If the draft planning agreement is substantially changed because of the submissions received during the exhibition period, the draft planning agreement and explanatory note may be re-exhibited.
- 12.3 Public submissions received during the exhibition period will be reported to the elected Council with the draft planning agreement when the planning agreement is reported for final endorsement.

## **13 Application of section 7.11 and section 7.12 Local Infrastructure Contributions to development to which a planning agreement relates**

- 13.1 The use of a planning agreement does not exclude the application of section 7.11 or section 7.12 Local Infrastructure Contributions to a development to which the agreement relates, unless otherwise agreed by Council.

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## ANNEXURE A - DEFINITIONS

**Act** means the *Environmental Planning and Assessment Act 1979* (NSW).

**CEO** means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

**Contributions Plan** means a contributions plan approved under section 7.18 of the Act for the purpose of requiring contributions under section 7.11 or 7.12 of the Act.

**Council** means the elected Council.

**City of Newcastle (CN)** means Newcastle City Council.

**Developer** means a person who has sought a change to an environmental planning instrument (which includes the making, amendment or repeal of an instrument (s7.4(11)), or who has made or proposes to make a development application, or who has entered into a planning agreement with or is otherwise associated with such a person.

**Development application** has the same meaning as in the EP&A Act.

**Explanatory note** means a written statement that provides details of the objectives, nature, effect and merits of a planning agreement, or an amendment to or revocation of a planning agreement to be used for or applied towards a public purpose.

**Instrument change** means a change to an environmental planning instrument (e.g. the Newcastle Local Environment Plan) to facilitate a development the subject of a planning agreement.

**Development or Infrastructure contribution** means the provision made by a developer under a planning agreement, being a monetary contribution, the dedication of land free of cost or the provision of a material public benefit to be used for or applied towards a public purpose.

**Net public benefit** is a benefit that exceeds the benefit derived from measures that would address the impacts of particular development on surrounding land or the wider community.

**Nominated Project manager** means the nominated Council officer who will be involved in reviewing the draft planning agreement and oversees implementation of the planning agreement.

**Planning agreement** is a voluntary agreement between the Council and a landowner or developer who seeks an amendment to the planning controls for land or who seeks approval for a proposed development. The developer may be required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose under a planning agreement.

**Planning authority** has the same meaning as in Division 7.1 of Part 7 of the EP&A Act, and means:

- a) a council, or
- b) the Minister for Planning, or
- c) the Planning Ministerial Corporation, or
- d) a development corporation (within the meaning of the Growth Centres (Development Corporations) Act 1974), or
- e) a public authority.

**Planning benefit** means a development contribution that confers a net public benefit.

**Planning obligation** means an obligation imposed by a planning agreement on a developer requiring the developer to make a development contribution.

**Planning proposal** has the same meaning as in the EP&A Act.

**Practice Note** means the Planning Agreement Practice Note, published by the Department of Planning, Industry and Environment – February 2021.

**Public benefit** means the benefit enjoyed by the public as a consequence of a development

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contribution.

**Public facilities** means public infrastructure, amenities and services.

**Public purpose** means any purpose that benefits the public, including by not limited to a purpose specified in section 7.4 of the Act.

**Regulation** means the *Environmental Planning and Assessment Regulation 2021~~00~~*.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

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**ANNEXURE B - POLICY AUTHORISATIONS**

Title of authorisation	Description of authorisation	Position Number & Title
Nil.		

DRAFT

## DOCUMENT CONTROL

Policy title	Planning Agreements Policy
Policy owner	Manager Regulatory, Planning and Assessment
Policy expert/writer	Urban Planning Section Manager
Associated Guideline or Procedure Title	Planning Agreement Procedure
Guideline or Procedure owner	Manager Regulatory, Planning and Assessment
Prepared by	Regulatory, Planning and Assessment
Approved by	Council
Date approved	To be completed by Legal
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal
Next review date	To be completed by Legal
Termination date	To be completed by Legal (one year post revision date)
Version #	Version number 2
Category	Regulatory, Enforcement and Compliance
Details of previous versions	Version #1 – ECM: 6964543
Keywords	Planning agreement, Section 7.11, Section 7.12, infrastructure contributions
Relevant strategy	Nil.
Relevant legislation/codes (reference specific sections)	This Policy supports CN's compliance with the following legislation: <ul style="list-style-type: none"> <li>– <i>Environmental Planning and Assessment Act 1979 (NSW)</i></li> <li>– <i>Environmental Planning and Assessment Regulation 2021<del>00</del></i></li> </ul>
Other related documents	Nil.
Related forms	Planning Agreement Template
Required on website	Yes
Authorisations	Functions authorised under <a href="#">this Policy at Annexure B</a>

