



CITY OF NEWCASTLE

Ordinary Council Meeting

Councillors,

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

DATE: Tuesday 26 April 2022

TIME: 6.00pm

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

J Bath
Chief Executive Officer

**City Administration Centre
12 Stewart Avenue
NEWCASTLE WEST NSW 2302**

20 April 2022

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**ORDINARY COUNCIL MEETING
26 April 2022**

CONTENTS

Item	Business	Page
	APOLOGIES/LEAVE OF ABSENCE	
	ORDERS OF THE DAY	
	DECLARATIONS OF PECUNIARY / NON-PECUNIARY INTEREST	
	CONFIRMATION OF PREVIOUS MINUTES	4
	MINUTES - BRIEFING COMMITTEE MEETING 15 MARCH 2022	4
	MINUTES - ORDINARY COUNCIL MEETING 22 MARCH 2022	7
	LORD MAYORAL MINUTE	
	REPORTS BY COUNCIL OFFICERS	27
ITEM-30	CCL 26/04/22 - VARIATIONS TO DEVELOPMENT STANDARDS - 1ST QUARTER 2022	27
ITEM-31	CCL 26/04/22 - EXHIBITION OF DRAFT NEWCASTLE DEVELOPMENT CONTROL PLAN 2012	32
ITEM-32	CCL 26/04/22 - ADOPTION OF COUNCIL POLICIES	39
ITEM-33	CCL 26/04/22 - PUBLIC EXHIBITION OF CODE OF MEETING PRACTICE	42
ITEM-34	CCL 26/04/22 - ADOPTION OF COMMUNITY STRATEGIC PLAN	46
ITEM-35	CCL 26/04/22 - ADOPTION OF THE PLANNING PROPOSAL FOR 41 THROSBY STREET, WICKHAM	50
ITEM-36	CCL 26/04/22 - PUBLIC EXHIBITION OF DRAFT DELIVERING NEWCASTLE 2040	57
ITEM-37	CCL 26/04/22 - EXECUTIVE MONTHLY PERFORMANCE REPORT	62
ITEM-38	CCL 26/04/22 - TENDER REPORT - NEWCASTLE ART GALLERY MINE VOID REMEDIATION WORKS - CONTRACT NO. 2022/091T	65

CITY OF NEWCASTLE

Ordinary Council Meeting 26 April 2022

Page 3

NOTICES OF MOTION

71

ITEM-13 NOM 26/04/22 - SUPPLY AND MAINTENANCE OF STREET
FURNITURE AND OUT-OF-HOME MEDIA

71

ITEM-14 NOM 26/04/22 - 505 MINMI ROAD - INCLUSION IN NSW
NATIONAL PARKS ESTATE

73

CONFIDENTIAL REPORTS

Nil

**FOR DOCUMENTS MARKED 'DISTRIBUTED UNDER SEPARATE COVER' REFER TO
COUNCIL'S WEBSITE AT www.newcastle.nsw.gov.au**

NOTE: ITEMS MAY NOT NECESSARILY BE DEALT WITH IN NUMERICAL ORDER

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - BRIEFING COMMITTEE MEETING 15 MARCH 2022

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 220315 Briefing Committee Meeting Minutes

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

CITY OF NEWCASTLE

Minutes of the Briefing Committee Meeting held in the Council Chambers, Level 1, City Administration Centre, 12 Stewart Avenue, Newcastle West on Tuesday 15 March 2022 at 6.07pm

PRESENT

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.

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance and Chief Financial Officer), F Leatham (Director People and Culture), J Rigby (Acting Director Infrastructure and Property), A Jones (Director City Wide Services), M Bisson (Manager Regulatory, Planning and Assessment), S Moore (Manager Finance), E Kolatchew (Manager Legal), P McCarthy (Urban Planning Section Manager), M Murray (Chief of Staff), A Knowles (Councillor Services/Minutes), K Sullivan (Councillor Services/Meeting Support), R Garcia (Information Technology Support) and U Bansal (Information Technology Support).

MESSAGE OF ACKNOWLEDGEMENT

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

PRAYER

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

REQUEST TO ATTEND BY AUDIO VISUAL LINK

MOTION

Moved by Cr Adamczyk, seconded by Cr Richardson

The request submitted by Councillor Wood to attend by audio visual link be received and leave granted.

**Carried
unanimously**

APOLOGIES

Nil.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Church

Councillor Church had previously declared a conflict in relation to Item 1 – Green Corridor - 505 Minmi Road, Fletcher and as there was no decision to be made at the Committee meeting he remained in the Chamber to receive the presentation.

Lord Mayor, Cr Nelmes

Lord Mayor, Cr Nelmes had previously declared a conflict in relation to Item 1 – Green Corridor - 505 Minmi Road, Fletcher and as there was no decision to be made at the Committee meeting she remained in the Chamber to facilitate discussion on the item.

BRIEFING COMMITTEE REPORTS

ITEM-1 BR 15/03/22 - GREEN CORRIDOR - 505 MINMI ROAD, FLETCHER

The City of Newcastle received a briefing from Mr Brian Purdue and Mr John Sutton.

The meeting concluded at 6.41pm.

MINUTES - ORDINARY COUNCIL MEETING 22 MARCH 2022

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 220322 Ordinary Council Meeting Minutes

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

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, Level 1, City Administration Centre, 12 Stewart Avenue, Newcastle West on Tuesday 22 March 2022 at 6.03pm.

PRESENT

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.

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance and Chief Financial Officer), F Leatham (Director People and Culture), J Rigby (Acting Director Infrastructure and Property), K Hyland (Interim Director Strategy and Engagement), E Kolatchew (Manager Legal), S Moore (Manager Finance), M Bisson (Manager Regulatory, Planning and Assessment), T Uren (Manager Waste Services), B McCall (Commercial and Recyclables Delivery Manager), M Murray (Chief of Staff), K Sullivan (Councillor Services/Minutes), A Knowles (Councillor Services/Meeting Support) and R Garcia (Information Technology Support).

MESSAGE OF ACKNOWLEDGEMENT

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

PRAYER

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

REQUEST TO ATTEND BY AUDIO VISUAL LINK

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Mackenzie

The request submitted by Councillor Wood to attend by audio visual link be received and leave granted.

Carried

APOLOGIES

Nil.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor McCabe

Councillor McCabe declared a non-significant non-pecuniary interest in Item 26 - Elizabeth Street, Tighes Hill - Proposed Raised Crossing at Union Street stating that live she lived in the suburb and near the intersection and would manage the conflict by remaining in the Chamber.

Councillor Mackenzie

Councillor Mackenzie declared a non-significant non-pecuniary interest in Item 26 - Elizabeth Street, Tighes Hill - Proposed Raised Crossing at Union Street stating that live he lived near the proposed intersection and would manage the conflict by remaining in the Chamber for discussion on the item.

Councillor Church

Councillor Church declared a less than significant non-pecuniary interest in Notice of Motion Item 7 - Preservation and Repurposing of Shepherds Hill Observation Post stating that he lived in the vicinity and would remain in the Chamber for discussion on the item.

Councillor Barrie

Councillor Barrie declared a less than significant, non-significant, non-pecuniary interest in Item 22 - Public Exhibition of Wickham Masterplan Update 2022 stating that she attended GLOW meetings and would remain in the Chamber for discussion on the item.

Councillor Barrie

Councillor Barrie declared a less than significant, non-significant, non-pecuniary interest in Item 23 - Supplementary Report - Exhibition of Planning Proposal and Development Control Plan for Community Infrastructure Incentives at Wickham stating that she attended GLOW meetings and would remain in the Chamber for discussion on the item.

Councillor Barrie

Councillor Barrie declared a less than significant, non-significant, non-pecuniary interest in Item 24 - Exhibition of Draft Newcastle Development Control Plan Section 6.03 Wickham stating that she attended GLOW meetings and would remain in the Chamber for discussion on the item

CONFIRMATION OF PREVIOUS MINUTES

**MINUTES - PUBLIC VOICE COMMITTEE 15 FEBRUARY 2022
MINUTES - ORDINARY COUNCIL MEETING 22 FEBRUARY 2022**

MOTION

Moved by Cr Mackenzie, seconded by Cr Adamczyk

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

**Carried
unanimously**

LORD MAYORAL MINUTE

ITEM-6 LMM 22/03/22 - FEDERAL ELECTION PRIORITIES

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Notes that a Federal Election is to take place by 21 May 2022.
- 2 Prepares an election priorities document, in order to enable high level advocacy for funding and delivery of projects and policies including, but not limited to:
 - a. Newcastle Airport passenger Terminal expansion
 - b. Richmond Vale Rail Trail
 - c. National Park No. 1 Sportsground redevelopment
 - d. Hunter Park (Broadmeadow Sports and Entertainment Precinct)
 - e. Sporting Facility Fund
 - f. Surf Lifesaving Club redevelopment funding
 - g. Stockton Coastal Erosion mitigation and sand replenishment
 - h. John Hunter Hospital Health & Innovation Precinct
 - i. Expansion of Newcastle Light Rail
 - j. Lower Hunter Freight Corridor
 - k. Affordable Housing initiatives
 - l. Improved mobile telecommunications coverage
 - m. Flood mitigation at Wallsend
 - n. Diversification of Port of Newcastle
 - o. Waste management and circular economy innovation investment
 - p. Newcastle Interchange Ferry Terminal
 - q. Indexation of Financial Assistance Grants to 1% of Commonwealth taxation revenue
 - r. Minmi Road upgrade
 - s. University of Newcastle STEMM Regional Transformation Hub
 - t. Cottage Creek Bridge
 - u. Commitment to the establish a First Nations Voice enshrined in the Constitution and a Makarrata Commission
 - v. Newcastle to Sydney very fast rail
 - w. Offshore Wind Project
 - x. Rebuild Australia's Strategic Fleet
 - y. GP Access Funding
 - z. Arts & Cultural Package (including Newcastle After Dark, Live & Local expansion)
 - aa. Local Government Natural Disaster Mitigation Fund
 - bb. Adaptation and mitigation initiatives to address climate change

- cc. Active Hub Program
 - i. Beresfield
 - ii. Adamstown/Kotara
 - iii. Bar Beach
 - iv. Mayfield
 - v. Wallsend Active Hub & Swimming Centre
- dd. Local Centres Program
 - i. Orchardtown Road
 - ii. Wallsend Stage 3A & 3B
 - iii. Mayfield Local Centre
 - iv. Georgetown Local Centre
 - v. Waratah Local Centre
 - vi. East End Public Domain Stage 1 & 2
 - vii. Wood Street Centre
- ee. Parks, Playgrounds, Pathways Program:
 - i. Bathers Way
 - ii. City Centre to Merewether Cycleway, Stage 2
 - iii. Newcastle West Bi-directional Cycleway – West End Stage 2, Phase 1
 - iv. Newcastle East End Streetscapes Upgrades and Cycleway
 - v. Signalisation of Cycleway Intersections
 - vi. Cycleway connections with Link Road upgrade
 - vii. Maitland Road Rail Crossings Cycleway upgrades
 - viii. Active Transport Infrastructure Program
 - ix. National Park Cycleway
 - x. Gregson Park Masterplan implementation
 - xi. Creek Road Masterplan implementation
 - xii. Local playground disability inclusion & accessibility
 - xiii. Variety Livvi's Place, Newcastle Foreshore regional inclusive playspace

- 3 Notes that our funding priorities have remained consistent, with the City of Newcastle advocating for funding to deliver these projects across multiple election and budget cycles, and their identification in various external stakeholder strategies including Infrastructure Australia *Priority List 2022*, Hunter & Central Coast Development Corporation strategic planning, Hunter Joint Organisation, Committee for the Hunter, NSW Government Draft Hunter Regional Plan 2041.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion:

Councillor Pull.

Carried

REPORTS BY COUNCIL OFFICERS

ITEM-27 CCL 22/03/22 - TAURANGA ROAD, NEW LAMBTON - HALF ROAD CLOSURE AT LAMBTON ROAD

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Mackenzie

That Council:

- 1 Approves the proposed half road closure and one way traffic flow in Tauranga Road Lambton, as generally shown at **Attachment A**.

Carried

ITEM-21 CCL 22/03/22 - ENDORSEMENT OF MOTIONS TO THE 2022 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT

MOTION

Moved by Cr Duncan, seconded by Cr Adamczyk

That Council:

- 1 Endorse the motion/s for submission to the 2022 Australian Local Government Association's National General Assembly as set out at **Attachment A**.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion:

Councillor Pull.

Carried

Councillor Church requested it be noted he was not in support of Motion 10 - Prohibition of Nuclear Weapons.

ITEM-22 CCL 22/03/22 - PUBLIC EXHIBITION OF WICKHAM MASTERPLAN UPDATE 2022

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Places the draft WMP 2021 (2022 amendment) (**Attachment A**) on public exhibition for 28 days.
- 2 Considers a report on submissions received following the public exhibition.

