

Ordinary Council Meeting



City of
Newcastle

DATE: Tuesday, 26 March 2024

TIME: 6:00pm

VENUE: Council Chambers
Level 1, City Administration Centre
12 Stewart Avenue
Newcastle West NSW 2302

20 March 2024

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In participating in this Meeting, Councillors are reminded of their oath or affirmation of office made under section 233A of the Local Government Act 1993, and of their obligations under City of Newcastle's Code of Conduct for Councillors to disclose and appropriately manage conflicts of interest.

City of Newcastle
PO Box 489, Newcastle NSW 2300
Phone 4974 2000

Agenda

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[For documents marked 'Distributed under Separate Cover' refer to Council's website at
http://www.newcastle.nsw.gov.au/](http://www.newcastle.nsw.gov.au/)

Note: Items may not necessarily be dealt with in numerical order

6. CONFIRMATION OF MINUTES

6.1. MINUTES - ORDINARY COUNCIL MEETING 27 FEBRUARY 2024

RECOMMENDATION

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

ATTACHMENTS

Attachment A: Public Minutes Ordinary Council Meeting 27 February 2024

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au

Minutes



Ordinary Council Meeting

Council Chamber, Level 1, City Administration Centre, 12 Stewart Avenue, Newcastle West, Tuesday, 27 February 2024 at 6:05pm.

1. ATTENDANCE

The Lord Mayor (Councillor N Nelmes), Councillors E Adamczyk, J Barrie, J Church, D Clausen, C Duncan, J Mackenzie, C McCabe, C Pull, D Richardson, K Wark, P Winney-Baartz and M Wood.

J Bath (Chief Executive Officer), D Clarke (Executive Director Corporate Services and CFO), A Jones (Executive Director Creative and Community Services), C Thomson (Executive Director City Infrastructure), M Bisson (Executive Director Planning and Environment), J Baird (Director Museum Archive Libraries and Learning), L Morton OAM (Art Gallery Director), E Kolatchew (Executive Manager Legal and Governance), S Moore (Executive Manager Finance, Property and Performance and Deputy CFO), R Dudgeon (Executive Manager Project Management Office), P Emmett (Interim Executive Manager Planning and Development), N Kaiser (Executive Manager Media Engagement, Economy and Corporate Affairs), R Tranter (Interim Executive Manager - Transport & Regulation), J Baker (Governance Manager), V Verma (Internal Audit Coordinator), M Hughes (Media Adviser), M Murray (Chief of Staff), K Sullivan (Councillor Services/Minutes/Meetings Support), J Knight (Councillor Services/Meetings Support), L Barnao (Councillor Services/Meeting Support), R Williams (AV Support) and A Clarke (Information Technology Support).

2. ACKNOWLEDGEMENT OF COUNTRY

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

3. PRAYER

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

4. APOLOGIES / LEAVE OF ABSENCE / ATTENDANCE BY AUDIO VISUAL LINK

Nil.

5. DISCLOSURES OF INTEREST

Councillor Clausen

Councillor Clausen declared a less than significant conflict of interest in Item 8.6 - Traise Street, Waratah - Kerb Realignment and Footpath stating that lived in the vicinity of the crossing, however was not a direct beneficiary. Councillor Clausen stated he would manage the conflict by remaining in the Chamber.

Councillor Clausen

Councillor Clausen declared a significant non-pecuniary interest in Item 10.1 - Proposed Land Acquisition stating that the proposed acquisition was relevant to his employer and would manage the interest by leaving the Chamber for discussion on the item.

Councillor Clausen

Councillor Clausen declared a significant non-pecuniary interest in Item 10.2 - Proposed Land Acquisition stating that the proposed acquisition was relevant to his employer and would manage the interest by leaving the Chamber for discussion on the item.

Councillor Clausen

Councillor Clausen out of an abundance of caution declared a non-significant non-pecuniary interest in Item 10.4 - Chief Executive Officer Performance Review stating that for a brief period last year his partner undertook some work in the Executive Office following the departure of a long-term staff member. He stated that his partner's employment concluded prior to the Panel meeting for the first time in December of last year.

He indicated that he made the declaration for transparency and that he did not have any pecuniary interest in any of the matters related in the report for consideration by Council. Councillor Clausen further stated that the declaration was consistent with advice from the City's governance staff, the independent facilitator of the Panel, and had been made at each of the Panel's three meetings. He managed the interest by remaining in the Chamber for discussion on the item.

Councillor Church

Councillor Church declared a significant pecuniary interest in Item 8.10 - Tender Report - Memorial Drive the Hill - Road Embankment - Contract No. 2024/024T stating that he lived in close proximity to the works and would leave the Chamber for discussion on the item.

6. CONFIRMATION OF MINUTES**6.1. MINUTES - ORDINARY COUNCIL MEETING 12 DECEMBER 2023****MOTION**

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

Carried unanimously

7. LORD MAYORAL MINUTE**7.1 ACKNOWLEDGING NEWCASTLE'S CITIZENS OF THE YEAR AND AUSTRALIA DAY 2024 HONOURS LIST RECIPIENTS****MOTION**

Moved by Lord Mayor, Cr Nelmes

Part A: Newcastle's Citizens of the Year:

1. Congratulates our 2024 Citizens of the Year and formally recognises the outstanding contributions of these extraordinary Novocastrians:
 - Citizen of the Year - Professor Nathan Bartlett for his contribution to medical science, research and education and his ongoing commitment to improving health outcome for other
 - Young Citizen of the Year - Olivia Hughes for her selfless charity work and fundraising efforts at just 17 years old. Olivia teaches modified Nippers at Nobbys SLSC for children with disabilities and is an incredible fundraiser for Ronald McDonald House, and for charities including Dr Chris O'Brien Lifehouse and SurfAid's Make a Wave Challenge.
 - Senior Citizen of the Year - Emeritus Professor Julie Byles for her work as a long-time advocate for the health of women and older people and for inspiring many young researchers and PhD candidates during her 20 years as the Co-Director of the Australian Longitudinal Study on Women's Health.
 - Community Group of the Year - The LIVEFree Project for their work to elevate wellbeing and reduce loneliness in the community.

Part B: Newcastle's Australia Day Honours List

1. Congratulates the following Novocastrians who received awards in the recent Australia Day 2024 Honours List:
 - Barbara Witcher OAM - For services to Stockton, and for significant volunteer efforts with many organisations including the Cancer Council, Probus, St Vincent De Paul, the Hunter Vally Graduate Women's Association, the Stockton Catholic Parish Council.
 - Professor Kelvin Kong AM - For significant service to medicine as an Otolaryngologist, and to Indigenous health.
 - Laureate Professor Jenny Gore AM - For significant service to tertiary education.
 - Conjoint Professor Tracy Dudding-Byth - For significant service to medical research, particularly genetics, and to the community.
 - Dr Jennifer Barnes OAM - For service to the performing arts through opera, and to the community.
 - Rodney Barnes OAM - For service to music, and to the community.
 - Lucia Wilcox OAM - For service to Netball.
 - Louise Buxton OAM - For service to aged care.
 - Margaret Covi OAM - For service to bushwalking.
 - Joy Loas OAM - For service to the community of the Newcastle region.
 - Philip Weston OAM - For service to the Anglican Church of Australia.
 - The late Mr Des Skinner OAM - For services to lawn bowls.
 - Peta Lawlor ESM - Emergency Services Medal.
 - Wing Commander David Bell CSC - Conspicuous Service Cross.

- Wing Commander Andrew Jackson CSC - Conspicuous Service Cross.

Carried unanimously

7.2 ROADS TO RECOVERY AND FINANCIAL ASSISTANCE GRANT SUPPORT

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Acknowledges that Minister for Infrastructure, Transport, Regional Development and Local Government, the Hon. Catherine King MP, recently visited Newcastle Airport to mark six-months since the International Terminal Construction Project began, with the Federal Government providing \$121 million (\$55M Terminal, \$66M Airfield) towards this important upgrade;
2. Notes that Airport expansion supports industry, enables greater trade, helps create jobs well beyond tourism and is estimated to strengthen our local economy by generating more than \$12 billion in economic activity over the next 20 years;
3. Thanks Minister King for re-affirming the Australian Government's strong support for local government during this visit in January, through the commitment of \$14,918,314 to Council through the Financial Assistance Grant 2023-24 and the provision of \$10.3 million through the Local Roads & Community Infrastructure Program over 6 phases since July 2020, which has assisted Council to deliver:
 - \$1.3 million delivered at Allowah St Waratah
 - \$1.4 million at Yangan Drive, Beresfield
 - \$1.2 million at Rosemount St Adamstown Heights
 - \$0.8 million upgrading the traffic control signals at Chinchin St, Islington
 - \$0.7 million to upgrade the kerb and road shoulders at Woodford St Minmi in 2023/24.
4. Thanks Minister King for the announcement of 19 November 2023 of a \$500 million per year increase in Roads to Recovery funding - a core focus of ALGA's advocacy and leadership over recent years, doubling the Roads to Recovery grant allocation to \$1 billion per year, while also increasing Black Spot Program funding by \$40 million per year;
5. Notes that in 2023/24 the Financial Assistance Grant will strongly support Council to deliver our Annual Works Program and Operational Plan, and will support our work to improve town centres, build new playgrounds, address climate change at the local level, provide beach lifeguards and deliver other important services to our community;

6. Continues to work with LGNSW and ALGA to ensure that local government receives equitable funding from government to provide essential services to our community.