# Planning Agreements Policy

July 2022

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City of  
Newcastle

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## INTRODUCTION

### 1 Purpose

- 1.1 The Planning Agreements Policy (this Policy) sets out City of Newcastle's (CN's) approach to Planning agreements, in keeping with the provisions of the *Environmental Planning and Assessment Act 1979* (NSW) (the Act) and the *Environmental Planning and Assessment Regulation 2021* (NSW) (the Regulation).

### 2 Scope

- 2.1 This Policy applies to planning agreements that Council may enter into with a developer who requests changes to the Newcastle Local Environmental Plan (LEP) through a Planning proposal or has made, or proposes to make, a Development application or application for a complying development certificate for land within the Newcastle Local Government Area (LGA).

### 3 Objectives

- 3.1 The objectives of this Policy are:
- To establish a fair, transparent and accountable framework governing the use of Planning agreements by CN officers and Council.
  - To facilitate flexible and innovative delivery of public infrastructure, facilities, works services and social amenities in line with CN strategic planning objectives for planning proposals, development applications and/or complying development certificates.
  - To provide a means for stakeholders in development to have greater involvement in the delivery of appropriate public benefits identified by strategic planning plans and policies.
  - To facilitate public participation and allow the community to gain an understanding of the benefits of planning agreements for the provision of public benefit.

### 4 Principles

- 4.1 City of Newcastle (CN) commits to the following:

#### Accountability and transparency

- Planning decisions will not be unduly influenced by planning agreements;
- Council will not allow planning agreements to improperly fetter the exercise of its functions under the Act, Regulation or any other Act or law;

#### Commitment to the community

- Planning agreements will be underpinned by proper strategic land use planning and support the local strategic planning framework, including CN's Community Strategic Plan (CSP), Newcastle Local Strategic Planning Statement (LSPS), Newcastle Local Housing Strategy (LHS) and other relevant adopted plans, policies and strategies;
- Development that is unacceptable on planning grounds will not be permitted regardless of public benefits offered by developers;

#### Fairness

- Council will not seek benefits under a planning agreement that are wholly unrelated to a development;
- When considering a development or Instrument change, Council will not give undue weight to a planning agreement;
- Council will not allow the interests of individuals or small groups to demand benefits, which otherwise outweigh the public interest;
- Council will not take advantage of an imbalance of bargaining power with the developer, for example, it will not improperly rely on its statutory position in order to

- extract unreasonable public benefits under a planning agreement;
- i) Planning agreements will not be used as a means of general revenue raising or to overcome revenue shortfalls.

## INTRODUCTION

### 5 Legislative Framework

- 5.1 Part 7, Division 7.1, Subdivision 2 of the *Environmental Planning and Assessment Act 1979* (the Act) provides the legislative framework for planning agreements considered.
- 5.2 Part 9, Division 1 of the *Environmental Planning and Assessment Regulation 2021* (the Regulation) has further requirements relating to the form and subject matter of planning agreements, making, amending and revocation of planning agreements, giving public notice and other procedural arrangements relating to planning agreements.
- 5.3 This Policy should be read in conjunction with the NSW Department of Planning, Industry and Environment's Planning Agreements Practice Note - February 2021. This Practice Note provides detailed guidance on the negotiation, administration and making of planning agreements.

## USE OF PLANNING AGREEMENTS

### 6 Circumstances in which Council may consider entering into a planning agreement

- 6.1 Council may consider entering into a planning agreement in the following instances (this is not an exhaustive list):
  - a) Major development sites or precincts that are owned by a single land-owner or a consortium of land-owners.
  - b) Where the developer has a direct incentive, such as bringing forward potential development, to be involved in the delivery of community infrastructure.
  - c) Where the developer wants to provide community infrastructure in addition to, or at a higher standard than, what has been specified under the Contributions plan.
  - d) Where Council and the developer agree to a different and better or more innovative outcome than can be achieved through imposing direct or indirect contributions. This may include the provision of publicly viewable and/or accessible art.
  - e) Where a proposed development has not been anticipated by Council thus works and facilities to cater for this development have not been identified. A planning agreement can be prepared to specifically target the needs of the development.
  - f) Where necessary infrastructure identified in an adopted contributions plan will be brought forward, or infrastructure not identified in such a plan, that achieves a net public benefit, will be delivered.

