

Ordinary Council Meeting



City of
Newcastle

DATE: Tuesday, 22 August 2023

TIME: 6:00 pm

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

17 August 2023

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City of Newcastle
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Agenda

1. ATTENDANCE	
2. ACKNOWLEDGEMENT OF COUNTRY	
3. PRAYER	
4. APOLOGIES / LEAVE OF ABSENCE / ATTENDANCE BY AUDIO VISUAL LINK	
5. DISCLOSURES OF INTEREST	
6. CONFIRMATION OF MINUTES	3
6.1. MINUTES - ORDINARY COUNCIL MEETING 25 JULY 2023	3
7. LORD MAYORAL MINUTE	
8. REPORTS	29
8.1. ADOPTION OF COMMUNITY ENGAGEMENT STRATEGY	29
8.2. ADOPTION OF COMMUNITY INFRASTRUCTURE INCENTIVES IN WICKHAM PLANNING PROPOSAL	33
8.3. URBAN DESIGN REVIEW PANEL (UDRP) - ANNUAL REPORT 2022	39
8.4. ADOPTION OF DARBY STREET REVISED TRAFFIC CALMING DESIGNS	42
8.5. ENDORSEMENT OF MOTIONS FOR SUBMISSION TO THE 2023 LOCAL GOVERNMENT NSW CONFERENCE	45
8.6. GRANTING OF TWO EASEMENTS – WALLSEND.....	65
8.7. VARIATIONS TO DEVELOPMENT STANDARDS.....	69
8.8. TABLING OF REGISTER OF DISCLOSURES OF INTEREST 1 MAY TO 31 JULY 2023.....	76
8.9. DETERMINATION OF NUMBER OF COUNCILLORS.....	78
8.10. EXECUTIVE MONTHLY PERFORMANCE REPORT	81
9. NOTICES OF MOTION	84
9.1. CCTV AND CITY OF NEWCASTLE SPORTS FACILITIES	84
10. CONFIDENTIAL REPORTS	
10.1. LEGAL ACTION TO RECOVER OVERDUE RATES AND CHARGES	
10.2. ACQUISITION OF LAND – SUMMERHILL WASTE MANAGEMENT CENTRE SOUTHERN ACCESS ROAD	

(refer Confidential Agenda 22 August 2023 for Items 10.1 and 10.2)

*For documents marked 'Distributed under Separate Cover' refer to Council's website at
<http://www.newcastle.nsw.gov.au/>*

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

6. CONFIRMATION OF MINUTES

6.1. MINUTES - ORDINARY COUNCIL MEETING 25 JULY 2023

RECOMMENDATION

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

ATTACHMENTS

Attachment A: Ordinary Council Meeting Minutes – 25 July 2023

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

Attachment A - MINUTES - ORDINARY COUNCIL MEETING 25 JULY 2023

Minutes

Ordinary Council Meeting

Council Chamber, Level 1, City Administration Centre, 12 Stewart Avenue, Newcastle West, Tuesday, 25 July 2023 at 7:30pm.



1. ATTENDANCE

The Lord Mayor (Councillor N Nelmes), Councillors E Adamczyk (*arrived 7.54pm*), J Barrie, J Church, D Clausen (*arrived 7.54pm*), C Duncan, J Mackenzie, C McCabe, C Pull, D Richardson, K Wark, P Winney-Baartz and M Wood.

J Bath (Chief Executive Officer), D Clarke (Executive Director Corporate Services and CFO), J Rigby (Executive Director City Infrastructure), M Bisson (Executive Director Planning and Environment), L Duffy (Acting Executive Director Creative and Community Services), E Kolatchew (Executive Manager Legal and Governance), S Moore (Executive Manager Finance, Property and Performance and Deputy CFO), R Dudgeon (Executive Manager Project Management Office), N Kaiser (Interim Executive Manager Media Engagement Economy and Corporate Affairs), D Manderson (Executive Manager Civil Construction and Maintenance), M Murray (Chief of Staff), M Kikken, (Executive Manager Environment and Sustainability), K Anderson (Senior Environmental Strategist), M Meehan (Senior Media Adviser), A Ryan (City Significant and Strategic Planning Manager), L Barnao (Council Liaison Officer), A Knowles (Councillor Services/Minutes/Meeting Support), W Haddock (AV/Information Technology Support) and B Smith (Information Technology Support).

2. ACKNOWLEDGEMENT OF COUNTRY

Read at previous meeting on night.

3. PRAYER

Read at previous meeting on night.

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

MOTION

Moved by Cr Barrie, seconded by Cr Duncan

The requests submitted by Councillor Adamczyk and Councillor Clausen to attend by audio visual link be received and granted.

Carried

Councillors Adamczyk and Clausen joined the meeting by audio visual link at 7.54pm and arrived at the meeting in person at 8.10pm.

Nil apologies.

5. DISCLOSURES OF INTEREST

Nil.

6. CONFIRMATION OF MINUTES

6.1. MINUTES - ORDINARY COUNCIL MEETING 27 JUNE 2023

MOTION

Moved by Cr Mackenzie, seconded by Cr Richardson

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

**Carried
unanimously**

Councillor Duncan gave notice of a late item of business.

7. LORD MAYORAL MINUTE

7.1. ACKNOWLEDGING YOUTH WITH A MISSION (YWAM) NEWCASTLE'S ASSISTANCE TO UKRAINE

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Notes that YWAM Newcastle, led by Managing Director David Stephenson, has recently organised three delegations of dedicated Novocastrian Volunteers to travel to Ukraine to provide assistance, outreach and support to many towns and cities, affected by the ongoing invasion of Ukraine by Russia;
2. Commends YWAM Newcastle for their bravery and community spirit, and risking their own safety to travel to the other side of the globe galvanizing the support of their community to provide assistance to those in need in the Ukraine;
3. Appreciates the messages of gratitude and thanks to the people of the City of Newcastle from Mayor Vadim Zerdeckij, Mayor of Moschun, Kiev Oblast, and Mayor Roman Polikrovski Mayor of Zbarash; Ternopil Oblast, brought back from Ukraine by YWAM Newcastle;
4. Acknowledges that YWAM Newcastle's efforts in Ukraine delivered:
 - Assistance in building emergency housing;
 - Art activities with parents and children (YWAM Newcastle had an Art Therapist on the team);
 - Restored community assets including the Moschun main bus-stop in town centre;
 - Provided close to 100 Newcastle Jets shirts, and kitted a whole soccer team with Newcastle Jets uniforms;
 - Church services which included many families with loved ones on frontline;

- Two YWAM Team members travelled east to Donetsk, via Kharkiv (30km from Russian border) staying near Bakhmut, raising funds for and delivering \$4,000 for tourniquets, gas masks, generators, inverters, sleeping bags and tents to front line soldiers and paramedics at their request. This team travelled to within 40km from Donetsk city and 120km from Mariupol, with two of the soldiers they assisted jumping straight back into their armoured personal carrier after breakfast and heading straight back to the front at Bakhmut.
5. Once again, thanks YWAM Newcastle for their humanitarian assistance to Ukraine.

**Carried
unanimously**

Council momentarily adjourned to take a group photograph with members of YWAM present in the gallery.

At this stage of the meeting Councillors Adamczyk and Clausen arrived at the meeting by audio visual link.

7.6. THANK YOU AND FAREWELL JOANNE RIGBY

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Notes that Friday, 28th July marks the final day at City of Newcastle for Executive Director City Infrastructure, Joanne Rigby, who retires after more than 20 years of dedicated service to our community;
2. Acknowledges Executive Director Rigby's many contributions, including:
 - i Serving the City of Newcastle for more than 20 years, joining CN as a civil project officer within the stormwater team and working her way up to retire as Executive Director City Infrastructure;
 - ii Many technical achievements and delivery of numerous complex infrastructure projects as an engineer, which will have lasting impact for our City, notably Joanne's design of Stage 2 of The Bathers Way coastal walk;
 - iii Leading the immense effort by City of Newcastle staff to develop a long-term plan to manage erosion along Stockton's coastline. A significant achievement, this work saw Newcastle become the first Council in NSW to achieve Ministerial approval of a coastal management program under new legislation;
 - iv In 2019, being shortlisted in the Minister's awards for women in local government;
 - v In 2021, attaining Master of Business Administration with distinction at the University of Newcastle;

- vi Breaking gender stereotypes and inspiring others in the fields of assets, engineering, and project management; and throughout her career being a mentor to many women in 'traditional male roles'; and
 - vii Leading the delivery of successive record capital works programs for our City.
3. Extends its sincere gratitude to Joanne for her hard work and dedication to the City of Newcastle and our residents and wishes her all the very best in retirement.

Councillors Adamczyk and Clausen arrived at the meeting in person during discussion of the Lord Mayoral Minute.

The motion moved by the Lord Mayor was put to the meeting.

**Carried
unanimously**

7.2. SISTER CITIES PROGRAM & REGIONAL PARTNERSHIPS

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Notes its current adopted Sister City relationships with:
 - a. Ube City, Yamaguchi Prefecture, Japan;
 - b. Arcadia City, California, United States
 - c. Newcastle-Upon-Tyne, Northumberland, United Kingdom
 - d. Dubbo City Council, NSW, Australia.
2. Notes that requests have been received to enter similar relationships with both Berrigan Shire Council and Resen of North Macedonia.
3. Acknowledges the aim of such relationships is to promote and encourage friendship and cooperation between Local Governments, business leaders and the wider community, in addition to facilitating cultural exchange programs and economic development.
4. Develops a Council policy in regard to prospective sister city relationships, including, but not limited to, the following objectives, criteria and process for adoption:
 - a. **OBJECTIVES OF SISTER CITY RELATIONSHIPS**
 - i. Extend the hand of friendship nationally and internationally on a person-to-person basis, utilizing the resources of local government;
 - ii. Perpetuate an understanding between people at all levels and different countries and cultures;

- iii. Bring together like-minded interest groups of each city;
 - iv. Provide a forum for the exchange of sister city experiences;
 - v. Promote knowledge and understanding and extend the level of contacts through all sectors of the community;
 - vi. Develop economic, trade, cultural, educational and other beneficial exchanges.
- b. CRITERIA FOR CONSIDERATION OF PROSPECTIVE CITIES
- i. That there exists significant historical, cultural, social or geographic similarities between Newcastle and the prospective city;
 - ii. That the prospective city is being governed on a democratic basis;
 - iii. That the prospective city has a positive human rights record;
 - iv. That the establishment of the proposed relationship will benefit specific strategic, national and/or regional interests;
 - v. That there exists significant community support for the proposed relationship;
 - vi. That any prospective international city relationship does not raise concerns with the Department of Foreign Affairs & Trade, who shall be notified of any adopted international relationship;
 - vii. That sufficient funding is available for the administration of the relationship.
- c. PROCESS FOR ACCEPTANCE
- i. That a report be presented to the elected council with a recommendation based upon the abovementioned objectives and criteria;
 - ii. That acceptance or rejection of the proposed city relationship by a majority vote of the elected council;
 - iii. Notification of council's decision will be made to the prospective council by the City of Newcastle.

**Carried
unanimously**

7.3. CITY OF NEWCASTLE WORLD CUP LIVE SITE

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Congratulates Novocastrians who braved a cold Winter's night last Thursday to attend the Newcastle Live Site hosted at Wheeler Place, to help cheer the Matildas to a 1-0 victory against the Republic of Ireland in their opening match of the World Cup;
2. Appreciates the support of the Matildas Active Support group and Matildas Alumni Renaye Iserief (#26), Shelley Youman (#95) and Trae McGovern (#102) for joining us to help promote the Newcastle Live Site at Wheeler Place;

3. Thanks our charity partner *Got Your Back Sista* and their wonderful volunteers for holding a community barbecue at our Live Site to raise funds towards combatting domestic and family violence;
4. Notes that the Matildas take on Nigeria this Thursday (27 July 2023), followed by Canada on Monday, 31 July 2023, with all the action kicking off at the Live Site from 7pm, with food, drinks and festivities available prior to kick-off;
5. Encourages Novocastrians to join with fellow supporters at the Newcastle Live Site to cheer the Matildas into the Round of 16, and into the finals of the World Cup.

**Carried
unanimously**

7.4. SUPPORTING NRLW STATE OF ORIGIN IN NEWCASTLE

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Acknowledges the great success of the NRL Women's State of Origin 2023 series, with a record breaking 18,250 people attending the decider in Townsville, Queensland;
2. Notes that City of Newcastle has joined with City of Townsville to advocate for a permanent share of Women's State of Origin matches between the rugby league heartlands of Newcastle and Townsville;
3. Acknowledges the support of Venues NSW and McDonald Jones Stadium, who believe that Newcastle is the right location to host NRLW State of Origin in 2024 and beyond;
4. Continues to join City of Townsville, Venues NSW and McDonald Jones Stadium to advocate to the ARL Commission for Newcastle as the rightful New South Wales host city for WNRL State of Origin.

Carried

7.5. EV KERBSIDE CHARGING GRANTS

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Notes that in December 2022, through a partnership with Ausgrid and electric vehicle (EV) infrastructure provider EVX, Newcastle became home to Australia's first power pole mounted EV charger, building on our track record of embracing emerging clean energy technology;

2. Continues to help support our community's transition to EVs with the ongoing development of a council-owned public EV charging network, which currently includes seven chargers installed across four sites, providing 11 public charging bays;
3. Welcomes the announcement from the Minister for Energy and Climate Change, the Hon. Penny Sharpe MLC, that the NSW Government has made \$3 million available for the installation of at least 500 EV chargers at kerbside locations throughout NSW, noting that the Newcastle Local Government Area is eligible to apply;
4. Applies for a grant through the NSW Government's EV Kerbside Charging Grants program, following the identification of additional key locations throughout the Newcastle LGA that would assist in the uptake of electric vehicles.

**Carried
unanimously**

8. REPORTS

8.6. TENDER REPORT – MINOR CIVIL WORKS – CONTRACT NO. 2023/122T

MOTION

Moved by Cr Mackenzie, seconded by Cr Barrie

That Council:

1. Accept the following five tenders in line with the rates and charges offered by each tenderer for Minor Civil Works for Contract No.2023/122T:
 - a. All Kerbs & Concrete Pty Ltd,
 - b. Bolla Contracting Pty Ltd,
 - c. Dannenberg Civil Pty Ltd,
 - d. Lawcon Constructions Pty Ltd, and
 - e. Spero Civil Pty Ltd.
2. The confidential attachments relating to the matters specified in s10A(2)(d) of the *Local Government Act 1993* be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

**Carried
unanimously**

8.7. TENDER REPORT – BIENNIAL SUPPLY OF TRAFFIC MANAGEMENT SERVICES – CONTRACT NO. 2023/121T

MOTION

Moved by Cr Barrie, seconded by Cr Wark

That Council:

1. Accepts the 17 tenders stated in **Attachment B** in line with the rates and charges offered by each tenderer for Biennial Supply of Traffic Management Services for Contract No. 2023/121T.
2. The confidential attachments relating to the matters specified in s10A(2)(d) of the *Local Government Act 1993* be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

**Carried
unanimously**

8.1. PUBLIC EXHIBITION OF DRAFT ENVIRONMENT STRATEGY

MOTION

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

That Council:

1. Move into Committee to receive a briefing on the draft Newcastle Environment Strategy.
2. Places the draft Newcastle Environment Strategy 2023 at **Attachment A** on public exhibition for 28 days.
3. Receives a report back following the public exhibition period.

