

Ordinary Council Meeting



DATE: Tuesday 26 September 2023

TIME: 6:00pm

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

15 September 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 22 AUGUST 2023	3
7. LORD MAYORAL MINUTE	18
8. REPORTS	18
8.1. EXHIBITION OF OUTDOOR TRADING POLICY	18
8.2. EXHIBITION OF DRAFT NEWCASTLE DEVELOPMENT CONTROL PLAN 2023	22
8.3. PROPOSED GRANTING OF RIGHT OF CARRIAGEWAY EASEMENT OVER OPERATIONAL LAND - 45 LOOKOUT ROAD NEW LAMBTON HEIGHTS ..	30
8.4. CHANGE TO 2023 ADOPTED MEETING SCHEDULE	36
8.5. EXECUTIVE MONTHLY PERFORMANCE REPORT	39
8.6. TENDER REPORT – NEWCASTLE OCEAN BATHS UPGRADE STAGE 2 - PRINCIPLE DESIGN CONSULTANT - CONTRACT NO. 2023/163T	42
9. NOTICES OF MOTION	49
9.1. BUSKING POLICY	49
9.2. BEAUMONT STREET - MOCKINGBIRD OUTDOOR DINING REFUSAL.....	53
9.2.1. REPORT ON NOTICE OF MOTION – NOM 26/09/23 – BEAUMONT STREET - MOCKINGBIRD OUTDOOR DINING REFUSAL.....	57
10. CONFIDENTIAL REPORTS	57
10.1. NEWCASTLE AND TECHNOLOGY ONE - PROPOSED NEW SAAS AGREEMENT	57

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

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

6. CONFIRMATION OF MINUTES

6.1. MINUTES - ORDINARY COUNCIL MEETING 22 AUGUST 2023

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 230822 Ordinary Council Meeting Minutes

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

Minutes

Ordinary Council Meeting



Council Chamber, Level 1, City Administration Centre, 12 Stewart Avenue, Newcastle West, Tuesday, 22 August 2023 at 6:00pm.

1. ATTENDANCE

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

J Bath (Chief Executive Officer), D Clarke (Executive Director Corporate Services and CFO), D Manderson (Acting Executive Director City Infrastructure), M Bisson (Executive Director Planning and Environment), A Jones (Executive Director Creative and Community Services), E Kolatchew (Executive Manager Legal and Governance), S Moore (Executive Manager Finance, Property and Performance), R Dudgeon (Executive Manager Project Management Office), N Kaiser (Interim Executive Manager Media Engagement Economy and Corporate Affairs), J Baker (Governance Manager), M Meehan (Senior Media Adviser), K Sullivan (Councillor Services/Minutes/Meeting Support), W Haddock (AV/Information Technology Support) and C Urquhart (Information Technology Support).

2. ACKNOWLEDGEMENT OF COUNTRY

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

3. PRAYER

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

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

MOTION

Moved by Cr Mackenzie, seconded by Cr Adamczyk

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

Carried

Nil requests to attend via audio visual link.

5. DISCLOSURES OF INTEREST

Councillor Wood

Councillor Wood declared a non-pecuniary non-significant interest in Item 8.5 - Endorsement of Motions for Submission to 2023 Local Government Conference - Motion 1 - NSW Carer's Strategy Action Plan, stating that she undertook volunteer work for Carers Australia.

6. CONFIRMATION OF MINUTES

6.1. MINUTES - ORDINARY COUNCIL MEETING 25 JULY 2023

MOTION

Moved by Cr Duncan, seconded by Cr Barrie

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

**Carried
unanimously**

7. LORD MAYORAL MINUTE

7.1. CITY OF NEWCASTLE SENIORS REFERENCE GROUP

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Creates a Seniors Reference Group, whose Chairperson and members will be senior representatives of the Newcastle LGA, tasked with overseeing, organising and facilitating a range of events and activities that support the health and wellbeing of senior residents in our community.
2. Notes the Group will work in partnership with CN, community groups, organisations and businesses to deliver activities that provide:
 - a) Lifelong learning and wellbeing
 - b) Social connection opportunities
 - c) Information
 - d) Entertainment.
3. Notes the main focus of the Group will be the development of CN's Seniors Week Program.
4. Notes the next NSW Seniors Festival will be held from 11-24 March 2024 which celebrates the role and contributions of older adults to our local community.

Councillor Adamczyk proposed an additional point five to the motion.

5. Notes the important findings of the Australian Government's *2023 Intergenerational Report* due to be released on Thursday, outlining the needs and opportunities for

our ageing population, including the more than 38,000 people over 60 living in our City.

The Lord Mayor accepted Councillor Adamczyk's additional point to the motion.

The motion moved by the Lord Mayor, as amended by Councillor Adamczyk, was put to the meeting.

**Carried
unanimously**

7.2. 50TH ANNIVERSARY OF THE END OF THE WAR IN VIETNAM

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Acknowledges 18 August 2023 marked the 50th Anniversary of the end of Australia's involvement in the War in Vietnam.
2. Recognises the immense suffering endured by Australia's service men and women, as well as by the Vietnamese people, both during and the decades since the end of the conflict, leaving an indelible mark on countless lives both physically and psychologically that persist to this day.
3. Notes that Newcastle, like many communities across Australia, witnessed the involvement of its residents in the conflict, with many brave individuals from our city serving in the Australian armed forces and contributing to the war effort.
4. Acknowledges that Greater Newcastle based Vietnam Veterans have always been at the forefront of advocating for their fellow veterans – that from a small gathering of about a dozen Veterans at the Gallipoli Legion Club in 1972, the Newcastle Vietnam Veterans Association was formed and after an amalgamation with the Vietnam Veterans Federation of Australia has grown to a total membership in excess of 800, has attained national recognition with the Ex-service Organisations with many achievements realised by the Newcastle Vietnam Veterans over the past 50 years.
5. Acknowledges that Newcastle was one of the first communities in the country to recognise Vietnam Veterans, through the dedication of a small memorial plaque in the early 1980s, in the south east corner of Civic Park, which is reported to be the first memorial in Australia to the Vietnam Conflict.

6. Notes this motion seeks to honour the sacrifices made by the 60,000 Australian service men and women who were sent to the battlefields of Vietnam, and who displayed courage, resilience, and dedication in the face of adversity, and acknowledges those who made the ultimate sacrifice.

**Carried
unanimously**

7.3. TWO YEAR ANNIVERSARY OF THE FALL OF KABUL

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Acknowledges 15 August 2023 as the two-year anniversary of the fall of Kabul and the subsequent events that have unfolded.
2. Expresses its deep concern for the well-being and safety of all individuals impacted by the events in Kabul and throughout Afghanistan.
3. Recognises the importance of continued efforts by the international community to provide humanitarian aid, support, and assistance to the people of Afghanistan during these challenging times.
4. Calls upon national and international leaders to prioritise diplomacy, cooperation, and peaceful solutions in addressing the complex issues facing Afghanistan.
5. Commends the efforts of local organisations, charities, and individuals who have been working tirelessly to provide aid, support, and refuge to those affected by the events in Afghanistan.
6. Encourages the citizens of Newcastle to foster an environment of empathy, inclusivity, and understanding, welcoming Afghan refugees and contributing to their successful integration into our community.
7. Reiterates its commitment to being a city that values diversity, human rights, and the well-being of all its residents, regardless of their background or place of origin.
8. Resolves that a copy of this Notice of Motion and subsequent resolution be forwarded to Australia's Minister for Foreign Affairs, Senator the Honourable Penny Wong, UNHCR Australia, and representatives of the Afghan community in Newcastle as a gesture of our support and solidarity.

Carried

7.4. CONGRATULATIONS MATILDAS

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Congratulates the Matildas, the Australian Women's Football Squad, on their remarkable success in the 2023 FIFA Women's World Cup, having not only brought glory to our nation but have also inspired countless individuals of all ages and all genders, but in particular women and girls, with their exceptional performance and dedication to the sport.
2. Notes the FIFA Women's World Cup is a global stage that showcases the highest level of women's football talent from around the world.
3. Recognise the Matildas contribution in promoting women's sport and inspiring future generations after showcasing their skills but also highlighted their sportsmanship and resilience.
4. Notes the Matildas are the first Australian team to reach the quarter final level at any World Cup. Their efforts have resonated with people of all ages, reinforcing the importance of promoting gender equality and inclusivity in sports.
5. Reiterates that it has always been a proud supporter of sports and athletes who exemplify dedication, teamwork, and perseverance and as such, it is only fitting that we extend our heartfelt congratulations and appreciation to the Matildas for their outstanding achievements.
6. Thanks CN staff for their great work supporting the Live Sites which were incredibly successful in activating Wheeler Place and allowing Novocastrians the opportunity to show their love for women's football, women's sport, and their community spirit.
7. Congratulates Matildas members and Novocastrians Emily Van Egmond and Claire Wheeler for their efforts during the tournament and acknowledges that Emily was today awarded a Key to the City of Newcastle in recognition of her efforts both on and off the pitch – we look forward to also acknowledging Claire's contribution at a future date.

Councillor McCabe proposed an additional point eight to the motion:

8. That City of Newcastle recognises the Afghan women's soccer team that is living in exile in Australia and calls on FIFA to also recognise their team.

Background article : [FIFA won't recognise them. So this team can only watch on during the Women's World Cup](#)

The Lord Mayor accepted Councillor McCabe's additional point to the motion.

The motion moved by the Lord Mayor, as amended by Councillor McCabe, was put to the meeting.