### 7 Land use planning and development objectives that can be addressed by Planning agreements

- 7.1 The following matters may be addressed through planning agreements (this is not an exhaustive list):
  - a) the demands created by the development for public amenities, public services, transport and other infrastructure;
  - b) conservation or enhancement of the natural environment;
  - c) provision of affordable housing;
  - d) any deficiency in the provision of public facilities in the Newcastle LGA;
  - e) inclusions in the development that meet specific planning objectives of CN;
  - f) source of funds for recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure;
  - g) monitoring the planning impacts of development;
  - h) securing planning benefits for the wider community.

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## **8 Acceptability test to be applied to all planning agreements**

- 8.1 CN officers will assess the planning agreement against the test below to determine the acceptability of a proposed planning agreement.
- 8.2 The acceptability test requires that planning agreements:
- a) Are directed towards legitimate planning purposes, that can be identified in the statutory planning controls and other adopted planning strategies and policies applying to development;
  - b) Provide for the delivery of infrastructure or public benefits not wholly unrelated to the development;
  - c) Produce outcomes that meet the general values and expectations of the public and protect the overall public interest;
  - d) Provide for a reasonable means of achieving the desired outcomes and securing the benefits;
  - e) Protect the community against adverse planning decisions.
- 8.3 Planning agreements that seek to change the purpose, use or ownership of CN land, including the dedication of land to Council, will involve consultation with relevant internal stakeholders, including CN's Asset Advisory Committee if deemed appropriate.

## **9 Preparation and form of a planning agreement**

- 9.1 The developer must prepare a planning agreement relating to a particular application for an Instrument change, Development application or complying development certificate which reflects Council policy and CN's procedures and adheres to all relevant legislation. Relevant fees prescribed by Council's adopted fees and charges must also be paid.

## **10 Preparing a draft planning agreement on behalf of Council**

- 10.1 CN officers will liaise with the developer and prepare a draft planning agreement on behalf of Council. Councillors are not involved in discussions with the developer on the planning agreement.

## **11 Separation of CN's commercial and planning assessment roles**

- 11.1 If CN has a commercial interest in the subject matter of a planning agreement as a landowner, developer or financier, we will ensure that the person who assesses the application to which a planning agreement relates is not the same person, or a subordinate of the person, who negotiated the terms of the planning agreement on behalf of Council.

## **12 Public comment on planning agreements prior to adoption by Council**

- 12.1 CN encourages the public to make submissions on planning agreements. This will allow Council to better understand local needs and permit fine tuning of the planning obligations set out in any planning agreement.
- 12.2 Council will consider any submissions received during the formal exhibition period. If the draft planning agreement is substantially changed because of the submissions received during the exhibition period, the draft planning agreement and explanatory note may be re-exhibited.
- 12.3 Public submissions received during the exhibition period will be reported to the elected Council with the draft planning agreement when the planning agreement is reported for final endorsement.

## **13 Application of section 7.11 and section 7.12 Local Infrastructure Contributions to development to which a planning agreement relates**

- 13.1 The use of a planning agreement does not exclude the application of section 7.11 or section 7.12 Local Infrastructure Contributions to a development to which the agreement relates, unless otherwise agreed by Council.

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## ANNEXURE A - DEFINITIONS

**Act** means the *Environmental Planning and Assessment Act 1979* (NSW).

**CEO** means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

**Contributions Plan** means a contributions plan approved under section 7.18 of the Act for the purpose of requiring contributions under section 7.11 or 7.12 of the Act.

**Council** means the elected Council.

**City of Newcastle (CN)** means Newcastle City Council.

**Developer** means a person who has sought a change to an environmental planning instrument (which includes the making, amendment or repeal of an instrument (s7.4(11)), or who has made or proposes to make a development application, or who has entered into a planning agreement with or is otherwise associated with such a person.

**Development application** has the same meaning as in the EP&A Act.

**Explanatory note** means a written statement that provides details of the objectives, nature, effect and merits of a planning agreement, or an amendment to or revocation of a planning agreement to be used for or applied towards a public purpose.