PROCEDURAL MOTION

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

That items 1, 2 and 3 be dealt with in seriatim.

Carried

ITEM 1

MOTION

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

That Council:

1. Move into Committee to receive a briefing on the draft Newcastle Environment Strategy.

Carried

Council moved into Committee and Marnie Kikken, Executive Manager Environment and Sustainability and Kristy Anderson, Senior Environmental Strategist provided a briefing to Council on the Draft Environment Strategy.

PROCEDURAL MOTION

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

That Council move out of Committee.

**Carried
unanimously**

ITEM 2

MOTION

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

2. Places the draft Newcastle Environment Strategy 2023 at **Attachment A** on public exhibition for 28 days.

Carried

ITEM 3

MOTION

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

3. Receives a report back following the public exhibition period.

Carried

8.2. ADOPTION OF SOCIAL STRATEGY

MOTION

Moved by Cr Wood, seconded by Cr Duncan

That Council:

1. Adopts the Social Strategy 2030 at **Attachment A**.
2. Receives the Social Strategy – Public Exhibition Engagement Report at **Attachment B**.

**Carried
unanimously**

8.3. PUBLIC ART REFERENCE GROUP (PARG) ANNUAL REPORT

MOTION

Moved by Cr Duncan, seconded by Cr Winney-Baartz

That Council:

1. Receives the Public Art Reference Group Annual Report 2022 as at **Attachment A**.

**Carried
unanimously**

8.4. OUTCOME OF NSW CIVIL AND ADMINISTRATIVE TRIBUNAL HEARING EXECUTIVE DIRECTOR, LOCAL GOVERNMENT UNDER DELEGATION FROM THE SECRETARY, DEPARTMENT OF PLANNING AND INDUSTRY V ROBINSON (NO 2) [2020] NSWCATOD

MOTION

Moved by Cr Clausen, seconded by Cr Duncan

That Council:

1. Notes the decision of the NSW Civil and Administrative Tribunal's regarding former Councillor Allan Robinson dated 13 June 2023 in the matter [Executive Director, Local Government under delegation from the Secretary, Department of Planning and Industry v Robinson (No 2) [2023] NSWCATOD 81]:
 - a. *Pursuant to s 482A(2)(c1) the respondent is disqualified from holding civic office for a period of two years from the date of this order.*

As the time was nearing 10.00pm, Councillor Clausen moved the following procedural motion.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Richardson

To extend the meeting until conclusion of business.

Carried

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

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

Against the Motion: Councillor Barrie.

Carried

8.5. PUBLIC EXHIBITION OF THROSBY, STYX AND COTTAGE CREEKS FLOOD STUDY

MOTION

Moved by Cr Richardson, seconded by Cr McCabe

That Council:

1. Places the draft Throsby, Styx and Cottage Creeks Flood Study (Rhelm, 2023), at **Attachment A** on public exhibition for 28 days.
2. Receives a report back following the public exhibition period.

**Carried
unanimously**

8.8. TENDER REPORT - NATURAL AREAS REHABILITATION TENDER PANEL – 2023/091T

MOTION

Moved by Cr Adamczyk, seconded by Cr Mackenzie

1. Council accepts the tenders of:
 - a. Terra Defensor
 - b. Litoria Ecological Restoration Services Pty Ltd
 - c. Traditional Aussie Gardens
 - d. Toolijooa Pty Ltd
 - e. Trees in Newcastle

thus, establishing a panel of suppliers for the provision of natural areas rehabilitation services, with an estimated cost of \$1,200,000 (excluding GST) over the term of contract number 2023/091T, with panellists engaged based on cost, as determined by the tendered service rates, availability to provide the works within required timeframes and ongoing performance.

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

Carried

9. NOTICES OF MOTION

9.1. ADOPTION OF LIVEABLE HOUSING DESIGN TO IMPROVE THE ADAPTABILITY AND ACCESSIBILITY OF NEW RESIDENTIAL DEVELOPMENT

MOTION

Moved by Cr Wood, seconded by Cr Adamczyk

That City of Newcastle:

PART A

Calls upon the NSW Labor Government to:

1. Adopt the Liveable Housing Design Standards (silver level) introduced into the National Construction Code in 2022, joining all states and territories (except WA) who have already adopted the new minimum standards.
2. Amend the 2023 NSW Land and Housing Corporation Design Requirements so that the Platinum Level Liveable Housing Design Guidelines are mandatory for all new social housing. This includes all public housing, community housing and housing owned or managed by the Aboriginal Housing Office.
3. Amend planning instruments and laws to mandate that all new build community housing and affordable housing, where the property owner benefits from any form of financial assistance or other benefit (such as height /FSR exemptions) provided directly or indirectly by the NSW government or a local council, must incorporate the Platinum Level Liveable Housing Guidelines.
4. Include in the 2023-24 Action Plan for the NSW Housing Strategy Housing 2041:
 - a. Targets to ensure that the implementation of the Platinum Level Liveable Housing Guidelines in new public, social and community housing, as well as affordable housing, occurs at the same time as the rollout of state and Commonwealth funding;
 - b. Support for local government in undertaking reviews of their DCP and introducing Platinum Level Liveable Housing Design Guidelines;
 - c. Promotion of government leadership in mandating the Platinum Level Liveable Housing Guidelines in public, social, community and affordable housing;
 - d. Development of a communication strategy which will explain the benefits of improved housing accessibility to the community and industry.

PART B

Writes to the Minister for Housing Rose Jackson MLC and the Minister for Planning Paul Scully MP, within 28 days.

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

9.2. NEWCASTLE OCEAN BATHS AND CANOE POOL - STATE HERITAGE LISTING

MOTION

Moved by Cr Church, seconded by Cr Mackenzie

1. Notes that the Newcastle Ocean Baths are now more than 100 years old, having first opened in 1922 and remain a significant landmark and popular destination for swimmers and tourists.
2. Notes that the Newcastle Ocean Baths are listed in Schedule 5 of the Newcastle Local Environmental Plan (NLEP) 2012 as a heritage item of local heritage significance (item I489) and located within the Newcastle East Heritage Conservation Area.
3. Notes that the Newcastle Ocean Baths are currently closed due to major refurbishment works.
4. Notes that community consultation has begun on stage 2 of the project which will include an upgrade to the facade, change facilities and kiosk.
5. Notes that on 23 November 2021, the Lord Mayor wrote to the then Minister Don Harwin requesting assistance with registration on the SHR, noting, " it would be timely to list the Newcastle Ocean Baths on the SHR to ensure its ongoing preservation and protection for our community." ATTACHMENT A
6. Notes that in a preliminary assessment, Heritage NSW believes the Newcastle Ocean Baths and Canoe Pool may meet the criteria for listing as an item of State Heritage significance and that these are listed in a briefing document from the Department of Planning and Environment released under GIPPA -DPE - 22-2245 (Record #8B) ATTACHMENT B.
7. Notes that a prerequisite for any State Heritage nomination is a successful notice of motion.
8. Proceeds immediately to nominate the Newcastle Ocean Baths to the State Heritage Register.
9. Not finalise contracts for stage 2 restoration until Newcastle Ocean Baths and Canoe Pool is listed on the State Heritage Register.

In moving the amendment, Councillor Clausen stated he was moving the recommendation of the Director's Comment as outlined in the business papers.

AMENDMENT

Moved by Cr Clausen, seconded by Cr Duncan

That Council:

1. Notes that the Newcastle Ocean Baths is owned by the NSW Government on Crown Land. City of Newcastle has prudently invested in upgrading the Baths to protect the facility for generations to come.
2. Notes that City of Newcastle has ensured protection of the Baths as a locally listed heritage item, protected under the *NSW Environmental Planning and Assessment Act 1979* via the *Newcastle Local Environmental Plan 2012*.
3. Notes all works being undertaken at the Baths are assessed against strict heritage requirements. The robust nature of these assessments and protection plans was confirmed by the detailed assessment undertaken when the Heritage Council of NSW previously considered and refused an application for an Interim Heritage Order by the Friends of Newcastle Ocean Baths.
4. Notes the Council's previous unanimous resolution in February 2022 to lobby the NSW Government for the Newcastle Ocean Baths to be listed on the State Heritage Register.
5. Reflecting the significant ongoing cultural heritage value of the Baths to the Newcastle community, City of Newcastle writes to the NSW Government reiterating its previous correspondence to the former Minister for Heritage regarding the listing of the site on the State Heritage Register.

Councillor Pull asked the mover and seconder to consider removing point 9 from the substantive motion.

Councillors Church and Mackenzie accepted Councillor Pull's proposed change to the substantive motion.

The amendment moved by Councillor Clausen and seconded by Councillor Duncan, parts 1 – 5, was put to the meeting.

For the Amendment: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Clausen, Duncan, Richardson, Winney-Baartz and Wood.

Against the Amendment: Councillors Barrie, Church, Mackenzie, McCabe, Pull and Wark.

Carried

The Lord Mayor stated the amendment became the motion.

The motion moved by Councillors Church and Mackenzie, as amended by Councillors Clausen and Duncan, was put to the meeting.

Carried

LATE ITEMS OF BUSINESS

8.10. INVESTIGATION REQUEST

The Lord Mayor advised she had been given notice of a late item of business regarding an investigation report and requested Councillor Duncan to outline the reasons for Council to consider the late item of business.

Councillor Duncan advised that due to recent intense public scrutiny, various allegations and insinuations which had been culminating that Council should call for an independent investigation.

The Lord Mayor ruled that the matter of "Investigation Report" be heard as a late item of business in accordance with the Code of Meeting Practice and the reasons outlined by Councillor Duncan and asked Councillor Duncan to move the motion.

MOTION

Moved by Cr Duncan, seconded by Cr Adamczyk

That Council:

1. Notes media reports that the Minister for Local Government have referred a complaint to City of Newcastle to be assessed in accordance with the NSW Model Code of Conduct and CN's Code of Conduct for Staff (Newcastle Herald, 25 July);
2. Notes media comments from the City of Newcastle CEO welcoming an investigation (NBN News, 23 July);
3. Notes media comments from S.Hornery MP requesting the Minister for Local Government investigate (Herald 24 July 23) then a subsequent different request for Council to undertake an independent investigate (Herald online 25 July 23);
4. That the Elected Council supports an independent investigation in accordance with any Ministerial directions, the Local Government Act, Code of Conduct for Staff and the Code of Conduct for Members of the Legislative Assembly. Noting the process is clear in the policy and will be undertaken by an independent conduct reviewer ([Code of Conduct policy attached](#));
5. In addition to the concerns raised by the Member and Minister, the scope of the investigation also examines how confidential electoral roll details about Council staff and their friends and family came into the possession of journalists, noting that it is a serious Commonwealth and NSW offense, carrying a penalty exceeding \$100,000 and consider the impact of the breach of privacy on Council staff, their families and friends, including the publication of personal home addresses. Noting this has occurred previously under the direction of S Hornery MP, with charges previously laid (and then withdrawn) by the Electoral Commissioner ([Herald article attached](#));
6. Notes that this investigations' most prominent public supporter is S Hornery MP who has waged a campaign against Councillors via the media for nearly a year

now, likely in order to influence internal Labor Party disputes, Council preselection's and the decision making of Councillors on government tender processes;

7. Notes the importance of due process and procedural fairness, and the requirements of the City of Newcastle's Code of Conduct, including at Clause 9.9-9.12:

9.9 *All allegations of breaches of this code must be dealt with under and in accordance with the Procedures*

9.10 *You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.*

9.11 *You must not make allegations about, or disclose information about, suspected breaches of this code at Council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.*

9.12 *You must not disclose information about a complaint you have made alleging a breach of this code.*

8. Reiterates its motion of 27 June 2023, regarding inappropriate influence on Council's pool operations decision making process, which has been followed by personal attacks on the CEO and his friends:

Motion adopted: 27 June 2023

That Council:

- i. Notes that concerns were raised directly with the relevant NSW Member of Parliament as early as 1 September 2022 regarding the inappropriateness of the Member's demands, and that they were creating circumstances to manipulate the process and cause conflicts of interest for Councillors. Despite repeated warnings, the inappropriate contact continued.*
- ii. Notes that the Member, while previously a Councillor, voted in support of a Pool Service Delivery Model which foreshadowed the closure of three of Newcastle's five public pools, and supported multiple resolutions that partially outsourced operations at Lambton Pool*
- iii. Notes that City of Newcastle did not receive any state funding commitments to assist it in upgrading its pools, despite \$310 million being committed to public pools elsewhere in NSW during the recent election*
- iv. Despite this, notes the leadership of this elected council in unanimously adopting a 20 Year Inland Pool Strategy which commits the City to protecting and enhancing all five of the City's public pools now and into the future*
- v. Notes that the Member has repeatedly been offered formal meetings and briefings on pools and the pool strategy, but has declined these requests, in favour of direct instruction to Labor and non-Labor Councillors. Opportunities to meet with the CEO were ignored as recently as 9 June 2023*

- vi. *Notes that the misinformed position of the Member is inconsistent with their own decisions, and that of the Government they represent. It is one thing to baselessly attack CN, but quite another to take no action to reverse the loss of local jobs and services under the State's direct area of responsibility.*
 - vii. *Notes the importance of a strong Code of Conduct, with clear conflict of interest management procedures to ensure due process and probity in Government decision making, and that conflicts of interest cannot be ignored for convenience or political outcomes;*
 - viii. *Reiterates the previous comprehensive declarations made by impacted Councillors, and subsequent correspondence from the corruption prevention division of the NSW ICAC which confirms the appropriate and 'pragmatic' way in which Councillors managed the conflict of interest to prevent undue influence on a government tender process*
 - ix. *Expresses disappointment with the damaging statements made under Parliamentary Privilege in the NSW Parliament regarding this issue, including on the day the decision was due to be made by Councillors, and the categorically incorrect claims about public health and safety, and the inappropriateness of recklessly raising these false rumours in Parliament without seeking clarification first from CN or NSW Health.*
9. Congratulates Minister Hoenig for exemplary standards and leadership, whilst a Mayor himself in 2010, faced near identical circumstances with inappropriate influence on a Council pools tender. Minister Hoenig's contemporaneous response is attached and available:

Sep 28, 2010 - Mayor Ron Hoenig, City of Botany Bay

New Learn to Swim Programs at Pool

Last week I received emails from about twenty or so residents in relation to Council's decision to call for Expressions of Interest for the Learn to Swim program at the City of Botany Bay Municipal Pool and complaining about Council's decision to award the right to conduct such program to Pamstream Aquatic and Leisure Management.