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

Against the Motion: Nil.

Carried

ITEM-23 CCL 22/03/22 - SUPPLEMENTARY REPORT - EXHIBITION OF PLANNING PROPOSAL AND DEVELOPMENT CONTROL PLAN FOR COMMUNITY INFRASTRUCTURE INCENTIVES AT WICKHAM

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Endorses the Planning Proposal (**Attachment B**) to amend the Newcastle Local Environmental Plan 2012 (NLEP 2012) to implement the Draft Wickham Masterplan 2021 Update (WMP 2021) (2022 Amendment).
- 2 Forwards the Planning Proposal to the Minister for Planning for 'Gateway Determination' pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).
- 3 Publicly exhibits the Planning Proposal, subject to Gateway Determination, for a minimum of 28 days together with the following:
 - i) Amended Newcastle Development Control Plan 2012 (NDCP 2021) Section 6.03 Wickham (**Attachment C**).
 - ii) Amended NDCP 2012 Section 9.00 Glossary (**Attachment D**).
 - iii) The Draft Incentives Gross Floor Area (GFA) Rate for Wickham (**Attachment E**), within the Schedule of Fees and Charges, of the Newcastle Operational Plan 2021/22.
- 4 Receives a report on submissions following public exhibition and considers any amendments made in response to submissions and make a final determination on the Planning Proposal and draft Section 6.03 of the NDCP 2012.

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

Against the Motion: Councillors Barrie, Church and Wark.

Carried

ITEM-24 CCL 22/03/22 - EXHIBITION OF DRAFT NEWCASTLE DEVELOPMENT CONTROL PLAN SECTION 6.03 WICKHAM

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Publicly exhibits the draft NDCP 2012 Section 6.03 Wickham (**Attachment A**) for 28 days in accordance with the requirements of Clause 18 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) and Council's Community Participation Plan (CPP).
- 2 Receives a report on submissions received after the public exhibition period including any further amendments made in response to submissions as per Clause 21 of the EP&A Regulation.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion:

Councillor Church.

Carried

ITEM-25 CCL 22/03/22 - EMPLOYMENT ZONES REFORM

MOTION

Moved by Cr Clausen, seconded by Cr Adamczyk

That Council:

- 1 Receives the report and notes NSW Government changes to employment zones in the Newcastle Local Environmental Plan 2012.
- 2 Makes a formal submission to the Department of Planning and Environment raising concerns about the short time frame to consider this significant reform.
- 3 Writes to the Minister for Planning and Homes and the Secretary, Department of Planning and Environment providing a copy of City of Newcastle's submission and noting its concerns in relation to including the B1 Neighbourhood zone in the proposed E1 Local Centre Zones.
- 4 That Councillors receive a detailed workshop prior to the LEP changes being finalised to discuss the proposed Local Provisions clauses that will be included in the revised Newcastle LEP 2012

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

Against the Motion: Nil.

Carried

ITEM-26 CCL 22/03/22 - ELIZABETH STREET, TIGHES HILL - PROPOSED RAISED CROSSING AT UNION STREET

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Wark

That Council:

- 1 Approves the proposed upgrade of the pedestrian crossing in Elizabeth Street Tighes Hill, as generally shown at **Attachment A**.

**Carried
unanimously**

ITEM-28 CCL 22/03/22 - EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Receives the Executive Monthly Performance Report for February 2022.

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

Against the Motion: Councillor Church.

Carried

ITEM-29 CCL 22/03/22 - TENDER REPORT - LAMBTON POOL WATERSLIDE REPLACEMENT - CONTRACT NO. 2022/090T

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Duncan

That the recommendation at **Attachment A** be adopted.

That Council:

- 1 Approves an exemption to tender under Section 55(3)(i) of the *Local Government Act 1993* for the design, supply and installation of a waterslide at Lambton Swimming Centre by Australian Waterslides and Leisure Pty Ltd in the amount of \$353,770 excluding GST under Contract No. 2022/090T.

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

**Carried
unanimously**

ITEM-30 CCL 22/03/22 - ORGANICS PROCESSING FACILITY

MOTION

Moved by Cr Adamczyk, seconded by Cr Barrie

That Council:

- 1 Resolves to bring forward the scheduled expansion of an Organics Processing Facility (OPF) by four years to enable both food and garden organics to be processed from year one.
- 2 Notes that by bringing forward the expansion of the OPF from 32,600 tonnes per annum (tpa) to 50,000 tpa, the project will instead need to be undertaken as a single step construction project, with a single lead contractor.
- 3 Accepts a variation to contract 2019/144T for the design and construction of an Organics Processing Facility for combined Food Organics and Garden Organics (FOGO) at the Summerhill Waste Management Centre (SWMC) to enable food waste to be brought forward by four years from the current schedule as shown at **Attachment A**.
- 4 Notes that by bringing forward the processing of food organics by four years, an additional 24,000 tonnes of waste will be diverted from landfill and instead generate approximately \$450,000 from the sale of additional commercial grade composting material.
- 5 Notes that by bringing forward the processing of food organics to the first year of OPF operation, the total capital project cost will reduce by \$4.6M and reduce City of Newcastle's (CN) s88 waste levy liability by \$3.5M over four years.
- 6 Resolves that City of Newcastle (CN) continue to seek funding opportunities for the OPF including through requesting the return of a larger share of the s88 waste levy paid by CN to the NSW Government and exploring low interest loans from organisations such as the Clean Energy Finance Corporation and TCorp.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion:

Nil.

**Carried
unanimously**

NOTICES OF MOTION

ITEM-5 NOM 22/03/22 - SUPPORT FOR EAST COAST SUBMARINE NAVAL BASE IN NEWCASTLE

MOTION

Moved by Cr Pull, seconded by Cr Barrie

That City of Newcastle:

- 1 Supports the building of the new east coast Future Navy Base in Newcastle.
- 2 Commends the Federal government's plan for the base and welcomes the estimated \$10 billion investment.
- 3 Notes that the construction and operation of the base in Newcastle will create countless jobs and establish a powerful new economy in Newcastle and the Hunter.
- 4 Resolves that the CEO writes to the Prime Minister, Defence Minister, Leader of the Opposition and New South Wales Premier conveying our strong support for the submarine base to be built in Newcastle.

For the Motion: Councillors Church and Pull.

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

Defeated

ITEM-6 NOM 22/03/22 - SUPPORTING THE NATIONAL 'STATEMENT FROM THE HEART' FOR INDIGENOUS CONSTITUTIONAL RECOGNITION CAMPAIGN

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Richardson

That City of Newcastle

- 1 Notes that the LGNSW Special Conference 2022 resolved to support From the Heart's call for Indigenous constitutional recognition through a Voice to Parliament, a referendum to be held in the next term of the Federal Parliament, and to assist Councils to hold public forums to inform their communities about the Statement from the Heart and the proposed referendum.
- 2 Recognises the Guraki Aboriginal Advisory Committee and the work they do to ensure that acknowledgment of the original custodians of our land is embedded in all that we do at Council.

- 3 Supports the Statement from The Heart and the campaign for Constitutional Recognition of an Indigenous Voice to Parliament.
- 4 Collaborates with the From the Heart, through the First Nations Voice to Council campaign, to raise awareness of and to recognise that May 26th represents the 5th Anniversary of the Statement from The Heart.
- 5 Partners with the Guraki Aboriginal Advisory Committee, LGNSW and From the Heart to hold public forums in Newcastle to raise community awareness of the Statement from the Heart and the campaign for a referendum for Indigenous Constitutional Recognition through a Voice to Parliament.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion:

Councillor Pull.

Carried

ITEM-7 NOM 22/03/22 - PRESERVATION AND REPURPOSING OF SHEPHERDS HILL OBSERVATION POST

MOTION

Moved by Cr Church, seconded by Cr Mackenzie

That City of Newcastle

- 1 Notes the Shepherds Hill Observation Post Complex is located in a prominent and highly visible location and its ongoing degradation is rapidly becoming an eyesore.
- 2 Notes that the Complex, due to its significant role in WWII is State Heritage listed and as Trustees, Council have responsibility under Section 118 of the State Heritage Act, for Weatherproofing, Fire Protection, Security and Essential Maintenance.
- 3 Notes that the Observation Post could be repurposed as a Whale Watching and Monitoring Station. This would represent a replication of its wartime role as a Naval Observation Post, monitoring the coastal waters for enemy shipping by Naval personnel.
- 4 Notes that significant investment that has already been made by council in restoring the neighbouring Shepherds Hill Cottage and that combined, these sites have the potential to become a tourism drawcard for the city
- 5 Undertakes urgent remedial works to stabilise and protect the Shepherds Hill Observation Complex from further deterioration.

- 6 Forms a working party that would include historians, heritage architects, engineers, councillors and community representatives, to oversee an engineering and feasibility study of the complex to assess the options available and suitability for future repurposing which would include safe public access and funding options.

Councillor Clausen foreshadowed a substantive motion that being the officer's recommendation outlined in the business papers.

The motion moved by Councillor Church and seconded by Councillor Mackenzie was put to the meeting.

Defeated

MOTION

Moved by Cr Clausen, seconded by Cr Adamczyk

That Council:

- 1 Notes the Shepherds Hill Observation Post and other structures at 41 The Terrace is located in a prominent and highly visible location, and that inspections are undertaken on a regular basis to ensure security and maintenance is undertaken.
- 2 Notes the importance of the site, and the structures as a state significant heritage item, and the role that it played in the history of defence for Newcastle.
- 3 Notes that works associated with the management and upgrade of these heritage structures is significant and beyond the capacity of CN as the Crown Land manager.
- 4 Notes that CN has already invested more than \$1 million in the restoration of the Shepherds Hill Cottage, also located at 41 The Terrace.
- 5 Delegates the CEO to write to the Minister for Defence to seek funding for feasibility investigations and concept plan for the adaptive reuse of the site, which could include activities such as whale watching.

**Carried
unanimously**

ITEM-8 NOM 22/03/22 - REFUGEE / ASYLUM SEEKERS-HUMANITARIAN SETTLEMENT

MOTION

Moved by Cr McCabe, seconded by Cr Mackenzie

That City of Newcastle:

- 1 notes the historical leadership of Newcastle Council on refugee and multicultural issues, including as the second city in Australia to declare itself a "Refugee Welcome Zone" in 2002. Further, that Council note the recommitment to that declaration on 28 May 2015.
- 2 notes that Australia currently holds 66 refugees and asylum seekers in locked detention, approximately 448 in community detention, and approximately 504 on short-term bridging visas.
- 3 notes that 14,000 asylum seekers are currently being held in Indonesia, and most have been there for 10 years. They are considered by UNHCR to be Australia's responsibility as Indonesia is not a signatory to the UNHCR charter.
- 4 notes that 104 people are currently detained in PNG and 112 in Nauru at taxpayers' expense.
- 5 notes that former Minister for Home Affairs, the Hon Peter Dutton MP, released 34 refugees from a Melbourne Hotel in January 2021, advising that: "it's cheaper for people to be in the community than it is to be at a hotel or for us to be paying for them to be in detention"
- 6 authorise the Lord Mayor to write to the NSW members of the Senate and House of Representatives and the current Minister for Home Affairs, the Hon Karen Andrews MP, requesting urgent humanitarian settlement for all refugees and asylum seekers who seek sanctuary and a safe home in Australia.

Include in this letter, specific advocacy for the refugees and asylum seekers brought to onshore detention through medical evacuation (Medevac), approximately 18 of whom are currently held in the Park Hotel in inner Melbourne, after 9 were released unexpectedly, without explanation on Friday 11th of March.
- 7 notes that a number of other Australian cities, including Hobart, have offered support for these refugees. Given the City's status as a Refugee Welcome City, offers CN's support to assist stakeholders to settle those refugees and asylum seekers as soon as possible after leaving detention.
- 8 Support the [Back your Neighbour campaign](#) by adding the City of Newcastle to their list of supporting local councils.

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

Against the Motion: Councillor Pull.

Carried

ITEM-9 NOM 22/03/22 - NEWCASTLE SURF LIFESAVING CLUBS

MOTION

Moved by Cr Barrie, seconded by Cr Pull

That City of Newcastle:

- 1 Notes that work is currently underway to prepare Coastal Management Programs (CMP) and are following a process that is mandated under the Coastal Management Act 2016.
- 2 Notes that CMPs are critical to understand the current and future coastal hazard exposure for all coastal infrastructure and assets.
- 3 Notes the importance of Surf Lifesaving Clubs and the need for a Strategic Plan, informed by the outputs of a CMP, for the management of existing coastal buildings.
- 4 Explores future funding options with Federal, State, and external stakeholders to maximize the Clubs' functionality to provide a community service and to increase tourism visitation for all residents/visitors/surf lifesaving volunteers and families can enjoy the City of Newcastle's beautiful beaches and outdoor recreational lifestyle.
- 5 Notes that five out of the six Surf Lifesaving Clubs require leases (Nobby's SLSC currently have a lease), and that on-site storage is reviewed as a part process to ensure the safety of all beach visitors continues for residents and with planning for future tourism development.