Carried unanimously

At this stage of the meeting Councillor Church declared a less than significant non-pecuniary interest in Item 8.4 - Newcastle Maritime Museum Society Collection Storage Lease stating that the president of the Newcastle Maritime Museum Society, Bob Cook, was a former Independent Councillor and volunteer for the Newcastle Independents at the 2021 election and would manage the interest by remaining in the Chamber for discussion on the item.

8. REPORTS

8.1. CHANGE TO 2024 ADOPTED MEETING SCHEDULE

MOTION

Moved by Cr Mackenzie, seconded by Cr Barrie

That Council:

- 1 Adopt a change in Council's 2024 meeting cycle; moving the Council Committee meeting from Tuesday 19 November 2024 to Tuesday 12 November 2024.

Carried unanimously

8.2. TABLING OF REGISTER OF DISCLOSURES OF INTEREST - 1 NOVEMBER 2023 TO 31 JANUARY 2024

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Mackenzie

That Council:

- 1 Notes the tabling of the Register of Disclosures of Interest (for the period 1 November 2023 to 31 January 2024) by the Chief Executive Officer.

Carried unanimously

8.5. CANCELLATION OF EASEMENT - 65 PORTSIDE CRESCENT, MARYVILLE

MOTION

Moved by Cr McCabe, seconded by Cr Mackenzie

That Council:

- 1 Resolve to cancel an existing easement to "Drain Water 2 wide", burdening Lot 13 DP 881386, known as 6 Portside Crescent, Maryville (the site) and

benefitting Lot 11 DP 881386, known as 65 The Avenue, Maryville as shown at **Attachment A**.

Carried unanimously

8.6. TRAISE STREET, WARATAH - KERB REALIGNMENT AND FOOTPATH

MOTION

Moved by Cr Mackenzie, seconded by Cr Barrie

That Council:

- 1 Approves kerb realignment and footpath connections on Traise Street, Waratah, as shown in **Attachment A**.

Carried unanimously

8.8. EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION

Moved by Cr Adamczyk, seconded by Cr Duncan

That Council:

- 1 Receives the Executive Monthly Performance Report (Report) for January 2024.

Carried unanimously

8.3. DECEMBER QUARTERLY PERFORMANCE REPORT

MOTION

Moved by Cr Wood, seconded by Cr Richardson

That Council:

- 1 Receives the 2022-2026 Delivery Program - December Quarterly Performance Report (Report) (**Attachment A**) and adopts the revised budget as detailed therein.

For the Motion: Lord Mayor, Councillor Nelmes and Councillors Adamczyk, Barrie, Clausen, Duncan, Mackenzie, McCabe, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion: Councillors Church and Pull.

Carried

8.4. NEWCASTLE MARITIME MUSEUM SOCIETY COLLECTION STORAGE FACILITY LEASE

MOTION

Moved by Cr Duncan, seconded by Cr Wood

That Council:

1. Notes that the NMMS remains responsible for the storage, management, relocation and ongoing care of its collection.
2. Notes at the time of the closure of the Newcastle Maritime Centre on 23 May 2018, it was operating under a long term lease with Hunter and Central Coast Development Corporation (then known as Hunter Development Corporation), which is an agency of the NSW Government, and that the NMMS's collection was stored in a facility owned by Property NSW, which is also an agency of the NSW Government.
3. Notes that CN has incurred costs to date of \$1,456,521 supporting the Newcastle Maritime Museum Society since at least 1998.
4. Notes that of this \$1,456,521, costs of at least \$136,521 (not including staff time) have been incurred storing the NMMS's collection since 2018.
5. Extends a lease with Venues NSW for the storage of the NMMS's collection for a maximum period of twelve months until 21 March 2025.
6. Extends a lease with a private rental facility for the storage of the NMMS's paper-based records and archives collection for a maximum period of twelve months until 21 March 2025.
7. Extends the current in-kind storage support at various CN sites for other NMMS owned items for a maximum period of two years.
8. Notes that extensions of both leases will bring the total storage cost associated with the NMMS's collection since 2018 to \$168,002.
9. Acknowledges the efforts of the Newcastle Museum to provide care for fourteen objects of national and local significance to Australia and Newcastle's maritime heritage which have been transferred from the NMMS to CN's Newcastle Museum collection to ensure their preservation.

AMENDMENT

Moved by Cr Wark, seconded by Cr Church

- 1 Delete 'Maximum' from points 5,6,7 and add to points 5,6,7 'with any decision about extending support to the NMMS to be made by the newly elected Council.'
- 2 Have the CEO, Director of the Newcastle Museum, two Councillors and two committee members from NMMS have a meeting to discuss the "Letter of Agreement" and have a way forward.

Defeated

The motion moved by Councillor Duncan and seconded by Councillor Wood was put to the meeting.

Carried

8.7. AUDIT AND RISK COMMITTEE ANNUAL REPORT

MOTION

Moved by Cr Duncan, seconded by Cr Mackenzie
That Council:

- 1 Receives the Audit and Risk Committee's Annual Report for the 2022/2023 financial year at **Attachment A**; and
- 2 Notes the 2023/2024 Forward Internal Audit Plan at Appendix A of Attachment A.

Councillor Clausen proposed a Part B to the motion.

Part B

That Council:

- 1 Writes to the Minister for Local Government and the Office of Local Government requesting that Councillor representatives be reinstated as full members of the Audit, Risk and Improvement Committee, provided that independent members continue to comprise the majority of the Committee.
- 2 Notes that under the Local Government Act, Councillors are collectively responsible for the Governance of the Council administration, and require a direct connection to the Audit Committee.
- 3 Notes that every other State and Territory enables Councillors to be full members of their Audit, Risk and Improvement Committees.
- 4 Notes that this motion is consistent with the resolved position of Local Government NSW, as adopted at the 2023 Annual Conference.

Councillors Duncan and Mackenzie accepted Councillor Clausen's Part B to the motion.

The motion moved by Councillor Duncan and seconded by Councillor Mackenzie, amended by Councillor Clausen, was put to the meeting.

Carried

8.9. TENDER REPORT - BLACKBUTT CARA KIOSK AND COMMUNITY FACILITY - CONTRACT NO. 2024/025T

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Wark

That Council:

- 1 Accept the tender of Kingston Building Pty Ltd in the amount of \$2,172,294 (excluding GST) for Blackbutt Kiosk and Community Facility for Contract No. 2024/025T.
- 2 The confidential attachments relating to the matters specified in s10A(2)(d) of the *Local Government Act 1993* be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

Carried unanimously

At this stage of the meeting, the Chief Executive Officer gave notice of a late item of business that being Interim Heritage Order - 14 Sunderland Street, Mayfield.

8.10. TENDER REPORT - MEMORIAL DRIVE THE HILL - ROAD EMBANKMENT - CONTRACT NO. 2024/024T

Councillor Church left the meeting for discussion on the item.

MOTION

Moved by Cr Duncan, seconded by Cr Barrie

That Council:

- 1 Accept the tender of Symal Infrastructure Pty Ltd in the amount of \$4,612,046.91 (excluding GST) for the Memorial Drive, The Hill Road Embankment for Contract No. 2024/024T.
- 2 The confidential attachments relating to the matters specified in s10A(2)(d) of the *Local Government Act 1993* be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

Carried

Councillor Church returned to the meeting at the conclusion of the item.

8.11. NEWCASTLE ART GALLERY PARTNERSHIP AGREEMENT

At this stage of the meeting Councillor Mackenzie declared a non-significant, non-pecuniary interest stating that he was employed by the University of Newcastle (UON) but not in a way that impacted the proposal and would manage the interest by remaining in the Chamber.

At this stage of the meeting Councillor Pull declared a less than significant, non-pecuniary interest stating that he was a student at UON and would manage the interest by leaving the Chamber for discussion on the item.

At this stage of the meeting Councillor Duncan declared a non-significant, non-pecuniary interest stating that she is employed by an affiliate of the UON and would manage the interest by remaining in the Chamber. She also stated her husband was an employee of UON.

At this stage of the meeting the Lord Mayor Councillor declared a non-significant, non-pecuniary interest stating that her daughter attended UON and would manage the interest by remaining in the Chamber.

At this stage of the meeting Councillor Adamczyk declared a non-significant, non-pecuniary interest stating that she was an employee of UON and a delegate of the Workers Union and would manage the interest by remaining in the Chamber.

At this stage of the meeting Councillor Church declared a less than significant, non-pecuniary interest stating that he had been employed occasionally as a lecturer and marker with UON but not relating to this particular campus and would manage the interest by remaining in the Chamber.

Councillor Pull left the Chamber for discussion on the item.

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Endorses the multi-year partnership agreement between the University of Newcastle and Newcastle Art Gallery for a period of four years.
- 2 The confidential attachment relating to the matters specified in s10A(2)(c) and s10A(2)(d)(i) of the *Local Government Act 1993* be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

Carried

Councillor Pull returned to the Chamber at the conclusion of the item.