I was a little perplexed by so many people writing to me on behalf of only one applicant for an Expression of Interest, suggesting somehow I had some right to interfere in a public tender process. Never in the entire time in office had I ever been requested by so many people to do something, that had I endeavoured to do, would have been so improper, it could have been considered to be corrupt conduct.

Learn to Swim classes for the 2009/2010 swim season which was formerly conducted by Seas the Limit terminated when the pool closed for winter in April of this year. During the off season Council, like any efficient organisation should, conducted a review of all of the operations at the swimming complex which included the Learn to Swim Program. In August 2010 Expressions of Interests for the program were called for Learn to Swim Classes to be conducted on the re-opening of the pool in October. Council Officers judged each Expression of Interest on its

merits and Council awarded Learn to Swim program rights to Pamstream Aquatic and Leisure Management from when the pool opens.

Ratepayers and residents would expect council, as is required, to work through a proper process and to consider a number of factors and apply weightings to those factors. To do otherwise would be improper. As a public authority Council must ensure that the proper return on ratepayer's assets is a primary responsibility. Not to do so would be an abuse of that trust. Council has not worked so hard, and succeed to be one of the very few council's that is DEBT FREE by not properly managing ratepayers assets.

This Council cannot not make a decision solely based on an orchestrated campaign from fee paying customers of a competing applicant who had submitted an Expression of Interest, and who would gain financially from such a determination. Nor could Council officers be influenced by a media campaign from a group of residents threatening to take their custom elsewhere. Again, to influence the independent determinations of the Expression of Interest, had the council been so influenced, would have been improper and, could be regarded as corrupt conduct. As would any attempt by any elected representative to interfere in that process.

Council's decision does not relate to any swim club that may wish book or use the facility. The facility remains to be used and hired in accordance with Council's policies. This decision only affects the financial interests of those who submitted Expressions of Interest. Anyone has the right to attend Learn to Swim classes or swimming clubs at either Council's facility or any other facility where similar services are available. They do not have the right to ask me do to do something unlawful or improper.

<http://botanybaycitycouncil.blogspot.com/2010/09/new-learn-to-swim-programs-at-pool.html>

10. Notes Sonia Hornery MP is subject to the Code of Conduct for Members of the NSW Legislative Assembly ([attached](#)). The code includes provision regarding the proper exercise of Power – specifically 2(c) " A Member must not knowingly and improperly use his or her influence as a Member to seek to affect a decision by a public official including a Minister, public sector employee, statutory officer or officer of a public body...". Noting the above, requests that the Minister takes steps to refer Ms Hornery's conduct regarding City of Newcastle processes to the NSW Parliament's Independent Complaints Officer. Further, that these actions be included within the scope of CN's independent investigation.

PROCEDURAL MOTION

Moved by Cr Pull, seconded by Cr Adamczyk

Council allow a 5 minute recess to consider the attachments to the motion.

**Carried
unanimously**

Council adjourned at 11.30pm and reconvened at 11.36pm.

PROCEDURAL MOTION

Moved by Cr Pull, seconded by Cr Church

That the motion be dealt with in seriatim.

Carried

ITEM 1

MOTION

Moved by Cr Duncan, seconded by Cr Adamczyk

That Council:

1. Notes media reports that the Minister for Local Government have referred a complaint to City of Newcastle to be assessed in accordance with the NSW Model Code of Conduct and CN's Code of Conduct for Staff (Newcastle Herald, 25 July);

Carried

ITEM 2

MOTION

Moved by Cr Duncan, seconded by Cr Adamczyk

That Council:

2. Notes media comments from the City of Newcastle CEO welcoming an investigation (NBN News, 23 July);

Carried

ITEM 3

MOTION

Moved by Cr Duncan, seconded by Cr Adamczyk

That Council:

3. Notes media comments from S. Hornery MP requesting the Minister for Local Government investigate (Herald 24 July 23) then a subsequent different request for Council to undertake an independent investigate (Herald online 25 July 23);

Carried

ITEM 4

MOTION

Moved by Cr Duncan, seconded by Cr Adamczyk

That Council:

4. That the Elected Council supports an independent investigation in accordance with any Ministerial directions, the Local Government Act, Code of Conduct for Staff and the Code of Conduct for Members of the Legislative Assembly. Noting the process is clear in the policy and will be undertaken by an independent conduct reviewer ([Code of Conduct policy attached](#));

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 5

MOTION

Moved by Cr Duncan, seconded by Cr Adamczyk

That Council:

5. In addition to the concerns raised by the Member and Minister, the scope of the investigation also examines how confidential electoral roll details about Council staff and their friends and family came into the possession of journalists, noting that it is a serious Commonwealth and NSW offense, carrying a penalty exceeding \$100,000 and consider the impact of the breach of privacy on Council staff, their families and friends, including the publication of personal home addresses. Noting this has occurred previously under the direction of S Hornery MP, with charges previously laid (and then withdrawn) by the Electoral Commissioner ([Herald article attached](#));

For the motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Clausen, Duncan, Richardson, Winney-Baartz and Wood.

Against the motion: Councillors Barrie, Church, Mackenzie, McCabe, Pull and Wark.

Carried

ITEM 6

MOTION

Moved by Cr Duncan, seconded by Cr Adamczyk

That Council:

6. Notes that this investigations' most prominent public supporter is S Hornery MP who has waged a campaign against Councillors via the media for nearly a year now, likely in order to influence internal Labor Party disputes, Council preselection's and the decision making of Councillors on government tender processes;

For the motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Clausen, Duncan, Richardson, Winney-Baartz and Wood.

Against the motion::

Councillors Barrie, Church, Mackenzie, McCabe, Pull and Wark.

Carried

ITEM 7

MOTION

Moved by Cr Duncan, seconded by Cr Adamczyk

That Council:

7. Notes the importance of due process and procedural fairness, and the requirements of the City of Newcastle's Code of Conduct, including at Clause 9.9-9.12:

9.9 *All allegations of breaches of this code must be dealt with under and in accordance with the Procedures*

9.10 *You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.*

9.11 *You must not make allegations about, or disclose information about, suspected breaches of this code at Council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.*

9.13 *9.12 - You must not disclose information about a complaint you have made alleging a breach of this code.*

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 8**MOTION**

Moved by Cr Duncan, seconded by Cr Adamczyk

That Council:

8. Reiterates its motion of 27 June 2023, regarding inappropriate influence on Council's pool operations decision making process, which has been followed by personal attacks on the CEO and his friends:

Motion adopted: 27 June 2023

That Council:

- i. Notes that concerns were raised directly with the relevant NSW Member of Parliament as early as 1 September 2022 regarding the inappropriateness of the Member's demands, and that they were creating circumstances to manipulate the process and cause conflicts of interest for Councillors. Despite repeated warnings, the inappropriate contact continued.*
- ii. Notes that the Member, while previously a Councillor, voted in support a of Pool Service Delivery Model which foreshadowed the closure of three of Newcastle's five public pools, and supported multiple resolutions that partially outsourced operations at Lambton Pool.*
- iii. Notes that City of Newcastle did not receive any state funding commitments to assist it in upgrading its pools, despite \$310 million being committed to public pools elsewhere in NSW during the recent election*
- iv. Despite this, notes the leadership of this elected council in unanimously adopting a 20 Year Inland Pool Strategy which commits the City to protecting and enhancing all five of the City's public pools now and into the future.*
- v. Notes that the Member has repeatedly been offered formal meetings and briefings on pools and the pool strategy, but has declined these requests, in favour of direct instruction to Labor and non-Labor Councillors. Opportunities to meet with the CEO were ignored as recently as 9 June 2023.*
- vi. Notes that the misinformed position of the Member is inconsistent with their own decisions, and that of the Government they represent. It is one thing to baselessly attack CN, but quite another to take no action to reverse the loss of local jobs and services under the State's direct area of responsibility.*
- vii. Notes the importance of a strong Code of Conduct, with clear conflict of interest management procedures to ensure due process and probity in Government decision making, and that conflicts of interest cannot be ignored for convenience or political outcomes;*
- viii. Reiterates the previous comprehensive declarations made by impacted Councillors, and subsequent correspondence from the corruption prevention division of the NSW ICAC which confirms the appropriate and 'pragmatic' way in which Councillors managed the conflict of interest to prevent undue influence on a government tender process.*

- ix. *Expresses disappointment with the damaging statements made under Parliamentary Privilege in the NSW Parliament regarding this issue, including on the day the decision was due to be made by Councillors, and the categorically incorrect claims about public health and safety, and the inappropriateness of recklessly raising these false rumours in Parliament without seeking clarification first from CN or NSW Health.*

For the motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Clausen, Duncan, Richardson, Winney-Baartz and Wood.

Against the motion:

Councillors Barrie, Church, Mackenzie, McCabe, Pull and Wark.

Carried

ITEM 9

MOTION

Moved by Cr Duncan, seconded by Cr Adamczyk

That Council:

9. Congratulates Minister Hoenig for exemplary standards and leadership, whilst a Mayor himself in 2010, faced near identical circumstances with inappropriate influence on a Council pools tender. Minister Hoenig's contemporaneous response is attached and available:

Sep 28, 2010 - Mayor Ron Hoenig, City of Botany Bay

New Learn to Swim Programs at Pool

Last week I received emails from about twenty or so residents in relation to Council's decision to call for Expressions of Interest for the Learn to Swim program at the City of Botany Bay Municipal Pool and complaining about Council's decision to award the right to conduct such program to Pamstream Aquatic and Leisure Management.

I was a little perplexed by so many people writing to me on behalf of only one applicant for an Expression of Interest, suggesting somehow I had some right to interfere in a public tender process. Never in the entire time in office had I ever been requested by so many people to do something, that had I endeavoured to do, would have been so improper, it could have been considered to be corrupt conduct.

Learn to Swim classes for the 2009/2010 swim season which was formerly conducted by Seas the Limit terminated when the pool closed for winter in April of this year. During the off season Council, like any efficient organisation should, conducted a review of all of the operations at the swimming complex which included the Learn to Swim Program. In August 2010 Expressions of Interests for the program were called for Learn to Swim Classes to be conducted on the re-opening of the pool in October.

Council Officers judged each Expression of Interest on its merits and Council awarded Learn to Swim program rights to Pamstream Aquatic and Leisure Management from when the pool opens.

Ratepayers and residents would expect council, as is required, to work through a proper process and to consider a number of factors and apply weightings to those factors. To do otherwise would be improper. As a public authority Council must ensure that the proper return on ratepayer's assets is a primary responsibility. Not to do so would be an abuse of that trust. Council has not worked so hard, and succeed to be one of the very few council's that is DEBT FREE by not properly managing ratepayers assets.

This Council cannot not make a decision solely based on an orchestrated campaign from fee paying customers of a competing applicant who had submitted an Expression of Interest, and who would gain financially from such a determination. Nor could Council officers be influenced by a media campaign from a group of residents threatening to take their custom elsewhere. Again, to influence the independent determinations of the Expression of Interest, had the council been so influenced, would have been improper and, could be regarded as corrupt conduct. As would any attempt by any elected representative to interfere in that process.

Council's decision does not relate to any swim club that may wish book or use the facility. The facility remains to be used and hired in accordance with Council's policies. This decision only affects the financial interests of those who submitted Expressions of Interest. Anyone has the right to attend Learn to Swim classes or swimming clubs at either Council's facility or any other facility where similar services are available. They do not have the right to ask me do to do something unlawful or improper.

<http://botanybaycitycouncil.blogspot.com/2010/09/new-learn-to-swim-programs-at-pool.html>

For the motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Clausen, Duncan, Richardson, Winney-Baartz and Wood.

Against the motion:

Councillors Barrie, Church, Mackenzie, McCabe, Pull and Wark.

Carried

ITEM 10

MOTION

Moved by Cr Duncan, seconded by Cr Adamczyk

That Council:

10. Notes Sonia Hornery MP is subject to the Code of Conduct for Members of the NSW Legislative Assembly ([attached](#)). The code includes provision regarding

the proper exercise of Power – specifically 2(c) " *A Member must not knowingly and improperly use his or her influence as a Member to seek to affect a decision by a public official including a Minister, public sector employee, statutory officer or officer of a public body...*". Noting the above, requests that the Minister takes steps to refer Ms Hornery's conduct regarding City of Newcastle processes to the NSW Parliament's Independent Complaints Officer. Further, that these actions be included within the scope of CN's independent investigation.

For the motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Clausen, Duncan, Richardson, Winney-Baartz and Wood.

Against the motion:

Councillors Barrie, Church, Mackenzie, McCabe, Pull and Wark.

Carried

At the conclusion of the meeting the Chief Executive Officer read the resolutions of the partial confidential reports (refer resolutions at 8.6, 8.7 and 8.9).

The meeting concluded at 12.05am.

Wednesday 26 July 2023

7. LORD MAYORAL MINUTE – *TO BE TABLED AT MEETING*

8. REPORTS

8.1. ADOPTION OF COMMUNITY ENGAGEMENT STRATEGY

REPORT BY: CREATIVE & COMMUNITY SERVICES
CONTACT: EXECUTIVE DIRECTOR CREATIVE & COMMUNITY SERVICES / ACTING EXECUTIVE MANAGER MEDIA ENGAGEMENT ECONOMY & CORPORATE AFFAIRS

PURPOSE

To adopt the 2023 – 2026 Community Engagement Strategy.

RECOMMENDATION

That Council:

- 1 Adopts the Community Engagement Strategy at **Attachment A**.

KEY ISSUES

- 2 City of Newcastle (CN) is required to undertake community engagement under Section 402A of the Local Government Act 1993 (Act).
- 3 CN is committed to community engagement and recognises the value gained by engaging with the community in a genuine and meaningful way beyond statutory requirements.
- 4 The Community Engagement Strategy (the Strategy) replaces the existing City Marketing and Engagement Strategy (2018) and Community Engagement Policy (2018), providing one consolidated framework that articulates CN's commitment to actively seeking feedback from the community to support the development of its plans, policies, programs and key activities.
- 5 The Strategy provides the directions and associated actions for:
 - i) Informing community members about our plans and providing meaningful opportunities to participate.
 - ii) Building trust with the community.
 - iii) Ensuring engagement activities are inclusive and accessible.
 - iv) Embedding community engagement into the way that CN works and measures success.
- 6 The draft Community Engagement Strategy was publicly exhibited for 29 days from 25 May to 23 June 2023. CN received 22 submissions during the public exhibition period. Details of the submissions received are outlined in the Public Exhibition Report at **Attachment B**.

- 7 The Strategy's accessibility has been improved in line with feedback received. Other feedback supports the overall objectives of the Strategy and indicates further opportunities to build trust with our community, deliver inclusive and accessible engagement activities, and continuously monitor and improve our engagement practices.

FINANCIAL IMPACT

- 8 Adoption of the 2023 – 2026 Community Engagement Strategy does not have a financial impact.
- 9 Strategy actions and initiatives will be implemented within operational and project budgets.