Councillor Wark proposed the following amendment to the motion:

- 6 *Remove Council life guards on a Sunday replacing them with volunteer surf lifesaving patrols in order to reduce Council staff wages.*

The mover and seconder of the motion agreed to incorporate Councillor Wark's amendment to the motion.

AMENDMENT

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

PART A

City of Newcastle support for our local Surf Lifesaving Clubs & Coastal revitalisation

- 1 Notes that City of Newcastle has invested more than \$11 million into upgrades and maintenance of our Surf Lifesaving Clubs since 2013, including:
 - a. \$420,000 in cash to Hunter Surf Lifesaving since 2013.
 - b. Almost \$11.5 million of direct investment which has contributed to project such as:
 - i. \$1.2 million heritage refurbishment of Nobby's Surf Lifesaving Club.
 - ii. \$640,000 refurbishment of Dixon Park Surf Lifesaving Club.
 - iii. Stockton's \$200,000 refurbishment in 2020.
 - iv. More than \$700,000 for Cooks Hill Surf Lifesaving Club.
- 2 Notes that the NSW Liberal Government has rejected grant funding applications for the Bathers Way Stage 2: Newcastle Beach Community Facility (incorporating Newcastle Surf Lifesaving Club upgrades) on four separate occasions (Resources for Regions - 2016; Building Better Regions 2 - 2017; Building Better Regions 3 - 2018; Regional Growth Fund - 2018).
- 3 Notes that during the recent election campaign, Councillor Church committed the NSW Government to a 50/50 funding partnership with City of Newcastle to upgrade Surf Clubs and that in the last financial year, the NSW Government committed just \$120,000 in funding to 29 clubs (\$3.5m total). At this rate, it would take 174 years to provide the NSW Government's share of the funding as committed by Councillor Church.
- 4 Notes that City of Newcastle has also proudly delivered significant coastal revitalisation along our coastline, including \$46 million invested over the past 10 years, including the delivery of our iconic Bathers Way.
- 5 Writes to the NSW and Commonwealth Parliamentary Friends of Surf Lifesaving, advocating for funding to upgrade Newcastle's Surf Lifesaving Clubs.

PART B

That City of Newcastle:

- 1 Notes that work is currently underway to prepare Coastal Management Programs (CMP) and are following a process that is mandated under the Coastal Management Act 2016.
- 2 Notes that CMPs are critical to understand the current and future coastal hazard exposure for all coastal infrastructure and assets.
- 3 Notes the importance of Surf Lifesaving Clubs and the need for a Strategic Plan, informed by the outputs of a CMP, for the management of existing coastal buildings.
- 4 Explores future funding options with Federal, State, and external stakeholders to maximize the Clubs' functionality to provide a community service and to increase tourism visitation for all residents/visitors/surf lifesaving volunteers and families can enjoy the City of Newcastle's beautiful beaches and outdoor recreational lifestyle.
- 5 Notes that five out of the six Surf Lifesaving Clubs require leases (Nobby's SLSC currently have a lease), and that on-site storage is reviewed as a part process to ensure the safety of all beach visitors continues for residents and with planning for future tourism development.

The amendment moved by the Lord Mayor and seconded by Councillor Clausen, was put to the meeting.

Carried

The motion moved by Councillor Barrie and seconded by Councillor Pull, as amended by the Lord Mayor and Councillor Clausen, was put to the meeting.

Carried

ITEM-10 NOM 22/03/22 - GAS DECARBONISATION

MOTION

Moved by Cr McCabe, seconded by Cr Mackenzie

That City of Newcastle

- Notes Council's commitment to expedite the delivery of Net Zero Emission Buildings through the new and amended provisions in the Newcastle Local Environmental Plan and Development Control Plan that facilitate greater efficiencies of energy and water use than current minimum standards and net zero carbon emissions in new development (including industrial uses).

- Affirms the recommendation in Council's submission on the new Design and Place State Environmental Planning Policy (DP SEPP) that "BASIX should be used to dissuade new developments from being gas dependent and promote all electric developments".
- Writes to the Prime Minister The Hon Scott Morrison MP, Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development The Hon Barnaby Joyce MP, the Minister for Industry, Energy and Emissions Reduction The Hon Angus Taylor MP, Minister for Resources and Water The Hon Keith Pitt MP, and the Minister for Emergency Management and National Recovery and Resilience Senator the Hon Bridget McKenzie to urgently develop a gas decarbonisation roadmap, setting business, industry and households up to be resilient and sustainable in a decarbonising world, while safeguarding jobs in important manufacturing industries.

Carried

ITEM-11 NOM 22/03/22 - NEWCASTLE WEST SAFETY AUDIT

MOTION

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

That Council:

- 1 Notes that in the Newcastle After Dark Strategy, the West End precinct was the least positively perceived precinct in terms of safety, and the only one to be rated 'red' in the traffic light assessment of safety.
- 2 Notes the Newcastle Safe City Plan, which outlines the key relevant community safety issues occurring in the Newcastle LGA both during the day and at night.
- 3 Notes the importance of crime prevention through environmental design (CPTED) principles and practices in the Newcastle Safe City Plan in contributing to safety in the public domain.
- 4 Notes the value of recently conducted CPTED safety audits for Little Burwood Park and James Street Plaza to inform design for public domain upgrades.
- 5 Conducts a CPTED safety audit for the 'West End' after dark precinct during the detailed design phase of the West End city centre revitalisation program of works in consultation with residents, NSW Police, local venue operators, Councillors, City of Newcastle staff, and other key stakeholders.

**Carried
unanimously**

ITEM-12 NOM 22/03/22 - CITY OF NEWCASTLE CREATIVE HOARDINGS PROGRAM

MOTION

Moved by Cr Duncan, seconded by Cr Richardson

That City of Newcastle:

Part A: Newcastle Creative Hoardings Program

- 1 Notes recent interest regarding illegal graffiti on private properties in the City Centre, and reinforces that Council is working with our community partners at the NSW Department of Justice and Communities to help remove graffiti from private property and commercial premises.
- 2 Reiterates that members of the community are able to report illegal graffiti via our website, the City of Newcastle App or by calling our Customer Service Centre on 4974 2000.
- 3 Notes that concerns have been raised regarding illegal graffiti on the hoarding of private construction sites in the City Centre (former Newcastle Post Office site).
- 4 Notes that City of Sydney has created a Creative Hoardings Program 'in response to community demand or more street art to enliven the streets of Sydney and bring creative into the everyday'.
- 5 Investigates the feasibility of initiating a Newcastle Creative Hoardings Program, whereby developers with construction sites in high visibility areas must cover their hoardings with street art concepts, created by local street artists (wherever possible) as endorsed by the City's Public Art Reference Group.

Part B: Supporting Street Art initiatives

- 1 Notes that the popular Big Picture Festival is returning later in 2022 as a part of the Special Business Rate (SBR) Program, and event organisers propose to collaborate with other SBR street art projects to create a more holistic and broader initiative, including:
 - \$150,000 for the Big Picture Festival.
 - Small Walls graffiti prevention program (which will include 10-20 small scale murals in identified reoccurring illegal graffiti locations);
 - Chalk the Walk.
 - UP&UP's Create Your Place (Street Art Workshops).
 - Darby Street Murals and activations, including the revitalisation of the headphone's plaza.

Carried

CONFIDENTIAL REPORTS

Nil.

At the conclusion of the meeting the Chief Executive Officer reported the resolutions of partial confidential reports (refer as previously stated).

The meeting concluded at 9.59pm.

REPORTS BY COUNCIL OFFICERS

**ITEM-30 CCL 26/04/22 - VARIATIONS TO DEVELOPMENT STANDARDS
- 1ST QUARTER 2022**

**REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL
 OFFICER / MANAGER REGULATORY, PLANNING AND
 ASSESSMENT**

PURPOSE

To report on development variations approved between 1 January 2022 and 31 March 2022.

RECOMMENDATION

That Council:

- 1 Receives the report on approved development variations between 1 January 2022 and 31 March 2022 at **Attachment A** in accordance with the Department of Planning and Environment's (DPE) concurrence to vary development standards in the Newcastle Local Environmental Plan 2012 (NLEP 2012).

KEY ISSUES

- 2 Under clause 55 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation), consent authorities may be notified that they may assume the Secretary of DPE's (Secretary) concurrence for exceptions to development standards for applications made under clause 4.6 of the NLEP 2012. The Secretary has provided a concurrence to NSW Councils, subject to conditions, to vary development standards proposed in applications. That concurrence, and the reporting and record keeping requirements are outlined in Planning Circular PS 20-002 issued on 5 May 2020.
- 3 This report addresses the requirement that all variations approved under delegation must be tabled at a meeting of the Council at least once each quarter.
- 4 A total of 8 Development Applications (DA) were determined between 1 January 2022 and 31 March 2022 that proposed a variation to a development standard as outlined in Table One below.

Table One

Variation to Development Standard	Required Determining Authority	Number determined between 1 January 2022 and 31 March 2022
10% or less	Under delegation	7
Greater than 10% or a variation to a non-numerical development standard	Council or where appropriate the Regional Planning Panel	1
Total		8

- 5 The concurrence issued by the Secretary, requires all DAs, Modifications to DAs and Requests for Reviews, with variations greater than 10%, to be determined by Council or where appropriate the Regional Planning Panel. All applications effected by this requirement are included in **Attachment A** and identified as being determined by Council under assumed concurrence.

FINANCIAL IMPACT

- 6 Nil

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 7 This report aligns with the following strategic directions of the Newcastle Community Strategic Plan:

Liveable Built Environment

- 5.1b Ensure our suburbs are preserved, enhanced and promoted, while also creating opportunities for growth.
- 5.1c Facilitate well designed and appropriate scale development that complements Newcastle's unique character.

Open and Collaborative Leadership

- 7.2a Conduct Council business in an open, transparent and accountable manner.
- 7.3b Provide clear, consistent, accessible and relevant information to the community.

IMPLEMENTATION PLAN/IMPLICATIONS

- 8 A report of all development approved variations has been submitted to the DPE and the register of all development variations has been updated on City of Newcastle’s (CN) website.
- 9 A report is tabled to Council each quarter detailing all approved applications with a development variation, in accordance with the requirements of the Secretary’s concurrence.

RISK ASSESSMENT AND MITIGATION

- 10 By implementing required reporting measures and record keeping arrangements, CN will comply with the requirements of the Secretary’s concurrence.

RELATED PREVIOUS DECISIONS

- 11 Council received reports on the development variations approved in the last 12 months as listed in Table Two.

Table Two

Ordinary Council Meeting held	Period Contained in Report
22 February 2022	1 October to 31 December 2021
23 November 2021	1 July to 30 September 2021
24 August 2021	1 April to 30 June 2021

CONSULTATION

- 12 Applications that propose a variation to a development standard are placed on public exhibition prior to the determination of the application.
- 13 Any submissions received as a result of public notification are taken into consideration prior to the determination of the application.

BACKGROUND

- 14 Development standards are a means to achieving an environmental planning objective and can be numerical or performance based. Some developments may achieve planning objectives despite not meeting the required development standards.
- 15 The planning system provides flexibility to allow these objectives to still be met by varying development standards in particular cases.

OPTIONS

Option 1

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

Option 2

17 Council resolves not to adopt this report. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 30 Attachment A: Report on all approved development variations between 1 January 2022 and 31 March 2022

ITEM-31 CCL 26/04/22 - EXHIBITION OF DRAFT NEWCASTLE DEVELOPMENT CONTROL PLAN 2012

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER REGULATORY, PLANNING AND ASSESSMENT

PURPOSE

To place draft Newcastle Development Control Plan 2012 (NDCP 2012) updated Sections 4.02 Bush Fire Protection, 4.03 Mine Subsidence, 4.04 Safety and Security and 7.03 Traffic, Parking and Access on public exhibition.

RECOMMENDATION

That Council:

- 1 Places the draft NDCP 2012 Section 4.02 Bush Fire Protection (**Attachment A**), Section 4.03 Mine Subsidence (**Attachment B**), Section 4.04 Safety and Security (**Attachment C**) and Section 7.03 Traffic, Parking and Access (**Attachment D**) on public exhibition for 28 days.
- 2 Receives a report on submissions following the public exhibition.

KEY ISSUES

- 3 The NDCP 2012 is being reviewed and updated as required by the Environmental Planning and Assessment Act, 1979 (EP&A Act). The review also aims to satisfy the resolution of Council at its October 2020 Ordinary Council Meeting that a wider review of the NDCP 2012 occur to ensure that its provisions are consistent with City of Newcastle (CN) adopted strategies, such as the Local Strategic Planning Statement, Parking Plan, and the Local Housing Strategy.
- 4 Key sections of the NDCP 2012 relating to bush fire protection, mine subsidence, safety and security and traffic, parking and access have been reviewed and are the subject of this report. The remainder of the NDCP 2012 review is currently underway and will be reported to Council for consideration later in 2022.