Carried

8. REPORTS

8.2. ADOPTION OF COMMUNITY INFRASTRUCTURE INCENTIVES IN WICKHAM PLANNING PROPOSAL

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

- 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**).

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

Against the Motion: Nil.

Carried

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

MOTION

Moved by Cr Mackenzie, seconded by Cr Wark

That Council:

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

Carried

8.6. GRANTING OF TWO EASEMENTS – WALLSEND

MOTION

Moved by Cr Adamczyk, seconded by Cr Barrie

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.

**Carried
unanimously**

8.7. VARIATIONS TO DEVELOPMENT STANDARDS

MOTION

Moved by Cr Mackenzie, seconded by Cr McCabe

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).

**Carried
unanimously**

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

MOTION

Moved by Cr McCabe, seconded by Cr Wark

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.

**Carried
unanimously**

8.10. EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

- 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.

**Carried
unanimously**

8.1. ADOPTION OF COMMUNITY ENGAGEMENT STRATEGY

MOTION

Moved by Cr Wood, seconded by Cr Mackenzie

That Council:

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

**Carried
unanimously**

8.4. ADOPTION OF DARBY STREET REVISED TRAFFIC CALMING DESIGNS

MOTION

Moved by Cr Richardson, seconded by Cr Clausen

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**.

The Lord Mayor expressed concerns around the 'claim the lane' principle and stated that while she gave tacit approval in support of Council, she requested the design be referred to the Cycling Working Party to review from a safety perspective and prior to implementation.

The mover and seconder of the motion agreed to include the Lord Mayor's request.

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

**Carried
unanimously**

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

MOTION

Moved by Cr Adamczyk, seconded by Cr Wood

That Council:

- 1 Endorse the motions for submission to the Local Government New South Wales 2023 Annual Conference as set out at **Attachment A** with the following amendments to Motions 1, 3, 5, 11 and insertion of a new Motion 12:

MOTION 1 – NSW Carer's Strategy Action Plan

That LGNSW:

Recognises the valuable social and economic contribution that carers make to the community, acknowledges the diverse needs of carers and calls upon the NSW Government to:

1. Review the NSW Carers (Recognition) Act upon the conclusion of the parliamentary inquiry into the Commonwealth Carers (Recognition) Act.
2. Work with LGNSW to improve local government commitment to carers by:
 - (a) Educating councils about their obligations under the NSW Carers (Recognition) Act.
 - (b) Funding inclusion, equity and diversity initiatives in councils to better support working carers in the provision of flexible work arrangements, executive champions, employee carer networks and information about leave provisions and external resources.
 - (c) Assisting councils to develop data about employees who identify as carers.
 - (d) Developing evidence-based actions and measurable outcomes in the next Carer Strategy Action Plan.
3. Work with their federal, state and territory counterparts on a new National Carers Strategy which identifies priorities and actions and mandates measurable outcomes and support the creation of a National Carer Advisory Council.

MOTION 3 – Co-Funding for Aerial Bundled Cabling

Update to be consistent with Council's resolution of 22 November 2022 on Co-Funding for Aerial Bundled Cabling.

MOTION 5 – Addressing Problem Gambling and Money Laundering

Remove from submission.

MOTION 11 – Adoption of Liveable Housing Design to Improve the Adaptability and Accessibility of New Residential Development

Add 'Federal Government' next to State Government in paragraph three.

MOTION 12 – Affordable and Social Housing

That LGNSW:

1. Reiterates City of Newcastle's adopted social public and affordable housing targets of 30% on government-owned land and 15% affordable housing on privately-owned land.
2. Notes with concern thousands of affordable dwellings to be lost in cities by the end of 2026, including 187 in Newcastle, as they leave the National

- Rental Affordability Scheme (NRAS) rather than being secured in perpetuity as affordable housing.
3. Reiterates the proactive approach to delivering affordable housing taken by Councils across NSW since 1996 (through LEPs, Planning Agreements and SEPPs) via developer contributions, and with and without compensatory floor space, uplift or rezoning.
 4. Calls on the New South Wales Government to establish an agency to oversee a collaborative approach between the State Government, Councils, CHIA, and CHPs, to provide for thousands of people across NSW without safe, secure and affordable housing; and to:
 - a. Implement effective and equitable programs to fund and plan provision of new social (public, and affordable) housing and provide the necessary infrastructures to support increased dwellings,
 - b. Improve outcomes for affordable housing provision beyond existing local planning controls and developer community infrastructure contributions schemes,
 - c. Improve outcomes beyond existing local developer affordable housing contributions schemes and mechanisms,
 - d. Develop clear definitions of affordable, public, social, and community housing,
 - e. Ensure no further privatisation of public housing and/or crown land,
 - f. Ensure affordable housing is held in perpetuity; by not-for-profit Community Housing Provider, or in public operation and ownership, and
 - g. Ensure all new public and affordable housing delivers on local community and planning expectations.

BACKGROUND:

With a need for more than 7,000 social and affordable dwellings to be built by 2041 (Attachment A), in 2023 Newcastle is in the top ten Local Government Areas in NSW with the 'highest housing need', with 70% of low-income households experiencing rental stress, many more on low-moderate incomes experiencing rental stress, and 1911 people waiting up to 10 years for social housing (Attachment B). This is not unique.

Since at least 1996, Councils have been protective in seeking solutions to care for their populations, adopting social and affordable housing targets, and putting in place mechanisms to deliver affordable housing via developer contributions (through LEPs, Planning Agreements and SEPPs), and with and without compensatory floor space, uplift or rezoning. The elected Council at the City of Newcastle has taken leadership in seeking a national solution to adequately fund, regulate, and provision affordable and social housing, including most recently in a unanimously supported resolution to the National Assembly of Local Governments at ALGA 2023, the declaration of a housing affordability crisis in the City in 2021 (Attachment C), and action to fast track more affordable housing in the city via collaborative partnerships with community and government, with projects already completed in Wickham (Attachment D), and to fast track more public housing in the city via an MOU with LAHC with projects completed in

Waratah West (Attachment E), and under construction in Wallsend (Attachment F), and mapping available sites for public or affordable housing.

Federal and State governments are starting to respond; e.g. via the *Social Housing Accelerator* payment to State Governments to deliver additional public dwellings, the *National Housing Accord*. In any changed planning pathways for social and affordable housing, achieving local expectations for planning (e.g. public benefit, residential amenity, sustainability, and accessibility) with projects deemed to fall under State consent should be prioritised. For example, LAHC projects in the city in 2022 consented under SEPP (Housing) under did not deliver on the City's expressed expectations and controls to achieve amenity, accessibility, and sustainability. Similar reform Part 3A was scrapped in 2011.

With a collaborative approach, with the community housing sector, and local governments, these actions have the promise to accelerate the delivery of additional social and affordable housing in the City in response to the housing crisis; to deliver this desperately needed public infrastructure for significant parts of our populations, in a way that demands housing is built that meets accessibility and sustainability requirements, and ensures our cities and towns remain accessible and liveable.

Attachment A: [City of Newcastle Local Housing Strategy 2021](#)

Attachment B: [New South Wales Regional Housing Need Report, February 2023](#)

Attachment C: [City of Newcastle Lord Mayor Minute 27 July 2021 - Strategies to ameliorate the conditions of those in homelessness in Newcastle](#)

Attachment D: [Compass Housing 22 April 2021 - Social and Affordable Housing Wickham](#)

Attachment E: [Eight new social housing dwellings complete in Stannett Street at Waratah West, Newcastle Herald 23 January 2023](#)

Attachment F: [City of Newcastle Media Release 26 May 2022 - CN working in close partnership with LAHC to fast-track projects in Waratah West and Wallsend](#)

**Carried
unanimously**

8.9. DETERMINATION OF NUMBER OF COUNCILLORS

MOTION

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

PART A

That City of Newcastle:

1. Acknowledges the many well documented financial and legislative impediments currently facing the local government sector across NSW.
1. Notes that the process of a constitutional referendum for determining the number of councillors to be elected during a term of office in a local government area is

outdated and unfairly places a considerable financial impost on councils. Central Coast Council incurred a cost of \$1.775 million to hold its 2021 referendum.

2. Notes the urgent need for genuine reform of the administration and financial modelling of local government following decades of state government cost-shifting, under resourcing, rate-capping, asset and services transfers, forced amalgamations, transfer of decision-making powers from elected councillors to the administration, and removal of planning powers, to name a few significant issues.
3. Notes that the Act is now 30 years old, and in need of review. Calls on the State Government to provide genuine reform of local government through full collaborative review of the *Local Government Act 1993*, in consultation with LGNSW, the USU and the local government sector, including progressive reforms such as the QLD local government model.
4. Acknowledges the instrumental role played by metropolitan, regional, and rural councils in servicing our communities, whether it be strategic or land-use planning, managing community assets, open spaces, our state's local and regional road network, implementing environmental initiatives, looking after our libraries or processing our waste. The needs of each community are different and not currently reflected in the Act, in terms of both governance and funding.
5. Supports changes to the Act that redress the imbalance created in 1993 by restoring functions to elected officials in metropolitan, regional, and rural contexts.

PART B

That this motion be submitted to the 2023 Local Government NSW Conference.

**Carried
unanimously**

9. NOTICES OF MOTION

9.1. CCTV AND CITY OF NEWCASTLE SPORTS FACILITIES

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Adamczyk

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.

**Carried
unanimously**

10. CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Cr Mackenzie, seconded by Cr Duncan

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

Council resolved into confidential session at 7.32pm.