**Instrument change** means a change to an environmental planning instrument (e.g. the Newcastle Local Environment Plan) to facilitate a development the subject of a planning agreement.

**Development or Infrastructure contribution** means the provision made by a developer under a planning agreement, being a monetary contribution, the dedication of land free of cost or the provision of a material public benefit to be used for or applied towards a public purpose.

**Net public benefit** is a benefit that exceeds the benefit derived from measures that would address the impacts of particular development on surrounding land or the wider community.

**Nominated Project manager** means the nominated Council officer who will be involved in reviewing the draft planning agreement and oversees implementation of the planning agreement.

**Planning agreement** is a voluntary agreement between the Council and a landowner or developer who seeks an amendment to the planning controls for land or who seeks approval for a proposed development. The developer may be required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose under a planning agreement.

**Planning authority** has the same meaning as in Division 7.1 of Part 7 of the EP&A Act, and means:

- a) a council, or
- b) the Minister for Planning, or
- c) the Planning Ministerial Corporation, or
- d) a development corporation (within the meaning of the Growth Centres (Development Corporations) Act 1974), or
- e) a public authority.

**Planning benefit** means a development contribution that confers a net public benefit.

**Planning obligation** means an obligation imposed by a planning agreement on a developer requiring the developer to make a development contribution.

**Planning proposal** has the same meaning as in the EP&A Act.

**Practice Note** means the Planning Agreement Practice Note, published by the Department of Planning, Industry and Environment – February 2021.

**Public benefit** means the benefit enjoyed by the public as a consequence of a development

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contribution.

**Public facilities** means public infrastructure, amenities and services.

**Public purpose** means any purpose that benefits the public, including by not limited to a purpose specified in section 7.4 of the Act.

**Regulation** means the *Environmental Planning and Assessment Regulation 2021*.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

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**ANNEXURE B - POLICY AUTHORISATIONS**

Title of authorisation	Description of authorisation	Position Number & Title
Nil.		

DRAFT

## DOCUMENT CONTROL

Policy title	Planning Agreements Policy
Policy owner	Manager Regulatory, Planning and Assessment
Policy expert/writer	Urban Planning Section Manager
Associated Guideline or Procedure Title	Planning Agreement Procedure
Guideline or Procedure owner	Manager Regulatory, Planning and Assessment
Prepared by	Regulatory, Planning and Assessment
Approved by	Council
Date approved	To be completed by Legal
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal
Next review date	To be completed by Legal
Termination date	To be completed by Legal (one year post revision date)
Version #	Version number 2
Category	Regulatory, Enforcement and Compliance
Details of previous versions	Version #1 – ECM: 6964543
Keywords	Planning agreement, Section 7.11, Section 7.12, infrastructure contributions
Relevant strategy	Nil.
Relevant legislation/codes (reference specific sections)	This Policy supports CN's compliance with the following legislation: <ul style="list-style-type: none"> <li>– <i>Environmental Planning and Assessment Act 1979 (NSW)</i></li> <li>– <i>Environmental Planning and Assessment Regulation 2021</i></li> </ul>
Other related documents	Nil.
Related forms	Planning Agreement Template
Required on website	Yes
Authorisations	Functions authorised under this Policy at Annexure B

**CCL 27/07/2022 – ADOPTION OF COUNCIL POLICIES**

**ITEM-58 Attachment D: Community Infrastructure Incentives Policy**

Page 77 Attachment D.1: Summary of Policy and tracked changes

Page 78 Attachment D.2: Community Infrastructure Incentives Policy  
(clean version)

## **Attachment D.1**

**POLICY TITLE:** Community Infrastructure Incentives Policy

**POLICY OWNERS:** Director Governance and Chief Financial Officer / Manager  
Regulatory, Planning and Assessment

### **SUMMARY OF POLICY**

1. The Community Infrastructure Incentives Policy was adopted in July 2021. The purpose of the Policy is to enhance the delivery of community infrastructure to support urban renewal in the City of Newcastle (CN) through the provision of development incentives.
2. This Policy compliments the existing Local Infrastructure Contributions framework and will enable CN to introduce measures within the strategic growth areas identified within the Greater Newcastle Metropolitan Plan, where these are anticipated to facilitate urban renewal. Implementation will occur in accordance with the *Environmental Planning and Assessment Act 1979* and supporting Regulation.