Section 4.02 Bush Fire Protection

- 5 Under the EP&A Act and Rural Fire Service Act 1997, CN is required to consider bushfire hazards in both strategic planning and development assessment under the direction of the NSW Rural Fire Service (RFS). Draft Section 4.02 Bush Fire Protection of NDCP 2012 (**Attachment A**) will guide future development consistent with the NSW RFS Planning for Bush Fire

Protection 2019 Guidelines. The amendments provide clarity around the submission of a bush fire assessment report, ensure a greater emphasis on environmental preservation, reduce fire ignition risks and deliver mapping data to CN.

Section 4.03 Mine Subsidence

- 6 Draft Section 4.03 Mine Subsidence (**Attachment B**) has been amended to contain updated and more informative controls and to appropriately advise and guide applicants undertaking development within a mine subsidence district.

Section 4.04 Safety and Security

- 7 Draft Section 4.04 Safety and Security (**Attachment C**) has been amended to reduce community vulnerability to crime through good urban design. The existing NDCP 2012 controls apply only to select land uses, whereas the amendment will ensure that safety and security is considered for all development as a component of the site planning process, and is reflective of the zone, scale, density and context of development, as well as its surroundings.

Section 7.03 Traffic, Parking and Access

- 8 Draft Section 7.03 Traffic, Parking and Access (**Attachment D**) has been amended to deliver on actions of CN's adopted Parking Plan. Amendments have been made in relation to off street development rates of parking, with some additional minor updates and administrative amendments. These amendments do not update other controls in Section 7.03. A total review and update of the section will occur as part of the full NDCP 2012 review to be reported to Council later in 2022.
- 9 The current parking rate controls in Section 7.03 Traffic, Parking and Access were derived from the 2002 Roads and Traffic Authority Guide to Traffic Generating Developments. To update these controls, CN engaged consultants, Stantec, in 2021, to review off street parking rates. Stantec undertook an analysis of the Newcastle local context and parking environment. A benchmarking exercise was undertaken to consider off street parking rates of other cities such as Wollongong, Randwick, City of Melbourne, City of Maribyrnong and Canberra, with additional analysis on Parramatta and North Sydney.

Parking rates in 'denser urban areas'

- 10 The Stantec review guided the principles applied to developing new parking rates in the draft amendment to Section 7.03. It found that in order to achieve CN's objectives to move further towards sustainable transport forms, parking rates in denser urban areas of the city are required to be updated in the immediate term. These denser urban areas are the city centre, renewal corridors, Darby Street mixed use zone and The Hamilton and Junction local centre zone.

- 11 In these denser urban areas it is proposed that off street car parking for residential developments is governed by maximum parking rate requirements, and that there no longer be minimum parking rate requirements. The amendments also include removal of a minimum rate for visitor car parking for residential development. These recommendations, combined with unbundling (discussed further in this report) will see less restrictions on parking controls and will allow for parking to be led by the demands of the market in the local context, providing flow on benefits for sustainability and housing affordability.
- 12 The proposed amendments remove minimum parking rate requirements for all other activities, referred to as non-residential development. This will allow development flexibility and a merit based assessment of car parking proposed within development applications. This will provide greater flexibility for land uses (such as retail, commercial, universities) to provide less parking provided there is adequate justification, leading to reduced construction and regulatory costs, whilst contributing to reducing traffic congestion in these areas. These amendments complement the Parking Plan, which seeks to effectively manage public on street parking, with stated objectives to review parking time limits to address on street parking demand pressures.
- 13 The proposed amendments recommend that car parking be 'unbundled'. Unbundled car parking is where parking spaces are separately titled from dwellings. This allows households to choose the number of car parking spaces to own or rent, including parking spaces being optional, when purchasing an apartment. Not purchasing a parking space, in a well located apartment building could make an apartment more affordable and provides both purchasers and developers with flexibility. This allows for a more efficient distribution of parking resources to provide additional parking supply to areas of higher parking demand (such as commuter parking), potentially easing pressure on street parking demand.
- 14 The proposed amendments recommend adopting electric vehicle parking and charging requirements as a ratio of all parking spaces provided, with specified charging standards. The recommendation is that in the short to medium term (2 - 5 years) development is to provide a minimum of five percent of all vehicle parking spaces as electric vehicle parking and make provision for charging.

Parking rates in suburban areas

- 15 In suburban areas in the short to medium term (2 - 5 years), only minor changes to existing parking rate controls are proposed. This includes reduced parking requirements on land uses such as universities and TAFE, restaurants, takeaways and places of worship. Other changes are the amalgamation of similar land uses for a single rate to apply and removing specific rates for certain land uses that are better managed through a demand focused transport study prepared by the applicant.
- 16 Across the Newcastle Local Government Area, controls for bicycle parking facilities have been updated for security provisions to align with Austroads Guide to Traffic Management.

FINANCIAL IMPACT

- 17 The cost associated with the preparation and exhibition of the draft amendments NDCP 2012 (update) is met by CN's operational budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 18 The draft amendments NDCP 2012 (update) are consistent with the emerging themes and commitments of the recently exhibited Newcastle 2040 Community Strategic Plan.
- 19 The draft amendments NDCP 2012 (update) are consistent with the strategic directions of the Newcastle Community Strategic Plan 2030.

Integrated and Accessible Transport

- 1.2a Continue to upgrade, extend and promote cycle and pedestrian networks.
- 1.3a Ensure safe road networks through effective planning and maintenance.
- 1.3b Ensure community and business needs for adequate and accessible parking are prioritised.

Protected Environment

- 2.3a Ensure decisions and policy response to climate change remains current and reflects community needs.

Inclusive Community

- 4.2a Ensure people of all abilities can enjoy our public places and spaces.

Liveable Built Environment

- 5.2a Plan for concentrated growth around transport and activity nodes.
- 5.2b Plan for an urban environment that promotes active and healthy communities.
- 5.3a Ensure sufficient housing diversity to meet community needs, including affordable living and adaptable housing options.

Smart and Innovative

- 6.1b Attract new business and employment opportunities.
- 6.3d Foster a collaborative approach to continue city centre renewal.

Open and Collaborative Leadership

- 7.1a Encourage and support long term planning for Newcastle, including implementation, resourcing, monitoring and reporting.
- 7.2a Conduct Council business in an open, transparent and accountable manner.
- 7.2c Establish collaborative relationships and advocate for local needs with all stakeholders.
- 7.3a Provide opportunities for genuine engagement with the community to inform Council's decision-making.
- 7.3b Provide clear, consistent, accessible and relevant information to the community.

IMPLEMENTATION PLAN/IMPLICATIONS

- 20 The process for preparing and amending the NDCP 2012 and the matters that a DCP may deal with are specified in the EP&A Act and Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).
- 21 Following consideration of submissions, Council may approve the draft amendments NDCP 2012 (with or without amendments) or decide not to proceed.

RISK ASSESSMENT AND MITIGATION

- 22 There are no risks to CN in the proposed draft amendments NDCP 2012 (update). The process as detailed in the EP&A Act and EP&A Regulation is being followed. This includes the recommended public exhibition period of 28 days.

RELATED PREVIOUS DECISIONS

- 23 At the Ordinary Council Meeting on 15 November 2011 Council adopted the NDCP 2012 and it came into effect on 15 June 2012 when the new Standard Instrument Local Environmental Plan 2012 was gazetted.
- 24 At the Ordinary Council Meeting on 27 October 2020 Council resolved that it: "notes that a more wholistic review of the DCP is intended to be undertaken in 2021, to ensure that its provisions and controls are consistent with the vision outlined in the recently adopted Local Planning strategy (carried unanimously in May 2020)."
- 25 At the Ordinary Council Meeting on 23 February 2021 Council adopted the Parking Plan.

CONSULTATION

- 26 Early engagement information sessions have been held with key stakeholders, including the Urban Development Institute of Australia (UDIA), Property Council, Hunter and Central Coast Development Corporation, Building Designers Association of Australia, Newcastle Chapter committee, and University of Newcastle. The focus of the information sessions was to inform key stakeholders of the principles underpinning the draft amendments NDCP 2012 (update). Stakeholders welcomed the early engagement and provided a generally positive reception. The key stakeholders were advised that formal submissions will be received during public exhibition should the draft amendments NDCP 2012 (update) be supported by Council.
- 27 An early engagement presentation was provided to the Liveable Cities Advisory Committee (LCAC), in addition to several high level discussions during 2021 in relation to the wider NDCP 2012 review. The LCAC were supportive and did not raise any significant concern with the draft amendments NDCP 2012 (update). Community consultation and any further amendments will be considered by LCAC prior to reporting to Council for final consideration.
- 28 The draft amendments NDCP 2012 (update) are proposed to be exhibited for 28 days, in accordance with CN's Community Participation Plan, as well as to meet the requirements of the EP&A Act and the EP&A Regulation.
- 29 Exhibition of the draft amendments NDCP 2012 (update) will provide an opportunity for stakeholders, including the community, to provide their feedback to CN. Feedback from stakeholders and the community will be carefully considered and may lead to amendments being made to the draft amendment NDCP 2012 (update) prior to finalisation.

BACKGROUND

- 30 The NDCP 2012 is kept under regular and periodic review, as per the requirements of the EP&A Act and has been amended numerous times since its adoption in 2012. This review was undertaken as a response to the recommendation of Council at its October 2020 Ordinary Council Meeting that a more holistic review of the NDCP 2012 be undertaken to ensure that its provisions and controls are consistent with CN's vision.

OPTIONS

Option 1

- 31 The recommendations as at Paragraphs 1 – 2. These are the recommended options.

Option 2

- 32 Council does not proceed with the exhibition of the draft NDCP 2012 Sections. This will result in an outdated NDCP 2012 and is not the recommended option.

REFERENCES

ATTACHMENTS

Item 31 Attachment A: Draft Section 4.02 Bush Fire Protection – Newcastle Development Control Plan 2012

Item 31 Attachment B: Draft Section 4.03 Mine Subsidence – Newcastle Development Control Plan 2012

Item 31 Attachment C: Draft Section 4.04 Safety and Security – Newcastle Development Control Plan 2012

Item 31 Attachment D: Draft Section 7.03 Traffic, Parking and Access – Newcastle Development Control Plan 2012

Item 31 Attachments A-D distributed under separate cover

ITEM-32 CCL 26/04/22 - ADOPTION OF COUNCIL POLICIES

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER LEGAL

PURPOSE

As per best practice, to re-adopt a number of reviewed policies previously adopted by the former Council.

RECOMMENDATION

That Council:

- 1 Adopt the Asset Management Policy at **Attachment A**.
- 2 Adopt the Community Grants Policy at **Attachment B**.
- 3 Adopt the Sponsorship Policy at **Attachment C**.
- 4 Adopt the Media Policy at **Attachment D**.

KEY ISSUES

- 5 Policies are key control documents for City of Newcastle (CN) to mitigate risk and are only effective when they are regularly reviewed and updated.
- 6 As part of the new Council term, it is recommended that all policies adopted by the former Council be re-adopted by the new Council, ideally within the first 12 months of the new term. There is also a legislative requirement for certain policies to be updated (including local approvals and orders, councillor expenses and facilities, code of meeting practice and code of conduct).
- 7 For all other policies, the benefits of re-adopting them within the first 12 months of Council term include:
 - i. All policies are on a consistent review cycle;
 - ii. Councillors have assurance that all Council adopted policies are up to date;
 - iii. Councillors see the policies early in the term which provides the opportunity for them to understand their application and content.
- 8 The review and amendment to the policies at Attachments A-D can be summarised as follows:

Attachment A - Asset Management Policy

- 9 The Asset Management Policy was last adopted in August 2020. The Policy has been reviewed and no amendments are proposed. The Asset Management Policy was developed to guide CN asset management planning documents as an integral part of CN's Resourcing Strategy.

Attachments B and C - Community Grants Policy and Sponsorship Policy

- 10 The Community Grants Policy and Sponsorship Policy were last adopted in April 2021 and minor amendments are proposed (the amendments are shown in track changes within the document). The policies guide CN's community grants and sponsorship programs. The policies are complemented and supported by guidelines, which are reviewed and published annually, detailing investment objectives, assessment process, and funding distribution to support a robust, transparent and equitable grants program benefiting the community.

Attachment D - Media Policy

- 11 The Media Policy was last updated in September 2018 and has had minor updates to ensure language and format is consistent with other CN policies (the amendments are shown in track changes within the document).

FINANCIAL IMPACT

- 12 There is no budget implication in adopting Council policies.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 13 The policies are consistent with the following strategic directions of the Newcastle 2030 Strategic Plan:

Open and Collaborative Leadership

7.2a Conduct Council business in an open, transparent and accountable matter.

7.3b Provide clear, consistent, accessible and relevant information to the community.