9. NOTICES OF MOTION

9.1. BRING THE RUGBY WORLD CUP TO NEWCASTLE

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Richardson

That City of Newcastle:

- 1 Notes that Rugby Union's biggest sporting event, The Rugby World Cup, is returning to Australia in 2027, 40 years on from the inaugural event, and again for the women's tournament in 2029 for the first time.
- 2 Writes to the following who have been tasked with developing and delivering the Rugby World Cup, advocating for Newcastle to be a Host City:
 - a. Sir Rod Eddington, Chair, Rugby World Cup Local Operating Company
 - b. Phil Kearns AM, Director, Rugby World Cup Local Operating Company
 - c. Hon Steve Kamper MP, NSW Minister for Sport

- 3 Notes that Newcastle is well equipped to host Rugby World Cup games as well as teams, given its status as a preferred destination for live music, sporting and major events which are a primary driver of the local tourism visitor economy.
- 4 Looks forward to the opportunity to be considered a Rugby World Cup Host City and welcome athletes and rugby fans from across the world in 2027 and 2029.

Councillor Pull proposed the following amendment the motion.

- 5 Advocates for local facilities and grounds to be made available for World Cup teams to train at.

Councillors Winney-Baartz and Richardson accepted Councillor Pull's amendment to the motion.

The motion moved by Councillor Winney-Baartz and seconded by Councillor Richardson, amended by Councillor Pull, was put to the meeting.

Carried unanimously

9.2. CELEBRATING 150 YEARS OF LOCAL GOVERNMENT IN WALLSEND

MOTION

Moved by Cr Adamczyk, seconded by Cr Richardson

That City of Newcastle:

- 1 Notes that this year, Wallsend be celebrating its 150th anniversary as a municipality, marking 150 years of Local Government for the Wallsend community.
- 2 Reaffirms its support for the planned large-scale community event commemorating the 150th Anniversary of Wallsend's municipality.
- 3 Seeks support under the NSW Government Vibrant Streets Package Open Streets Program which provides financial assistance of up to \$150,000 for Councils to facilitate the temporary closure of streets for community events and activities, and writes to the Minister for Transport, the Hon. Jo Haylen MP, notifying her of the City's application for grant funding.
- 4 Looks forward to celebrating this special anniversary with the local community and creating a vibrant, safe and accessible event for everyone to enjoy.

Councillor Pull proposed the following amendment to the motion.

- 5 Investigates opportunities for a dedicated permanent fixture to commemorate 150 years of Wallsend.

Councillors Adamczyk and Richardson accepted Councillor Pull's amendment to the motion.

The motion moved by Councillor Adamczyk and seconded by Councillor Richardson, amended by Councillor Pull, was put to the meeting.

Carried unanimously

9.3. FAIRNESS FOR REGIONAL HOSPITAL WORKERS

MOTION

Moved by Cr Richardson, seconded by Cr Clausen

That City of Newcastle:

1. Acknowledges with disappointment that the reinstatement of paid parking for staff at John Hunter Hospital came into effect on 1 February 2024, at a cost of at least \$20.90 per week or \$1,700 annually.
2. Notes that John Hunter Hospital is the largest hospital in the Hunter New England Local Health District which services more than 1 million people and employees more than 16,033 staff across 25 local government areas in regional NSW including the Hunter, New England and Mid North Coast regions.
3. Questions the NSW Government's inclusion of John Hunter Hospital in the paid parking program, given the re-introduction of paid parking is for metropolitan hospitals only.
4. Notes this situation again highlights the inconsistent manner in which the Newcastle Local Government Area is classified as sometimes regional and sometimes metropolitan, and the financial impact of this inconsistency on our community, as illustrated by City of Newcastle's detailed submission in this regard made in 2020 to the Public Accountability Committee's *Inquiry into the integrity, efficacy and value for money of the NSW Government grant programs*.
5. Notes that the setting of the new staff parking fees by the NSW Government takes into account public transport fares to encourage employees to use public transport, which City of Newcastle supports, however, recognises that many health care workers are shift workers and public transport, particularly in regional NSW, may not always provide a suitable level of accessibility at all times.
6. Supports the efforts of John Hunter Hospital staff and the NSW Nurses & Midwives Association in highlighting the additional financial strain these changes places on workers in the midst of a cost-of-living crisis.

Carried unanimously

LATE ITEM OF BUSINESS

8.12 INTERIM HERITAGE ORDER - 14 SUNDERLAND STREET, MAYFIELD

The Lord Mayor stated the reasons for urgency for Item 8.12 - Interim Heritage Order - 14 Sunderland Street, Mayfield as follows:

- A local heritage listing nomination form had been received from the community for 14 Sunderland Street, Mayfield.
- There was currently a Development Application on the site for a co living development which was subject to an appeal in the Land and Environment Court.
- A preliminary assessment had been undertaken by an external heritage consultant and a report on the findings received 27 February 2024 was being presented to Council as a late item due to completion of the report only being received today. Given the proceedings that are afoot, the item should not be deferred until the March Council meeting.

PROCEDURAL MOTION

Moved by Lord Mayor, Cr Nelmes

The matter of Interim Heritage Order - 14 Sunderland Street be heard as a late item of business.

Carried

The Lord Mayor ruled the matter of Interim Heritage Order - 14 Sunderland Street, Mayfield be heard as a late item of business in accordance with the Code of Meeting Practice and the reasons outlined above.

PROCEDURAL MOTION

Moved by Cr Mackenzie, seconded by Cr Pull

Council adjourn for a 10 minute recess to read the report on the late item.

Carried

Council adjourned at 9.40pm and reconvened at 9.50pm.

As the time was nearing 10.00pm, a procedural motion was moved to extend the meeting.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Barrie

Council extend the meeting past 10.00pm to conclude all business on the agenda.

Carried

MOTION

Moved by Cr Wood, seconded by Cr Clausen

- 1 That Council:
 - a. Make an Interim Heritage Order as set out in Attachment B pursuant to sections 25(2) and 27(a) of the Heritage Act 1977 and in accordance with the Ministerial Order published in the NSW Government Gazette on 12 July 2013 in respect to the land located at 14 Sunderland Street, Mayfield (Lots 27A and Lot 27B in Section D of DP 977626); and
 - b. Initiate further investigations to determine if a Planning Proposal to list the property as an item of local heritage significance within Schedule 5 Environmental Heritage of the Newcastle Local Environmental Plan 2012 is warranted; and
 - c. Commence the Planning Proposal process, including seeking Gateway Approval, to list the property as an item of local heritage significance should it be determined through further detailed investigation that 14 Sunderland Street, Mayfield is an item of local heritage significance.

For the Motion: Lord Mayor, Councillor Nelmes and Councillors Adamczyk, Barrie, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson Winney-Baartz and Wood.

Against the Motion: Councillor Church.

Carried

10. CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Cr Pull, seconded by Cr Barrie

Council move into confidential session for the reasons outlined in the business papers.

Carried

Council moved into confidential session at 10.07pm.

All staff with the exception of Councillors, Executive Director Corporate Services, Executive Manager Legal and Governance and Council meeting support staff, left the meeting for discussion on Item 10.4 - Chief Executive Officer Performance Review.

The Executive Director Corporate Services assumed the role of Acting Chief Executive Officer for Item 10.4 and the remainder of the meeting.

Mr Stephen Blackadder, Blackadder Associates, was present for discussion on Item 10.4 - Chief Executive Officer Performance Review.

PROCEDURAL MOTION

Moved by Cr Duncan, seconded by Cr Clausen

Council move back into open Council.

Carried

Council reconvened at 12.47am and the Acting Chief Executive Officer reported the resolutions of the partial confidential reports (*see resolutions at 8.9 and 8.10*) and Confidential Item Nos. 10.1, 10.2, 10.3 and 10.4 below.

10.1. PROPOSED LAND ACQUISITION

Due to a conflict of interest Councillor Clausen was absent from the Chamber for discussion on the item.

MOTION

Moved by Cr Barrie, seconded by Cr Wark

That Council:

1. Authorises the CEO or their delegate to issue a Letter of Commencement to commence negotiations in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991 (Act)*, with all affected landowners as shown at **Attachment A and B**, for the acquisition of the required Land.
2. Authorises the CEO to agree in principle, to terms during negotiations.
3. Requests a report back to Council on the agreed position or otherwise for a Council resolution to acquire the required land.
4. Note this confidential report relating to the matters specified in s10A(2)(c) of the Local Government Act 1993 be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

Carried unanimously

10.2. PROPOSED LAND ACQUISITION

Due to a conflict of interest Councillor Clausen was absent from the Chamber for discussion on the item.

MOTION

Moved by Cr Richardson, seconded by Cr Adamczyk

That Council:

1. Authorises the CEO or their delegate to issue a Letter of Commencement to commence negotiations in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991 (Act)*, with all affected landowners of the property shown at **Attachment A**, for the acquisition of the required Land.

2. Authorises the CEO to agree in principle, to terms during negotiations.
3. Requests a report back to the Council on the agreed position or otherwise for a Council resolution to acquire the required land.
4. Note this confidential report relating to the matters specified in s10A(2)(c) of the Local Government Act 1993 be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

For the Motion: Lord Mayor, Councillor Nelmes and Councillors Adamczyk, Barrie, Church, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion: Nil.