Council resolved into open session at 7.37pm and the Chief Executive Officer reported the outcomes of confidential session.

10.1. LEGAL ACTION TO RECOVER OVERDUE RATES AND CHARGES

MOTION

Moved by Cr Mackenzie, seconded by Cr Duncan

That Council:

- 1 Authorises the Chief Executive Officer to provide instructions to City of Newcastle's (CN's) legal representatives to commence legal proceedings detailed in the body of this Council report.

- 2 The confidential attachment 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**

10.2. ACQUISITION OF LAND – SUMMERHILL WASTE MANAGEMENT CENTRE SOUTHERN ACCESS ROAD

MOTION

Moved by Cr Richardson, seconded by Cr Adamczyk

That Council:

- 1 Authorises the CEO or their delegate to issue a Letter of Commencement to commence negotiations in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (Act), with all affected private landowners for the acquisition of the required Land.
- 2 Authorise the CEO or their delegate to commence negotiations under the *Roads Act 1993 and Local Government Act 1993* with the affected road authorities, Transport for NSW (TfNSW) and Lake Macquarie City Council (LMCC) for the closure and acquisition of the required road reserve.
- 3 Authorises the CEO to agree in principle to terms during negotiations.
- 4 Requests a report back to Council on the agreed position or otherwise for a Council resolution to acquire the required land.
- 5 Note this confidential report relating to the matters specified in s10A(2)(c) of the *Local Government Act 1993* be treated as confidential and remain confidential until the CEO determines otherwise.

**Carried
unanimously**

The meeting concluded at 7.39pm.

7. LORD MAYORAL MINUTE

To be tabled at the meeting.

8. REPORTS

8.1. EXHIBITION OF OUTDOOR TRADING POLICY

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

PURPOSE

To exhibit the Draft Outdoor Dining Policy 2023 (Draft Policy) and Draft Outdoor Dining Guidelines 2023 (Draft Guidelines).

RECOMMENDATION

That Council:

- 1 Endorses Draft Outdoor Dining Policy 2023 and Draft Outdoor Dining Guidelines 2023 as at **Attachment A and B** for public exhibition.
- 2 Endorse the public exhibition of the proposed annual fee for permanent fixtures in the public footway.
- 3 Receives a post-exhibition report on submissions to Draft Outdoor Dining Policy 2023 and Draft Outdoor Dining Guidelines 2023.

KEY ISSUES AND BACKGROUND

- 4 Applications for outdoor dining and trading in the Newcastle Local Government Area (LGA) are currently assessed in accordance with CN's Outdoor Trading Policy 2020. The Policy is due for review.
- 5 In October 2020 the NSW Government announced an Alfresco Restart Package as part of the NSW COVID 19 economic recovery. This included an outdoor dining trial to support local venues and boost the economy. The trial ended on 31 October 2021.
- 6 The State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) was subsequently amended to extend the exempt development pathway provisions, to allow outdoor dining for cafes, restaurants, small bars and pubs to occur without the need for development consent.

- 7 The amendment to the Codes SEPP facilitated a streamlined approval process for outdoor dining in appropriate locations (footpaths and roads), provided that the venues operate in accordance with any required approvals under the *Roads Act 1993* and the *Local Government Act 1993*.
- 8 The Outdoor Trading Policy 2020 is proposed to be replaced with the Draft Policy and Draft Guidelines to ensure consistency with the amended planning and legislative framework with outdoor dining and to ensure that CN's procedures are reflective of best practice.
- 9 The Policy provides the framework for the establishment and operation of outdoor dining and associated approvals. The objectives of the Policy are to provide requirements and guidelines for outdoor dining.
- 10 The Guidelines provide additional information on the requirements for outdoor dining in a footway and the responsibilities of an approval holder in terms of maintaining and enhancing the local character, heritage, ambience and safety of the public domain. The Guidelines specify location and layout considerations for outdoor dining and the objectives are devised to meet the intent of the Policy which are to retain accessibility and utility of outdoor public spaces, achieve safety of all road uses and diners and maintain the amenity of the public domain and neighbourhood.
- 11 The Guidelines have considered the model NSW Outdoor Dining Policy and User Guide 2019 prepared by the NSW Small Business Commissioner. The model requires furniture to be removed after hours and stored inside the premises. Research by CN was conducted on 13 other local government areas and all councils require furniture to be removed daily with no permanent fixtures being allowed. The exception is Byron Bay Council which allows picnic tables near general stores outside the CBD, but furniture in other areas of the LGA is to be removed after trading hours.
- 12 The Guidelines require the removal of furniture at the closure of trading hours and the secure storage of furniture within at the business premises. Objects that are left on the footway, outside the venue, after the approved operating times of the outdoor dining area, are regarded as 'Permanent Furniture and Objects' and a separate approval is required under section 126 of the *Roads Act 1993* for permanent structures.
- 13 An annual fee is proposed for the placement and retainment of permanent structures in the footway. The fees will be included in CN's Fees and Charges 2024-2025. As the Fees and Charges 2023-2024 has already been adopted by Council it is proposed to introduce an annual fee of \$7,000 (prorated) per application for the placement of permanent fixtures in the public footway for any renewal permits or new applications that are lodged between the date of adoption of the Draft Policy and Draft Guidelines and adoption of the Fees and Charges 2024-2025. This fee will also include CN's costs for the assessment, inspections and administration costs of the application, as well as defray the nil cost charged to businesses that remove their furniture from the footway at the close of trading

hours. An additional bond amount may be required and will be assessed on merit and will depend on the location and the requirements for installation.

- 14 It is proposed that CN continue to waive fees associated with outdoor dining permits for those venues that remove their furniture from the footway at the close of trading hours.
- 15 Prior to adoption of the new Policy, assessment of Outdoor Dining Applications will be in accordance with the existing Policy but will also consider the requirements of the Draft Policy and Draft Guidelines.

FINANCIAL IMPACT

- 16 The costs to exhibit the Draft Outdoor Dining Policy and Draft Guidelines are met under the operational budget.

NEWCASTLE 2040 ALIGNMENT

- 17 The Draft Policy and Draft Guidelines are consistent with the strategic directions of the Newcastle 2040 Strategic Plan.

Liveable

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

Creative

- 3.1.3 Tourism and visitor economy
- 3.1.4 Vibrant night-time economy

IMPLEMENTATION PLAN/IMPLICATIONS

- 18 Adopted Council policies are published on CN's website. If the Draft Policy and Draft Guidelines are adopted after exhibition, the Outdoor Trading Policy 2020 will be repealed.

RISK ASSESSMENT AND MITIGATION

- 19 The Policy and Guidelines are consistent with the amendments made to the outdoor dining framework that the NSW Government introduced to streamline applications for outdoor dining and encourage activation of the public domain.

RELATED PREVIOUS DECISIONS

- 20 At the Ordinary Council Meeting held on 26 October 2021, a Lord Mayoral Minute was moved to support alfresco dining in Newcastle.
- 21 At the Ordinary Council Meeting held on 25 February 2020, the current Outdoor Trading Policy was adopted by Council.

CONSULTATION

- 22 Subject to Council's endorsement, the Draft Policy and Draft Guidelines will be exhibited for 28 days. Feedback received during the exhibition period will be considered and reported to Council.
- 23 The NSW Police will be consulted when the Draft Policy and Draft Guidelines are on exhibition.

OPTIONS

Option 1

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

Option 2

- 25 Council resolves not to adopt the recommendation. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: Draft Outdoor Dining Policy

Attachment B: Draft Outdoor Dining Guidelines

Attachment A – B distributed under separate cover

8.2. EXHIBITION OF DRAFT NEWCASTLE DEVELOPMENT CONTROL PLAN 2023

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

PURPOSE

To exhibit the Draft Newcastle Development Control Plan 2023 (NDCP 2023).

RECOMMENDATION

That Council:

- 1 Endorses Draft NDCP 2023 for public exhibition (**Attachment A**).
- 2 Receives a post-exhibition report on submissions to Draft NDCP 2023.

KEY ISSUES

- 3 The Newcastle Development Control Plan 2012 (NDCP 2012) guides development for the Newcastle local government area (LGA), supporting the Newcastle Local Environmental Plan 2012 (NLEP 2012).
- 4 A comprehensive review has been undertaken of NDCP 2012 to update development controls, to ensure they reflect best practice guidelines, adopted land use strategies, and City of Newcastle (CN) priorities.
- 5 Once adopted, NDCP 2023, will supersede NDCP 2012.

NDCP 2023 Structure and usability

- 6 NDCP 2023 incorporates a new structure aimed at making it easier for the general public to use.
- 7 NDCP 2023 includes an introduction on how to use it (Part A). Each section includes an introduction, objectives and controls. The objectives relate to a specific item or outcome. The controls are performance-based, providing alternative solutions where appropriate and where there is more than one solution. New explanatory notes and submission requirements improve clarity and the intent of requirements, and ensure the correct information, plans and supporting studies or assessments are submitted.
- 8 NDCP 2023 contains parts and sections. Initial planning considerations are in site planning controls (Part B) and general development controls (Part C). Where appropriate development controls by land use (Part D) and places and precincts

(Part E – F) refer to related sections in Part B and C. Each section states the information required to support a development proposal, based on best practice.