7.4a Continuous improvement in services delivery based on accountability, transparency and good governance.

IMPLEMENTATION PLAN/IMPLICATIONS

- 14 Once adopted, these policies will be updated on CN's website and uploaded to the Hub for Councillors.

RISK ASSESSMENT AND MITIGATION

- 15 Reviewing policies regularly and in line with each Council term ensures that policies remain up-to-date and relevant. Policies are critical to supporting effective and evidence-based decision making and ensure CN complies with relevant legislation and guidelines.

RELATED PREVIOUS DECISIONS

- 16 At the Council Meeting on 27 April 2021, Council resolved to adopt the Community Grants Policy and the Sponsorship Policy.
- 17 At the Council Meeting on 25 August 2020, Council resolved to adopt the Asset Management Policy.
- 18 At the Council Meeting on 25 September 2018, Council resolved to adopt the Media Policy.

CONSULTATION

- 19 There is no requirement for consultation on these policies.

BACKGROUND

- 20 Policies will be presented to Council for adoption throughout the term.

OPTIONS

Option 1

- 21 The recommendation as at Paragraphs 1 to 4. This is the recommended option.

Option 2

- 22 Council does not adopt the recommendations as at Paragraphs 1 to 4. This is not the recommended option.

REFERENCES

ATTACHMENTS

- Item 32 Attachment A:** Asset Management Policy
Item 32 Attachment B: Community Grants Policy
Item 32 Attachment C: Sponsorship Policy
Item 32 Attachment D: Media Policy

Item 32 Attachments A-D distributed under separate cover

ITEM-33 CCL 26/04/22 - PUBLIC EXHIBITION OF CODE OF MEETING PRACTICE

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER LEGAL

PURPOSE

To place City of Newcastle's (CN's) Code of Meeting Practice on public exhibition.

RECOMMENDATION

That Council:

- 1 Places the Code of Meeting Practice at **Attachment A** on public exhibition for a period of 28 days in accordance with section 361 of the *Local Government Act 1993*.

KEY ISSUES

- 2 Council is required to adopt a Code of Meeting Practice (COMP) that incorporates the mandatory provisions of the Office of Local Government's (OLG) Model Code of Meeting Practice for Local Councils in NSW (Model Meeting Code) within 12 months of a local government election.
- 3 If a council's adopted COMP does not contain provisions allowing attendance by audio-visual link after 30 June 2022 attendance by audio visual link will not be permitted.
- 4 Section 361 of the *Local Government Act 1993* (the Act) provides that the draft COMP must be placed on public exhibition for a period not less than 28 days with a period of 42 days during which submissions may be made to CN. Following the exhibition period, a report detailing submissions received will be provided to Council along with a final proposed COMP (taking into account such submissions) for adoption.
- 5 CN's current COMP was adopted by Council in September 2019. It then had a minor update in December 2020 to incorporate legislative changes to address the COVID-19 pandemic. Given the amendments in 2019 were made part way through the Council term, the structure and layout of CN's COMP were not amended.
- 6 As such, whilst the content of CN's COMP is aligned with the Model Meeting Code, it is proposed to now update the structure and layout to more clearly reflect the model document (including numbering). This will provide for easier interpretation against the Model Meeting Code. Of note in terms of numbering and layout (as set out at **Attachment B**):

- i) CN specific supplementary provisions are incorporated throughout the COMP and are numbered using 1.1A etc.
 - ii) Clauses referred to as omitted, is where there was an option of two clauses within the Model Meeting Code and the clause reflecting CN's current practice has been adopted. The reference to omitted has been retained so as to maintain consistent numbering with the Model Meeting Code.
- 7 The key differences between the draft COMP (based on the Model Meeting Code published by the OLG in October 2021) and CN's current COMP and existing practices are as follows:
- i) New mandatory provision (cl. 3.23) requiring a statement of ethical obligations that reminds Councillors of their oath or affirmation of office made under the Act and their obligations under CN's Code of Conduct to disclose and manage conflicts of interest. This change arose from an ICAC recommendation; and is a new provision included in the October 2021 Model Meeting Code;
 - ii) New non-mandatory provision that extends the declaration of conflicts of interests to workshops (cl. 3.38);
 - iii) New non-mandatory provisions to allow for remote attendance at Council and Committee of Council meetings (including dealing with disorder by remote attendees). This provision formalises the temporary arrangements made under clause 5.2 of the Model Meeting Code, which expire on 30 June 2022;
 - iv) A non-mandatory provision under clause (clause 3.12 in the draft COMP) relating to Notices of Motion (NOMs) to require NOMs that have new expenditure to include details as to the source of funding identified in the notice of motion; and
 - v) Amendment of provisions relating to adjourning a matter (clause 10.30B of the draft COMP) to include laying a matter on the table.

FINANCIAL IMPACT

- 8 There is no budget implication in placing the draft COMP on public exhibition.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 9 The policies are consistent with the following strategic directions of the Newcastle 2030 Strategic Plan:

Open and Collaborative Leadership

- 7.2a Conduct Council business in an open, transparent and accountable matter.

7.3a Provide opportunities for genuine engagement with the community to inform Council's decision-making.

7.3b Provide clear, consistent, accessible and relevant information to the community.

IMPLEMENTATION PLAN/IMPLICATIONS

10 The draft COMP will be publicly exhibited for 28 days and submissions accepted for a period of 42 days, in accordance with the Act.

RISK ASSESSMENT AND MITIGATION

11 Placing the COMP on public exhibition ensures CN complies with the Act, the Regulation and the Model Meeting Code.

RELATED PREVIOUS DECISIONS

12 At the Ordinary Council Meeting on 8 December 2020, Council resolved to amend the Code of Meeting Practice.

13 At the Ordinary Council Meeting on 24 September 2019, Council resolved to adopt the Code of Meeting Practice.

CONSULTATION

14 Placing the draft COMP on public exhibition provides an opportunity for the community to make submissions to CN.

BACKGROUND

15 On 29 October 2021, a Model Code of Meeting Practice (Model Meeting Code) was prescribed under the *Local Government (General) Regulation 2021* (the Regulation) containing mandatory and non-mandatory provisions.

OPTIONS

Option 1

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

Option 2

17 Council does not adopt the recommendations as at Paragraph 1. This is not the recommended option.

REFERENCES

Model Code of Meeting Practice for Local Councils in NSW (2021)

<https://www.olg.nsw.gov.au/wp-content/uploads/2021/10/Model-Code-Meeting-Practice-2021.pdf>

City of Newcastle's Code of Meeting Practice (September 2019 - Amended December 2020)

<https://www.newcastle.nsw.gov.au/getmedia/3cdc8893-f43d-4c16-9377-bf5fa4b9ead4/Documentation-Code-of-Meeting-Practice-Policy-V6-b-amended-8-December-2020>

ATTACHMENTS

Item 33 Attachment A: Draft Code of Meeting Practice (April 2022) for Public Exhibition

Item 33 Attachment B: Draft Code of Meeting Practice (April 2022) for Public Exhibition (detailed version indicating mandatory, non-mandatory and supplementary provisions)

Item 33 Attachments A-B distributed under separate cover

ITEM-34 CCL 26/04/22 - ADOPTION OF COMMUNITY STRATEGIC PLAN

REPORT BY: STRATEGY AND ENGAGEMENT
CONTACT: INTERIM DIRECTOR STRATEGY AND ENGAGEMENT /
MANAGER COMMUNITY, STRATEGY AND ENGAGEMENT

PURPOSE

To adopt the Community Strategic Plan (Newcastle 2040).

RECOMMENDATION

That Council:

- 1 Adopt Newcastle 2040 at **Attachment A**

KEY ISSUES

- 2 Each local government in NSW must have a Community Strategic Plan that has been developed with the community and adopted by the Council. The plan must cover a period of at least 10 years from when the plan is endorsed.
- 3 Each newly elected Council must adopt a Community Strategic Plan before 30 June in the year following a local government election.
- 4 Community Strategic Plans represent the highest level of strategic planning carried out by local government. Newcastle 2040 provides the basis for ongoing alignment of City of Newcastle's (CN) decision-making processes, strategies, and activities with the vision of the Newcastle community.
- 5 Newcastle 2040 is a core element in Council's Integrated Planning and Reporting (IP&R) Framework. Councils' obligations under the IP&R Framework are outlined in clause 402 of the *NSW Local Government Act 1993*.
- 6 Newcastle 2040 has been informed by extensive community and stakeholder engagement undertaken between February and November 2021.
- 7 CN publicly exhibited the draft Newcastle 2040 from 20 January to 28 February 2022.
- 8 Exhibition of the draft Newcastle 2040 resulted in 440 people providing feedback (80 submissions and over 360 responses to, "What success looks like to you"). This feedback is summarised in **Attachment B**.
- 9 Changes to the draft Newcastle 2040 made as a result of the public exhibition are outlined in **Attachment C**.

FINANCIAL IMPACT

- 10 Costs associated with the development and public exhibition of Newcastle 2040 are funded within existing operational budgets.
- 11 Newcastle 2040 will be delivered over multiple financial years commencing in 2022/23. Actions requiring funding will be identified in CN's Delivery Program and Operational Plans, with CN undertaking actions as funding and resources are confirmed.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 12 As CN's pinnacle strategic plan, Newcastle 2040 will guide the development of other strategies and plans. Reports to Council will outline how draft strategies are aligned to this community vision.

IMPLEMENTATION PLAN/IMPLICATIONS

- 13 Newcastle 2040 will assist in shaping the priorities for CN's four-year Delivery Program and one-year Operational Plan (Delivering Newcastle 2040), as well as other strategies and plans.
- 14 The roles and responsibilities of the Lord Mayor and Councillors in the implementation of Newcastle 2040 are outlined in the IP&R Guidelines for Local Government in NSW, September 2021.

RISK ASSESSMENT AND MITIGATION

- 15 As Newcastle 2040 is our community's vision, it is important CN continues to engage throughout the life of the plan, including communicating progress, achievements, and milestones.

RELATED PREVIOUS DECISIONS

- 16 At the Ordinary Council Meeting held on 26 June 2018 Council endorsed the Newcastle 2030 Community Strategic Plan.
- 17 At the Ordinary Council Meeting held on 18 January 2022, Council endorsed placing the draft Newcastle 2040 on public exhibition for a minimum of 28 days.

CONSULTATION

- 18 An overview of the feedback received during public exhibition was presented at a Councillor Workshop on 12 April. The Newcastle 2040 public exhibition report is available at **Attachment B**.

- 19 An overview of community engagement to inform the development of Newcastle 2040 was presented at Councillor Workshops on 9 November 2021 and 17 January 2022. The Newcastle 2040 Insights report is available at **Attachment D**.
- 20 Over 5,000 people participated in the community consultation, which included over 40 activities, such as listening posts, pop-up information stalls, surveys, community workshops, stakeholder workshops, a dedicated section on CN's Have Your Say page on CN's website and a digital ideas wall.
- 21 Genuine community and stakeholder engagement with the people of Newcastle about the future of their city was achieved by ensuring a representative sample of the local population was reached.
- 22 Extensive staff and subject matter expert consultation was undertaken to ensure internal alignment to proposed themes, priorities, and objectives.
- 23 Presentations, workshops, and consultation occurred with the following CN Advisory Committees: Liveable Cities Advisory Committee, Community and Culture Advisory Committee, Guraki Aboriginal Advisory Committee, Strategy and Innovation Advisory Committee, Access and Inclusion Advisory Committee and Newcastle Youth Council.
- 24 The draft Newcastle 2040 was placed on public exhibition from 20 January to 28 February 2022, and supported by the following promotion:
 - i) Have your Say page on CN's website
 - ii) Social media
 - iii) Print advertising
 - iv) Media releases
- 25 A summary of promotion and the submissions received during the public exhibition period is outlined in the Public Exhibition Report, **Attachment B**.

BACKGROUND

- 26 A Community Strategic Plan is required to be prepared every four years following a local government general election and should describe the community's vision and aspirations for the next ten years. Newcastle 2040 informs the development of a four-year Delivery Program and one-year Operational Plan (Delivering Newcastle 2040).

OPTIONS

Option 1

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

Option 2

28 Council resolves not to adopt Newcastle 2040. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 34 Attachment A: Newcastle 2040

Item 34 Attachment B: Newcastle 2040 - Public Exhibition Report

Item 34 Attachment C: Newcastle 2040 - Proposed changes

Item 34 Attachment D: Newcastle 2040 - Insights Report

Item 34 Attachments A–D distributed under separate cover

ITEM-35 CCL 26/04/22 - ADOPTION OF THE PLANNING PROPOSAL FOR 41 THROSBY STREET, WICKHAM

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER REGULATORY, PLANNING AND ASSESSMENT

PURPOSE

To endorse the amended Planning Proposal for 41 and 47 Throsby Street, Wickham and forward it to the Department of Planning and Environment (DPE) for finalisation.