Carried

10.3. PROPOSED LAND ACQUISITION

MOTION

Moved by Cr Barrie, seconded by Cr Winney-Baartz

That Council:

- 1 Endorses City of Newcastle (CN) making bids at public auction to acquire the Property, up to a maximum of 20% above market valuation.
- 2 Resolves to acquire the Property if CN's highest bid is successful in the public auction process.
- 3 Grants authority to the Chief Executive Officer or his delegate to execute all relevant documentation to effect the auction and sale.
- 4 Publicly notify the proposal to classify the acquired land as operational land in accordance with Section 34 of the Local Government Act 1993.
- 5 Classify the Property as operational land if no public submissions are received objecting to the proposed classification.
- 6 This confidential report relating to the matters specified in Section 10A(2)(c), Section 10A(2)(d)(i) and Section 10A(2)(d)(ii) of the Local Government Act 1993 be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

Carried unanimously

10.4. CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW

MOTION

Moved by Cr Duncan, seconded by Cr Winney-Baartz

That Council:

- 1 Receives the CEO Performance Review report submitted by Stephen Blackadder of Local Government Services Group as shown at **Attachment A**.

- 2 Endorses the recommended performance score of 84% in acknowledgement of the CEO's performance over the last 12 months against KPIs set by the CEO Performance Review Panel.
- 3 Maintains the CEO's total remuneration package of \$513,076 (including superannuation).
- 4 Notes that the *Statutory and Other Offices Remuneration Amendment Act 2023* (SOOR Amendment Act) commenced on 1 June 2023, temporarily freezing remuneration for public sector senior executives for a period of two years, and as such a SOORT increase will not apply.
- 5 This confidential report relates to the matters specified in section 10A(2)(d) of the *Local Government Act 1993* (Act) be treated as confidential.

For the Motion: Lord Mayor, Councillor Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion: Councillor Pull.

Carried

**The meeting concluded at 12.54am
Wednesday 28 February 2024**

7. LORD MAYORAL MINUTE

To be tabled the meeting.

8. REPORTS

8.1. MEMORIAL DRIVE BAR BEACH PEDESTRIAN AND CYCLIST MOVEMENT

REPORT BY: PLANNING TRANSPORT AND REGULATION
CONTACT: EXECUTIVE DIRECTOR PLANNING AND ENVIRONMENT
/ INTERIM EXECUTIVE MANAGER TRANSPORT & REGULATION

PURPOSE

To approve pedestrian and cyclist improvements on Memorial Drive, Bar Beach.

RECOMMENDATION

That Council:

- 1 Approves the pedestrian and cyclist improvements on Memorial Drive, Bar Beach, as shown in **Attachment A**.

KEY ISSUES

- 2 To achieve the cycling network set out in the City of Newcastle (CN) Cycling Plan, CN is working on a cycling connection between Parkway Avenue and Bathers Way at Bar Beach. As part of this work, an upgrade of the existing pedestrian (zebra) crossing was designed and exhibited in November 2023 as shown in **Attachment A**.
- 3 The proposed pedestrian and cyclist improvements include:
 - a) Upgrade of the existing marked (zebra) crossing on Memorial Drive to a raised marked (wombat) crossing, with provision for a future priority bicycle crossing.
 - b) Landscaped kerb extensions on Memorial Drive to narrow roadway and reduce the crossing distance for pedestrians, with removal of the existing refuge island.
 - c) A new median on Memorial Drive to prevent illegal U-turns at the crossing.
 - d) Upgrade of the existing refuge island at Bar Beach Avenue to cater for cyclists.

- e) Shared path connection between the Memorial Drive crossing and Parkway Avenue.

FINANCIAL IMPACT

- 4 Design funding was included in the FY 2023/24 Local Area Traffic Management Program (Transport Portfolio) under the Works Program. Following Council endorsement and completion of detailed design, funding will be sought for the project's construction under future Civil Works budgets.
- 5 CN has applied for grant funding for construction under the Transport for NSW Get NSW Active program. Successful applications will be announced in April / May 2024.

NEWCASTLE 2040 ALIGNMENT

- 6 The proposed pedestrian and cyclist improvements in Memorial Drive, Bar Beach, is consistent with the strategic directions of the Newcastle 2040 Community Strategic Plan.

Liveable

1.1 Enriched neighbourhoods and places

- 1.1.1 Well-designed places

1.2 Connection and fair communities

- 1.2.2 Inclusive communities
- 1.2.3 Equitable communities
- 1.2.4 Healthy communities

1.3 Safe, active and linked movement across the city

- 1.3.1 Connected cycleways and pedestrian networks
- 1.3.4 Effective public transport

Sustainable

2.1 Action on climate change

- 2.1.3 Resilient urban and natural areas

IMPLEMENTATION PLAN/IMPLICATIONS

- 7 The proposal is aligned with the Newcastle Transport Strategy to improve conditions for pedestrians and reduce urban traffic speeds, as well as supporting cycling through Newcastle as part of the delivery of the identified cycle network under CN's Cycling Plan 2021.
- 8 Approval of the upgrade cannot be delegated to CN officers and must be referred to Council for determination.

RISK ASSESSMENT AND MITIGATION

- 9 The proposal will encourage lower vehicle speeds on Memorial Drive and address illegal parking and U-turns at the crossing. Raising of the crossing will also increase visibility of pedestrians and provide clearer prioritisation for movements across the roadway and the car park exit. Overall, the proposal will improve the safety and amenity for all movements within the public space.
- 10 Detailed design will address relevant Australian Standards, Austroads, and Transport for NSW guidelines and standards.

RELATED PREVIOUS DECISIONS

- 11 At the Ordinary Council Meeting held on 23 February 2021 Council adopted the Cycling Plan, which included the cycleway connection between Parkway Avenue and the Bathers Way at Bar Beach.

CONSULTATION

- 12 On 23 June 2023, the proposal was tabled to the Newcastle Cycling Working Party (NCWP) prior to being placed on public exhibition. The NCWP provided in-principal support for the design, including removal of the refuge island on Memorial Drive and future cycle connection through to Parkway Avenue.
- 13 CN undertook community consultation for a four-week period from 20 November to 18 December 2023. An online survey was advertised via the distribution of 'Have Your Say' flyers to residents and mailed to non-resident owners located in the vicinity of the project. A copy of the flyer is shown at **Attachment A**. Corflute signs were also installed for the duration of the consultation period, with a QR code linked to the CN 'Have Your Say' webpage.
- 14 On 26 February 2024, the Newcastle City Traffic Committee (NCTC) reviewed the outcomes of public consultation. NCTC gave in-principal support for the project to progress to the elected Council for determination. The summary results of the consultation are shown at **Attachment B**.
- 15 A summary of the 89 submissions received during the consultation period is provided at **Attachment B**. Seventy-nine submissions supported the proposed pedestrian and cyclist improvements (22 with changes), and 10 submissions did not. Key issues related to the project are as follows:
 - a) Requests for additional traffic calming devices on Memorial Drive

CN response - The proposed raised crossing will work in tandem with the existing raised crossing (adjacent to the skate park) to encourage a lower speed environment in Memorial Drive. CN will continue to monitor speeds following the work as part of our ongoing management of transport around the city.

- b) Request for pedestrian crossing facility on Bar Beach Avenue

CN response - Refuge islands are a more suitable option in locations with lower levels of pedestrian and cyclist movement. Refuges simplify the crossing task by providing a staging area and allowing pedestrians and cyclists to concentrate on one direction of traffic at a time.

- c) Reduction of the speed limit in Memorial Drive to 40km/h or 30 km/h

CN response - A 'self-explaining road' is a traffic environment which elicits safe and consistent behaviour among road users simply by virtue of its design. Research has found that design speeds have a greater effect on driver speed choice than sign posted speed limits. The proposed raised crossing will work in tandem with the existing raised crossing (adjacent the skate park) to encourage a lower speed environment in Memorial Drive. CN will continue to monitor speeds following the work as part of our ongoing management of transport around the city.

- d) Concerns regarding the priority crossing for people cycling and how it will interact with Bathers Way users.

CN response - Noting that this crossing is part of the CN Cycle Plan, the proposal includes provision for a future priority crossing for cyclists. Different pavement surfaces on the kerb extension and refuge island will reduce cycling speeds at the crossing. The kerb extension will create more space near The Bathers Way so that cyclists will have space to join Bathers Way with calm and care once the crossing is upgraded.

- e) Requests for other active transport improvements in the Bar Beach area

CN response - The CN Cycle Plan identifies a future cycling connection along Parkway Avenue, which will be progressed under CN's capital works program in future years. Further active transport improvements in the area will be considered under future planning for the Bathers Way upgrade along Memorial Drive, and as part of precinct transport planning for the Bar Beach area.

BACKGROUND

- 16 The stretch of Memorial Drive along Bar Beach has a strong movement function, with people walking, cycling and driving to the beach or through the area. It also serves a strong place function, with people dwelling and playing in the vicinity of the road. It is therefore important that appropriate traffic calming is provided to ensure these movement and place functions can be sustained in a safe and balanced way.
- 17 The existing at-grade marked (zebra) crossing between Empire Park and Cooks Hill Surf Life Saving Club requires pedestrians to cross in three stages, using a refuge island on Memorial Drive, and an island between Memorial

Drive and the carpark exit. The current staged crossing creates confusion for some drivers and the length of this crossing limits accessibility for pedestrians.