- 9 NDCP 2023 includes some new sections with others relocated. The new sections are on urban heat and liveable housing. Similarly, there are new sections for the approved design guidelines supporting the Black Hill employment area, Minmi extension and Minmi East. The NDCP 2012 has locality specific sections for Darby Street, Cooks Hill (Section 6.09) and Beaumont Street, Hamilton (Section 6.10). NDCP 2023 addresses the protection and enhancement of these areas in the new Heritage conservation areas section, supported with statements of significance and desired future character for each heritage conservation area.

Key highlights and enhancements

- 10 **New Urban heat section** – New measures aim to ensure new development incorporates effective design responses and ongoing operations to reduce the impacts of high to extreme heat stress days on residents, workers and visitors.
- 11 Measures include:
- i) cool facades for larger development in the city centre, Wickham, renewal corridors and local centres. This may include external shading features or non-reflective surfaces and green walls.
 - ii) minimising impacts from heating, ventilation and air conditioning systems with the placement of unit location.
 - iii) passive design solutions such as building orientation to take advantage of winds, natural ventilation and solar access, adjustable external shading, using low heat conductive materials, insulation, wider eaves, vegetated surfaces, light coloured roof tops and light or non-reflective surfaces to minimise reflection and heat retention.
- 12 **New liveable housing section** – NDCP 2023 introduces the requirement for 20 per cent of dwellings in multi dwelling housing, residential flat buildings, apartments and shop top housing development to meet platinum level of performance under the Livable Housing Design Guidelines, 2017. It will apply where there are five or more dwellings in a development. This supports aging in place and people with higher mobility needs. Platinum level requirements support ease of movement in the kitchen, laundry and ground floor with options for adaptation for other supporting needs. For example, the ground floor caters for a space that can be used as a bedroom. Information requirements for development applications will include sufficient detail on universal design features with certification from a qualified and registered Livable Housing Australia (LHA) Assessor.

No changes are proposed to current requirements in NDCP 2012 for the silver level of performance that applies to dual occupancies, multi dwelling housing, residential flat buildings, apartments and shop top housing development (for flexible and adaptable homes).

- 13 **Traffic, parking and access section** – The revised measures aim to reduce car dependency and increase walking, cycling and public transport use. Changes relate to bicycle storage (including more equitable access for people with a disability), car share parking for ride sharing and more end of trip facilities for non-residential development with greater shower and storage facility allocation to encourage and provide for greater cycling opportunities. A new control aims to limit vehicular access points for development in smaller local centres and areas of high pedestrian and cyclist movement.
- 14 **Vegetation preservation section** - Revised measures are added for retention or planting of street trees with a development. This supports urban pollination of corridors and current tree vacancy mapping. Exemptions are refined to compliment the revised measures and reflect reasonable scenarios for when a tree can be removed (being near an existing dwelling wall or principal building).
- 15 **Open space and landscaping section** – Revised measures seek deep soil areas for single dwellings and additional landscaping for other forms of residential development. New controls are included for new street trees with subdivision of new residential and industrial sites. Timing for planting of street trees is to be staged through the subdivision. Deferred planting mitigates the unnecessary loss of street trees due to driveways. There are new requirements for deep soil and canopy cover with industrial developments. There are standards for tree provision on site and within open parking areas.

New controls provide guidance for green walls and rooves, and the requirement for assessment by a structural engineer and details for future maintenance. This supports the objectives of the Urban Heat section.

- 16 **City centre section** – Revised development controls seek high quality-built form and public domain outcomes while protecting heritage, amenity, views and its unique character. Night-time planning objectives and design criteria aim to reduce noise impacts from late night venues on residential accommodation. The proposed design criteria highlights the need for developments to consider noise attenuation and how the future development responds to the city centre context, including impacts from late-night venues. Character area descriptions and mapped controls for key precincts are updated to align with supporting strategies. Changes reflect the Cultural Precinct Masterplan vision for a network of cultural institutions linked by public domain.
- 17 **Blackhill employment area, Minmi extension and Minmi East sections** – These sections include approved guidelines to support existing Concept Approvals issued by the Minister for Planning and requested they form part of the NDCP 2012 or any future DCP (i.e. Draft NDCP 2023) and they cannot be amended. The current section for Minmi in NDCP 2012 forms part of NDCP 2023. The land application map boundary is amended to avoid any overlap with the Minmi Extension concept area and guidelines.
- 18 **Subdivision and lot consolidation section** - NDCP 2023 has a new density control that strives for 40 dwellings per hectare on 'new residential sites' and/or an 'urban release area' (URA). It will apply to relatively undeveloped land outside

existing urban areas and zoned for future urban growth and/or is an URA identified in NLEP 2012. This supports intensions for 15-minute neighbourhoods and the Hunter Regional Plan 2041. In this section, measures establish an appropriate buffer distance to minimise adverse effects on sensitive land uses including people from odour, noise, dust, ground gas and other nuisance generating activities from Summerhill Waste Facility. Further subdivision / intensification of development in 'new residential sites' and/or an 'urban release area' will not be permitted within 500m for non-putrescible and 1000m for putrescible land fill cells. This buffer reflects good practice and is generally in accordance with the EPA Environmental Guidelines Solid Waste Landfills. Limiting encroachment of incompatible land uses is to ensure the long-term viability of waste and resource recovery infrastructure.

- 19 **Flood management sections** – A revised section is to apply to development with flood studies and mapping undertaken prior to release of updated guidelines on Australian rainfall and runoff. A new section was prepared for development where flood mapping is in accordance with 'A guide to flood estimation,' released in 2019 and the draft Throsby, Styx and Cottage Creek Flood Study, adopted by Council on 25 July 2023. Updated mapping is available for Throsby, Styx and Cottage Creek catchment area. Until there is a flood study for the western half of Newcastle – the Hexham and Woodbury Swamp catchment sections will form part of DCP 2023. The new section reflects industry best practice in flood risk management and national guidelines for disaster resilience.
- 20 **Aboriginal cultural heritage section** – A new requirement is included for nominated development types to include a Connecting with Country strategy. It is intended to apply to new buildings or redevelopment of existing buildings that are referred to CN's Urban Design Review Panel (UDRP). Types of development may include residential flat buildings, shop top housing, mixed-use development or other non-residential developments depending on nature, location or scale and impacts. The strategy is to guide the design and planning for these developments.
- 21 **Built and landscape heritage section** – NDCP 2023 provides revised development controls and diagrams to strengthen merit-based guidance for the development of heritage items and places within heritage conservation areas. This guidance supports adaptive reuse, energy conservation and waste minimisation, heritage interpretation measures, equitable access for people with a disability, and discourages facadism of heritage items. A new control refers to on-site production of renewable energy such as solar panels that may be permitted if sympathetic to the heritage significance of the item and/or heritage conservation area.
- 22 **General / other** – The NDCP 2023 includes revised measures to guide high quality-built form and public domain outcomes, protect amenity and reduce land use conflicts throughout. The Tighes Hill and Kotara Character areas are new sections in NDCP 2023. The controls and objectives capture community feedback from engagement and consultation with the local character study.

Liveable Cities Advisory Committee and DCP Working Party

- 23 A DCP Working Party was established under the Liveable Cities Advisory Committee and met periodically from July 2022 through to August 2023. The working party provided valuable input to inform NDCP 2023 and focussed on supporting opportunities to reduce/minimise impacts from urban heat island effects and UV exposure, encourage sustainable buildings, and consider and provide input on accessibility requirements.
- 24 The Liveable Cities Advisory Committee has been regularly updated and provided input through the progress of the NDCP 2023 and endorses exhibition of Draft NDCP 2023.

Urban Design Review Panel

- 25 The UDRP's comments were considered and incorporated into NDCP 2023.

FINANCIAL IMPACT

- 26 The costs to exhibit Draft DCP 2023 are met under the operational budget.

NEWCASTLE 2040 ALIGNMENT

- 27 NDCP 2023 is consistent with the strategic directions of the Newcastle 2040 Community Strategic Plan including:

Liveable

- 1.1.1 Great spaces
- 1.1.1 Well-designed places
- 1.1.2 Protected heritage places

Connected and fair communities

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

Safe, active and linked movement across the city

- 1.3.1 Connected cycleways and pedestrian networks
- 1.3.2 Road networks
- 1.3.3 Managed parking
- 1.3.4 Effective public transport

Sustainable

- 2.2.2 Expand the urban forest
- 2.2.3 Achieve a water sensitive city

Creative

- 3.1.4 Vibrant night-time economy
- 3.3.3 Culture in everyday life

Achieving Together

- 4.3.1 Collaborative organisation
- 4.3.3 Data-driven decision-making and insights.

IMPLEMENTATION PLAN/IMPLICATIONS

28 The Draft NDCP 2023 is consistent with the requirements of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)* and associated Regulation. It is to be published on CN's website for a minimum of 28 days.

Local Strategic Planning Statement

29 The Local Strategic Planning Statement (LSPS) commits to an integrated and accessible transport network, green and liveable city, and smart and innovative economy.

30 The following LSPS land use actions are considered in Draft NDCP 2023:

- i) Action 1.2 - Review & update provisions for movement networks, car parking and active transport to facilitate use of active transport
- ii) Action 2.3 - Review & update planning controls to support the uptake and use of electric vehicles, shared transport schemes and more efficient car parking management to support a transition to more sustainable forms of transport
- iii) Action 3.1 - Identify opportunities to improve planning provisions, ensuring they align with best practice for universal housing design principles
- iv) Action 4.1 - Review provisions for landscaped and impervious area, shade and vegetation management including opportunities to use green roofs & walls
- v) Action 5.4 - Review provisions for stormwater and landscaping to incorporate best practice mechanisms to reduce the impact of stormwater runoff on bushland, waterways and wetlands
- vi) Action 6.4 - Review provisions for waste management with an emphasis on reduce, reuse and recycling
- vii) Action 7 - Review controls for ground floor retail in mixed-used developments to provide flexible spaces and focus retail energy along existing retail spine
- viii) Action 7.2 - Review and update planning controls to enable new development to respond to hazard and risk information as it becomes available

- ix) Action 7.3 - Investigate opportunities to incorporate provisions to address urban heat island impacts & reduce UV exposure
- x) Action 16.2 - Investigate opportunities to better support the night-time economy, reduce land use conflict and support live music and performance in key locations.