RECOMMENDATION

That Council:

- 1 Endorses the amended Planning Proposal (**Attachment A**) for land at 41 and 47 Throsby Street, Wickham.
- 2 Endorses the Planning Agreement (**Attachment B**) for land at 41 and 47 Throsby Street, Wickham and authorises the Chief Executive Officer (CEO) to execute the Planning Agreement.
- 3 Receives and notes the community submissions received during the public exhibition period (**Attachment C**).
- 4 Forwards the amended Planning Proposal to the DPE for finalisation.

KEY ISSUES

- 5 The Planning Proposal seeks to increase the potential gross floor area (GFA) on land at 41 and 47 Throsby Street, Wickham through amendments to the height of building (HOB) and floor space ratio (FSR) controls applicable to the site.
- 6 The Planning Proposal is accompanied by a draft Planning Agreement between the applicant and Council for the dedication of land and construction of a new laneway along the western boundary of 47 Throsby Street between Throsby Street and Furlong Lane.
- 7 The Planning Proposal has been amended in response to submissions received to reduce the maximum HOB within the Village Hub Urban Precinct to 14 metres consistent with the incentive height in this area as proposed in the Wickham Masterplan 2021 (2022 Amendment). The maximum HOB will remain at 28 metres for the western part of the site within the Emerging Industry Quarter Urban Precinct. The FSR applying to the site remains unchanged at 3:1.

Public exhibition

- 8 The proposal was publically exhibited between 1 October 2021 and 29 November 2021. The Planning Proposal that was placed on public exhibition sought to increase the HOB from 10 metres to 22 metres and 28 metres at 41 and 47 Throsby Street respectively and increase the overall FSR at the site from 1.5:1 to 3:1.
- 9 Council received 76 submissions during the public exhibition period. Of these approximately 71 were in opposition to the proposal in its current form and five were in support.
- 10 Key issues raised during the public exhibition period relate to the proposed building heights within the Village Hub Urban Precinct, objection to variation to the Wickham Masterplan and the benefit of the proposed laneway. Other points raised relate to amenity impacts of the subsequent development.
- 11 A comprehensive summary of the submissions received during the public exhibition period and Council's response is provided in Attachment C.

Post-exhibition amendments to the Planning Proposal

- 12 Changes have been made to the Planning Proposal based on the outcomes of the public exhibition.
- 13 The post-exhibition changes reduce the maximum HOB applicable to part 41 Throsby Street from 22 metres to 14 metres, consistent with the WMP 2021 (2022 Amendment). A 28 metres HOB will remain for 47 Throsby Street and part 41 Throsby Street, as exhibited.
- 14 The recommended FSR (3:1) applying to the site has not changed since it was last reported to Council in July 2020 and is consistent with the WMP 2021 incentive FSR identified for this site.
- 15 The proponent has undertaken built form modelling that demonstrates that any subsequent development application (DA) can achieve the maximum GFA within the amended HOB controls.
- 16 The changes to the applicable HOB applying to part 41 Throsby Street reflects the urban precinct mapping contained in WMP 2021.
- 17 It is considered that the amended Planning Proposal better reflects the envisaged future character of the Emerging Industry Quarter and the Village Hub, as well as the overall intent of the WMP 2021.
- 18 The Draft Planning Proposal has been amended to reflect the post-exhibition changes and will be forwarded to the DPE for finalisation should it be endorsed by Council.

Draft Planning Agreement

- 19 Council has referred the draft Planning Agreement to economic planning consultants HillPDA for advice in consideration of the amended Planning Proposal. Their advice confirmed that no changes are required to the draft Planning Agreement as no changes are proposed to the max FSR applying to the site. Council also previously engaged quantity surveying firm OBQS to undertake an independent costing of constructing the proposed laneway and public domain works, based on CN's technical specifications.
- 20 The draft Planning Agreement is consistent with the endorsed Community Infrastructure Incentives Policy. While the Planning Proposal varies from the HOB standards proposed in the WMP 2021 for 47 Throsby Street, it is consistent with the mechanisms described in the Policy in that the increased HOB and FSR corresponds with an agreed GFA rate, based on the value of the laneway offered as community infrastructure per the Planning Agreement.
- 21 The Planning Agreement is provided at Attachment B. It has been updated for final endorsement to reflect the amended HOB controls contained within the Planning Proposal.

FINANCIAL IMPACT

- 22 The finalisation of the Planning Proposal for 41 and 47 Throsby Street is funded under the City of Newcastle (CN) 2021/22 operational budget.
- 23 The independent peer review undertaken in 2019 estimated that the value of land to be dedicated and the cost of constructing the laneway with associated public domain and infrastructure consistent with CN's specifications would result in a Planning Agreement value of approximately \$1.65M to CN.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 24 The Planning Proposal aligns with the following Community Strategic Plan Directions:

Liveable Built Environment

- 5.4b Plan, provide and manage infrastructure that continues to meet community needs.

Open and Collaborative Leadership

- 7.1a Encourage and support long term planning for Newcastle, including implementation, resourcing, monitoring and reporting.
- 7.2a Conduct CN business in an open, transparent and accountable manner.

- 7.3a Provide opportunities for genuine engagement with the community to inform CN's decision-making.

IMPLEMENTATION PLAN/IMPLICATIONS

- 25 The draft Planning Agreement is consistent with the principles of the endorsed Community Infrastructure Incentives Policy in that the increased HOB and FSR corresponds with an agreed GFA rate having regard to the value of the laneway.

RISK ASSESSMENT AND MITIGATION

- 26 The draft Planning Agreement has been legally reviewed and will be carried out in accordance with the *Environmental Planning and Assessment Act 1979*.
- 27 Should the Planning Proposal proceed, the Planning Agreement will result in the delivery of identified infrastructure at no financial cost or risk to CN or the community.
- 28 As per the Gateway Determination, Council is not the local plan making authority for this Planning Proposal. As such, Council is not responsible for the finalisation and making of this plan.

RELATED PREVIOUS DECISIONS

- 29 At the April 2019 Ordinary Council meeting, the Planning Proposal for 41 and 47 Throsby Street, Wickham and proposed Planning Agreement was reported to Council. Council resolved that "Item 28 lay on the table until a public briefing is held on the proposal, the public benefit and principles of value capture". The public briefing was held on 28 May 2019.
- 30 At the July 2020 Ordinary Council meeting, Council resolved to support Supplementary report – 41 and 47 Throsby Street, Wickham – Endorsement of Planning Proposal to amend Newcastle LEP 2012 and proposed Planning Agreement to forward the Planning Proposal for Gateway Determination.
- 31 At the July 2021 Ordinary Council meeting, Council endorsed the Community Infrastructure Incentives Policy.
- 32 At the September 2021 Ordinary Council meeting, Council endorsed the Wickham Masterplan (2021 Update).
- 33 At the March 2022 Ordinary Council meeting, Council endorsed Draft Wickham Masterplan (2021 Update) (2022 Amendment); Supplementary Report – Endorsement of Planning Proposal and DCP for Community Infrastructure Incentives at Wickham; and Exhibition of Draft Newcastle Development Control Plan 2012 Section 6.03 Wickham for public exhibition.

CONSULTATION

- 34 A Councillor Workshop on the original proposal was held on 9 April 2019.
- 35 A public briefing on the proposal and the principles of 'value capture' was held on 28 May 2019.
- 36 Council engaged with Subsidence Advisory NSW (SANSW) prior to public exhibition of the Planning Proposal per condition 2 of the Gateway Determination. Council instructed the proponent to engage further with SANSW following this engagement. The proponent commissioned a Mine Subsidence Assessment prepared by consultants Tetra Tech Coffey. SANSW advised that this assessment is sufficient to proceed and that further assessment will be required at the development application (DA) stage. Given this, Council is satisfied that the Planning Proposal can proceed.
- 37 Council publicly exhibited the Planning Proposal and attachments from 1 October to 29 November 2021.
- 38 The Planning Proposal and attachments were listed on Council's Have Your Say webpage inviting the community to provide their comments through written submissions to Council. Notification letters were sent to adjoining landowners.
- 39 A Public Voice (PV) briefing was held on 12 April 2022 where the proponent and representatives of the Greater Lives of Wickham (GLOW) community group presented to Council.
- 40 A Councillor Workshop was held on the amended proposal on 12 April 2022.

BACKGROUND

Wickham Master Plan 2017

- 41 The WMP 2017 set the vision of how Wickham may redevelop and identifies strategies and actions for CN to implement to address opportunities and challenges to support redevelopment. The WMP 2017 identified six interconnecting character precincts based on their location, attributes, density and redevelopment potential.

Community Infrastructure Incentives Policy

- 42 The Community Infrastructure Incentives Policy sets out the intent and mechanisms to enhance the delivery of community infrastructure to support urban renewal through the provision of development incentives (i.e. increased HOB and FSR).
- 43 The Planning Proposal for 41 and 47 Throsby Street is subject to a separate planning process given that it was initiated and lodged prior to the endorsement of the Community Infrastructure Incentives Policy. The Planning Proposal is consistent with the Community Infrastructure Incentives Policy.

Wickham Masterplan (2021 Update)

- 44 The Wickham Masterplan (2021 Update) (WMP 2021) was endorsed by Council in September 2021. The WMP 2021 provides updated strategic guidance and actions that build on the vision for Wickham as set out in the WMP 2017.
- 45 Map 3 of WMP 2021 identifies the urban precincts within Wickham. This map was updated from the WMP 2017 and seeks to "identify where the envisaged character of redevelopment is likely to transition, as well as recognising potential changes based on the identified challenges and opportunities".
- 46 WMP 2021 identifies areas proposed for development incentive (ie increases to FSR and HOB) where proposed development enables the delivery of community infrastructure. The site is listed within Area D which has a maximum HOB of 24 metres and a maximum FSR of 3:1.
- 47 WMP 2021 also proposes additional setback controls to land within or adjacent to the Village Hub. These additional setback controls will apply to any subsequent development at the site, meaning that any development above 10m at 41 Throsby Street is required to be setback approximately 8m from the side boundary (towards 39 Throsby Street) and 6m from the front and rear boundaries.
- 48 The Draft Newcastle Development Control Plan 2012 (NDCP 2012) Section 6.03 Wickham seeks to implement these setback controls. The draft DCP was endorsed by Council at the March 2022 Council meeting and will be placed on public exhibition later in 2022.

Draft Wickham Masterplan (2021 Update) (WMP 2021) (2022 Amendment)

- 49 Draft WMP 2021 (2022 Amendment) is currently on public exhibition until Friday 6 May after it was endorsed by Council at the March 2022 Council meeting.
- 50 Draft WMP 2021 (2022 Amendment) proposes changes to the areas proposed for development incentive. Namely, it seeks to reduce the development incentive applicable to 41 Throsby Street from 24 metres to 14 metres.
- 51 This change seeks to ensure a better built form transition from the Emerging Industry Quarter Urban Precinct to the west and the Village Hub Urban Precinct to the east. In doing so, it aims to reflect the desired future character of the Village Hub and its lower-scale urban mixed-use typologies.
- 52 The draft Planning Proposal for Community Infrastructure Incentives in Wickham seeks to implement the Community Infrastructure Incentives Policy in Wickham based on the amended mapping and controls contained within WMP 2021 (2022 Amendment). The draft Planning Proposal has been submitted to the DPE for Gateway Determination.

53 The Planning Proposal for 41 and 47 Throsby Street is subject to a separate planning process given that it was initiated and lodged prior to the endorsement of the Community Infrastructure Incentives Policy.

OPTIONS

Option 1

54 The recommendation as at Paragraph 1 – 4. This is the recommended option.

Option 2

55 Council resolves not to support the Planning Proposal. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 35 Attachment A: Planning Proposal – 41 and 47 Throsby St, Wickham
Item 35 Attachment B: Planning Agreement – 41 and 47 Throsby St, Wickham
Item 35 Attachment C: Submissions table – 41 and 47 Throsby St, Wickham

Item 35 Attachments A-C distributed under separate cover.

ITEM-36 CCL 26/04/22 - PUBLIC EXHIBITION OF DRAFT DELIVERING NEWCASTLE 2040

REPORT BY: STRATEGY AND ENGAGEMENT
CONTACT: INTERIM DIRECTOR STRATEGY AND ENGAGEMENT /
MANAGER COMMUNITY, STRATEGY AND INNOVATION

PURPOSE

To place the draft 2022-2023 Delivering Newcastle 2040, draft 2022-2023 Fees and Charges, and draft 2022-2023 Long Term Financial Plan on public exhibition for a period of 28 days.

RECOMMENDATION

That Council:

- 1 Resolves to publicly exhibit the draft 2022-2023 Delivering Newcastle 2040 as at **Attachment A**, draft 2022-2023 Fees and Charges as at **Attachment B** and draft 2022-2023 Long Term Financial Plan as at **Attachment C** for 28 days prior to the final consideration by Council.
- 2 Resolves to apply to the Independent Pricing and Regulatory Tribunal (IPART) for a one-off Additional Special Variation (ASV) of 2.5% for the 2022-2023 financial year following concerns raised by the NSW Minister for Local Government, and for this to be a permanent increase retained within the rate base.
- 3 Notes that should the ASV be approved by IPART, the total rate increase for 2022-2023 will be 2.5%; consistent with the Long-Term Financial Plan.