NEWCASTLE 2040 ALIGNMENT

- 10 The Strategy aligns with all strategic directions of the Newcastle 2040 Community Strategic Plan, and specifically:

Achieving Together

4.2.Trust and transparency

4.3 Collaborative and innovative approach

IMPLEMENTATION PLAN/IMPLICATIONS

- 11 The actions in the Strategy will guide CN's approach to community engagement over the next four years.

RISK ASSESSMENT AND MITIGATION

- 12 Residents and stakeholders see community engagement as a vital function of CN and expect that their input be considered in Council's decision making. There is considerable reputational risk associated with inadequate community engagement. The Strategy provides key directions and a framework around how community engagement will be managed by CN.

RELATED PREVIOUS DECISIONS

- 13 At the Ordinary Council Meeting held on 23 May 2023, Council resolved to place the draft Community Engagement Strategy on public exhibition for a minimum of 28 days.

CONSULTATION

- 14 The draft Community Engagement Strategy was placed on public exhibition from 25 May 2023 to 23 June 2023, and supported by the following promotion:
 - i) Have Your Say page on CN's website.
 - ii) Social media.

- iii) Physical copies at 12 Stewart Avenue Customer Service Centre and Newcastle City Library.
 - iv) e-newsletter to CN's Newcastle Voice community panel.
 - v) Emails to CN Advisory Committees including Guraki, Access and Inclusion Advisory Committee and Youth Council.
 - vi) Emails to community members who completed the survey or community workshop as part of the early engagement activities.
- 15 Details of submissions received are outlined in the Public Exhibition Report at **Attachment B**.
- 16 Early community feedback to inform the development of the Strategy included an online survey with 181 responses and a community workshop held in October 2022 with 72 participants.
- 17 Consultation with CN's Advisory Committees included workshops with the Access and Inclusion Advisory Committee on 17 November 2022, the Guraki Aboriginal Advisory Committee on 22 February 2023 and the Youth Council on 1 March 2023.
- 18 A Councillor Workshop was conducted on 16 May 2023.

BACKGROUND

- 19 Section 8A(3) of the Local Government Act 1993 (LG Act) states that CN should facilitate the provision of community input and feedback to enable the Council to make decisions and actively engage with its local communities.
- 20 Section 402A of the LG Act states that Council must establish and implement a strategy for engagement with the local community (called its Community Engagement Strategy) when developing its plans, policies and programs for the purpose of determining its activities (other than routine administrative matters). The Strategy should extend to all aspects of CN's community engagement and not just the Community Strategic Plan.
- 21 In 2022/23 CN had more than 25,000 interactions on engagement programs delivered for our community. This includes engagement on more than 40 projects and feedback on a range of strategies and plans, events, infrastructure and capital works, facilities and services, parks and recreation, and transport initiatives.

OPTIONS

Option 1

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

Option 2

Council resolves to not adopt the Strategy. This is not the recommended option.

ATTACHMENTS

Attachment A: Community Engagement Strategy
Attachment B: Public Exhibition Report

Attachments A - B distributed under separate cover

8.2. ADOPTION OF COMMUNITY INFRASTRUCTURE INCENTIVES IN WICKHAM PLANNING PROPOSAL

REPORT BY: PLANNING AND ENVIRONMENT
CONTACT: EXECUTIVE DIRECTOR PLANNING AND ENVIRONMENT /
ACTING EXECUTIVE MANAGER PLANNING, TRANSPORT
AND REGULATION

PURPOSE

To endorse the Community Infrastructure Incentives in Wickham planning proposal, and adopt Newcastle Development Control Plan 2012 Section 6.03 Wickham and the Wickham Community Infrastructure Plan.

RECOMMENDATION

That Council:

- 1 Endorses the Community Infrastructure Incentives in Wickham planning proposal (**Attachment A**) and forward it to the Department of Planning and Environment for finalisation as the local plan-making authority.
- 2 Adopts Section 6.03 Wickham to amend Newcastle Development Control Plan 2012 (**Attachment B**).
- 3 Adopts the Wickham Community Infrastructure Plan (**Attachment C**).

KEY ISSUES

- 4 The planning proposal seeks to deliver identified community infrastructure projects while facilitating urban renewal in Wickham, which is consistent with the Wickham Masterplan 2021 (WMP 2021) as amended in July 2022. The planning proposal introduces a new clause to the *Newcastle Local Environmental Plan 2012* (NLEP 2012) for community infrastructure in Wickham and amends the maximum incentive Height of Buildings (HOB) and Floor Space Ratio (FSR) maps.
- 5 Section 6.03 Wickham of Newcastle Development Control Plan 2012 (DCP) contains minor changes including new definitions and new controls relating to community infrastructure in Wickham.
- 6 The planning proposal and DCP were amended after they were reported to Council in March 2022 for consistency with Department of Planning and Environment's (DPE) Gateway determination of 4 November 2022. The intent of these documents has not changed.
- 7 The Wickham Community Infrastructure Plan outlines community infrastructure needs for Wickham and how this infrastructure can be delivered through the development process. It also contains the incentive gross floor area (GFA) rate

for Wickham. This plan is a new document prepared following the Gateway determination and it is consistent with the approach other NSW councils have taken for community infrastructure clauses.

Public exhibition

- 8 The planning proposal, draft DCP and draft Wickham Community Infrastructure Plan were exhibited from 20 February 2023 to 22 March 2023. Twenty submissions were received.
- 9 A summary of the submissions and CN's responses are provided in **Attachment D**.
- 10 Key issues raised were the proposed incentive scheme feasibility and operation, the community infrastructure projects in the Wickham Community Infrastructure Plan, public domain in Wickham and potential variations to height and density via clause 4.6 of LEP 2012.

Post exhibition changes

- 11 The planning proposal was amended to ensure the proposed community infrastructure clause is not a development standard that could then be subject to variation under clause 4.6 of LEP 2012. This ensures the incentive HOB and FSR controls are maximums that are not to be exceeded as part of future development.
- 12 Minor changes were made to the Wickham Community Infrastructure Plan. These include adding a notation in the description of community infrastructure project 4 to include 'urban wetland'. The draft Wickham Public Domain Plan identified this land could support an urban wetland as part of its landscape design given local stormwater catchment conditions. This infrastructure project remains as an outdoor recreation area as proposed in the WMP 2021 and Community Infrastructure Plan.
- 13 No other changes are proposed to the Wickham Community Infrastructure Plan's community infrastructure projects. These projects are identified in the WMP 2021, which was subject to public exhibition. Community comments were considered as part of its finalisation. Notwithstanding, once the scheme is in place, CN will review these projects as needed.
- 14 No changes are proposed to the incentive GFA rate or operation of the Community Infrastructure Plan. Once in place, CN will review this rate as needed.
- 15 No changes are proposed to Section 6.03 Wickham since public exhibition. The comprehensive review of Draft Newcastle Development Control Plan 2023 (DCP 2023) is reported to Council concurrently (August 2023). The Draft DCP 2023 incorporates Section 6.03 Wickham, including the proposed community infrastructure amendments, into the new format.

FINANCIAL IMPACT

- 16 The value of the incentive GFA accessed by development will be provided to CN in the form of land, works, a monetary contribution or a combination of these as set out in the Wickham Community Infrastructure Plan.
- 17 The planning proposal provides community infrastructure above that CN delivers via Section 7.11 and Section 7.12 development contributions. The planning proposal does not affect the application of these development contributions in Wickham.
- 18 Monetary contributions received by CN will be pooled and applied to community infrastructure projects in Wickham.
- 19 The finalisation of the planning proposal and supporting documents is funded under CN's 2023/24 operational budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 20 The planning proposal and supporting documents align with the Newcastle 2040 Community Strategic Plan and implement the following priorities and objectives:

1.1 Enriched neighbourhoods and places

1.1.1 Great spaces

1.1.2 Well-designed places

1.3 Safe, active and linked movement across the city

1.3.1 Connected cycleways and pedestrian networks

4.2 Trust and Transparency

4.2.1 Genuine engagement

IMPLEMENTATION PLAN/IMPLICATIONS

- 21 Once endorsed, the Community Infrastructure Incentives in Wickham planning proposal will be forwarded to the DPE for finalisation as the local plan-making authority.

RISK ASSESSMENT AND MITIGATION

- 22 The planning proposal and supporting documents are consistent with the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2021* and DPE's LEP Making Guideline.
- 23 Community infrastructure will be delivered via a planning agreement in accordance with CN's Planning Agreement Policy. These legal agreements

between CN and a developer can help deliver works related to a development application or planning proposal. The delivery of the identified community infrastructure via a planning agreement reduces risks for CN and the community.

RELATED PREVIOUS DECISIONS

- 24 At the Ordinary Council Meeting on 27 July 2021, Council adopted the Community Infrastructure Incentives Policy.
- 25 At the Ordinary Council Meeting on 24 September 2021, Council adopted the Wickham Masterplan 2021 Update.
- 26 At the Ordinary Council Meeting on 26 October 2021, Council resolved to lay the planning proposal and DCP on the table "until the accompanying NDCP 2012 amendments can be brought back to Council simultaneously with changes to the NLEP 2012". Council adopted these changes to Section 6.03 Wickham at the Ordinary Council Meeting on 23 August 2022 and are in effect.
- 27 At the Ordinary Council Meeting on 22 March 2022, Council resolved to endorse the Planning Proposal and DCP for public exhibition.
- 28 At the Ordinary Council Meeting on 26 July 2022, Council adopted the Wickham Masterplan 2021 (2022 Amendment). This is the version of WMP 2021 that the planning proposal seeks to implement.

CONSULTATION

- 29 The planning proposal and supporting documents were placed on public exhibition for community comment from 20 February 2023 to 22 March 2023. CN received twenty submissions during the exhibition period.
- 30 CN's Have Your Say webpage invited the community to comment on the draft documents. Letters were sent to all landowners in Wickham and people who had previously made submissions on the WMP 2021 were notified about the exhibition via email.
- 31 The planning proposal and supporting documents were presented to CN's Liveable Cities Advisory Committee on 29 November 2022.
- 32 A Councillor Workshop was held on the planning proposal and supporting documents on 6 December 2022. This Councillor Workshop outlined the amendments made to the planning proposal and supporting documents following the Gateway Determination.
- 33 A briefing session was held with the Greater Lifestyles of Wickham (GLOW) community group on 2 March 2023.

BACKGROUND

- 34 Council adopted the WMP 2017 on 28 October 2017. WMP 2017 provided strategic guidance for CN's planning decisions and coordinated delivery of urban renewal in Wickham and advocated for an incentives approach on sites with the capacity to support increased densities and provide community infrastructure.
- 35 On 27 July 2021 Council adopted the Community Infrastructure Incentives Policy that identified the approach CN would take to deliver urban renewal through development incentives mechanisms with its LEP.
- 36 Council adopted the Wickham Masterplan 2021 Update (WMP 2021) in September 2021. WMP 2021 provides further guidance on the land suitable to achieve a development incentive and identifies the community infrastructure projects to be delivered through redevelopment.
- 37 Council adopted WMP 2021 as amended in July 2022 to include minor changes to the areas proposed for incentive heights and FSRs. The changes ensure better built form outcomes and a more gradual transition between the higher-density built form of the Emerging Industry Quarter Urban Precinct and the lower-scale Village Hub Urban Precinct.
- 38 The planning proposal and supporting documents implement the outcomes of the following adopted strategies, plans and policies of CN:
- i) Newcastle 2040 Community Strategic Plan.
 - ii) Newcastle Local Strategic Planning Statement, including the following planning priorities:
 - a) **Planning Priority 8:** Plan for growth and change in Catalyst Areas, Strategic Centres, Urban Renewal Corridors and Housing Release Areas.
 - b) **Planning Priority 9:** Sustainable, healthy and inclusive streets, neighbourhoods and local centres.
 - c) **Planning Priority 10:** Development responds to the desired local character of our communities.
 - iii) Wickham Masterplan 2021 (July 2022), including the following key priorities:
 - a) Improve accessibility and connectivity within Wickham and to adjoining areas.
 - b) Create safe, attractive and inclusive public spaces.
 - c) Ensure built environment is functional, responsive and resilient.
 - iv) Community Infrastructure Incentives Policy.

OPTIONS

Option 1

39 The recommendation as at Paragraph 1 – 3. This is the recommended option.

Option 2

40 That Council does not endorse the planning proposal and adopt Section 6.03 Wickham and the Wickham Community Infrastructure Plan. This is not the recommended option.

ATTACHMENTS

Attachment A: Community Infrastructure Incentives in Wickham Planning Proposal

Attachment B: Newcastle Development Control Plan 2012 Section 6.03 Wickham

Attachment C: Wickham Community Infrastructure Plan

Attachment D: Submissions table – Community Infrastructure Incentives in Wickham Planning Proposal

Attachments A-D: Distributed under separate cover

8.3. URBAN DESIGN REVIEW PANEL (UDRP) - ANNUAL REPORT 2022

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

PURPOSE

To present the Urban Design Review Panel Annual Report 2022.

RECOMMENDATION

That Council:

- 1 Receives the Urban Design Review Panel Annual Report 2022 as at **Attachment A**.

KEY ISSUES

- 2 The Urban Design Review Panel (UDRP) is an independent expert panel established in accordance with *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* and City of Newcastle's (CNs) Urban Design Panel Charter 2020 (UDP Charter).
- 3 CN has a rich tradition of establishing and maintaining a Design Review Panel (previously referred to as the Urban Design Consultative Group). In 2020, the Urban Design Charter was updated which resulted in the formation of the Urban Design Review Panel.
- 4 In June 2021, the Chairperson and five panel members were selected to form the UDRP following an Expression of Interest (EOI) and competitive selection process. Members have experience in the design of apartment developments in relation to architecture, landscape architecture or urban design, and their expertise has assisted CN in ensuring the delivery of high-quality built outcomes across the City.
- 5 The focus of the UDRP in 2022 was to evaluate and critique the urban design aspects of major commercial, industrial, residential, community and civic developments.
- 6 The Annual Report documents the activities of UDRP since established under the UDRP Charter and during 2022 and is included at **Attachment A**.
- 7 The UDRP consider certain development proposals as required by *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* and the UDP Charter. This includes residential flat buildings, shop top housing, mixed-use development, any proposal within the Newcastle City Centre that seeks to utilise NLEP Clause 7.5 – Design excellence. Other types of

development may also be referred to the UDRP based upon their nature, location, scale, or likely impact to the surrounding locality, such as boarding houses, multi-dwelling housing over 10 dwellings, places of public worship, and tourist and visitor accommodation.

- 8 During 2022, the UDRP considered 71 applications as well as providing input on strategic planning projects such as the revised Development Control Plan and the renewal corridor review. The UDRP Chairperson also acted as CN's Jury Member for two Design Competitions.

FINANCIAL IMPACT

- 9 Administrative costs associated to support UDRP are funded through existing operational budgets.