RISK ASSESSMENT AND MITIGATION

- 31 The legislative process requires a statutory public exhibition period of 28 days and formal notice.

RELATED PREVIOUS DECISIONS

- 32 At the Ordinary Council Meeting of 27 October 2020, Council resolved to undertake a review of DCP 2012 consistent with CN's 20 year land use vision for a smart, liveable and sustainable global city.
- 33 The following Notices of Motion (NOM), Lord Mayor Minute (LMM) and Council resolutions (CCL) have informed NDCP 2023:
 - i) Minimise the abandonment of shopping trolleys (NOM 24/11/20)
 - ii) Disabled access upgrades for change of use (NOM 26/10/21)
 - iii) Commitment to the protection, and increased planting of street and park trees across the city of Newcastle, acknowledging the importance of additional shade and habitat in an urban environment and the impact of improved urban canopies on addressing urban heat islands and their impacts on people, their health and wellbeing and that of urban wildlife (LMM 22/02/22)
 - iv) Provide input on matters of access where relevant (CCL 22/02/22)
 - v) Best practice for car stackers (CCL 26/04/22)
 - vi) Best practice for car stackers and service stations (NOM 26/10/21).
 - vii) Investigate and report on the work of the Cultural Precinct Masterplan as an advisory document (CCL 22/11/22)
 - viii) Create vibrant pollinator corridors into urban fabric (NOM 26/04/23)
- 34 At the Ordinary Council Meetings of 27 September 2022 and 26 April 2023, Council resolved to amend NDCP 2012 to incorporate Stage 1 (Bushfire Protection, Mine Subsidence, Safety and Security and Traffic, Parking and Access) and Stage 2 (Renewal Corridors).
- 35 At the Ordinary Council Meeting of 28 November 2017, Council resolved to adopt the Wickham Masterplan. The updated masterplan was adopted 26 July 2022.

Section 6.03 Wickham of NDCP 2012 supports community infrastructure incentives. This section is relocated into NDCP 2023.

CONSULTATION

- 36 NDCP 2023 has been considered by the DCP Working Party and Liveable Cities Advisory Committee (LCAC). Comments from the DCP Working Party have been considered. LCAC supports the exhibition of Draft NDCP 2023.

BACKGROUND

- 37 The review of NDCP 2012 occurred in stages. Stage 1 amended Bushfire Protection (Section 4.02), Mine Subsidence (Section 4.03), Safety and Security (Section 4.04) and Traffic, Parking and Access (Section 7.03) and Stage 2 amended the Renewal Corridors (Section 6.04). Further minor refinements are proposed to support these initial amendments and are incorporated into NDCP 2023. This report presents the final stage of the review of NDCP 2012 for exhibition. After this comprehensive review is complete and NDCP 2023 finalised, its on-going review will continue with amendments as needed.

OPTIONS

Option 1

- 38 The recommendation as at Paragraphs 1 and 2. This is the recommended option and allows for formal progression and written submissions to be received on Draft NDCP 2023.

Option 2

- 39 The recommendation that Council does not support exhibition of Draft NDCP 2023. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: Draft Development Control Plan 2023

Attachment A distributed under separate cover

8.3. PROPOSED GRANTING OF RIGHT OF CARRIAGEWAY EASEMENT OVER OPERATIONAL LAND - 45 LOOKOUT ROAD NEW LAMBTON HEIGHTS

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

PURPOSE

To grant an easement for a Right-of-Carriageway over Operational Land at Lot 40 DP19631 (45 Lookout Road New Lambton Heights).

RECOMMENDATION

That Council:

- 1 Approve the creation of an easement for a Right of Carriageway over Operational Land at Lot 40 DP19631 (45 Lookout Road New Lambton Heights) for the benefit of Lot 2 DP 659602 (4 Bushlands Close New Lambton Heights) as shown at **Attachment A**, for nil compensation.
- 2 Grant authority to the Chief Executive Officer or his delegate to execute all relevant documentation to authorise the transaction.

KEY ISSUES

- 3 The current owner of 4 Bushlands Close New Lambton Heights (Benefitting Party) has requested an easement over City of Newcastle (CN) Operational Land at 45 Lookout Road New Lambton Heights. 4 Bushlands Close is landlocked and the easement is to provide a Right of Carriageway (ROC).
- 4 CN previously agreed in 2009 to grant an easement for ROC within 45 Lookout Road in favour of properties at 43, 45A, 45B and 47 Lookout Road New Lambton Heights, for nil compensation. The easement did not include provision for the property adjoining 45A Lookout Road known as Lot 2 DP 659602 or Part 45A Lookout Road as shown at **Attachment B**.

FINANCIAL IMPACT

- 5 All costs associated with the easement application, survey and registration will be met by the Benefitting Party.

NEWCASTLE 2040 ALIGNMENT

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

Sustainable

2.1 Action on climate change

2.1.3 Resilient urban and natural areas

IMPLEMENTATION PLAN/IMPLICATIONS

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

RISK ASSESSMENT AND MITIGATION

- 8 The Benefitting Party can apply to the Court under section 88K of the Conveyancing Act to have the easement granted in their favour. The Court is likely to grant the easement without compensation payable on the basis that the granting of the easement within 45 Lookout Road to other properties in 2009. There is also a risk of a cost order against CN in such circumstances in addition to incurring its own legal costs.

RELATED PREVIOUS DECISIONS

- 9 In 2006 and 2007, Council agreed to the reclassification of part of 45 Lookout Road from Community to Operational Land.
- 10 At a Council Meeting on 18 August 2009, Council agreed to grant an easement for Right-of-Carriageway within 45 Lookout Road New Lambton being Lot 40 DP 19631 in favour of properties 43, 45A, 45B, and 47 Lookout Road New Lambton.

CONSULTATION

- 11 The Asset Advisory Committee considered a report on the proposed easement at its meeting on 17 August 2023, and endorsed a report to Council for the granting of an easement for a Right-of Carriageway to the Grantee for nil compensation.

BACKGROUND

- 12 45 Lookout Road, New Lambton Heights is a CN-owned public reserve classified as Community Land.
- 13 Part of 45 Lookout Road was reclassified from Community Land to Operational Land to enable creation of an easement for use as an access road with a ROC for adjoining landowners.
- 14 In February 2022, CN received a request from the landowner of Lot 2 659602 or Part 45A Lookout Road for consent to register an easement over Council-owned land at 45 Lookout Road.
- 15 Lot 2 is a landlocked property that benefits from a ROC over the adjoining Lot C. The ROC benefiting Lot 2 over Lot C is used as access for Lot 2 to the public

road by first crossing CN land at Lot 40. This access is not formalised by way of notation on title as shown at **Attachment C**.

OPTIONS

Option 1

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

Option 2

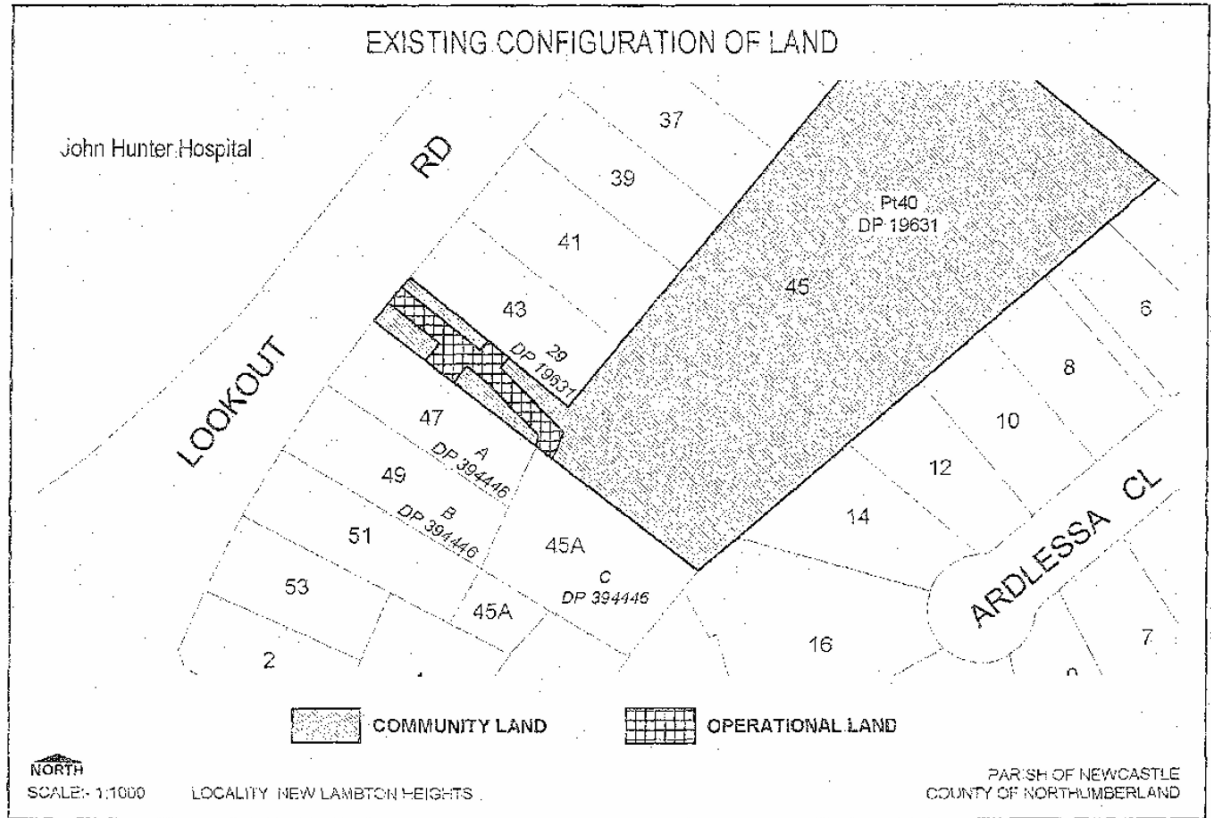
17 Council does not approve the creation of the easement. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A:	45 Lookout Road New Lambton Heights - Operational and Community Land
Attachment B:	Lot 2 DP 659602 (4 Bushlands Close New Lambton Heights)
Attachment C:	Existing easement over 45A Lookout Road, benefitting Lot 2 DP 659602