- 18 A cycling connection between Bar Beach and Parkway Avenue was identified in CN's Newcastle Cycling Plan 2021-2030 to improve access and connectivity between the park, the residential area, and to Bathers Way and the coastal precinct.

OPTIONS

Option 1

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

Option 2

- 20 Council does not endorse the proposed pedestrian and cyclist improvements in Memorial Drive, Bar Beach. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: Memorial Drive, Bar Beach - Consultation Flyer
Attachment B: Memorial Drive, Bar Beach - Summary of Submissions

Attachments A - B distributed under separate cover

8.2. ADOPTION OF NEWCASTLE CITY CENTRE HERITAGE CONSERVATION AREAS REVIEW FINAL REPORT

REPORT BY: PLANNING AND ENVIRONMENT
CONTACT: EXECUTIVE DIRECTOR PLANNING AND ENVIRONMENT
/ INTERIM EXECUTIVE MANAGER PLANNING & DEVELOPMENT

PURPOSE

Adopt the Newcastle City Centre Heritage Conservations Areas Review Final Report (HCAs Review) and commence the statutory process to amend the Newcastle Local Environmental Plan 2012 (LEP) for the revised HCA boundaries and development standards as outlined in this report.

RECOMMENDATION

That Council:

- 1 Adopts the HCAs Review (**Attachment A**)
- 2 Resolves to commence the process to amend the LEP in accordance with the key recommendations of this report.
- 3 Notes the Community Engagement Report (Phase 1) (**Attachment B**), Public Exhibition Report (Phase 2) (**Attachment C**), and Submissions Table (**Attachment D**).

KEY ISSUES

- 4 Newcastle Local Environmental Plan 2012 (LEP) provides planning provisions in Clause 5.10 and mapping for heritage conservation areas (HCA). These areas reinforce our identity and sense of pride in our heritage places. They are recognised for character and cultural heritage significance. The components of a place contributing to heritage significance evolve and are reviewed to ensure they still merit protection.
- 5 Heritage conservation and land-use planning measures aim to maintain heritage significance when change occurs. This review assesses two of our eight HCAs, the Newcastle City Centre HCA and Newcastle East HCA (**Attachment E**).
- 6 The HCAs Review outlines each HCA's heritage significance, states its desired future character, and investigates potential new HCAs. It also examines the planning context, assesses the appropriateness of boundaries, and identifies items that contribute to, or detract from each area. The key recommendations of the HCAs Review are outlined below.

Key HCAs Review Recommendations

7 Recommendation 1:

- a) Amend the planning controls for a designated low-rise area of Newcastle East HCA (**Attachment F**) to reflect best practice and other HCAs within the Newcastle LGA. The recommendation is to remove the height of building (HOB) and floor space ratio (FSR) controls as development in these areas is assessed differently from development outside a HCA.
- b) Adjust the Newcastle City Centre boundary, including incorporating Cathedral Park and removing stone boat harbour at 100 Wharf Road, and some properties along the southern boundary (see **Attachment G**). These proposed changes promote better heritage outcomes, align LEP zoning objectives, and strategically concentrate higher density development in more appropriate locations. The stone boat harbour is within the State's planning policy for the Three Ports area and so removed from the Newcastle City Centre LEP boundary to correct this anomaly.

8 Recommendation 2:

- a) Replace Newcastle City Centre HCA with smaller tailored HCAs, based on shared development history and built character (**Attachment H**).
- b) Amend the boundaries of the existing Cooks Hill and The Hill HCAs with the proposed HCAs, as described above (see **Attachment I**). This ensures alignment between heritage conservation, the land use zoning and objectives of LEP.

9 Recommendation 3:

Investigate potential additional heritage LEP listings, including a review of buildings currently identified as Contributory 1 or Contributory 2 no longer to be located within the Newcastle City Centre HCA boundary (**Attachment H**).

Key HCA Review Changes

- 10 The Draft HCAs Review was exhibited for six weeks attracting 34 submissions. The changes reflect the submissions analysis documented and summarised in the proposed changes and are provided in a marked-up version in **Attachment J**. Key changes are summarised below:
- 11 **Chapter Two – Strategic Planning Framework**
This chapter includes more information on the minimum subdivision lot size development standard, parameters for varying development standards, and emerging State Government planning reform for the National Housing Accord.
- 12 **Chapter Three – Aboriginal and Historical Context**
Corrections, additional information and new figures reflect submissions made.

13 Chapter Four – Newcastle East HCA

This chapter further analyses prevailing heights, HOB provisions, the HCA planning provisions and the Newcastle City Centre provisions (LEP Parts 5 and 7 respectively).

14 Chapter Six - Old Town HCA

More analysis is provided of the proposed removal of land in the street block from The Hill HCA between King, Newcomen, Church and Wolfe Streets, to add to the Old Town HCA. This includes Christ Church Cathedral, Cathedral Park and the Newcastle Club due to shared development history and built character.

More description is given on additions to the Newcastle City Centre boundary. This includes adding Cathedral Park and the Mulimbah House site, a regionally significant public park, archaeological site, and visitor attraction. This change promotes a better heritage outcome, aligning the zoning and Newcastle City Centre objectives, including promoting recreational and tourism opportunities. It also applies minimum lot size standards to some low-rise residential properties in the Hill HCA consistent with that for neighbouring residential land.

15 Chapter Seven - Civic and Honeysuckle HCA

To respond to submissions, more clarity is provided for why land between Brown and Darby Streets belongs in the Civic and Honeysuckle HCA.

16 Chapter Eight - Hunter Street West HCA

To respond to submissions, 'West' is added to the HCA name and further analysis explains why land near Arnott Street no longer merits HCA protection.

17 Chapter Nine - Parry Street HCA

In response to submissions, further detail explains why land in the vicinity of Wood Street, Newcastle West no longer merits HCA protection.

FINANCIAL IMPACT

- 18 The costs to finalise and implement the recommendations of the HCAs Review are met under the operational budget.

NEWCASTLE 2040 ALIGNMENT

- 19 The HCAs Review aligns with Newcastle 2040 Community Strategic Plan and implements the following priorities and objectives:

1. Liveable**1.1 Enriched neighbourhoods and places**

- 1.1.3 Protected heritage places

4. Achieving Together

4.2.1 Genuine engagement

4.3.3 Data-driven decision-making and insights.

IMPLEMENTATION PLAN/IMPLICATIONS

20 To implement the HCA Review recommendations requires LEP and DCP amendments that will be reported to Council before exhibition.

Local Strategic Planning Statement (LSPS)

21 The LSPS commits to an integrated and accessible transport network, green and liveable city, and smart and innovative economy.

22 The HCAs Review recommendations address the LSPS as follows:

- a) Planning Priority 11 – to protect and enhance heritage buildings, streetscapes, views and key features to maintain the identity of the city.

Heritage Strategy

23 The Heritage Strategy objectives guiding this review are:

- a) Objective 1.1 – to review and update the city-wide heritage study, add new items and places to the LEP's heritage schedule if warranted, and maintain the State Heritage Inventory and the Collections Database for Newcastle to ensure the diversity of the city's heritage is recognised and represented.
- b) Objective 2.1 – to develop and implement policy and guidance based on the principles of the Burra Charter and best practice to ensure a strong future for heritage items, heritage conservation areas, archaeological relics and sites, Aboriginal objects and Aboriginal places.
- c) Objective 3.1 – to support projects that protect and restore the integrity of heritage places.

RISK ASSESSMENT AND MITIGATION

24 The HCAs Review was informed by best practice heritage guidelines, including the Burra Charter.

RELATED PREVIOUS DECISIONS

25 Council resolved to exhibit the draft HCAs Review on 31 October 2023.

26 Council resolved to adopt the Heritage Policy on 22 November 2022.

27 Council adopted the Heritage Strategy 2020-2030 on 27 October 2020, a strategic framework guiding the management of city-wide heritage matters.

CONSULTATION

- 28 Phase 1 engagement (17 April 2023 to 29 May 2023) sought community input on what people feel contributes to heritage significance and cultural identity in the Newcastle City Centre and Newcastle East HCAs (**Attachment B**). The draft HCAs Review incorporated the outcomes before exhibition.
- 29 Liveable Cities Advisory Committee considered key recommendations for this review on 5 September 2023 and after exhibition on 5 March 2024.
- 30 Phase 2 was the exhibition of the draft HCAs Review (6 November to 18 December 2023). It attracted 34 submissions, documented in **Attachment C** and summarised in **Attachment D**.
- 31 The HCAs Review incorporates consultation outcomes and **Attachment J** provides a marked-up version of proposed changes. Most submissions support further heritage and maintaining Newcastle's unique built character and natural landscapes. Several respondents support having smaller HCAs that better represent the unique character of the different parts of the Newcastle City Centre, and the removal of HOB and FSR standards for identified low-rise residential properties in Newcastle East and The Hill HCA.

Others felt current HOB and FSR standards should remain. General concerns about the loss of heritage and overdevelopment, calling for stronger, and more protection of heritage buildings and places. The feedback is comprehensively addressed in the HCAs Review and key changes are summarised in paragraphs above and in **Attachment D**.