NEWCASTLE 2040 ALIGNMENT

- 10 The UDRP is consistent with the strategic directions of the Newcastle 2040 Strategic Plan.

Liveable

- 1.1 Enriched neighbourhoods and places
 - 1.1.1 Great spaces
 - 1.1.2 Well-designed places

IMPLEMENTATION PLAN/IMPLICATIONS

- 11 Nil

RISK ASSESSMENT AND MITIGATION

- 12 The UDRP is established in accordance with State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and CN's Urban Design Panel Charter 2020. It contributes achieving high quality design for the City in accordance with development controls.

CONSULTATION

- 13 The UDRP Annual Report 2022 will be reported to the Liveable Cities Advisory Committee at their next meeting.
- 14 The UDRP Chairperson attended a workshop with Councillors on 8 August 2023.

RELATED PREVIOUS DECISIONS

- 14 At the Ordinary Council Meeting held on 8 December 2020, Council endorsed the UDRP Charter, including an annual presentation to Council.

BACKGROUND

15 The role of the UDRP is:

- i) Examine, evaluate and critique the urban design aspects of major commercial, industrial, residential, community and civic developments.
- ii) Assess the design quality of development proposals and identify how development proposals could be improved by design changes.
- iii) Critique plans for proposed developments and provide comments to applicants and their consultants on recommended modifications to improve the design quality of development proposals.
- iv) Identify and recommend improvements to development proposals necessary to achieve consistency with the design quality principles and the Apartment Design Guide.
- v) Advise CN Officers on the design quality of development proposals, to assist with assessment of whether such applications warrant support because they contribute to an improvement in the built fabric of the local area.

OPTIONS

Option 1

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

Option 2

17 Council resolves to not adopt the recommendations arising from the Urban Design Review Panel. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: Urban Design Review Panel Annual Report 2022

Attachment A distributed under separate cover

8.4. ADOPTION OF DARBY STREET REVISED TRAFFIC CALMING DESIGNS

REPORT BY: CITY INFRASTRUCTURE
CONTACT: EXECUTIVE DIRECTOR CITY INFRASTRUCTURE /
EXECUTIVE MANAGER PROJECT MANAGEMENT OFFICE

PURPOSE

To adopt revised traffic calming designs for Darby Street, between Parry and Tyrrell Streets, Cooks Hill.

RECOMMENDATION

That Council:

- 1 Adopt upgrades to traffic calming infrastructure on Darby Street between Parry and Tyrrell Streets, Cooks Hill, as shown at **Attachments A and B**.

KEY ISSUES

- 2 The Darby Street – Streets as Shared Spaces Trial (Trial) ran from 29 September 2022 to 28 February 2023. As part of the Trial, a 30km/h speed zone was installed with supporting traffic calming devices, including concrete entry islands and speed cushions.
- 3 On 28 March 2023, Council approved retention of the traffic calming infrastructure installed for the Trial, making the 30km/h zone permanent. This decision triggered the need for upgrades to traffic calming infrastructure at the northern and southern entries to the 30km/h zone, to address issues raised during the Trial.
- 4 During the Trial, feedback was received from residents of Darby Street in relation to noise from adjacent speed cushions. This is attributed to 85th percentile vehicle speeds south of Bull Street remaining consistent (46km/h before the Trial vs 47km/h during the Trial). Site specific amendments to the infrastructure are required to reduce vehicle speed south of Bull Street.
- 5 Community members provided feedback regarding cyclist safety in relation to concrete islands at the northern entry to the 30km/h zone. This issue is currently addressed with temporary signage and a permanent solution is required.
- 6 Concept plans for revised traffic calming infrastructure were placed on public exhibition from 5 May to 2 June 2023 as shown at **Attachments A and B**. An online survey was completed by 46 community members and all proposals received majority support. The summary of consultation results is shown at **Attachment C**.
- 7 On 19 June 2023, the Newcastle City Traffic Committee (NCTC) reviewed outcomes of the public exhibition. The NCTC gave in-principle support for

proposed alterations in the road reserve, with changes to approved infrastructure to be presented to Council for adoption.

FINANCIAL IMPACT

- 8 The proposed traffic calming infrastructure upgrades are estimated to cost \$100,000 and will be funded from the 2023/2024 Capital Works Program.

NEWCASTLE 2040 ALIGNMENT

- 9 The upgrade of infrastructure installed for the Trial is consistent with the strategic directions of the Newcastle 2040 Community Strategic Plan as follows:

Liveable

- 1.1 Enriched neighbourhoods and places
 - 1.1.1 Great Spaces
 - 1.1.2 Well-designed spaces
- 1.2 Connected and Fair Communities
 - 1.2.1 Connected communities
 - 1.2.2 Inclusive communities
 - 1.2.3 Equitable communities
 - 1.2.4 Healthy communities
- 1.3 Safe, active and linked movement across the City of Newcastle
 - 1.3.1 Connected cycleways and pedestrian networks

Creative

- 3.1 Vibrant and creative City
 - 3.1.4 Vibrant night-time economy

Achieving together

- 4.3 Collaborative and innovative approach
 - 4.3.2 Innovation and continuous improvement
 - 4.3.3 Data-driven decision-making and insights

IMPLEMENTATION PLAN/IMPLICATIONS

- 10 Darby Street is a high priority for infrastructure renewal under the Local Centres Program. The retained 30km/h zone requires infrastructure upgrades in the short term to address community concerns. Longer term upgrades to comply with pending Transport for New South Wales (TfNSW) guidelines for 30km/h zones will be integrated into any future renewal of the Darby Street precinct.

RISK ASSESSMENT AND MITIGATION

- 11 The proposed infrastructure upgrades will address risks to cyclist safety and existing noise issues. Upgraded traffic calming infrastructure will be designed and installed in accordance with relevant Australian Standards, Austroads, and TfNSW guidelines.

RELATED PREVIOUS DECISIONS

- 12 On 23 August 2022 Council adopted the Darby Street Trial Traffic Calming Infrastructure Concept Plan.
- 13 On 28 March 2023 Council approved the retention of traffic calming infrastructure installed for the Trial, making the 30km/h zone permanent.

CONSULTATION

- 14 Concept plans for revised traffic calming infrastructure were placed on public exhibition from 5 May to 2 June 2023. The online survey was completed by 46 community members and all proposals received majority support.
- 15 Open comments from survey respondents indicate strong support for the existing 30km/h zone, with requests for it to be extended northward and southward. The summary of consultation results is shown at **Attachment C**.

BACKGROUND

- 16 The NSW Government awarded \$500,000 to City of Newcastle in Streets as Shared Spaces grant funding to Trial a 30km/h zone and activations in Darby Street. The program was designed to enable the creation of safe and enjoyable public spaces in the wake of the pandemic to make a positive difference to NSW cities and suburbs.

OPTIONS

Option 1

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

Option 2

- 18 Do not adopt upgrades to traffic calming infrastructure. This is not the recommended option.

REFERENCES

ATTACHMENTS

- Attachment A:** Darby Street 30km/h zone: Northern Entry Infrastructure Upgrades
Attachment B: Darby Street 30km/h zone: Southern Entry Infrastructure Upgrades
Attachment C: Summary of Exhibition Submissions – Darby Street Revised Traffic Calming Designs

Attachments A – C distributed under separate cover

8.5. ENDORSEMENT OF MOTIONS FOR SUBMISSION TO THE 2023 LOCAL GOVERNMENT NSW CONFERENCE

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

PURPOSE

To consider proposed motions for submission to the Local Government New South Wales (LGNSW) 2023 Annual Conference (Conference).

RECOMMENDATION

That Council:

- 1 Endorse the motions for submission to the Local Government New South Wales' 2023 Annual Conference as set out at **Attachment A**.

KEY ISSUES

- 2 The Conference is being held from 12-14 November 2023 at the Grand Pavilion, Rosehill Gardens Racecourse, Rosehill. The host is the City of Parramatta.
- 3 Councils are invited to submit motions to be considered at the Conference. Eleven motions were received, and are listed in **Attachment A**.
- 4 City of Newcastle (CN) is entitled to seven votes on motions and for positions in the LGNSW Board Elections. Council has delegated authority to the Lord Mayor to determine who will exercise CN's voting rights from among the Councillor attendees.

FINANCIAL IMPACT

- 5 Councillors attendance at the Conference is provided for within the 2023/24 budget. There are no additional costs associated with the submission of motions.

NEWCASTLE 2040 ALIGNMENT

- 6 Submissions of motions to the Conference is consistent with the strategic directions of the Newcastle 2040 Community Strategic Plan.

Creative

- 3.4 City-shaping partnerships
 - 3.4.1 Optimise city opportunities
 - 3.4.2 Advocacy and partnership

Achieving Together

4.2 Trust and Transparency

4.2.1 Genuine Engagement

4.3 Collaborative and innovative approach

4.3.1 Collaborative organisation

4.3.2 Innovation and continuous improvement

IMPLEMENTATION PLAN/IMPLICATIONS

- 7 CN will formally submit endorsed submissions in line with the 15 September 2023 deadline imposed by LGNSW.

RISK ASSESSMENT AND MITIGATION

- 8 Nil.

RELATED PREVIOUS DECISIONS

- 10 At the Ordinary Council Meeting held on 23 August 2022, Council endorsed the submission of 14 motions to the 2022 Local Government NSW Conference.

CONSULTATION

- 11 Councillors were invited by memo to submit proposed motions for consideration and endorsement by Council for submission to the Conference.

BACKGROUND

- 12 The Conference is the annual policy making event for LGNSW members and is designed for Councillors to come together to share ideas and debate issues that shape the way LGNSW advocates.

- 13 Attendance and voting arrangements for the Conference will be managed directly with Councillors.

OPTIONS

Option 1

- 14 Council adopts the recommendation as shown at Paragraph 1. This is the recommended option.

Option 2

- 15 Council adopts an alternative recommendation. This is not the recommended option.

REFERENCES

LGNSW Annual Conference 2023 Motions Submission Guide

https://lgnsw.org.au/common/Uploaded%20files/Annual%20Conference%20documents/2023/2023_Motions_Submission_Guide.pdf

Councillor Expenses and Facilities Policy

<https://newcastle.nsw.gov.au/getmedia/64873b72-40fd-4b8e-8a76-092bd82f077f/Councillor-Expenses-and-Facilities-Policy#:~:text=11.14%20If%20CN%20has%20incurred,days%20of%20the%20invoice%20date.>

ATTACHMENTS

Attachment A: Proposed motions for endorsement for submission to the LGNSW 2023 Annual Conference

Attachment A

CITY OF NEWCASTLE, NSW

MOTION 1 - NSW CARER'S STRATEGY ACTION PLAN

That LGNSW:

1. Calls upon the NSW Government to include local government in the next NSW Carer's Strategy Action Plan by consulting with Local Government NSW and local councils to develop actions and measurable outcomes aligned to the priorities of the NSW Carers Strategy;
2. Calls upon the NSW Government to work with their federal, state and territory counterparts to:
 - a. develop with carers, carer organisations and state, territory and local government a new National Carer Strategy which identifies priorities and actions, and mandates measurable outcomes;
 - b. review the Carer Recognition Act 2010 (Commonwealth);
 - c. create a Carer Advisory Council to provide strategic advice to government about policy and carer engagement.

BACKGROUND

The NSW Carers Strategy: Caring in New South Wales 202-2030 sets out the NSW Government's ten-year plan for supporting and recognizing carers in NSW. The strategy focuses on four priority areas:

- Carers have better access to information, services and supports
- Carers are recognized, respected and empowered
- Carers have improved financial wellbeing and economic opportunities
- Carers have better health and wellbeing.

Action Plans are developed every two years, the most recent being 2023, to assist in achieving the goals set out in the strategy and local government was not consulted during this process.

CITY OF NEWCASTLE, NSW**MOTION 2 - s.88 DOMESTIC WASTE MANAGEMENT SERVICE**

That LGNSW:

1. Reaffirms its support for the return of 100% of section 88 Domestic Waste Management Service Charge (the "waste levy") funds to be returned to local government for reinvestment in recycling facilities, landfill diversion, community education, technology improvements and circular economy opportunities;
2. Notes the various submissions made by councils to the Independent Pricing and Regulatory Tribunal (IPART) in response to the release of the Local Council Domestic Waste Management Charges (DWMC) Discussion Paper.
3. Notes that the NSW Government collects around \$800 million annually through its Waste Levy, which has grown by more than 250 per cent over the past decade.
4. Continues to raise concerns regarding councils, including City of Newcastle, receive as little as 0.5% of the levy returned to them annually for the purpose of funding vital resource recovery, waste management and waste and recycling education projects for their communities.
5. Calls on the NSW Government to adequately re-invest Waste Levy funds into the development of local waste management planning, waste avoidance technology, local procurement, education and local priority waste management infrastructure projects and commit to the full return of 100% of the waste levy local councils to fund such waste diversion from landfill initiatives.

BACKGROUND

On 20 October 2020, City of Newcastle provided a detailed submission to IPART regarding the Waste Management Discussion Paper noting that IPART requires further in-depth analysis to understand the Domestic Waste Management market and current associated barriers.

The submission also notes the potential for significantly better outcomes the industry should a more considered and sophisticated response be adopted.

City of Newcastle notes that:

- The NSW Government collects around \$800 million annually through its Waste Levy, which has grown by more than 250 per cent over the past decade;
- City of Newcastle is liable for the metropolitan levy rate of \$151.60 per tonne of landfill, compared to the regional levy rate of \$87.30 per tonne, a \$32 per tonne difference and additional cost to Newcastle ratepayers of \$2.1 million in 2022/23;
- analysis undertaken by CN officers that shows an additional \$18.7 million has been paid by Newcastle ratepayers over the regional rate over the past decade due our categorisation by the NSW Government.

- the waste levy consists of approximately 50-65% of the cost of waste disposal by CN.

Despite paying approximately \$37 million annually in Waste Levy contributions, only \$175,000 has been returned to the Newcastle LGA to fund its resource recovery projects, which is the actual intention of the levy.

CITY OF NEWCASTLE, NSW

MOTION 3 - CO-FUNDING FOR AERIAL BUNDLED CABLING

That LGNSW:

1. Notes the contribution of street trees and their importance to a thriving urban forest, particularly in metropolitan areas, an intergenerational resources that provides multiple community benefits.
2. Acknowledges the need to improve practices and capacity to ensure and enhance these continued benefits.
3. Notes the responsibility of councils for the holistic management of urban forest assets owned or controlled by councils.
4. Notes the ongoing collaborative relationship between Ausgrid staff, contractors and councils in managing both electrical line clearances and tree canopy to build a mutually beneficial forward plan.
5. Supports Ausgrid's proposal for co-funding of Aerial Bundled Cable (ABC) upgrades in collaboration with councils as part of their Draft Plan 2024-29.
6. Call on the NSW Government to re-establish a fair Ausgrid funding program for Aerial Bundled Cable (ABC) or undergrounded cables upgrades to protect urban canopies from wineglassing and destruction, and the importance of adding the protection of street trees in their operations into Ausgrid's accompanying climate resilience framework.