### **SUMMARY OF PROPOSED CHANGES TO POLICY**

3. The proposed Policy is set out at **Attachment D.2**.
4. There are no proposed changes to this Policy.

# Community Infrastructure Incentives Policy

July 2022

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## INTRODUCTION

### 1 Purpose

- 1.1 The purpose of this Policy is to enhance the delivery of community infrastructure to support urban renewal in the City of Newcastle (CN) through the provision of development incentives.

### 2 Scope

- 2.1 This Policy only applies to land within the Newcastle Local Government Area (LGA) that is identified as suitable for accommodating an increase in density within:
- The Greater Newcastle Metropolitan Plan
  - An adopted strategy or plan of Council
  - A land use study or analysis prepared by or for CN to inform a planning decision by the Council.
- 2.2 CN will implement this Policy by the following means:
- Including provisions within the Local Environmental Plan (LEP) that enable an increase in density as an incentive, on land identified by the Floor Space Ratio (FSR) and/or Height of Buildings (HOB) map, where proposed development delivers community infrastructure. The LEP provisions will identify the maximum incentive available on the land.
  - A Development Control Plan (DCP) that identifies the community infrastructure CN seeks to deliver, for which the LEP incentives may apply to. The DCP guides how the level of incentive is determined having regard to the value of the community infrastructure proposed and the incentive Gross Floor Area (GFA) rate.
  - Publishing the 'Incentive GFA rate' in CN's annual Fees and Charges for the land to which the incentive applies in the LEP.
- 2.3 This Policy does not provide a means of varying development standards for individual proposals outside the parameters identified above.
- 2.4 This Policy complements the existing Local Infrastructure Contributions framework. However, any outcomes of this Policy are independent of those delivered by a plan of the Council under Section 7.18 Contributions plans—making of the *Environmental Planning and Assessment Act 1979* (NSW) (the Act). Nothing in this Policy affects the development contributions imposed as a condition of consent under Section 7.11 or 7.12 of the Act.

### 3 Principles

- 3.1 City of Newcastle (CN) commits to the following:
- Equity** – by ensuring the benefits of urban renewal are shared through development incentives that facilitate community infrastructure.
  - Certainty** – by identifying the potential development incentives available on identified land and the requirement for achieving these, both applicants and the community understand the potential built outcomes and the community infrastructure to be delivered by way of the incentive.
  - Transparency** – by implementing the development incentives in the LEP and identifying community infrastructure in the DCP, enabling community input and transparency independent of any development proposal.
  - Voluntary** – nothing in this Policy compels an applicant to access available development incentive for their land. Applicants can decide voluntarily if they wish to access additional GFA when preparing a development proposal. Likewise, this Policy does not reduce Council's obligation to ensure that all planning decisions are based on sound evidence, justification on planning grounds, and considered to be in the best public interest.

- e) **Consistency** – by ensuring CN has regard for this Policy when reporting to Council on potential increases in density through an amendment to the LEP development standards.

## CONTEXT

### 4 Implications of planning decisions

- 4.1 CN recognises that planning decisions have the potential to promote urban renewal and an intensification of land uses, which in the right location and circumstance provide benefit to:
  - a) the broader community, through provision of additional housing and employment, to meet existing and future demands consistent with population projections and emerging trends
  - b) landowners, through increase in land value, which provides greater returns on investment at time of sale, as well as an increase in financial equity.
- 4.2 Planning decisions promoting urban renewal also have the potential to impact existing local communities due to:
  - a) change in local character and amenity
  - b) inconveniences and impacts of increased construction activity
  - c) increased local traffic and demand for parking
  - d) increased demand on and for community infrastructure.

### 5 Community Infrastructure

- 5.1 New development is ordinarily required to contribute toward the provision of community infrastructure as a condition on consent being applied under Section 7.11 or Section 7.12 of the Act.
- 5.2 However, in areas identified for increased density local government is limited by:
  - a) the amount able to be charged in comparison to the full cost of providing the infrastructure and services required by the community
  - b) the type of items that may be funded by contributions in comparison to the expanded range of facilities and services local government is responsible for providing
  - c) The timeframe to collect or recoup adequate funds necessary for delivering community infrastructure.
- 5.3 CN recognises that the timely delivery of community infrastructure is essential to support the urban renewal and development process. This Policy aims to facilitate the enhanced delivery of community infrastructure through the provision of appropriate development incentives to support urban renewal.
- 5.4 In this Policy, community infrastructure may be delivered to CN in the form of land, works, a monetary contribution, or a combination of these.