KEY ISSUES

- 4 Section 404 of the Local Government Act 1993 (Act) requires City of Newcastle (CN) have an Operational Plan each financial year outlining the planned activities and services to be delivered. The Delivery Program and Operational Plan are combined into Delivering Newcastle 2040 (**Attachment A**).
- 5 Delivering Newcastle 2040 maintains a net operating surplus while renewing and maintaining assets in a sustainable range and utilising evidence-based decision-making to underpin its financial sustainability.
- 6 The Long-Term Financial Plan forecasts CN will meet 100% of the Office of Local Government's (OLG) financial performance measures including achieving annual operating surpluses across the 10 year time horizon.

Income Statement	Current	Projection									
	2021/22	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	
	\$ '000	\$ '000	\$ '000	\$ '000	\$ '000	\$ '000	\$ '000	\$ '000	\$ '000	\$ '000	\$ '000
Income from Continuing Operations											
Rates and annual charges	198,945	208,307	212,890	217,786	223,230	228,365	233,617	238,991	244,965	250,599	256,363
User charges and fees	94,322	102,132	112,337	118,519	122,424	126,468	130,647	134,963	139,422	144,028	148,786
Interest and investment revenue	5,843	5,391	6,736	8,605	10,203	11,854	13,409	14,896	16,450	17,726	19,165
Other revenues	11,432	10,356	10,597	10,995	11,265	11,524	11,789	12,060	12,337	12,621	12,912
Grants and contributions provided for operating purposes	16,317	16,687	18,054	18,534	18,961	19,397	19,843	20,299	20,766	21,244	21,732
Grants and contributions provided for capital purposes	13,745	33,762	34,504	35,298	36,110	36,941	37,790	38,659	39,548	40,458	41,388
Other income	4,072	4,007	4,800	5,760	5,892	6,028	6,167	6,308	6,454	6,602	6,754
Total Income from Continuing Operations	344,676	380,642	399,918	415,497	428,085	440,577	453,262	466,176	479,942	493,278	507,100
Expenses from Continuing Operations											
Employee benefits and on-costs	117,162	125,271	129,037	132,970	136,934	140,810	144,322	147,921	151,610	155,392	159,267
Borrowing costs	3,556	3,773	3,913	3,591	3,261	2,930	2,584	2,256	1,916	1,601	1,330
Materials and services	102,646	104,359	107,927	112,819	114,001	120,840	123,283	127,480	128,984	131,953	134,990
Depreciation and amortisation	58,428	63,407	67,454	69,313	71,206	73,293	74,668	76,261	78,350	80,062	82,201
Other expenses	43,601	44,650	49,941	51,109	50,285	51,441	52,624	53,834	55,073	56,339	57,635
Net losses from the disposal of assets	4,328	4,149	6,940	7,100	7,263	7,430	7,601	7,776	8,637	8,138	8,325
Total Expenses from Continuing Operations	329,721	345,609	365,212	376,902	382,950	396,744	405,082	415,528	424,570	433,485	443,748
Operating result from continuing operations	14,955	35,033	34,706	38,595	45,135	43,833	48,180	50,648	55,372	59,793	63,352
Net operating result for the year before grants and contributions provided for capital purposes	1,210	1,271	202	3,297	9,025	6,892	10,390	11,989	15,824	19,335	21,964

Table 1: 2023 to 2032 Long-Term Financial Plan

- 7 CN's financial position is forecast to return to an operating surplus in 2022-2023 after recent operating deficits caused by a \$40m reduction in income due to the COVID-19 pandemic. However, the pandemic continues to impact CN's revenue, including significantly lower returns on investments, and reduced Civic Theatre and City Hall income, and lower parking infringement notices due to reduced commuter activity in the city.
- 8 In addition to ongoing financial impacts caused by the pandemic, IPART determined the annual rate peg to be just 0.7% for 2022-2023 (with an additional 0.5% for CN relating to population increase). This rate peg is the lowest in two decades and compromises CN's ability to maintain service levels, noting CN's costs are affected by a Consumer Price Index growth rate of 3.5%. Further confirming the financial magnitude of IPART's decision, the Cordell Construction Cost Index shows that national construction costs increased by 7.3% in the 2021 calendar year. The Australian Bureau of Statistics estimates that fuel costs also increased by 7.1% over the same 12-month period.
- 9 CN's Long-Term Financial Plan had forecast an annual rate cap of 2.5% based on OLG advice. A 1.2% rate cap (without correction) would reduce CN's income by \$2.187m in 2022-2023 or \$15m over the next ten years which would necessitate a reduction in service levels.
- 10 Following concerns raised by the NSW Minister for Local Government to the Chair of IPART (**Attachment D**), Councils are able to apply to vary their rates income by greater than the 0.7% peg (up to a maximum rate cap of 2.5%). This Additional Special Variation (ASV) requires Council endorsement and would bring the total rate cap for 2022-2023 to 2.5% for residential and business properties.
- 11 The Minister for Local Government has secured a review of IPART's methodology for calculating the rate cap at 0.7%, which she has described as inadequate (**Attachment D**).

- 12 CN's proposed average residential rates payable for 2022-2023 is \$1,651.10 (with a rate cap of 2.5%) or \$1,630.15 (with a rate cap of 1.2%), compared to \$1,610.75 in 2021-2022 (when the IPART approved rate cap was 2%).
- 13 Should IPART approve CN's application for a rate cap of 2.5% in 2022-2023, the average residential rate would increase by \$40.35 compared with a proposed increase of \$19.40 if the rate cap were only 1.2%, the difference equating to an additional forty cents per week or \$21.05 per annum.
- 14 In April 2022, the Local Government Grants Commission communicated a change in the allocation of the Financial Assistance Grants. There is no change to the grant in 2022-2023 however the proposed changes will reduce CN's share by 2% or 4% per year from 2023-2024 based on the option selected by the OLG. The impact of this reduction would be a loss of up to \$4m over the next ten years which would create further pressure on CN's finances.
- 15 Section 496 of the Local Government Act 1993 requires CN to make and levy an annual charge for the recovery of costs only for providing Domestic Waste Management Services (DWMS). In 2022-2023 CN is proposing to increase the charge to \$460 to reflect increases in costs associated with the collection and disposal of domestic waste for its red, green and yellow lid bins service.
- 16 It has been well documented in local media that the COVID-19 pandemic has seen a significant increase in the ratio of local household waste to commercial waste caused by people choosing to work from home rather than the office. More domestic waste going across the weighbridge increases the DWMS (calculated on a cost recovery basis) and means the overall charge will be approximately \$1 per week higher per household, with almost one quarter of this increase the result of the NSW Government's Section 88 Waste Levy. Despite the increase, CN will continue to charge the lowest DWMS of any Hunter council by at least 7%. The Section 88 Waste Levy raised by the NSW State Government contributes \$97.30 per domestic property to the DWMS.

FINANCIAL IMPACT

- 17 The 2022-2023 budget has been developed in accordance with CN's Long-Term Financial Plan (LTFP) objective of delivering a net operating surplus whilst maintaining services for the community and a robust cash reserve.
- 18 The budgeted operating result provides a \$1.27m surplus, providing the financial capacity to maintain services and meet community commitments.
- 19 The 2022-2023 works program is a record \$132.6m (an 87% increase when compared with ten years ago). Key projects include the expansion of the Newcastle Art Gallery, the construction of an organic processing facility allowing the recycling of garden and food waste), the restoration of the Newcastle Ocean Baths, the remediation of CN's former rubbish tip at Sandgate used during the cleanup of the 1989 Newcastle earthquake and more than \$4m in new cycleways. A comprehensive list is included in the Newcastle 2040 Appendix.

- 20 Independent modelling of the 2022-2023 works program forecasts it will generate up to 740 new local jobs in the Newcastle Local Government Area and increase total economic output by up to \$325m.
- 21 It is forecast that \$98.3m will be generated from CN's operations in 2022-2023 to fund community projects.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 22 Delivering Newcastle 2040 delivers against the four themes in Newcastle 2040.
- 23 This report aligns to all priorities in Newcastle 2040.

IMPLEMENTATION PLAN/IMPLICATIONS

- 24 Council is asked to adopt Delivering Newcastle 2040, Fees and Charges and the Long-Term Financial Plan by 30 June 2022 following public exhibition. The draft Delivering Newcastle 2040, draft Fees and Charges and Long-Term Financial Plan will be exhibited from 28 April to 26 May 2022.
- 25 Subject to Council endorsement, an application will be made to IPART for a one-off Additional Special Variation (ASV) of 2.5% for the 2022-2023 financial year.

RISK ASSESSMENT AND MITIGATION

- 26 Delivering Newcastle 2040 is built on a number of assumptions, including some outside of CN's control, which may impact outcomes, including:
- i) Government grant funding (eg Federal Assistance Grant);
 - ii) Investment returns;
 - iii) External contributions (eg local infrastructure contributions);
 - iv) Government cost shifting;
 - v) Monetary and fiscal policy (eg interest rates, taxation);
 - vi) Legislative and policy changes (eg rate peg);
 - vii) Natural disasters (eg storms, pandemics).
- 27 Delivering Newcastle 2040 will be monitored against financial performance indicators with adjustments implemented via the quarterly budget review process. This may include adjustments to accommodate income variability as a result of ongoing COVID-19 disruption to business as usual activities, as well as any changes to the rate peg and the Federal Assistance Grant as documented earlier in this report.

RELATED PREVIOUS DECISIONS

- 28 At the Ordinary Council Meeting on 25 January 2022, Council endorsed Newcastle 2040 for public exhibition.

CONSULTATION

- 29 Consultation with the elected Council to inform development of the draft Delivering Newcastle 2040 included a workshop on 22 January 2022 and on 15 February 2022 to explore current and emerging opportunities and discussion regarding proposed initiatives.
- 30 A Councillor Workshop on the draft Delivering Newcastle 2040 was held on 12 April 2022.
- 31 Community feedback will be considered as part of the public exhibition process, which will be for a period of 28 days.

BACKGROUND

- 32 The Delivery Program is required to be prepared every four years following a local government general election. The Operational Plan is subsequently required to be reviewed annually and adopted by 30 June of the relevant year.
- 33 The Integrated Planning and Reporting guidelines for NSW Local Government released in September 2021 require the Long-Term Financial Plan to be publicly exhibited for at least 28 days and submissions received in that period must be considered before the final Long-Term Financial Plan is adopted by the council.

OPTIONS

Option 1

- 34 The recommendation as at Paragraph 1, 2 and 3. This is the recommended option.

Option 2

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

REFERENCES

ATTACHMENTS

- Item 36 Attachment A:** Draft 2022-2023 Delivering Newcastle 2040
- Item 36 Attachment B:** Draft 2022-2023 Fees and Charges
- Item 36 Attachment C:** Draft 2022-2023 Long Term Financial Plan
- Item 36 Attachment D:** Portfolio Committee No. 7 - Planning and Environment (8 March 2022)

Item 36 Attachments A-D distributed under separate cover

ITEM-37 CCL 26/04/22 - EXECUTIVE MONTHLY PERFORMANCE REPORT

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER FINANCE

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 2021/22 Operational Plan as at the end of March 2022.
- 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 March 2022.

KEY ISSUES

- 2 At the end of March 2022 the consolidated YTD actual operating position is a deficit of \$5.1m which represents a positive variance of \$3.9m against the budgeted YTD deficit of \$9.1m. This budget variance is due to a combination of income and expenditure variances which are detailed in **Attachment A**. The full year revised budget for 2021/22 is a deficit of \$13.5m.
- 3 The net funds generated as at the end of March 2022 is a surplus of \$14.9m (after capital revenues, expenditure and loan principal repayments). This is a positive variance of \$14m to the YTD budgeted position of \$0.9m. This is primarily due to a timing variance in the delivery of CN's works program with a delay in the spend 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 March 2022 is provided in the Executive Monthly Performance Report.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 6 This report aligns with the following strategic directions of the Newcastle 2030 Community Strategic Plan:

Open and collaborative Leadership

- 7.4b Ensure the management of Council's budget allocations and funding alternatives are compliant with Council policy and relevant legislation to ensure the long-term financial sustainability of the organisation.

IMPLEMENTATION PLAN/IMPLICATIONS

- 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 At the Ordinary Council Meeting held on 5 August 2021 Council unanimously adopted a resolution to increase the works program by at least \$10m and to support the Community and Economic Resilience Package 2.0 to help offset the adverse economic impact of the on-going COVID-19 pandemic and specifically the lockdown placed upon the Newcastle local government area on 5 August 2021.
- 11 At the Ordinary Council Meeting held on 22 February 2022 Council adopted the December Quarterly Budget Review.