BACKGROUND

- 32 A HCA's heritage significance evolves over time. HCAs are dynamic and change from development, cultural and social changes, renewal, and decay. It is essential to periodically review and update the conservation management strategies, policies and planning framework for these areas, so their heritage value is understood, protected, and supported for future generations. A review of HCAs aims to address Newcastle's commitment to heritage conservation under the Heritage Strategy and Heritage Policy.

In 2016, CN reviewed all HCAs except the Newcastle City Centre HCA which was excluded as strategic planning in the area was underway. The outcome of the 2016 review was to create two new HCAs, the Hamilton Residential Precinct HCA and the Glebe Road Federation Cottages HCA. At that time, the Cooks Hill, The Hill and Hamilton HCA boundaries were adjusted and the Beaumont Street and Newcastle East HCAs had no change.

OPTIONS

Option 1

33 The recommendation as at Paragraph 1 – 2. This recommended option allows for the continued revitalisation of Newcastle City Centre, while ensuring our rich and diverse cultural heritage remains protected and conserved.

Option 2

34 Council resolves not to adopt the HCAs Review. This is not the recommended option as the existing HCA boundaries and planning controls do not provide an effective balance of conservation and revitalisation of places within the Newcastle City Centre.

REFERENCES

ATTACHMENTS

Attachment A:	Newcastle City Centre Heritage Conservations Areas Review Final Report, March 2024
Attachment B:	Community Engagement Report (Phase 1), September 2023
Attachment C:	Public Exhibition Report (Phase 2), January 2024
Attachment D:	Submissions Table
Attachment E:	Existing Newcastle City Centre and Newcastle East HCAs
Attachment F:	Designated low-rise area within Newcastle East HCA
Attachment G:	Proposed amendment to Newcastle City Centre boundary
Attachment H:	Proposed amendment to Newcastle City Centre HCA
Attachment I:	Proposed amendment to The Hill and Cooks Hill HCAs
Attachment J:	Marked edits to Newcastle City Centre Heritage Conservations Areas Review Final Report, March 2024

Attachments A - J distributed under separate cover

8.3. PUBLIC ART REFERENCE GROUP (PARG) - ANNUAL REPORT 2023

REPORT BY: PLANNING AND ENVIRONMENT
CONTACT: EXECUTIVE DIRECTOR PLANNING AND ENVIRONMENT
/ INTERIM EXECUTIVE MANAGER, PLANNING & DEVELOPMENT

PURPOSE

To present the Public Art Reference Group (PARG) Annual Report 2023.

RECOMMENDATION

That Council:

- 1 Receives the Public Art Reference Group Annual Report 2023 as at **Attachment A**.

KEY ISSUES

- 2 The PARG acts as an Advisory Committee to the City of Newcastle (CN) on public art. PARG met seven times in 2023 and focused on public art associated with development applications, infrastructure upgrades, community murals and artwork and initiatives in the private and public domain.
- 3 The Annual Report documents the activities of PARG during 2023 and is included at **Attachment A**.
- 4 During 2023, the PARG considered six proposals relating to development applications, in addition to several community art proposals from local Business Industry Associations and other parties, CN related works and festivals partially funded by the Special Business Rates funding.

FINANCIAL IMPACT

- 5 Administrative costs associated with supporting PARG are funded through existing operational budgets.

NEWCASTLE 2040 ALIGNMENT

- 6 The PARG is consistent with the strategic directions of the Newcastle 2040 Strategic Plan.

Creative

- 3.3.1 Nurture cultural and creative practitioners
- 3.3.2 Promote Newcastle as a major arts and cultural destination
- 3.3.3 Facilitate opportunities for creative ideas

Inclusion

CN is committed to inclusion, Aboriginal and Torres Strait Islander peoples and culture, supporting local, our planet, innovation and social justice principles. These commitments underpin Newcastle 2040 and inform the actions we make, the behaviours we demonstrate and the interactions we have.

IMPLEMENTATION PLAN/IMPLICATIONS

7 Not applicable

RISK ASSESSMENT AND MITIGATION

8 The PARG is contributing to the City by overseeing public art proposals in the private domain in accordance with development controls.

RELATED PREVIOUS DECISIONS

9 At the Ordinary Council Meeting held on 27 October 2020, Council resolved to endorse the PARG as a standing committee of Council to continue outside the term of the elected Council.

10 At the Ordinary Council Meeting held on 27 October 2020, Council resolved to endorse the expansion of PARG to include up to five external experts with:

- i) Three positions for persons with a strong demonstrated relationship to Newcastle who have acclaimed reputations for excellence in the field/s of visual art, architecture, landscape architecture, cultural leadership and / or design.
- ii) One specific position for a cultural knowledge holder from the Indigenous community.
- iii) One specific position for a heritage expert.

CONSULTATION

11 A Councillor workshop was conducted on 12 March 2024.

12 The PARG Annual Report 2023 will be reported to the Liveable Cities Advisory Committee at their next meeting.

BACKGROUND

13 The role of the PARG is:

- i) To act as an advisory body to CN on public art.
- ii) To advise on the commissioning and development of new public art works in the public and private domain.

- iii) Ensuring transparent commissioning processes that result in art works reflective of Newcastle's history, culture, and community.
 - iv) Advocating for CN, providing leadership and ongoing support on all aspects of public art.
- 14 In 2023 PARG considered public art proposals in the private domain via development applications which trigger clause B.5 of the Newcastle Development Control Plan 2012 (NDCP 2012). This requires public and civic buildings, developments on key sites and developments over 45m in height to allocate 1% of the capital cost of the development towards public artwork for the development.
- 15 The provisions for public art have recently been amended with Newcastle Development Control Plan 2023 being adopted and operational from 1 March 2024. Clause 19 of Section E5 Newcastle City Centre requires developments on key sites, developments over 45m in height or over 10,000m² of additional gross floor area or development over \$5M to allocate 1% of the capital cost of the development towards public artwork for the development.

OPTIONS

Option 1

- 16 Council resolves to adopt the recommendation in paragraph 1. This is the recommended option.

Option 2

- 17 Council resolves not to adopt the recommendations arising from the Public Art Reference Group. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: Public Art Reference Group Annual Report 2023

Attachment A distributed under separate cover

8.4. EXECUTIVE MONTHLY PERFORMANCE REPORT

REPORT BY: CORPORATE SERVICES
CONTACT: EXECUTIVE DIRECTOR CORPORATE SERVICES &
CHIEF FINANCIAL OFFICER / EXECUTIVE MANAGER
FINANCE PROPERTY & PERFORMANCE & DEPUTY CFO

PURPOSE

To report on City of Newcastle's (CN) monthly performance. This includes:

- a) Monthly financial position and year to date (YTD) performance against the 2023/24 Operational Plan as at the end of February 2024.
- b) Investment of temporary surplus funds under section 625 of the *Local Government Act 1993* (Act), submission of report in accordance with the Act and clause 212 of the *Local Government (General) Regulation 2005* (Regulation).

RECOMMENDATION

That Council:

- 1 Receives the Executive Monthly Performance Report for February 2024.

KEY ISSUES

- 2 At the end of February 2024 the consolidated YTD actual operating position is a surplus of \$12.1m which represents a positive variance of \$2.4m against the budgeted YTD surplus of \$9.8m. This budget variance is due to a combination of income and expenditure variances which are detailed in **Attachment A**. The full revised budget for 2023/24 is a surplus of \$7.2m.
- 3 The net funds generated as at the end of February 2024 is a surplus of \$29.2m (after capital revenues, expenditure and loan principal repayments). This is a positive variance to the YTD budgeted position of \$18.7m. This is primarily due to a timing variance in the delivery of CN's works program and the nature of project expenditure (both capital and operational expenditures).
- 4 CN's temporary surplus funds are invested consistent with CN's Investment Policy, Investment Strategy, the Act and Regulations. Details of all CN funds invested under section 625 of the Act are provided in the Investment Policy and Strategy Compliance Report (section 4 of **Attachment A**).

FINANCIAL IMPACT

- 5 The variance between YTD budget and YTD actual results at the end of February 2024 is provided in the Executive Monthly Performance Report.

NEWCASTLE 2040 ALIGNMENT

- 6 This report aligns to the Newcastle 2040 Community Strategic Plan under the strategic direction:

Achieving Together

4.1 Inclusive and integrated planning

4.1.1 Financial sustainability

IMPLEMENTATION PLAN/IMPLICATIONS

- 7 The distribution of the report and the information contained therein is consistent with:
- i) CN's adopted annual financial reporting framework,
 - ii) CN's Investment Policy and Strategy, and
 - iii) Clause 212 of the Regulation and section 625 of the Act.

RISK ASSESSMENT AND MITIGATION

- 8 No additional risk mitigation has been identified this month.

RELATED PREVIOUS DECISIONS

- 9 At the Ordinary Council Meeting held on 25 September 2018 Council adopted to receive an Executive Monthly Performance Report for July to May no later than one month after the month being reported as part of the annual financial reporting framework.
- 10 The Investment Policy Compliance Report included in the Executive Monthly Performance Report includes a specific confirmation in regard to compliance with Part E of the Investment Policy.

CONSULTATION

- 11 A monthly workshop is conducted with Council to provide detailed information and a forum to ask questions.

BACKGROUND

- 12 The presentation of a monthly Executive Performance Report to Council and a workshop addresses the Council resolution for monthly reporting and exceeds the requirements of the Act.