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## APPROACH

### 6 Development incentives

- 6.1 In areas identified as suitable for supporting a change in land use/s and/or an increase in density of existing uses (as outlined in Section 2.1), CN will determine the maximum development incentives available based on the potential development standard to be applied, on potential development sites, where satisfied that the potential development outcomes meet the following criteria:
- reflect the envisaged character and scale of the local area
  - are justified on planning grounds
  - are feasible, having regard for the cost of delivering community infrastructure
  - result in the enhanced delivery of community infrastructure
  - result in a net public benefit to the local community.
- 6.2 CN will identify and determine the cost of delivering potential community infrastructure, which:
- address the immediate, intermediate, and long term needs of the area likely to experience change
  - improve the amenity of the public domain
  - expedite implementation of actions identified within an adopted plan or strategy
  - are not otherwise provided for within an adopted contribution plan
  - meets the required standards determined by CN.
- 6.3 CN will establish an 'Incentive GFA Rate' for an identified area, which will be used to determine the development incentive increase to be included in the development standard provided based on the additional density achieved in return for providing community infrastructure.
- 6.4 The 'Incentive GFA Rate', will be determined having regard to the following:
- the estimated cost for providing identified community infrastructure within the identified urban renewal area, expressed in dollars.
  - the potential incentive GFA that will be made available within the identified urban renewal area, expressed in square metres.
  - the Incentive GFA Rate, being the proportion calculated by dividing the cost of community infrastructure projects (in 7.4.1) by the total GFA uplift in the urban renewal area (in 7.4.2) and expressed as dollars per square metre.
  - Feasibility testing to compare likely development scenarios using a feasibility modelling approach, to determine if the proposed '*Incentive GFA rate*' enables a more viable outcome than the current LEP development standards to an extent where the outcome represents an incentive worth pursuing when weighed up against the potential additional risk.
  - Where feasibility testing determines the incentive to be unviable, CN may review the priority or scope of potential community infrastructure projects.
  - Despite the above, in certain circumstances CN may identify that an increase in density does not equate to improved development feasibility outcomes, regardless of the Incentive GFA Rate. In such circumstances the envisaged development outcomes may require further consideration to determine if increased density is warranted under current property market conditions.

## IMPLEMENTATION

### 7 Mechanisms

- 7.1 CN will implement this Policy through amendment of the Newcastle LEP 2012 (LEP) to increase the following development standard/s on land identified on:
- FSR map, up to the maximum incentive, to provide additional GFA to prospective development proposals
  - HOB map, up to the maximum incentive, to enable the realisation of GFA available to prospective development proposals from the FSR.
- 7.2 CN will include provisions within the LEP allowing for the transfer of GFA from land dedicated for community infrastructure onto the residual development parcel.
- 7.3 CN will introduce provision within the DCP to guide the preparation and assessment of development proposals seeking to access a development incentive on land identified within the LEP. Development controls will address such matters as:
- eligibility criteria for development proposals to determine suitability for attracting an incentive and the extent of incentive that may be applied
  - identification of the particulars of the community infrastructure sought through the incentives offered
  - the method for determining the level of incentive available for the provision of community infrastructure.
- 7.4 The established Incentive GFA Rate for a specified location will be published within the Schedule of Fees and Charges of the Newcastle Operational Plan, under Section 608 of the *Local Government Act 1993* (NSW). The Incentive GFA Rate is a 'charge' at full cost recovery for a 'service' (provision of community infrastructure) where provided on behalf of development seeking to access available incentive density on land. CN will review and index the Incentive GFA Rate annually.
- 7.5 Notwithstanding this part, CN may enter into an individual Planning Agreement, made under Section 7.4 of the Act, with a planning proposal seeking to achieve increased density, where consistent with Newcastle Planning Agreement Policy and justified:
- having regard for the principles of this Policy
  - using the approach of this Policy to identify specific community infrastructure to be delivered under the agreement
  - having regard for the value of the community infrastructure offered and the additional GFA the planning proposal will deliver, to determine the Incentive GFA rate
  - based on the delivery of a net positive benefit to the local community.