- 12 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

- 13 A monthly workshop is conducted with the Councillors to provide detailed information and a forum to ask questions.

BACKGROUND

- 14 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

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

Option 2

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

REFERENCES

ATTACHMENTS

Item 37 Attachment A: Executive Monthly Performance Report – March 2022

Item 37 Attachment A distributed under separate cover

ITEM-38 CCL 26/04/22 - TENDER REPORT - NEWCASTLE ART GALLERY MINE VOID REMEDIATION WORKS - CONTRACT NO. 2022/091T

REPORT BY: INFRASTRUCTURE AND PROPERTY
CONTACT: ACTING DIRECTOR INFRASTRUCTURE AND PROPERTY / ACTING MANAGER ASSETS AND PROJECTS

PURPOSE

To accept a tender for the completion of the Newcastle Art Gallery expansion mine void remediation works in accordance with Contract No. 2022/091T.

Due to the estimated total value of the contract exceeding \$1 million, the Chief Executive Officer's delegation requires a resolution of Council to accept the tenders.

REASON FOR CONFIDENTIALITY

The confidential attachments have been classified confidential in accordance with the provisions of the *Local Government Act 1993* (the Act) as follows:

- Section 10A(2)(d) of the Act provides that Council can close a meeting to consider commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.
- Section 10B(1)(a) and (b) of the Act provides that the discussion of the item in a closed meeting must only:
 - (a) include as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
 - (b) occur if the Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

GROUND FOR CLOSING PART OF THE MEETING

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

MOTION TO PROCEED

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

- A The matter relates to tenders for the Newcastle Art Gallery Expansion mine void remediation works for Contract No. 2022/091T.

- B It is contrary to the public interest to discuss tenders in an open meeting because the information provided to Council by tenderers is provided on the basis that it will be treated by Council as commercial-in-confidence. A practice of disclosing sensitive commercial information to the public, including competitors, could result in the withholding of such information by tenderers. This would lead to a reduction in the supply of information relevant to Council's decision. A disclosure of confidential information by Council could result in Council being the subject of litigation for breach of confidence.
- C The closed session involves only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.
-

RECOMMENDATION

- 1 At **Attachment A**.

KEY ISSUES

Tender

- 2 The tender is for mine void remediation works at the Newcastle Art Gallery (Gallery) site. This contract forms part of the early works required for the Gallery expansion project.

Contract Term

- 3 The contract term is 44 weeks, with a defect liability period of 12 months.

Advertising of Tenders

- 4 Tenders were invited following the completion of an Expression of Interest (EOI) process.
- 5 The EOI was advertised in the Newcastle Herald on Saturday 27 November 2021, the Sydney Morning Herald on Tuesday 30 November 2021, and nationally on the Tenderlink website.
- 6 The EOI closed on Tuesday 21 December 2021. Three submissions were received and assessed by a panel of City of Newcastle (CN) Project Managers against criteria including previous experience, capability, methodology and safety. Following completion of the assessment, tenders were invited from two contractors.

Tenders Received

- 7 Tenders closed at 2pm on Tuesday 1 March 2022. Tender submissions were received from:
- i) BFG Daracon Pty Ltd, and
 - ii) DSI Underground Australia.

Evaluation Process

8 The tenders were assessed against the following criteria:

i) Tender Price	36%
ii) Methodology	13%
iii) Contract Program	13%
iv) Previous Experience and Referees	13%
v) WHS Management Systems	10%
vi) Management, Staff Resources and Sub-Contractors and non WHS Management Systems	10%
vii) Supplier Diversity	5%

9 The tenders were assessed by a panel consisting of three CN Project Managers. The panel was selected based on experience and knowledge of the project.

10 Probity oversight for the EOI and tender assessment was provided by CN's Contracts Coordinator, who was present during all panel meetings in accordance with CN's Procurement Policy.

Recommended Tenderer

11 The recommended tenderer demonstrated a thorough understanding of the construction requirements, is a long-established construction company with a local workforce located at an office within a neighbouring Local Government Area (LGA). The recommended tenderer has completed several grouting projects in the Newcastle LGA and the wider Hunter region.

FINANCIAL IMPACT

12 The total estimated cost of this contract, including the proposed contract amount, allowances for project management, contingency and other associated project costs, is within the multi-year budgeted amount allocated for this project.

13 An application has been submitted to the Newcastle Mines Grouting Fund, managed by the Hunter Central Coast Development Corporation (HCCDC). The Fund will cover the cost of the site grouting works once the site-specific threshold is exceeded. The application is currently under assessment and should it be accepted CN's contribution to the tender price will be reduced by approximately \$500,000.

IMPLICATIONS

Policy Implications

- 14 This project aligns with the following Newcastle 2030 Community Strategic Plan directions:
- i) Vibrant, Safe and Active Public Places,
 - ii) Smart and Innovative City, and
 - iii) Liveable Built Environment.

Environmental Implications

- 15 The recommended tenderer has demonstrated an ability to construct the works in a manner utilising best environmental management practices. The recommended tenderer also has an appropriate environmental policy.
- 16 The recommended tenderer will be required to implement strict environmental controls whilst engaged by CN. This includes control measures for the management of noise, dust, chemicals, air quality, risk and waste.

Social Implications

- 17 This contract is a key component of the early works required to deliver an expanded Gallery of international standing that will offer a valuable cultural tourism opportunity for Newcastle and the Hunter.

Ecological Sustainability

- 18 The recommended tenderer does not have a specific Ecological Sustainable Development policy in place. The recommended tenderer has not been prosecuted for environmental offences, nor is it involved in any of the prescribed activities such as uranium mining, wood chipping, nuclear energy or timber harvesting.

IMPLEMENTATION

- 19 Implementation of the recommendation will require closure of the Darby Street carpark on the eastern side of the Gallery. The Queen Street carpark behind the central library will remain operational and access will be managed by traffic controllers to ensure public safety during construction.
- 20 The mine void remediation works include grouting the abandoned workings of the Yard Seam and the Borehole Seam underlying the site. The completed grouting works are to be verified by site engineers in accordance with the approvals issued through Subsidence Advisory NSW and the approved Development Application as modified (MA2021-00192).
- 21 Delivery of this project will be managed by internal resources.

CONSULTATION/COMMUNICATION

22 Nil.

BACKGROUND

23 Newcastle Art Gallery is Australia's first purpose-built regional Art Gallery, officially opened by Her Majesty Queen Elizabeth II in 1977. As a major cultural asset for the state, the Gallery offers the ability to tell local stories and inspire new ones through the creation, collecting and display of works of art of local, national and international importance.

24 To appropriately meet future expectations, the existing 44 year old building requires upgrade and expansion to provide modern facilities such as multi-purpose and educational program space, improved display, a new café and retail shop, and secure international standard loading dock.

25 The works to construct the expansion are subject to a separate procurement process. Construction is scheduled to follow completion of this contract.

26 The calling of tenders was in accordance with the requirements of section 55 of the Act. The process followed was in accordance with Part 7 of the Regulation. Council is required to accept tenders in accordance with clause 178 of the Regulation (see Options).

OPTIONS

Option 1

27 The recommendation as at **Attachment A**. This is the recommended option.

Option 2

28 Council defers a decision at this time to allow further consideration of the tenders received. This is not the recommended option.

Option 3

29 Council resolves not to accept any tender and invite fresh tenders. This is not the recommended option.

Option 4

30 Council resolves not to accept any tender and enter into negotiations with any party with a view to entering into a contract. Council must state a reason for this in its resolution. This is not the recommended option.

Option 5

31 Council resolves not to accept any tender and not proceed with the contract. Council must state a reason for this in its resolution. This is not the recommended option.

ATTACHMENTS

Item 38 Attachment A: Confidential Recommendation

Item 38 Attachment B: Tender Evaluation Matrix - Summary (CONFIDENTIAL)

(refer Confidential Council Meeting Agenda 26 April 2022)

NOTICES OF MOTION

ITEM-13 NOM 26/04/22 - SUPPLY AND MAINTENANCE OF STREET FURNITURE AND OUT-OF-HOME MEDIA

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

PURPOSE

The following Notice of Motion was received on Thursday 14 April 2022 from the abovenamed Councillors.

MOTION

That Council:

- 1 Notes that City of Newcastle currently owns and maintains thousands of items of street furniture, including more than 1,800 bus shelters, public toilets, billboards, and street bins.
- 2 Notes that City of Newcastle is ineligible for state funding assistance, including the Country Passenger Transport Infrastructure Grants Scheme.
- 3 Notes that other metropolitan councils (including City of Sydney and Inner West Council) have formed long-term partnerships with the private sector to deliver street furniture and out of home media.
- 4 Investigates the viability of partnering with a private partner to allow advertising on street furniture (including for example, bus shelters, public toilets, or appropriately placed billboards) in exchange for asset upgrades or revenue to defray the direct cost to the community of providing high quality and high standard street furniture.
- 5 Notes the need for this work to be undertaken in partnership with the community and business, and seeks to balance between public expression and private advertising; ensuring space for local neighbourhood notices (e.g. about community events and activities and classes and lost animals); increases available smart city amenity for residents across the LGA (for example, providing Wi-Fi and smart hubs); and increases the dissemination of public information (e.g. emergency services broadcasting, city-wide programs).

BACKGROUND

The importance of ensuring a vibrant, clean, and well-maintained outdoor natural and built landscape can be supported by high quality and high standard street furniture assets that can improve the aesthetic of a streetscape, vehicular and pedestrian passenger experience and amenity.

The City of Newcastle has thousands of street furniture assets (including more than 1,800 bus shelters, public toilets, billboards, and street bins).

A number of the more than 1,800 shelters in the City of Newcastle are reaching the end of their useful life and the City of Newcastle is currently undertaking an audit including to identify in-use bus shelters.

Due to a previous low return on investment City of Newcastle has withdrawn from advertising on City-owned bus shelters, and City of Newcastle is ineligible to receive available funding for bus shelters (for example, through the Country Passenger Transport Infrastructure Grants Scheme).

All upgrades, maintenance, and installation of new street furniture is funded through City of Newcastle's capital works budget.

Other metropolitan councils around Australia have contracted companies to install and maintain their street furniture assets to achieve increased beautification and reduced clutter, and to remove the risk, cost, accountability, and maintenance of these assets from council.

Street furniture that is maintained by outdoor advertising companies are frequently checked for unsanctioned graffiti which is promptly removed; and can address the creeping spread of unmanaged commercial advertising in public space that can be of concern.

Companies that specialise in the design and provision of street furniture have led design innovations connecting beautification and pragmatism of street furniture; for example, JC Decaux who partnered with leading Australian architect Philip Cox in the 1990s to design a complete range of street furniture, and with Tzannes Associates to design high-quality, sustainable digital screens in North Sydney.

Such a program of works to deliver and maintain street furniture, including furniture that achieves design and legislative compliance under Disability Requirements for Access Transport Standards (DSAPT), can be provided at no cost to ratepayers.

ATTACHMENTS

Nil.

ITEM-14 NOM 26/04/22 - 505 MINMI ROAD - INCLUSION IN NSW NATIONAL PARKS ESTATE

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

PURPOSE

The following Notice of Motion was received on Thursday 14 April 2022 from the abovenamed Councillors.

MOTION

That Council:

- 1 Notes that Council resolved on 8 December 2020 to nominate 505 Minmi Road for inclusion in the NSW National Parks Estate, following correspondence from then Minister for the Environment Matt Kean MP, requesting the identification of suitable sites within the Newcastle LGA;
- 2 Notes that 505 Minimi Road forms part of the Green Corridor, which is essential for the flourishing habitat of listed threatened species which are present in the Newcastle LGA including the Squirrel Glider, Koala, Regent Honeyeater and Swift Parrot; and
- 3 Notes that the Green Corridor has recreational and health benefits for the people of Newcastle by providing proximate green spaces to sub-urban and urban areas.
- 4 Notes that City of Newcastle Council is awaiting a formal written response from the NSW Minister for Environment; and that on 21 December 2021 Minister James Griffin was appointed as NSW Minister for Environment and Heritage. Former Minister Kean previously commented positively on considering the nomination in the Newcastle Herald.
- 5 Writes to new Minister Griffin, and DPE, requesting that the Government includes 505 Minmi Road into the National Parks estate, noting the property's strategic importance to the 23,000-hectare arc Green Corridor, an arc of undeveloped land stretching inland from the Stockton Bight, west and south to the Watagan Mountains, and its proximity to the existing Blue Gum Hills Regional Park and Hexham Wetlands National Park; critical for its health and habitable benefits for flora and fauna and humans in the Newcastle LGA and surrounds.

ATTACHMENTS

Attachment A: Herald Article dated 15 December 2020 - City of Newcastle seeks to have 505 Minmi Road added to state's national park register.

<https://www.newcastleherald.com.au/story/7051375/council-asks-government-to-add-fletcher-land-to-national-park/>