BACKGROUND

The urban forest and associated tree canopy provides a range of benefits for the community. Some of these benefits include shade, microclimate regulation, air quality, a sense of wellbeing, diverse flora and fauna, storm water management and interception. The liveability of a city is greatly improved by having a sustainable tree canopy and green spaces, which also builds resilience to climate change.

Street trees provide the most urban cooling benefit, as they shade hard surfaces like buildings and asphalt.

Electricity distributors only consider small trees suitable for planting under powerlines. Pruning to ensure safe clearances by electricity distributors can often significantly reduce the urban canopy.

When overhead low voltage bare wire cables are upgraded to insulated cable known as aerial bundled cable (ABC), trees can grow closer to the wires and can be directionally pruned around the wires, allowing for larger trees and greater canopy cover.

Local residents regularly express concern regarding the heavy pruning of street trees by Ausgrid contractors as overhead bare wire cables cannot come within close proximity of tree canopy.

CITY OF NEWCASTLE, NSW

MOTION 4 - CYBER SECURITY

That LGNSW:

1. Notes the elevated international level of Cyber Security events, including recent malicious cyber activity which has impacted many Australians.
2. Notes the investments made by local government to protect the integrity of its online systems, and the work undertaken with the community to support good online practices (including via community outreach and education through Libraries).
3. Notes the outcomes of the NSW Parliamentary Inquiry into Cyber Security, following a major data breach of Service NSW.
4. Notes in December 2022, the OLG released Cyber Security Guidelines for NSW Local Government allowing councils to assess their cyber security maturity and plan their maturity uplift and outlining cyber security standards and controls recommended by Cyber Security NSW for local governments.
5. Notes that the Audit Office of NSW released a report into the governance, roles and responsibilities of Cyber Security NSW.
6. Acknowledges that report's finding including that Cyber Security NSW has a remit to assist local government to improve cyber resilience, however does not have a strategic approach guiding its efforts.
7. Calls on the NSW Government to implement the recommendations found in that report, including:
 - a. ensure that Cyber Security NSW has a detailed, complete and accessible catalogue of services available to agencies and councils
 - b. develop a comprehensive engagement strategy and plan for the local government sector, including councils, government bodies, and other relevant stakeholders.
8. Consistent with the NSW Parliamentary Inquiry's findings, calls on the NSW Government to support the local government sector in its protection of data held online, by providing a relevant permanent funding stream to assist and supplement investment of this protection by councils already, noting the highly sensitive information held by the local government sector.

BACKGROUND

Councils are increasingly dependent on digital technologies and are a target for state-based, criminal and activist threat actors.

A cyber-attack or incident has a risk of major disruption to services and operations, with genuine risk to critical infrastructure and services.

Strong cyber security enables the effective use of emerging technologies and ensures confidence in the services provided by NSW local governments.

Cyber Security NSW does not offer funding assistance for the implementation of the Guidelines or other cyber security maturity uplift.

CITY OF NEWCASTLE, NSW

MOTION 5 - ADDRESSING PROBLEM GAMBLING AND MONEY LAUNDERING

That LGNSW:

1. Writes to both the NSW Premier stating that any reforms relating to electronic gaming machines must be evidenced based.
2. Notes that the NSW Government is preparing to conduct trials of cashless gaming, with one trial recently completed in the Newcastle local government area.
3. Notes that the cashless gaming card trial which occurred at Wests Newcastle, allowed poker machine users to set bet limits, set loss limits, set play limits, set frequency of play limits, as well as access real-time spending data, take a break or self-exclude from gambling and access other responsible gambling tools and services.
4. Notes that the findings of a study into cashless gaming cards by the Victorian Responsible Gambling Foundation in 2020 found no evidence to suggest that the use of cashless forms of gambling provides any consumer or harm-reduction benefits.
5. Notes that existing NSW legislation prevents electronic gaming machines from accepting credit cards, and further that cash withdrawals from credit cards using EFTPOS and ATM facilities is not possible at registered clubs and licenced hotels.
6. Calls on the NSW Government to specifically review the continued use of credit card funded online gambling and commit to reducing gambling-induced harm.

BACKGROUND

Liquor & Gaming NSW is overseeing trials of cashless gaming technology within its Regulatory Sandbox, to help inform a future regulatory framework to allow cashless gaming to be approved in NSW. The trials will assess how these cashless gaming solutions operate in real-world conditions in clubs and hotels. The research methodologies, developed by the independent researchers, are customised to each specific technology however they all seek to address the following key areas:

- changes, if any, in player attitudes and behaviours due to the use of technology, including changes in gambling behaviour, the ability to manage and control gambling spend, the frequency and duration of sessions and the level of harm experienced
- player experiences using the technology, particularly the harm minimisation tools made available, and any barriers identified
- areas for improvement to reduce gambling harm or for consumer protection.

The Aristocrat-Wests Newcastle trial commenced on 10 October 2022 and concluded on 22 June 2023. Technology developed by Aristocrat Gaming was installed on 144 of the Wests club's gaming machines (expanded from an initial 36 machines) for this trial.

The technology allowed players to transfer money directly from the 'gaming wallet' on their smartphone (using the mobile app) onto the gaming machine using a Bluetooth connection. Players needed to verify their identity when registering for this digital wallet, and transfer money into it from their external bank account.

CITY OF NEWCASTLE, NSW**MOTION 6 - EMERGENCY SERVICES LEVY SUBSIDY**

That LGNSW:

1. Notes that many councils' forced emergency services contribution is manifestly disproportionate to the 2023/24 rate cap, resulting in additional financial stress.
2. Notes the unexpected cost is due to absorb almost all IPART-approved rate rises for this year and in some cases absorb more than 100%, for many councils.
3. Acknowledges this is placing local government budgets under enormous pressure as they struggle from the combined impact of the pandemic, extreme weather events, high inflation, and wage increases.
4. Notes IPART-approved rate rises are intended to compensate for the impacts of inflation and increases in Council costs. Instead, the rate increase will have to be largely diverted to the significantly higher ESL payments this year.
5. Acknowledges that NSW councils will have no option other than to make cuts to infrastructure and services expenditure.
6. Notes that if the NSW Government's decision is not reversed, the potential impacts on councils' services, infrastructure maintenance and delivery include:
 - a. Deterioration of road and stormwater infrastructure
 - b. Reduction in the number of community programs run from public halls and libraries
 - c. No ability to deal with emergent environmental issues.
7. Notes the previous NSW Government had not accounted for any further subsidies in their forward estimates, which IPART needed to consider as a part of their determination.
8. Notes the timing of this development is particularly challenging for local Councils as it came so late in the local government budgeting cycle, well after IPART's rate determination for the coming financial year.
9. Acknowledges that all councils strongly support a well-funded emergency services sector and the critical contribution of emergency services workers and volunteers (many of whom are Councillors and Council staff). However, it is essential that these services be supported through an equitable, transparent, and sustainable funding model.
10. Calls on the NSW Government to reinstate the ESL subsidy, noting the financial sustainability impacts of the ESL on the Local Government sector, and to work towards an appropriate solution to ensure the ongoing financial sustainability of local councils.

BACKGROUND

The NSW Government collects funds under the Emergency Services Levy Act 2017 from local councils, insurance companies and foreign insured policy holders, to support the work of emergency services in NSW. Revenue NSW started administering the ESL in 2017. Previously, these funds were collected by the Office of Emergency Management, now known as NSW Reconstruction Authority. Local government contributes 11.7% of the costs of fire and emergency services in NSW. Insurers contribute the levy that is collected as part of insurance premiums.

CITY OF NEWCASTLE, NSW

MOTION 7 - COMPULSORY UNIVERSAL SUPERANNUATION FOR ELECTED MEMBERS

That LGNSW:

1. Note that in some jurisdictions, Councillors, Mayors and Lord Mayors are not automatically entitled to the Superannuation Guarantee Contribution, despite Councillors being paid the appropriate superannuation entitlements in other jurisdictions;
2. Note that in some jurisdictions, Councillors, Mayors and Lord Mayors have the option of "opting-in" to receive the Superannuation Guarantee Contribution only following the successful passing of a motion requiring same, allowing the issue to be politicised in council meetings.
3. Note that this sets a poor community standard and sends the wrong message to the community, given that superannuation should be a universal mandatory system to support all workers in Australia;
4. Notes this 'opt-in' model allows the politicisation of superannuation; and
5. Calls on the NSW Government to legislate for the compulsory payment of the Superannuation Guarantee Contribution for elected local government councillors and mayors.

BACKGROUND

Following an amendment to the Local Government Act 1993 (the Act) in 2021, councils may make payments as a contribution to a superannuation account nominated by their councillors.

The making of superannuation contribution payments for councillors is optional and is at each council's discretion.

To exercise the option of making superannuation contribution payments for their councillors, councils must first resolve at an open meeting to make superannuation contribution payments for the councillors.

Where a council resolves to make superannuation contribution payments for its councillors, the amount of the payment is to be the amount the council would have been required to contribute under the *Commonwealth Superannuation Guarantee (Administration) Act 1992* as superannuation if the councillors were employees of the council.

CITY OF NEWCASTLE, NSW

MOTION 8 - ACCELERATED DEVELOPMENT APPLICATION SYSTEM

That LGNSW:

1. Acknowledges the successful development, trial and roll-out of the new City of Newcastle Accelerated Development Application System, the implementation of which has the ability to reduce processing times for eligible development applications to within five to 15 days.
2. Notes that the Accelerated DA pathway presents an innovative approach to facilitating timely development outcomes, with some of the onus on the applicant to provide a quality submission that reduces the double-handling of information and speeds up the process, while still ensuring applicants are able to expect the same standard of professional review for each application seen by the assessment team.
3. Calls on the NSW Government to fund the state-wide adoption of the system to streamline and accelerate determinations of development applications across the local government sector.

BACKGROUND

City of Newcastle (CN), via the Regulatory, Planning and Assessment (RPA) team, has created and introduced the ADA System to streamline the determination of low-risk decision ready Development Applications (DAs).

The Accelerated DA System presents an innovative approach to facilitating timely development outcomes, with some of the onus on the applicant to provide a quality submission that reduces the double-handling of information and speeds up the process. It still ensures that applicants are able to expect the same standard of professional review for each application.

Only simple, decision ready and low risk DAs are eligible to be assessed under the ADA System. All other DAs are assessed and determined via CN's existing processes.

The ADA System provides three new lodgment pathways for simple, decision ready and low-risk DAs to be identified and determined, as outlined below:

- a. Authorised Consultant Pathway – 5-day determination timeframe.
- b. Lodgment Ready Pathway – 10-day determination timeframe.
- c. Well-made Pathway – 15-day determination timeframe.

A successful trial of the ADA System occurred between 12 May to 31 August 2022 with 89 low-risk DAs determined with an average processing time of 5.8 days. The ADA System formally launched on 1 October 2022.

CITY OF NEWCASTLE, NSW

MOTION 9 - COASTAL EROSION MITIGATION AND SAND REPLENISHMENT

That LGNSW:

1. Notes coastal erosion along the eastern seaboard has expedited over the last couple of years, with Stockton Beach in the City of Newcastle identified as one of the first coastal erosion hotspot.
2. Notes that action and funding are desperately needed for a long-term solution to Stockton's ongoing erosion issues, and others in the state, with City of Newcastle calling for action at Stockton for more than a decade.
3. Acknowledges the increasing frequency of significant weather events that cause erosion damage to beaches along the NSW coastline which will likely prompt local councils to include sand nourishment as a solution to managing coastal hazards as part of their individual Coastal Management Programs.
4. Calls on the NSW Government to plan strategically and develop a state-wide approach for a sustainable sand nourishment program to support Local Councils as they develop Coastal Management Programs under the NSW Government's coastal management framework.

BACKGROUND

Our coasts and beaches naturally move but their ability to continue to do so is affected by the natural and man-made facilities around them. This movement will be exacerbated under a climate change scenario with sea-level rise and increased storm severity and frequency significantly affect the character and our ability to utilise the coast. Adaptation responses will be needed in all coastal areas. Coastal Management Programs are the framework under which a long-term program of actions to adapt to immediate and future coastal changes are investigated, evaluated and delivered. The purpose being to set a sustainable, integrated and collaborative direction for environmental management, use and development across all coastal land tenure. They are costly to develop and deliver.

CITY OF NEWCASTLE, NSW**MOTION 10 - NSW AUDIT OFFICE & OWNERSHIP OF RURAL FIRE SERVICE ASSETS**

That LGNSW:

1. Notes the ongoing objections regarding the previous NSW Government's determination on ownership of Rural Fire Service assets;
2. Acknowledges the impact of the Government's position on council finances of this accounting treatment;
3. Calls on the newly elected NSW Government to take immediate action to permanently clear up inequities and inconsistencies around the accounting treatment of Rural Fire Service (RFS) assets by acknowledging that rural firefighting equipment is vested in, under the control of and the property of the RFS;
4. Calls on the NSW Government to amend s119 of the *Rural Fires Act 1997* so that the effect is to make it clear that RFS assets are not the property of councils; and
5. Continues advocating on behalf to affected councils to get clarification from the State Government about the accounting treatment of RFS assets.

BACKGROUND

The *Audit Office Local Government Report* has reinforced the notion that RFS mobile and other fire-fighting assets can somehow be deemed to be council assets and applies more pressure on councils and the Office of Local Government (OLG) to conform with this determination, even though councils do not have effective management or control of these assets.

Councils across the State and Local Government NSW (LGNSW) refute this determination. Councils do not have any say in the acquisition, deployment, or disposal of these assets. Comparable assets held by Fire & Rescue NSW (FRNSW) and the State Emergency Service (SES) are not vested anywhere other than with the organisations that purchase, use, maintain and dispose of them.

Councils and LGNSW have also raised concerns that the requirement breaches Australian Accounting Standards. The State Government's own *Local Government Accounting Code of Accounting Practice and Financial Reporting* provides for councils to determine whether to record RFS assets on their books as council assets. This position has been confirmed by the Secretary of the Department of Planning and Environment in his letter to the Auditor-General dated 7 June 2022, presented in Appendix 1 on page 47 of the 2021 Local Government Audit Report.

A more recent Audit Report has made further impositions on councils by:

- recommending Council undertakes a stocktake of RFS assets and records the value in Council's financial statements;

- warning that if Council does not recognise the assets, it will be found non-compliant and will have a high risk finding reported; and
- calling on the NSW Department of Planning and Environment (OLG) to intervene where councils do not recognise rural firefighting equipment.