OPTIONS

Option 1

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

Option 2

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

REFERENCES

ATTACHMENTS

Attachment A: Executive Monthly Performance Report -
February 2024

Attachment A distributed under separate cover

8.5 GRANTING OF EASEMENT - AUSGRID-UON FEEDER NETWORK UPGRADE

REPORT BY: CORPORATE SERVICES
CONTACT: EXECUTIVE DIRECTOR CORPORATE SERVICES AND CFO / EXECUTIVE MANAGER FINANCE, PROPERTY AND PERFORMANCE AND DEPUTY CFO

PURPOSE

To grant an easement for electricity purposes over Operational Land at Lot 86 DP249785 (78 Cameron Street Jesmond).

RECOMMENDATION

That Council:

- 1 Approve the creation of an easement for electricity purposes over Operational Land at Lot 86 DP249785 (78 Cameron Street, Jesmond) (Land) as shown at **Attachment A**, for \$7,500 (plus GST) compensation.
- 2 Grant authority to the Chief Executive Officer or his delegate to execute all relevant documentation to authorise the transaction.

KEY ISSUES

- 3 Alpha Distribution Ministerial Holding Corporation (Ausgrid) are upgrading two 11kVA network feeds from Ausgrid Jesmond Zone substation via a combination of common trenching and directional underbores to the University of Newcastle (UoN).
- 4 A Summary Environmental Report (SER) was issued to all stakeholder authorities, including City of Newcastle (CN) and the design was approved. Following approval of the SER and certified design, further changes were required for constructability. As a result, the project team consulted with CN, Jemena, Ausgrid and Hunter Water and a requirement to cross CN's Land was incorporated into the design.
- 5 The easement, if granted, will not impact CN's ongoing use of the Land, being for pedestrian access.
- 6 Under Section 44 of the *Electricity Supply Act 1995* (NSW) Ausgrid is empowered to acquired land or an interest in land for the purposes of exercising its functions under the Act or any law, either by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- 7 CN and Ausgrid have agreed suitable compensation for CN to grant the easement.

FINANCIAL IMPACT

- 8 All costs associated with the easement application, survey and registration will be met by the benefitting party.
- 9 The valuation has been reviewed by CN and the value of the Land has been determined. The compensation amount proposed is fair and reasonable given the low value of the land with no development possible on the Land due to its size and shape.

NEWCASTLE 2040 ALIGNMENT

- 10 Granting of the easement is consistent with the strategic directions of the Newcastle 2040 Community Strategic Plan.

Sustainable

- 1.1 Action on climate change
 - 1.1.1 Resilient urban and natural areas

IMPLEMENTATION PLAN/IMPLICATIONS

- 11 The benefitting party will be responsible for preparing all documentation and for the registration of the easement (including all associated costs).

RISK ASSESSMENT AND MITIGATION

- 12 There is no risk to CN by granting the easement.

RELATED PREVIOUS DECISIONS

- 13 Nil.

CONSULTATION

- 14 The Asset Advisory Committee met on 8 February 2024 and endorsed a report to Council for the granting of an easement for electricity purposes subject to a review of the value of the easement occurring.

BACKGROUND

- 15 The Land was acquired by CN in 1988 for road purposes. The Land adjoins road reserve that is currently unformed and is used for pedestrian access.
- 16 In the planning phase, the project team consulted with CN and other utility providers to define and agree to a feasible route as provided in the SER.

OPTIONS

Option 1

17 The recommendation as at Paragraph 1 – 2. This is the recommended option.

Option 2

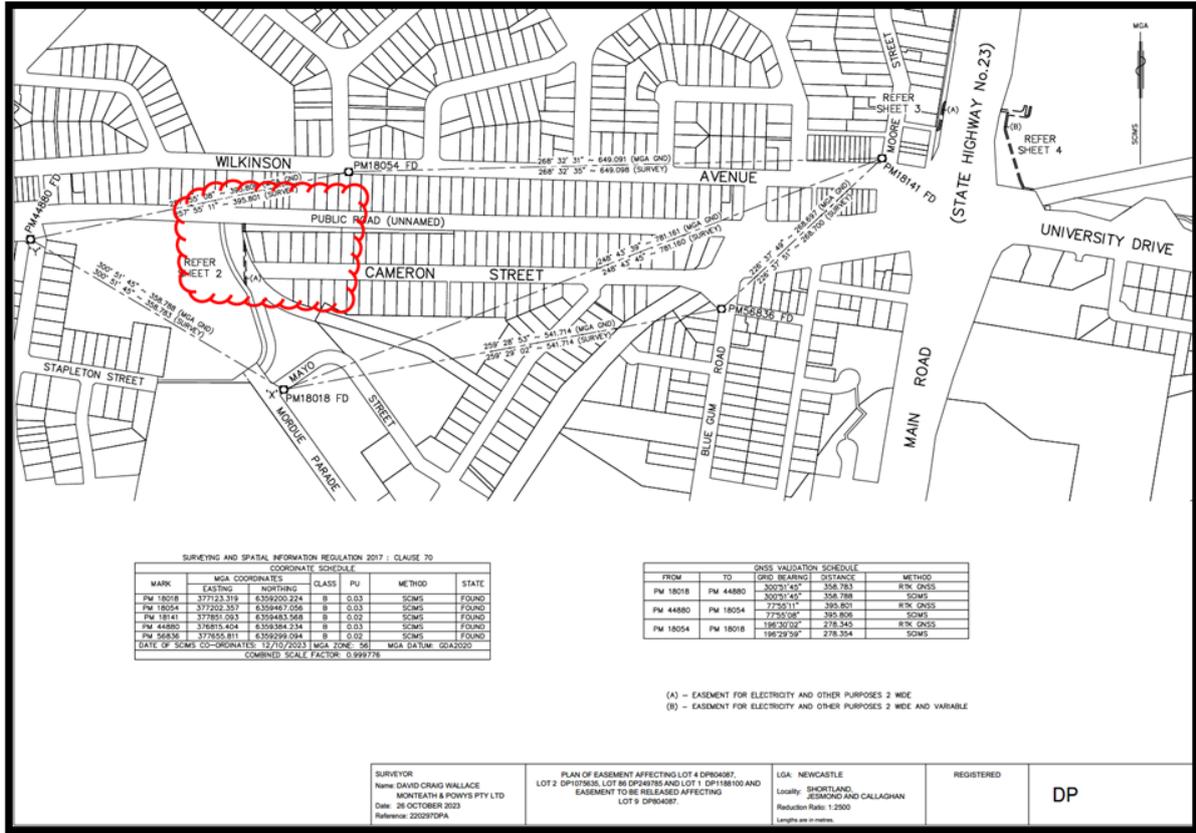
18 Council does not approve the creation of the easement. This is not the recommended option.

REFERENCES

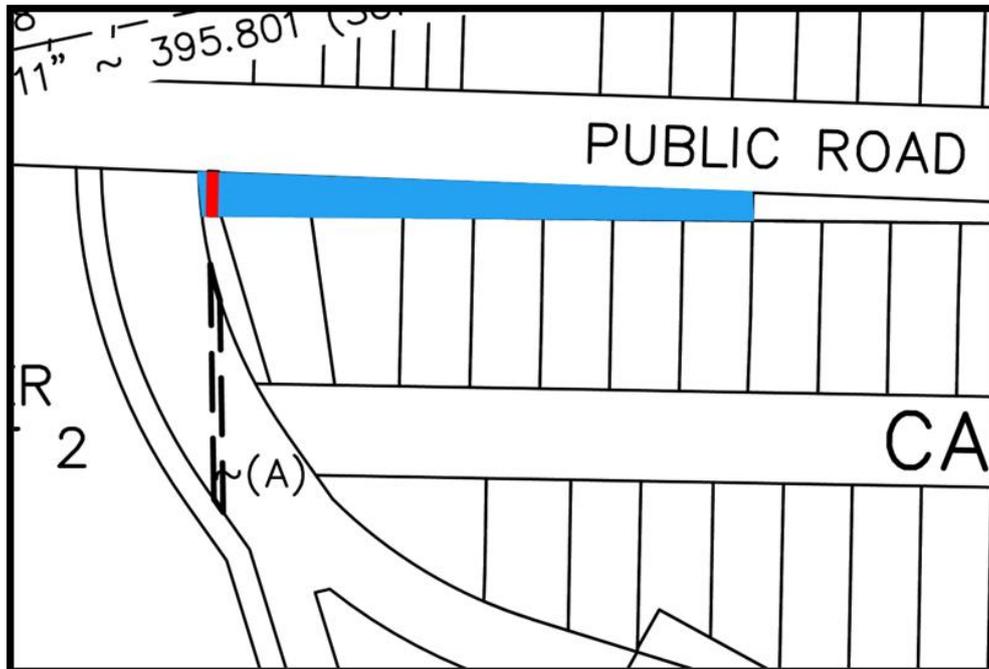
ATTACHMENTS

Attachment A: Proposed Easement

Attachment A



Blue: CN Operational Land, Red: Proposed easement



9. NOTICES OF MOTION

9.1. SKATEPARK FOR MEREWETHER / ADAMSTOWN (COOKS HILL CAMPUS - COLLABORATION)

COUNCILLOR: J BARRIE

PURPOSE

The following Notice of Motion was received on Monday 11 March 2024 from the abovementioned Councillor.