### 8 Development proposals

- 8.1 The provision of a development incentive on land, because of this Policy, does not:
- provide for the relaxation of any other development standard and/or development controls applying to the land or the particular proposal.
  - impose an obligation on the Council to consent to a development proposal seeking to apply the incentive.
  - have effect on the development contributions imposed as a condition of consent under Section 7.11 or 7.12 of the Act.
  - result in the imposition of additional cost to CN, where not already allocated for such purposes.
- 8.2 CN will consider all ongoing maintenance and liability costs when identifying, planning, and accepting community infrastructure under this Policy.

## ANNEXURE A - DEFINITIONS

**Act** means the *Environmental Planning and Assessment Act 1979* (NSW), unless where identified otherwise.

**CEO** means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

**City of Newcastle (CN)** means Newcastle City Council.

**Community infrastructure** means works, services and land provided and maintained by or on behalf of CN, for:

- a) recreation
- b) community facilities
- c) conservation
- d) public roads, walkways and cycleways
- e) drainage
- f) public car parking
- g) public domain improvement.

**Council** means the elected Council. A decision of the Council is taken to mean a decision by the elected Council or its delegates.

**DCP** means any part of Newcastle Development Control Plan 2012.

**Density** means the quantitative rate used to measure the concentration of development on land. Under the LEP Density is measured by FSR, with an 'increase in Density' meaning an increase in the amount of GFA able to be accommodated on a site.

**Development Incentive** means a Clause within the LEP, which enables a variation to development standards in order to increase development yield by way of GFA, based on the development meeting certain requirements.

**Development contribution** means the provision of money, or an agreed commodity of monetary value, by an applicant, toward the delivery of an identified item of Community infrastructure by or on behalf of CN. Development Contribution in this Policy refers to the required payment of money identified as a condition of consent to development, under an adopted plan of the Council. For more information refer to Section 7.11 or 7.12 of the Act.

**FSR** means floor space ratio, which is determined by dividing site area by the GFA. See the Newcastle LEP 2012 for more information.

**GFA** means Gross Floor Area and is the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- a) the area of a mezzanine, and
- b) habitable rooms in a basement or an attic, and
- c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—
- d) any area for common vertical circulation, such as lifts and stairs, and
- e) any basement—
  - i. storage, and
  - ii. vehicular access, loading areas, garbage and services, and
- f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- g) car parking to meet any requirements of the consent authority (including access to

- 
- that car parking), and
- h) any space used for the loading or unloading of goods (including access to it), and
  - i) terraces and balconies with outer walls less than 1.4 metres high, and
  - j) voids above a floor at the level of a storey or storey above.

**HOB** means Height of Building. See Newcastle Local Environmental Plan 2012 for more information.

**Incentive GFA** rate means the dollar value applied to each square metre of GFA provided to development as an incentive under the LEP.

**LEP** means Newcastle Local Environmental Plan 2012.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

DRAFT

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**ANNEXURE B - POLICY AUTHORISATIONS**

Title of authorisation	Description of authorisation	Position Number & Title
Nil.		

DRAFT

## DOCUMENT CONTROL

Policy title	Community Infrastructure Incentives Policy
Policy owner	Manager Regulatory, Planning and Assessment
Policy expert/writer	Urban Planning Section Manager
Associated Guideline or Procedure Title	Newcastle Development Control Plan 2012 – Part 6 Locality Specific Provisions. Note: Procedures will be incorporated into relevant sections under this part, when CN nominates to apply this policy to a given locality.
Guideline or Procedure owner	Manager Regulatory, Planning and Assessment
Prepared by	Regulatory, Planning and Assessment
Approved by	Council
Date approved	To be completed by Legal
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal
Next review date	To be completed by Legal
Termination date	To be completed by Legal (one year post revision date)
Version #	Version number 2
Category	Planning, Development and Local Approvals
Details of previous versions	Version #1 – ECM: 7091694
Keywords	Building, Community, FSR, GFA, Infrastructure, Density, Development, Height, Incentive, Infrastructure, Standard, Urban, Variation
Relevant strategy	Newcastle Local Strategic Planning Statement 2019
Relevant legislation/codes (reference specific sections)	This Policy supports CN's compliance with the following legislation: – <i>Environmental Planning and Assessment Act 1979 (NSW)</i>
Other related documents	Planning Agreements Policy Wickham Masterplan 2017
Related forms	Nil
Required on website	Yes
Authorisations	Functions authorised under this Policy at Annexure B