CITY OF NEWCASTLE, NSW**MOTION 11 - ADOPTION OF LIVEABLE HOUSING DESIGN TO IMPROVE THE ADAPTABILITY AND ACCESSIBILITY OF NEW RESIDENTIAL DEVELOPMENT**

That LGNSW:

Part A: Calls upon the NSW Labor Government to:-

1. Adopt the Liveable Housing Design Standards (silver level) introduced into the National Construction Code in 2022, joining all states and territories (except WA) who have already adopted the new minimum standards.
2. Amend the 2023 NSW Land and Housing Corporation Design Requirements so that the Platinum Level Liveable Housing Design Guidelines are mandatory for all new social housing. This includes all public housing, community housing and housing owned or managed by the Aboriginal Housing Office.
3. Amend planning instruments and laws to mandate that all new build community housing and affordable housing, where the property owner benefits from any form of financial assistance or other benefit (such as height /FSR exemptions) provided directly or indirectly by the NSW government or a local council, must incorporate the Platinum Level Liveable Housing Guidelines.
4. Include in the 2023-24 Action Plan for the NSW Housing Strategy Housing 2041:
 - a. Targets to ensure that the implementation of the Platinum Level Liveable Housing Guidelines in new public, social and community housing, as well as affordable housing, occurs at the same time as the rollout of state and Commonwealth funding;
 - b. Support for local government in undertaking reviews of their DCP and introducing Platinum Level Liveable Housing Design Guidelines;
 - c. Promotion of government leadership in mandating the Platinum Level Liveable Housing Guidelines in public, social, community and affordable housing;
 - d. Development of a communication strategy which will explain the benefits of improved housing accessibility to the community and industry.

Part B: Writes to the Minister for Housing Rose Jackson MLC and the Minister for Planning Paul Scully MP, within 28 days.

BACKGROUND

In 2022 minimum requirements for liveable housing design were included by the Australian Building Codes Board in the National Construction Code (NCC). The purpose of the changes is to increase the stock of Australian housing that is adaptable and better able to meet the needs of older people and people with mobility limitations. It will support housing choice, aging in place and reduce the cost of future adaptations as people's needs change over time. The Liveable Housing Design Standard includes features that make a home easy to enter and move around such as step free entry and wider doorways/corridors and can be adapted to changing needs.

The National Construction Code Liveable Housing Design Standards apply to all Class 1a buildings – detached houses, row houses, terraces, townhouses and villa units and Class 2 buildings – the interior of apartments. Other parts of the NCC as well as the Access to Premises Standards apply to the common areas in Class 2 buildings.

All states and territories except NSW and WA have adopted the new minimum standards for Liveable Housing Design in the National Construction Code. It is essential that NSW join the majority of states and territories in adopting the NCC Liveable Housing Design Standards as a mandatory requirement as a first step in improving the availability of accessible housing.

The NSW Government can take steps to enable full participation and inclusion for people with a disability by mandating the platinum level Liveable Housing Design Guidelines in all new public, social and community housing and leveraging the contributions made by state and local government to ensure greater availability and improved accessibility across the community housing and affordable housing sector.

8.6. GRANTING OF TWO EASEMENTS – WALLSEND

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

PURPOSE

To grant easements on two City of Newcastle (CN) land parcels in Wallsend for infrastructure purposes.

RECOMMENDATION

That Council:

- 1 Approve the creation of an easement in favour of Ausgrid on a total area of 65.33m² of CN owned land (Lot 1 DP1223807 28 Tyrrell Street, Wallsend) as per **Attachment A**, for the relocation and ongoing maintenance of Ausgrid HV Electrical Services.
- 2 Approve the creation of an easement in favour of Ausgrid on a total area of 180m² of CN owned land (Lot 800 DP1131574 63-65 Nelson Street, Wallsend) as per **Attachment B**, for the relocation and ongoing maintenance of Ausgrid HV Electrical Services.
- 3 Grant authority to the Chief Executive Officer or his delegate to execute all relevant documentation to authorise the transactions.

KEY ISSUES

- 4 The granting of the easement on 28 Tyrrell Street Wallsend will allow the relocation of the existing HV Electrical Services, facilitating the Tyrrell Street Bridge replacement.
- 5 The granting of the easement on 63-65 Nelson Street Wallsend will allow the relocation of the existing HV Electrical Services, facilitating the Nelson Street Bridge replacement.

FINANCIAL IMPACT

- 6 As the two HV Electrical Services easements are a relocation for public purposes and to facilitate CN funded projects, no compensation for the easements is payable.

NEWCASTLE 2040 ALIGNMENT

- 7 Granting of the easements is consistent with the strategic directions of the Newcastle 2040 Community Strategic Plan (CSP).

Sustainable

2.1 Action on climate change

2.1.3 Resilient urban and natural areas.

IMPLEMENTATION PLAN/IMPLICATIONS

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

RISK ASSESSMENT AND MITIGATION

- 9 Nil.

RELATED PREVIOUS DECISIONS

- 10 Nil.

CONSULTATION

- 11 The Asset Advisory Committee was consulted on the granting of the easements on 17 August 2023.

BACKGROUND

- 12 Following the replacement of Tyrrell Street Bridge, existing HV Electrical Services are being relocated to outside of the zone designated for the future expansion of the Wallsend Channel at the Nelson Street Bridge and therefore enabling works for this expansion.
- 13 The HV Electrical Services were required to be to be relocated as part of the Tyrrell Street Bridge replacement for the future expansion of the Wallsend Channel to assist with the ongoing process of flood mitigation and renewal in Wallsend.

OPTIONS

Option 1

- 14 The recommendation as at Paragraphs 1 – 3. This is the recommended option.

Option 2

- 15 Council does not approve the creation of the easements. This is not the recommended option.

ATTACHMENTS

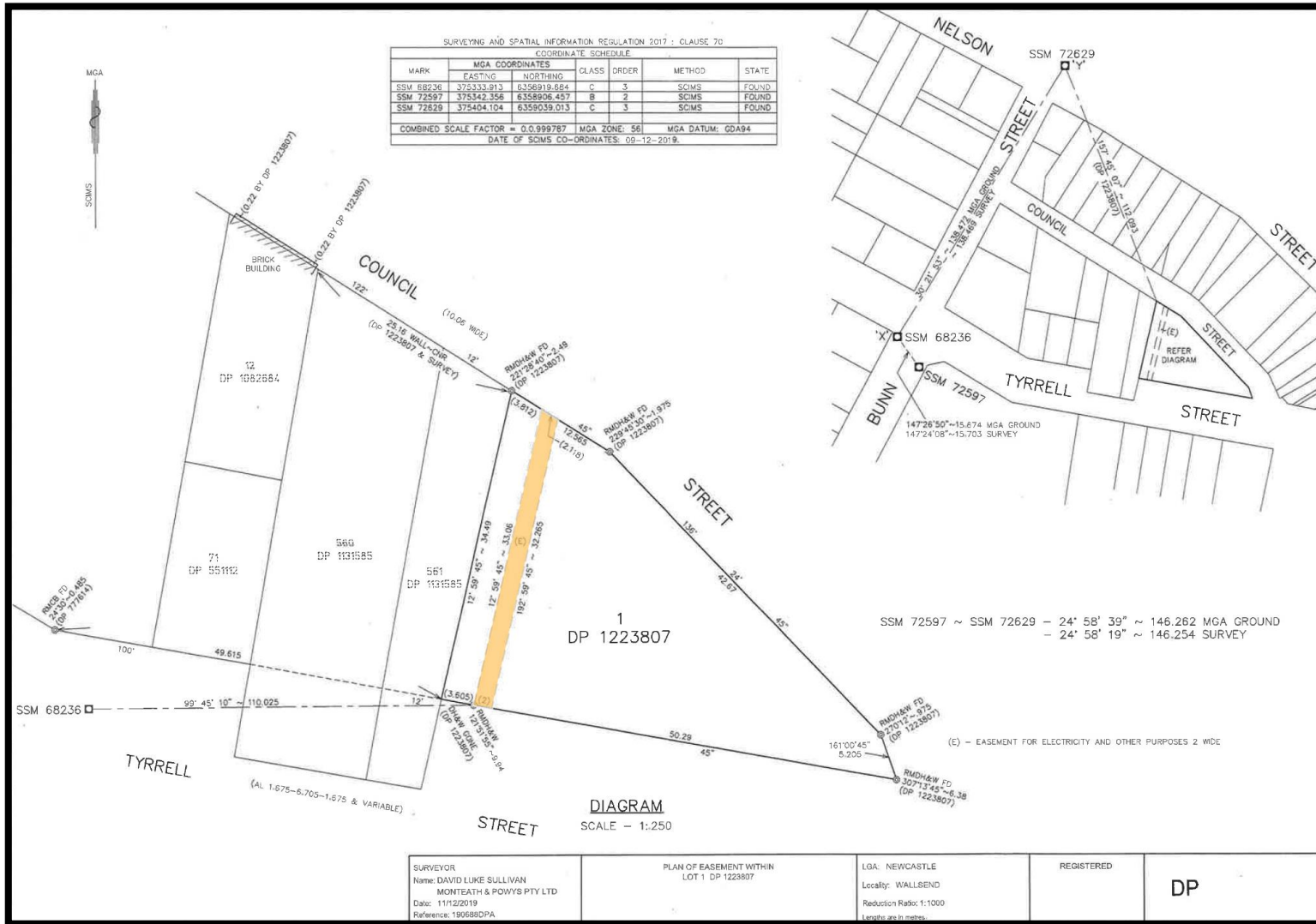
Attachment A:

28 Tyrrell Street Wallsend Proposed Easement

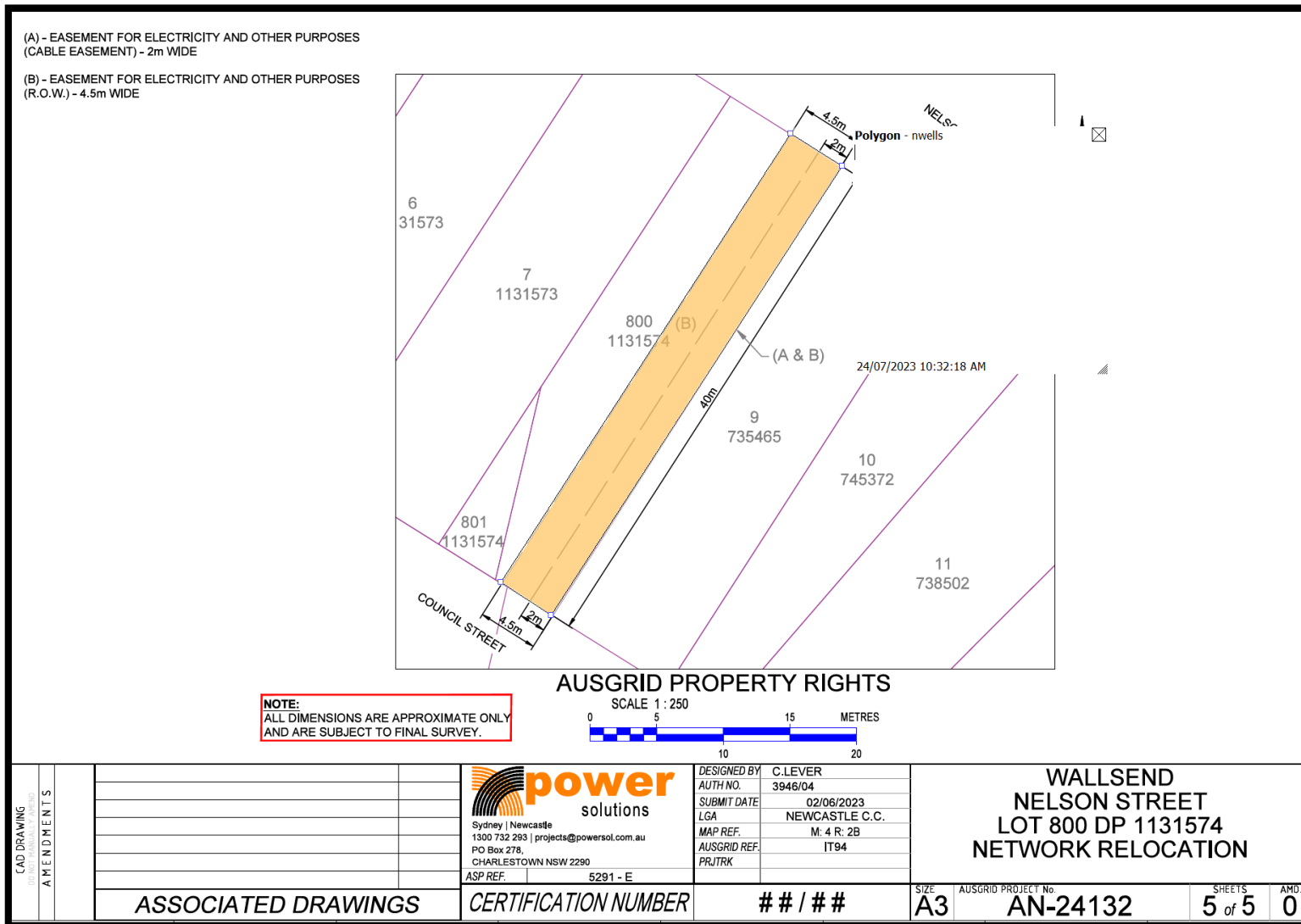
Attachment B:

63-65 Nelson Street Wallsend Proposed Easement

Attachment A: 28 Tyrrell Street Wallsend Proposed Easement



Attachment B: 63-65 Nelson Street Wallsend Proposed Easement



8.7. VARIATIONS TO DEVELOPMENT STANDARDS

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

PURPOSE

To report on development variations approved between 3 April 2023 and 30 June 2023.

RECOMMENDATION

That Council:

- 1 Receives the report on approved development variations between 3 April 2023 and 30 June 2023 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 19 Development Applications (DA) were determined between 3 April 2023 and 30 June 2023 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 3 April 2023 and 30 June 2023
10% or less	Under delegation	11
Greater than 10% or a variation to a non-numerical development standard	Council or where appropriate the Regional Planning Panel	8
Total		19

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

FINANCIAL IMPACT

- 6 Nil

NEWCASTLE 2040 ALIGNMENT

- 7 This report aligns with the following Newcastle 2040 strategic directions:

Liveable

1.1.1.1. Great spaces

1.1.2 Well-designed space

Achieving Together

4.2.3. Trusted customer experience

COMMUNITY STRATEGIC PLAN ALIGNMENT

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

Livable 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

- 9 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.
- 10 A report is tabled to Council quarterly detailing all approved applications with a development variation, in accordance with the requirements of the Secretary's concurrence.

RISK ASSESSMENT AND MITIGATION

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

RELATED PREVIOUS DECISIONS

- 12 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
23 August 2022	1 April 2022 to 30 June 2022
25 October 2022	1 July 2022 to 30 September 2022
28 February 2023	1 October 2022 to 31 December 2022
23 May 2023	1 January 2023 to 31 March 2023

CONSULTATION

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

BACKGROUND

- 15 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.
- 16 The planning system provides flexibility to allow these objectives to still be met by varying development standards in particular cases.