MOTION

That Council:

- 1 Notes that City of Newcastle undertook a review of skateparks in 2008/09, which included consultation with Councillors, skaters and the community.
- 2 Notes that the review found at that time there were ten skateparks located across the Newcastle local government area.
- 3 Notes that the review found that some streets in Adamstown and Merewether are located more than 2km from a skatepark.
- 4 Since the report, City of Newcastle has constructed a district level skate bowl at Stockton and a new regional level facility at South Newcastle Beach (the later to open mid year 2024).
- 5 Investigates a suitable location for a skatepark in the Merewether/Adamstown area. The proposed skatepark design should have space for bubblers, shaded areas, seating, and enough room for multiple people to skate at the same time so no one has a collision / accident by crashing into each other.
- 6 That the costed outcome of the investigation be reported to Sports Infrastructure Working Party for consideration.

BACKGROUND

- A very important aspect for a good skatepark is to have a variety of ramps, from beginner to advanced. Existing skateparks e.g. "Bar Beach Skatepark" is not suitable for someone who is just starting to scooter/skate. Learning to skate on a larger ramp can be very dangerous, as beginners are not used to dropping in, this can lead to serious injuries.
- The closest skatepark to Merewether/Adamstown is at Bar Beach. This skate park is not very suitable for beginners because some ramps are far too steep. Bar Beach skatepark is starting to decline, as cracks and rust are visible.

The soon to be opened skate bowl has been designed to be suitable for intermediate skaters and is accessible for wheelchair sports.

- Johnny Moloney aged 15, is a Year 10 student at Cooks Hill Campus. Johnny started this project to attempt to get a skatepark built in the Merewether/Adamstown area in July 2023. In June, Johnny was in Canberra for a few days, visiting a skatepark that was located close to where he was staying. Johnny visited the skatepark many times during their holiday because he then realised that he really wanted a skatepark close to his home in Newcastle. With the aim to enable other children to go for a skate without having to travel for 40 minutes to Mayfield or Stockton (using public transport). Johnny started this project with an online petition – gathering 170 signatures to date.
- At Cooks Hill Campus, Johnny selects a project to work on for each school term, and he chose 'Skateparks proposals and designs' as part his Learning Plan for Term 1. He has been able to focus on his passions and figuring out what he wants to do after school, easier than what it would be in mainstream school.
- As part of the curriculum at CHC, students must choose a new place to do a Learning Through Internship (LTI) every term. This term Johnny chose a skate shop called "Skate Connection" in Kotara. Johnny chose this because he enjoys developing his knowledge about all things related to skating and scootering. A skate/scoot shop is the perfect place to carry out his work experience.
- City of Newcastle was approached for Johnny's Learning Through Internship however only provides work experience for tertiary students, not secondary students. Cr Barrie has engaged with Johnny Moloney and his mother to discuss the council process for a Notice of Motion. Johnny's School Advisor is supporting a mentoring role with this Notice of Motion.

Project Purpose – by Johnny Moloney – Year 10 at Cooks Hill Campus:

- A skatepark is a great community space for young people to make new friends and develop new friendships. This is very important for young people's wellbeing.
- Children are always making DIY skate spots and skateparks in public places, if young people are inexperienced, it can be dangerous and lead to injuries.
- To get children and young people outside exercising instead of being inside playing video games.
- Get children to go out and socialise with other children their own age more and make new friends.

ATTACHMENTS

Attachment A: Petition for a skatepark in the Merewether/Adamstown area, with 170 signatures.

https://www.change.org/p/skatepark-for-merewether-adamstown-locals-skateparkformerewetheradamstown?source_location=search –

Attachment B: Proposed locations for a skatepark in Merewether/Adamstown:

<https://drive.google.com/file/d/1JD8CaKUJEEFs2pKCbHliwfzg3qC9MyFI/view?usp=sharing>

9.2. ENDING NO-GROUNDS EVICTIONS IN NSW

COUNCILLORS: N NELMES, E ADAMCZYK, D CLAUSEN, C DUNCAN,
D RICHARDSON, P WINNEY-BAARTZ AND M WOOD

PURPOSE

The following Notice of Motion was received on Thursday 15 March 2024 from the abovementioned Councillors.

MOTION

That City of Newcastle:

1. Commends the NSW Government's 2023 commitment to replace existing 'no grounds' eviction provisions through reforms to the *Residential Tenancies Act 2010*, and notes that NSW Labor has been committed to ending 'no grounds' eviction for many years,
2. Notes with concern that the majority (58%) of renters in NSW are on a fixed-term agreement, and that the majority (71%) of fixed-term renters in NSW receive a 'no grounds' eviction notice at the end of the agreement,
3. Notes with concern that in 2024 57% of clients who called Hunter Tenants Advice and Advocacy Service (Hunter TAAS) after receiving a notice of termination are facing a 'no grounds' eviction,
4. Notes that no grounds evictions that require renters to find a new home with only 30 days' notice are destabilising, traumatic, and expensive, disproportionately impact vulnerable renters such as those on lower incomes or on statutory benefits, impact housing affordability by often leading to vacated premises being re-let at higher rent, and can result in homelessness,
5. Notes that Australia has long been an outlier amongst OECD jurisdictions in allowing no grounds evictions and that Australian renters enjoy less security of tenure than most comparable countries (AHURI 2018),
6. Notes that the 2023 Parliamentary Inquiry into *The Worsening Rental Crisis in Australia* found that fear of 'retaliatory evictions' can act to gag renters from requesting repairs or upgrades to ensure safe and healthy housing in their home, and recommended that the removal of no grounds evictions as a prerequisite to other reforms of rental controls and housing security, and
7. Makes a submission to the NSW State Government to remove all provisions from the *Residential Tenancies Act 2010* that allow no grounds evictions (for both periodic and fixed-term leases) and introduce provisions to *The Act* ensure that a residential tenancy ends only for fair and reasonable grounds to ensure a safe, secure, stable, and affordable home for all renters.

BACKGROUND

The City of Newcastle has undertaken significant work since their declaration of a local Housing Affordability crisis in [April 2021](#) including establishing an Affordable Housing Working Party, funding the NSW State Government LAHC to deliver more public housing in the city, resolving to support an affordable housing developer contributions scheme, auditing properties for affordable housing projects, and leading advocacy to increase affordable and public housing and reform housing policy and tax regulations at state and national conferences of local government. Nevertheless, addressing the rental crisis is beyond the financial and regulatory capacity of local government.

The December 2023 APH Federal Inquiry report into [The worsening rental crisis in Australia](#) reported that Australian jurisdictions are outliers amongst OECD jurisdictions in allowing no grounds evictions, and that Australian renters enjoy less security of tenure than most comparable countries. Only New Zealand, the UK, and some jurisdictions of the USA allow no grounds evictions. The Inquiry ultimately recommended the removal of no grounds evictions as a prerequisite to reforms of rental controls and housing security. The [National Housing Accord](#) requires states and territories to improve security and safety for renters.

Ending no-grounds evictions has [long been championed](#) by a range of advocacy groups and NGOs in NSW, including the Tenants Union of NSW, St Vincent de Paul Society NSW, Shelter NSW and NCOSS. In 2018 [AHURI reported](#) that in comparison with comparable countries policy and legal settings in the Australian private rental market result in volatility in rental investment and weak tenant rights that constrict secure occupancy. In February 2022 the Tenants Union of NSW [conducted research](#) that revealed eviction costs across society estimated at over \$5,000 for families, up to \$1,400 for landlords, and up to \$122 million pa to the NSW economy.

In 2023 the NSW Government announced a commitment to improving NSW rental laws and to introduce new reasonable grounds to replace existing 'no grounds' eviction provisions in the *Residential Tenancies Act 2010*. Reforms have occurred in [Tasmania in 1997 and Queensland in 2021](#) where landlords remain able to evict without having to provide a valid reason at the end of a fixed-term tenancy, which has resulted in the majority of renters being shifted onto short fixed term leases. [Already](#) the majority (58%) of renters in NSW are on a fixed-term agreement, and the majority (71%) of fixed-term renters in NSW receive a 'no grounds' eviction notice at the end of the agreement.

The [Tenants Union of NSW](#) recommends that to end 'no grounds' evictions, renters on fixed term agreements and on periodic tenancies must have the same protection against eviction without a valid reason by removing Section 84 and 85 of *The Act* and replacing them with specific reasons and supporting evidence for termination. Hunter TAAS supports [these reforms](#) as necessary to ensure housing security, minimise costs to individuals, landlords, and society, minimise movement in and out of premises, and ensure every person renting has no reason to fear a notice of termination for any reason, including seeking necessary repairs or asserting their rights.

ATTACHMENTS

Nil

10. CONFIDENTIAL REPORTS

10.1. TECHNOLOGY ONE CONTRACT VARIATION

REPORT BY: CORPORATE SERVICES
CONTACT: EXECUTIVE DIRECTOR CORPORATE SERVICES AND
CHIEF FINANCIAL OFFICER / CHIEF INFORMATION
OFFICER

Refer Confidential Ordinary Council Meeting Agenda 26 March 2024 for Item 10.1 - Technology One Contract Variation.