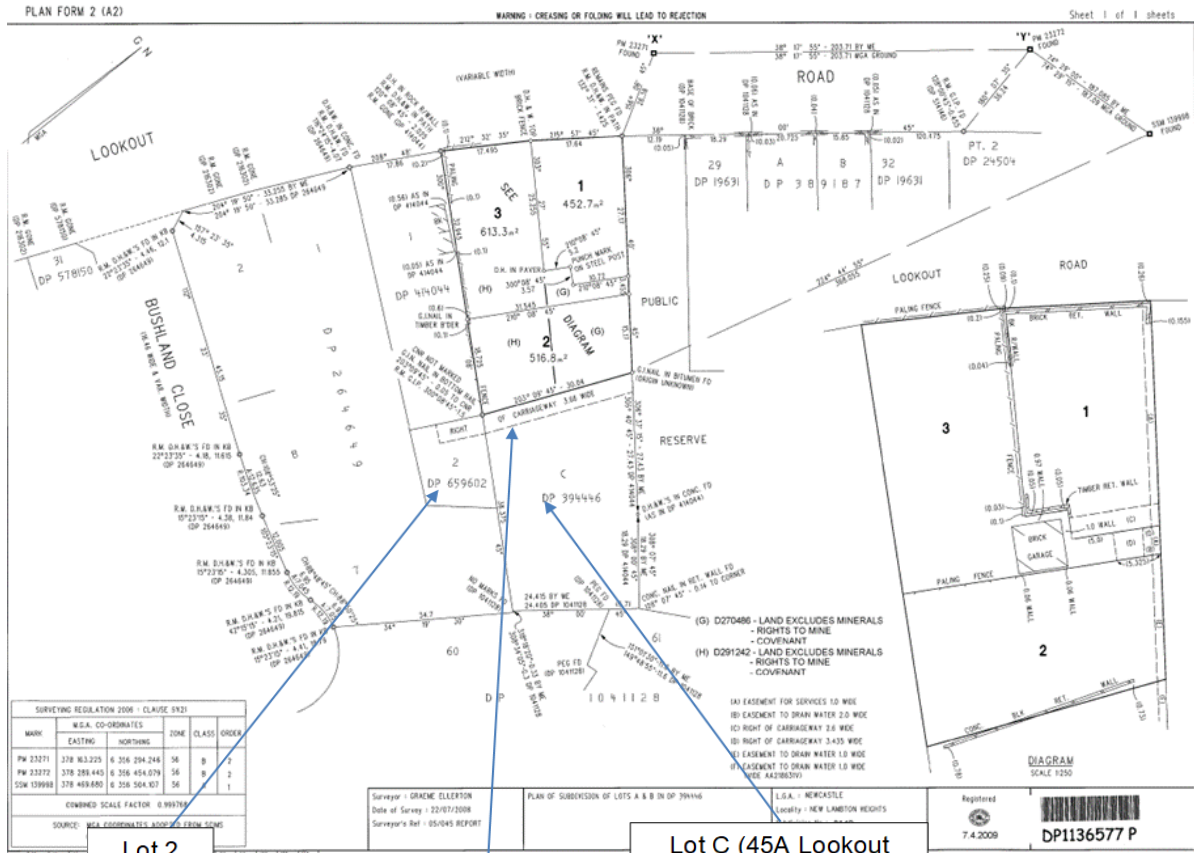
Attachment A: 45 Lookout Road New Lambton Heights - Operational and Community Land



Attachment B: Lot 2 DP 659602 (4 Bushlands Close New Lambton Heights)



Attachment C: Existing easement over 45A Lookout Road, benefitting Lot 2 DP 659602



8.4. CHANGE TO 2023 ADOPTED MEETING SCHEDULE

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

PURPOSE

To reschedule the Ordinary Council Meeting of 24 October 2023 due to a scheduling conflict with a major event in Newcastle.

RECOMMENDATION

That Council:

- 1 Adopt a change in Council's meeting cycle; moving the Ordinary Council Meeting from Tuesday 24 October 2023 to Tuesday 31 October 2023.

KEY ISSUES

- 2 In August 2023, Sir Paul McCartney announced his first tour of Australia in six years.
- 3 The Newcastle leg of his tour will take place at McDonald Jones Stadium on Tuesday 24 October 2023, the same night as the scheduled Ordinary Council meeting.
- 4 This concert is a major event for the City of Newcastle (CN) generating economic benefit and the host has asked that CN Councillors be invited to represent the City at the event.
- 5 Tens of thousands of Novocastrians and tourists are expected to attend the concert, generating \$9 million for the local economy.

FINANCIAL IMPACT

- 6 There is no financial impact with a change to the meeting schedule.

NEWCASTLE 2040 ALIGNMENT

- 7 A change to the meeting schedule for this purpose is consistent with the strategic directions of the Newcastle 2040 Community Strategic Plan including:

Creative

- 3.1 Vibrant and creative city
 - 3.1.1 Vibrant events
 - 3.1.3 Vibrant night time economy
 - 3.3.3 Promote Newcastle as a major arts and cultural destination

IMPLEMENTATION PLAN/IMPLICATIONS

- 8 In accordance with the requirements of the *Local Government Act 1993* (NSW) and CN's Code of Meeting Practice a change to the adopted meeting cycle requires a Council resolution and the amended Meeting date will be advertised on CN's website.

RISK ASSESSMENT AND MITIGATION

- 9 Adoption of the Council Meeting schedule ensures CN complies with legislative requirements.

RELATED PREVIOUS DECISIONS

- 10 At the Ordinary Council Meeting held on 28 February 2023, Council adopted a change to the 2023 meeting schedule due to a conflict with the National General Assembly.
- 11 At the Ordinary Council Meeting held on 13 December 2022, Council adopted the Council Meeting schedule for 2023.

CONSULTATION

- 12 Nil.

BACKGROUND

- 13 Nil.

OPTIONS

Option 1

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

Option 2

- 15 Council does not adopt a change to the meeting schedule and meets on 24 October 2023. This is not the recommended option.

REFERENCES

<https://newcastle.nsw.gov.au/about-us/news-and-updates/latest-news/city-embraces-beatlemania-as-major-events-partners>

<https://www.newcastleherald.com.au/story/8289572/beatles-legend-paul-mccartney-locks-in-newcastle-date/>

ATTACHMENTS

Nil.

8.5. EXECUTIVE MONTHLY PERFORMANCE REPORT

REPORT BY: CORPORATE SERVICES
CONTACT: EXECUTIVE DIRECTOR CORPORATE SERVICES AND
CHIEF FINANCIAL OFFICER / EXECUTIVE MANAGER
FINANCE PROPERTY AND PERFORMANCE AND 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 August 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 August 2023.

KEY ISSUES

- 2 At the end of August 2023, the consolidated YTD actual operating position is a surplus of \$7.8m which represents a positive variance of \$4.0m against the budgeted YTD surplus of \$3.8m. This budget variance is due to a combination of income and expenditure variances which are detailed in **Attachment A**. The full budget for 2023/24 is a surplus of \$6.9m.
- 3 The net funds generated as at the end of August 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 \$4.8m. 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).
- 4 CN's temporary surplus funds are invested consistent with CN's Investment Policy, Investment Strategy, the Act and Regulations. Details of all CN funds invested under section 625 of the Act are provided in the Investment Policy and Strategy Compliance Report (Section 4 of **Attachment A**).

FINANCIAL IMPACT

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

COMMUNITY STRATEGIC PLAN ALIGNMENT

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

Achieving Together

- 4.1.1 Financial sustainability

IMPLEMENTATION PLAN/IMPLICATIONS

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

RISK ASSESSMENT AND MITIGATION

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

RELATED PREVIOUS DECISIONS

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

CONSULTATION

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

BACKGROUND

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

OPTIONS

Option 1

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

Option 2

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

REFERENCES

ATTACHMENTS

Attachment A: Executive Monthly Performance Report – August 2023

Attachment A distributed under separate cover

**8.6. TENDER REPORT – NEWCASTLE OCEAN BATHS UPGRADE STAGE 2 -
PRINCIPLE DESIGN CONSULTANT - CONTRACT NO. 2023/163T**

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

PURPOSE

To accept a tender for a Principal Design Consultant (PDC) for the Newcastle Ocean Baths Stage 2 upgrade project in accordance with Contract 2023/163T.