OPTIONS

Option 1

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

Option 2

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

REFERENCES

ATTACHMENTS

- Attachment A:** Report on all approved development variations between 3 April 2023 and 30 June 2023

ATTACHMENT A

DA reference number	Lot number	DP number	Street number	Street name	Suburb	Postcode	Category of development	Environmental planning instrument	Zoning of land	Development standard to be varied	Justification of variation	Extent of variation	Determination by	Date DA determined
DA2021/01548	1	199706	9	Wentworth Street	Wallsend	2287	CommFac	LEP2012	R2	Building Height	Not have unreasonable impact on amenity of the area	14.47%	Council	28/06/2023
DA2023/00191	8	37385	40	Helen Street	Merewether	2291	ResiSecOcc	LEP2012	R2	Floor Space Ratio	Compatible with streetscape (bulk, scale and mass)	5.8%	Council	27/06/2023
DA2022/00796	2	318434	132	Brunker Road	Adamstown	2289	Mixed	LEP2012	R4	Floor Space Ratio	Not have unreasonable impact on amenity of the area	9.68%	Council	22/06/2023
DA2022/01372	1	337059	1	Mary Street	Merewether	2291	ResiSecOcc	LEP2012	R2	Building Height	Achieves underlying objectives of height control	1.38%	Council	13/06/2023
DA2022/01372	1	337059	1	Mary Street	Merewether	2291	ResiSecOcc	LEP2012	R2	Floor Space Ratio	Achieves underlying objectives of FSR Control	6.9%	Council	13/06/2023
DA2022/01388	6	18569	148	Womboin Road	Lambton	2299	ResiSingle	LEP2012	R2	Floor Space Ratio	Compatible with streetscape (bulk, scale and mass)	1%	Council	13/06/2023
DA2022/01244	7	39212	63	Yule Road	Merewether	2291	ResiMulti	LEP2012	R2	Building Height	Not have unreasonable impact on	2%	Council	24/05/2023

											amenity of the area			
DA2022/01127	2	9520	53	Stevenson Place	Newcastle East	2300	ResiAltAdd	LEP2012	R3	Floor Space Ratio	Not have unreasonable impact on amenity of the area	39%	Council	18/05/2023
DA2022/01085	108	21085	30	Villa Road	Waratah West	2298	ResiAltAdd	LEP2012	R2	Building Height	Not have unreasonable impact on amenity of the area	20.9%	Council	11/05/2023
DA2022/01239	1	104831	38	Power Street	Islington	2296	ResiMulti	LEP2012	R3	Lot Size	Achieves desired future character for the area	58%	Council	10/05/2023
DA2022/00946	18	35833	14	Light Street	Bar Beach	2300	ResiSecOcc	LEP2012	R3	Building Height	Not have unreasonable impact on amenity of the area	7.2%	Council	2/05/2023
DA2022/01049	1	924899	14	Scott Street	Newcastle East	2300	ResiAltAdd	LEP2012	R3	Building Height	Not have unreasonable impact on amenity of the area	3%	Council	2/05/2023
DA2022/01049	1	924899	14	Scott Street	Newcastle East	2300	ResiAltAdd	LEP2012	R3	Floor Space Ratio	Not have unreasonable impact on amenity of the area	40%	Council	2/05/2023
DA2022/00998	56	39230	1	Lorraine Street	Merewether	2291	ResiAltAdd	LEP2012	R2	Building Height	Compatible with streetscape (bulk, scale and mass)	4.9%	Council	1/05/2023
DA2022/01033	93	236878	107	Princeton Avenue	Adamstown Heights	2289	ResiMulti	LEP2012	R2	Floor Space Ratio	Not have unreasonable impact on amenity of the area	6.7%	Council	11/04/2023

DA2022/ 01099	704 9	1122321	50	Howe Street	Lambton	2299	SubdivOnly	LEP2012	RE1	Lot Size	Consistent with the aims of Clause 4.1 of NLEP2012	93.3%	Council	6/04/2023
DA2022/ 01099	704 9	1122321	50	Howe Street	Lambton	2299	SubdivOnly	LEP2012	RE1	Lot Size	Consistent with the aims of Clause 4.1 of NLEP2012	98.5%	Council	6/04/2023
DA2022/ 00502	1	12197	67	Gipps Street	Carrington	2294	ResiAltAdd	LEP2012	R2	Floor Space Ratio	Compatible with streetscape (bulk, scale and mass)	54%	Council	4/04/2023
DA2022/ 00985	50	192689	73	Curry Street	Merewether	2291	ResiSingle	LEP2012	R2	Building Height	Not have unreasonable impact on amenity of the area	7.06%	Council	4/04/2023

8.8. TABLING OF REGISTER OF DISCLOSURES OF INTEREST 1 MAY TO 31 JULY 2023

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

PURPOSE

To table the Register of Disclosures of Interest (Register) for the period 1 May to 31 July 2023 received from designated persons in accordance with the Code of Conduct for Staff.

RECOMMENDATION

That Council:

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

KEY ISSUES

- 2 City of Newcastle's (CN) Code of Conduct for Staff requires designated persons to lodge a Disclosure within three months of becoming a designated person or of becoming aware of a new interest that must be disclosed. Designated persons include the Chief Executive Officer (CEO), senior staff, or other CN staff designated because of their exercise of CN functions.
- 3 The CEO is required to table all lodged Disclosures at the first Ordinary Council Meeting held after the lodgment date.

FINANCIAL IMPACT

- 4 There is no budget implication in noting the Register.

NEWCASTLE 2040 ALIGNMENT

- 5 The tabling of the Register is consistent with the strategic directions of the Newcastle 2040 Community Strategic Plan.

Achieving Together

4.2 Trust and Transparency

4.2.2 Shared information and celebration of success

IMPLEMENTATION PLAN/IMPLICATIONS

- 6 The CEO is required to keep a Register which may be accessed by the public in accordance with the Government Information (Public Access) Act 2009 (GIPA Act).

RISK ASSESSMENT AND MITIGATION

- 7 Disclosures of interest are a key control in mitigating the failure to appropriately disclose and manage conflicts of interest.

RELATED PREVIOUS DECISIONS

- 8 At the Ordinary Council Meeting held on 23 May 2023, Council noted the tabling of the Register for the period 1 February to 30 April 2023.

CONSULTATION

- 9 No consultation was required as this is a statutory process under the Code of Conduct for Staff.

BACKGROUND

- 10 Nil.

OPTIONS

Option 1

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

Option 2

- 12 Council does not adopt the recommendation. The Code of Conduct for Staff requires the Disclosures to be tabled at a Council meeting. Failure to do so would constitute a breach of the Code. This is not the recommended option.

REFERENCES

Codes of Conduct

<https://www.newcastle.nsw.gov.au/Council/Our-Responsibilities/Code-of-Conduct>

ATTACHMENTS

Attachment A - Register of Disclosures of Interest to be tabled.

8.9. DETERMINATION OF NUMBER OF COUNCILLORS

REPORT BY: CORPORATE SERVICES
CONTACT: EXECUTIVE DIRECTOR CORPORATE SERVICES AND CHIEF FINANCIAL OFFICER / EXECUTIVE MANAGER LEGAL & GOVERNANCE

PURPOSE

To determine the number of Councillors for the 2028-2032 term of office.

RECOMMENDATION

That Council:

- 1 Proposes that the number of Councillors for the 2028-2032 term of office be [insert number], one of whom is the Lord Mayor; and
- 2 Obtain approval for the proposed change at a constitutional referendum held in conjunction with the next election [only required if a change is proposed].

KEY ISSUES

- 3 Section 224 of the Local Government Act 1993 (Act) requires that:
 - (1) A council must have at least five and not more than 15 Councillors (one of whom is the mayor).
 - (2) Not less than 12 months before the next ordinary election, the council must determine the number, in accordance with subsection (1), of its Councillors for the following term of office.
 - (3) If the council proposes to change the number of Councillors, it must, before determining the number, obtain approval for the change at a constitutional referendum.
- 4 Previously councils including Newcastle City Council have typically determined the number of Councillors when a change to the system of representation was proposed.
- 5 Newcastle City Council last voted to hold a referendum in 1990 as part of a proposed change to a ward-based electoral system, which was ultimately supported and took effect from 1995.
- 6 The Office of Local Government previously issued a circular detailing the obligation to determine the number of Councillors at least 12 months before the ordinary election, which will be held in September 2024.

FINANCIAL IMPACT

- 7 The costs associated with Councillor fees is managed via the adoption of the annual operational budget.

- 8 A decision to change the number of Councillors would require a constitutional referendum.
- 9 The cost of the September 2024 Local Government election is currently estimated to be around \$1.2 million. A referendum held in conjunction with the election would increase the overall cost by approximately 15%.

NEWCASTLE 2040 ALIGNMENT

- 10 Determining the number of Councillors is consistent with the strategic directions of the Newcastle 2040 Community Strategic Plan.

Achieving Together

- 4.2 Trust and Transparency
 - 4.2.1 Genuine Engagement
 - 4.2.3 Trusted customer experience

IMPLEMENTATION PLAN/IMPLICATIONS

- 11 Any decision to change the number of Councillors would require a constitutional referendum. If a constitutional referendum was to be held, CN would engage NSW Electoral Commission for the purpose of administering the process, as part of the 2024 Local Government Election.

RISK ASSESSMENT AND MITIGATION

- 12 This resolution complies with requirements of section 224 of the Local Government Act 1993.

RELATED PREVIOUS DECISIONS

- 13 Nil.

CONSULTATION

- 14 Nil.

BACKGROUND

- 15 The current number of Councillors for the Newcastle Local Government area provides an equal number of Councillors, and therefore, even coverage per ward.
- 16 The most recent referendum occurred in 1991 when residents supported a proposed change to a ward-based electoral system. Prior to 1995, the Council consisted of eleven councillors elected by proportional representation as a single ward, as well as a directly-elected Lord Mayor. The then new system split Newcastle into four wards, with each ward electing three councillors. This remains the current electoral system.

- 17 The OLG has written to all councils in NSW advising of the obligations that they determine the number of councillors at least 12 months before an ordinary election.

OPTIONS

Option 1

- 18 The recommendation at paragraph 1.

8.10. EXECUTIVE MONTHLY PERFORMANCE REPORT

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

PURPOSE

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

- a) Monthly financial position and year to date (YTD) performance against the 2023/24 Operational Plan as at the end of July 2023.
- 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 July 2023.
- 2 Resolves to receive a report on new and matured investments within the Investment Policy Compliance Report for the single month only, as per legislative requirements.

KEY ISSUES

- 3 At the end of July 2023 the consolidated YTD actual operating position is a surplus of \$7.2m which represents a positive variance of \$3.7m against the budgeted YTD surplus of \$3.5m. This budget variance is due to a combination of income and expenditure variances which are detailed in **Attachment A**. The adopted budget for 2023/24 is a surplus of \$6.9m.
- 4 The net funds generated as at the end of July 2023 is a surplus of \$9.1m (after capital revenues, expenditure and loan principal repayments). This is a positive variance to the YTD budgeted position of \$5.8m. 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).
- 5 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**).
- 6 Clause 212 of the *Local Government (General) Regulation 2021* requires Council to be provided with a written report setting out details of all money that the has been invested under section 625 of the Act for the preceding calendar month.

Council receives this information within the Investment Policy Compliance Report each and every month.

- 7 The Investment Policy Compliance Report included in the Executive Monthly Performance Report includes a specific confirmation in regard to compliance with the Investment Policy.
- 8 The Council resolution from 1995 to include schedules of investments from the two previous meetings in the Investment Policy Compliance Report is duplication and no longer required. Single month only reporting is proposed to be provided from August 2023 onwards in line with legislative requirements.

FINANCIAL IMPACT

- 9 The variance between YTD budget and YTD actual results at the end of July 2023 is provided in the Executive Monthly Performance Report.

COMMUNITY STRATEGIC PLAN ALIGNMENT

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

Achieving Together

- 4.1.1 Financial sustainability

IMPLEMENTATION PLAN/IMPLICATIONS

- 11 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

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

RELATED PREVIOUS DECISIONS

- 13 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.
- 14 At the Ordinary Council Meeting held on 30 May 1995, Council adopted to receive the schedules of investments (new placements and maturities) from the two previous meetings of Council within the Compliance Report.

CONSULTATION

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

BACKGROUND

- 16 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

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

Option 2

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

ATTACHMENTS

Attachment A: Executive Monthly Performance Report – July 2023

Attachment A distributed under separate cover

9. NOTICES OF MOTION

9.1. CCTV AND CITY OF NEWCASTLE SPORTS FACILITIES

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

PURPOSE

The following Notice of Motion was received on 13 August 2023 from the abovementioned Councillor(s).

MOTION

That City of Newcastle

1. Reiterates its support for sporting clubs to install CCTV systems to protect their own assets, provided they are self-funded or supported by state or federal government grants. This support requires the standard approvals for club initiated capital works (including wiring, mounting, and lighting changes) on a CN owned building.
2. Notes recent case studies in local media where CCTV units were installed on sporting club buildings, but this did not prevent vandalism or theft and (to date) has not led to an arrest.
3. Supports our substantial investment in prevention measures, including building design, sandstone blocks and bollards, to deter vandalism of public spaces. This investment has been welcomed by many sporting groups across the City.
4. Notes that all NSW Councils are subject to State Government guidelines regarding CCTV, which states that “CCTV can be effective in reducing crime if it is part of a broader crime prevention and community safety strategy. CCTV is not recommended as an isolated response to addressing crime in public spaces”.
www.crimeprevention.nsw.gov.au/Documents/Councils-Publications/CCTV_guidelines.pdf
5. As a result of the NSW Government guidelines, notes that City of Newcastle’s position is near identical to that of neighbouring councils in Lake Macquarie, Maitland and Port Stephens.
6. Write to NSW Minister for Police and Minister for the Hunter, Yasmin Catley MP, noting that the Newcastle LGA has been systematically excluded from state government CCTV funding (alongside other grants) over the past 12 years.
7. Include a summary of CN’s existing approach to CCTV and support for self-funded units during the upcoming Sport Summit being held in September 2023.

BACKGROUND

- City of Newcastle supports the installation of CCTV to protect assets of sporting clubs and other community organisations as part of a multifaceted approach that must include crime prevention through design and cooperation with police local areas commands.
- During the past two years City of Newcastle has spent \$270,000 on the installation of fencing and sandstone blocks to prevent field damage at many of the City's sporting grounds.
- NSW Government's Community and Small Business CCTV Fund allowed for Closed Circuit TV packages of up to \$5000, however for at least the past four years Newcastle was yet again excluded from this NSW Government grant.
<https://www.crimeprevention.nsw.gov.au/cctvfund>
- CN staff have reaffirmed our position stating that all sporting organisations and community groups can self fund the installation of CCTV for asset protection. Our next sports forum is due to be held in early September and it may be helpful to sporting clubs if an explanation of our CCTV policy is included on the agenda.
- City of Newcastle has worked with all sporting codes, through the CN Sports Infrastructure Working Party, to discuss at length what is required for the protection of our Sporting Facilities including costings related to protection of fields and will work with all organisations who apply for funding to help expedite this work.

ATTACHMENTS

Nil