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

REASON FOR CONFIDENTIALITY

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

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

GROUND FOR CLOSING PART OF THE MEETING

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

MOTION TO PROCEED

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

- A The matter relates to tenders for the Newcastle Ocean Baths Stage 2 PDC for Contract No. 2023/163T.
- B It is contrary to the public interest to discuss tenders in an open meeting because the information provided to Council by tenderers is provided on the basis that it will

be treated by Council as commercial-in-confidence. A practice of disclosing sensitive commercial information to the public, including competitors, could result in the withholding of such information by tenderers. This would lead to a reduction in the supply of information relevant to Council's decision. A disclosure of confidential information by Council could result in CN being the subject of litigation for breach of confidence.

- C The closed session involves only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.
-

RECOMMENDATION

- 1 At **Attachment A**.

KEY ISSUES

Tender

- 2 The tender is for a Principal Design Consultant (PDC) to prepare an integrated concept design, detailed design tender, and construction documentation for the Newcastle Ocean Baths Stage 2 upgrade project. Stage 2 relates to the pavilion buildings and public domain areas.

Contract Term

- 3 The contract term is 70 weeks.

Advertising of Tenders

- 4 The tender was advertised through a select tender process on the Tenderlink website. The NSW Government Architect Strategy and Design Prequalification Scheme was used to inform the tenderers invited.
- 5 The tender period ran from Friday 23 June 2023 to Tuesday 18 July 2023, with seven tenderers invited to participate.

Tenders Received

- 6 Tender submissions were received from:
- i) EJE Architecture Pty Ltd,
 - ii) Francis-Jones Carpenter (fjc studio) Pty Ltd,
 - iii) GHD Design Pty Ltd, and
 - iv) Tonkin Zulaikha Greer Pty Ltd.

Evaluation Process

- 7 The tenders were assessed against the following criteria:
- i) Supplier Diversity 5%
 - ii) Tender Price 25%

- iii) Methodology 20%
- iv) Previous Experience 20%
- v) Program 30%

- 8 The tenders were assessed by a Tender Assessment Panel consisting of City of Newcastle (CN) officers. The panel was selected based on experience and knowledge of the project.
- 9 Probity oversight was provided by the Contract Management Unit in accordance with CN policy.

Recommended Tenderer

- 10 The recommended tenderer, a long-established architectural design company, demonstrated a thorough understanding of the project requirements. They have industry-recognised, award-winning experience in the adaptive reuse and renewal of significant heritage buildings.

FINANCIAL IMPACT

- 11 The total estimated cost of this contract, including the proposed contract amount, allowances for project management, contingency and other associated project costs, is within the multi-year budgeted amount allocated for this project. The project is funded from the 2023/24 and 2024/25 Aquatic Services program within the Creative and Community Services portfolio of the capital works program.
- 12 Estimated construction costs will be determined through the delivery of quantity surveying services as the project is developed.

IMPLICATIONS

Policy Implications

- 13 The proposed contract aligns with the following Newcastle 2040 Community Strategic Plan objectives:

Liveable

- 1.1 Enriched neighbourhoods and places
 - 1.1.1 Great Spaces
 - 1.1.2 Well-designed places
 - 1.1.3 Protected heritage places
- 1.2 Connected and fair communities
 - 1.2.1 Connected communities
 - 1.2.2 Inclusive communities
 - 1.2.4 Healthy communities

Sustainable

- 2.1 Action on climate change
 - 2.1.3 Resilient urban and natural areas
- 2.3 Circular economy

2.3.2 Localised supply chain and sustainable procurement

Creative

- 3.1 Vibrant and creative city
 - 3.1.3 Tourism and visitor economy
- 3.3 Celebrating culture
 - 3.3.3 Culture in everyday life

Achieving Together

- 4.1 Inclusive and integrated planning
 - 4.1.1 Financial sustainability
- 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
 - 4.3.3 Data-driven decision-making and insights

Environmental Implications

- 14 The contract relates to design services and construction support. The recommended tenderer holds a current sustainability action plan which includes a framework to meet best practice sustainable design principles.

Social Implications

- 15 The project will deliver improved access for pedestrians, swimmers and other users of the pool. It will provide improved facilities sensitively designed to complement the natural and built heritage of the coast that encourages active and healthy lifestyles and meets the expectations of both the local community and visitors.
- 16 The project will provide long-term benefits for the precinct as a public recreational and social facility by:
- i) providing free access to year-round saltwater facilities along the coastline,
 - ii) providing improved accessible community facilities for all users per CN's Disability Inclusion Action Plan, and
 - iii) improving community and tourist access per the Newcastle Destination Management Plan 2021-2025.

Ecological Sustainability

- 17 The recommended tenderer has a Sustainability Action Plan in place. They are an award-winning firm in delivering Ecologically Sustainable Development principles in sustainable architecture.

IMPLEMENTATION

- 18 Design development will require survey, geotechnical and structural investigations, however the project will be managed to minimise disruption to the community.

CONSULTATION/COMMUNICATION

- 19 Significant community consultation has been undertaken for the Newcastle Ocean Baths redevelopment:
- i) A communications campaign was implemented to raise awareness of the project and community engagement opportunities from 22 November 2019 until 1 March 2020. The aim of the campaign was to encourage active participation of residents in the Newcastle LGA. The estimated reach was over 916,500.
 - ii) In early 2020 a Community Reference Group (CRG) was established with key stakeholders and community members selected via an expression of interest (EOI) process. The CRG has held meetings throughout development of the project, including two working group meetings on specific topics. Further CRG meetings will be held during design development.
 - iii) Feedback on the facility footprint from the CRG, as well as a community survey which received 447 responses, has informed the recommended tenderer's brief. Further community consultation will be undertaken as the design is developed.

BACKGROUND

- 20 The site has been underutilised for more than a decade, unable to maximise its full potential as a significant swimming and community hub.
- 21 The first floor of the central pavilion is subject to issues given its structural condition. The corrosion protection system has reached the end of its life and requires intervention to continue to protect the iconic façade. The façade requires significant intervention to rehabilitate a large section of the structure, noting previous works in 2008 to ensure the façade remained structurally adequate. Maintaining the structural integrity of the over 100-year-old multi material façade is a complex undertaking that will require significant ongoing investment.
- 22 The facility's current layout fails to meet several key Crime Prevention Through Environmental Design principles, and therefore fails to meet best practice and optimum use of amenities by families.
- 23 The site is located on a natural rock platform with significant risk from coastal inundation now and into the future. Guided by the draft information of the Newcastle's Southern Beaches Coastal Management Program, a comprehensive site-specific technical investigation into the coastal inundation of the facility has been undertaken. Considering current and future climate conditions, a risk-based approach will be used to inform the design decisions of Stage 2. All areas will be designed to reduce the incidence of inundation, be designed to accommodate inundation, and where required consider measures to prevent inundation.
- 24 Renewal of the facility is critical to meet CN's broader strategic objectives; maintaining community facilities, increasing the time spent at CN's facilities, increasing accessibility outcomes and improving connectivity within the public

domain. The inclusion of accessible facilities in the project has been a key objective of Stage 1 and will continue to be a priority objective in the development of Stage 2. The renewal of the pavilions and surrounding public domain provides numerous benefits for the local community and Newcastle's tourism potential. The facility is identified as a priority initiative in Newcastle's Destination Management Plan 2021-2025.

- 25 Through the delivery of critical elements of community infrastructure, the renewal and upgrade of the Newcastle Ocean Baths will have dynamic economic effects and stimulate growth in the regional economy, helping to further develop Newcastle as a regional economic hub.
- 26 The overall project was successful in gaining \$9.5 million in funding from the sale of CN's Fred Ash Building in 2020 and is also the recipient of a \$3 million grant specifically for Stage 1 works, from the Public Spaces Legacy Fund managed by Infrastructure NSW.
- 27 The project's key objectives are to:
- i) protect the long-term future of the precinct as a public recreational and social facility,
 - ii) improve accessibility for all users,
 - iii) reduce ongoing maintenance costs, including rehabilitating the façade,
 - iv) improve access to the coast,
 - v) provide improved community facilities for a variety of users,
 - vi) address safety issues relating to existing infrastructure,
 - vii) improve the appearance of the coastline facilities while maintaining the character unique to the location,
 - viii) improve the economic sustainability of Newcastle's coastal buildings, and
 - ix) contribute to delivering several local, state, and federal strategic and policy objectives.
- 28 The calling of tenders was in accordance with the requirements of section 55 of the Act. The process followed was in accordance with Part 7 of the Regulation. Council is required to accept tenders in accordance with clause 178 of the Regulation (see Options).

OPTIONS

Option 1

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

Option 2

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

Option 3

31 Council resolves not to accept any tender and undertakes a new tender process. This is not the recommended option.

Option 4

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

Option 5

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

ATTACHMENTS

Attachment A: Confidential Recommendation

Attachment B: Confidential Tender Evaluation Matrix - Summary

(Refer Confidential Ordinary Council Meeting Agenda 26 September 2023 for Attachments A and B)

9. NOTICES OF MOTION

9.1. BUSKING POLICY

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

PURPOSE

The following Notice of Motion was received on Friday 8 September 2023 from the abovementioned Councillors.

MOTION

That City of Newcastle

Is increasingly recognised as a city that offers true artistic and culture life to residents, workers and visitors.

Recognises that live music promotes social cohesion and community wellbeing through vibrant, safe and active public places.

Notes CN's commitment to fostering arts and cultural activities across the LGA, supported by the principles contained within the Community Strategic Plan 2040, Live Music Strategy 2019 and After Dark Economy Strategy 2018.

Develops a Buskers Policy and Licence, managed by the City of Newcastle, that supports live performance opportunity and creates enjoyable ambience in public spaces, while ensuring public safety, city amenity, and the quality of performances.

BACKGROUND

The City of Newcastle takes great pride in its reputation for supporting a vibrant music and entertainment culture and embracing diverse forms of entertainment that performers, festivals, and events bring to the public realm.

Artistic and cultural life is essential to Newcastle as a creative city, and consequently, the City of Newcastle encourages performers from all backgrounds to showcase their talents.

Furthermore, the City of Newcastle is committed to providing a safe, accessible, and culturally sensitive environment for all residents, workers, and visitors.

The introduction of a Buskers Licence, aimed at fostering collaboration between performers, businesses, and residents, to promote a lively arts and culture scene in our city, is long overdue.

Objectives and Principles

1. Newcastle has a strong musical history and street entertainers contribute to the character and economic vibrancy of public places
2. Support the City's strategic policies and plans and enhance creativity and cultural life
3. Maintain the heritage of the city's identity and existing levels of public amenity.
4. Performers must not exceed approved noise level and create a comfortable ambience in the public realm and contribute to the amenity of the public space.
5. Provide suitable performances that are acceptable with regard to safety, amenity and its public appeal.
6. Encourages an audience to gather, wait and watch
7. Minimise complaints, criticism and facilitate regulated use of the public space.

Councils that currently issue Buskers Permits in NSW:

- Albury
- Burwood
- Byron Shire
- Campbelltown
- Canada Bay
- Central Coast
- Camden
- City of Sydney
- Federation
- Inner West
- Kyogle
- Northern Beaches
- North Sydney
- Tamworth
- Waverley
- Willoughby
- Wollongong

Definition

A Busker is an entertainer who is actively providing a public performance in a public space in exchange for a donation, they may receive voluntary donations from the audience but may not solicit funds.

Suggestions for types of Busking performances CN would licence are:

1. Performances with instruments conventional or self-constructed
2. Mime, clowning, juggling, puppetry, comedy, magic or living statue act Licence

The Buskers Licence, managed by the City of Newcastle, will be applicable to street entertainers who perform in designated public spaces and do not use dangerous goods in their performances. The main objective of this licence is to ensure public safety, city amenity, and the quality of performances.

The City of Newcastle will need to implement guidelines and regulations to govern street performances and activities that will address any related concerns.

Buskers must not unreasonably interfere with pedestrian flow or public amenities or cause obstruction.

Not involve the use of animals.

The licence would allow for a maximum of two hours performance per day and only include acts of a total of four (4) people.

If you are under 16 years of age, your parent or guardian must complete and sign the application.

It is also recommended that CN forms a Live Music Approval Subcommittee that would assess applications for approval.

Suggested members could be:

- Cr Carol Duncan - Chair, Community and Culture Advisory Committee
- Mark Stratford Event Development Specialist - (20yrs prior experience in the Music Industry)
- Gavin Aubrey – Senior Licensing Officer

Non-Busking activities would require other CN approvals and permits

The activities listed below are NOT considered for Busking Licences

1. Vendors of any kind including fundraising events or promotions
2. Touting or spruiking including for charity or religious preaching
3. Political rallying
4. Tarot card reading, palmistry and fortune telling
5. Artists selling pre-fabricated work – Applicants must be actively engaged in producing their artistic medium and not simply selling displayed goods

A Busking Licence will not be issued to individuals, clubs or organisations wanting to promote their business or activities or fundraise on behalf of another individual, organisation or entity even if they are engaging in a public performance to do so.

By accepting the licence, the Applicant agrees to fully comply with all of the terms and conditions of the Buskers Licence Guidelines* on the understanding that the licence may be suspended, cancelled or revoked on non-compliance of any condition contained within these guidelines.

Applicants must display their buskers licence when performing and would be subject to regulation by the City's compliance officers.

Licence Fee Busking licences could be made available for 3 months (quarterly) or for 12 months (yearly), with very modest application fees.

Initial proposed public spaces with more to be developed:

- James Street Plaza
- Laman Street Forecourt
- Kuwumi Place
- Honeysuckle Promenade
- Cnr Perkins and Hunter Streets
- Market Street Plaza/Hunter Street Mall
- Darby Street Headphones
- Wallsend Rotunda
- The Station (in consultation with HCCDC)

ATTACHMENTS

Attachment A:	City of Sydney Busking Permit Application
Attachment B:	City of Melbourne Busking FAQ
Attachment C:	City of Sydney Busking Code

9.2. BEAUMONT STREET - MOCKINGBIRD OUTDOOR DINING REFUSAL

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

PURPOSE

The following Notice of Motion was received on Friday 8 September 2023 from the abovementioned Councillors.

MOTION

That City of Newcastle

1. Notes the active support and encouragement by City of Newcastle to support and increase the operation of outdoor dining in the city, notably by the decision of this council at the February 2020 Ordinary Council Meeting to scrap outdoor dining fees.
2. Notes that an updated outdoor trading policy is due to be presented to the September 2023 council meeting for public exhibition, further confirming the City's support for outdoor dining
3. Notes the ongoing concerns of the owner of Mockingbird Café at 131 Beaumont Street, Hamilton, regarding the operation of outdoor dining.
4. Strongly advocates for the early and successful resolution of the issue with Keolis Downer in a manner that respects and protects the outdoor dining offered by Mockingbird to the community.

BACKGROUND

CN Outdoor dining policy purpose:

- Facilitate the creation of a vibrant cosmopolitan trade atmosphere in appropriate areas of the city and surrounding suburbs.
- Ensure an equitable and safe thoroughway is maintained on footpath footways for pedestrians including the vision impaired, users of mobility aids – wheelchairs and scooters.
- Facilitate the appropriate use of footpath footways and public areas for the purposes of outdoor trading and dining activities including the use of free standing A-frame signage and flags to promote and activate business.
- Facilitate improvement to the street vitality, amenity and economic viability. Provide opportunities for shop owners, residents and visitors to benefit from pedestrian circulation. Provide requirements and guidelines to inform the regulation of outdoor trading activities to avoid nuisance, obstruction, endangerment or inconvenience to the public and residential neighbourhoods.

Mockingbird Café began trading in Beaumont Street around six years ago with Tess and James Borg purchasing the premises.

They run a highly successful café that is very popular with locals and visitors alike, and the 30 seats they have outside the café are in high demand with patrons.


They have been liaising with CN since 2021 regarding the initial proposal from Keolis Downer to extend the bus stop. The extension of the bus stop would necessitate the removal of the outdoor dining and the owners feel quite certain that this will drastically reduce trade and likely lead to closure of the business.

ATTACHMENTS

- Attachment A:** CN Letter - 'Beaumont St, Hamilton – Proposed Parking Changes'
- Attachment B:** CN letter - further attachment showing changes (map)
- Attachment C:** [CN media release 26 February 2020](#)
- Attachment D:** [Mockingbird Outdoor Dining REFUSAL](#)

Attachment A

CN Letter - 'Beaumont St, Hamilton – Proposed Parking Changes'


City of Newcastle

Have your say

BEAUMONT STREET, HAMILTON – Proposed parking changes

City of Newcastle is proposing changes to the parking arrangement on the eastern side of Beaumont Street Hamilton, between Tudor Street and Denison Street. These proposed changes are in response to concerns regarding traffic congestion and safety issues relating the existing Bus Zone. We welcome your feedback on these options.

What is proposed
 Extension of the existing Bus Stop on the eastern side of Beaumont Street, fronting no. 131 Beaumont Street, Hamilton. The intention of this proposal to improve safety conditions relating the servicing of this Bus Stop. The existing Bus Zone's insufficient length, proximity to the traffic signals at Tudor Street, and adjacent Loading Zone has resulted in buses often having to partially occupy the southbound traffic lane on Beaumont Street to service bus patrons. This has been identified as a safety concern with traffic behind the bus either queuing through the signalised intersection or crossing the double centre lines to overtake the stopped bus.

In order to extend this Bus Zone, it is proposed to remove the existing Loading Zone fronting no. 131 Beaumont Street, and install a 12.0m Loading Zone (9AM-6AM, MON-SAT) to the south. It should be noted that two (2) Loading Zones will be retained in the immediate area; one is fronting Greater Bank on Tudor Street (approximately 60.0m walking distance), and the other is fronting the TAB Exchange Hotel on Beaumont Street (approximately 95.0m walking distance).

Please tick your preferred option: Do you agree with this proposal?

Option 1: Yes

Option 2: No

A plan of the proposal is shown overleaf. The proposal and consultation responses will be tabled to the next available Newcastle City Traffic Committee meeting for consideration. We welcome your comments on this proposal and your feedback will help shape the final decision.

Please forward written comments by **16 July 2021** to email: traffic@ncc.nsw.gov.au, Phone: 4974 2000, Fax: 4974 2222. For further information about the proposal please contact Jocelyn Cardona, Coordinator Transport & Compliance, on 4974 2000.

Name: [REDACTED] Address (Mandatory): 131 Beaumont St

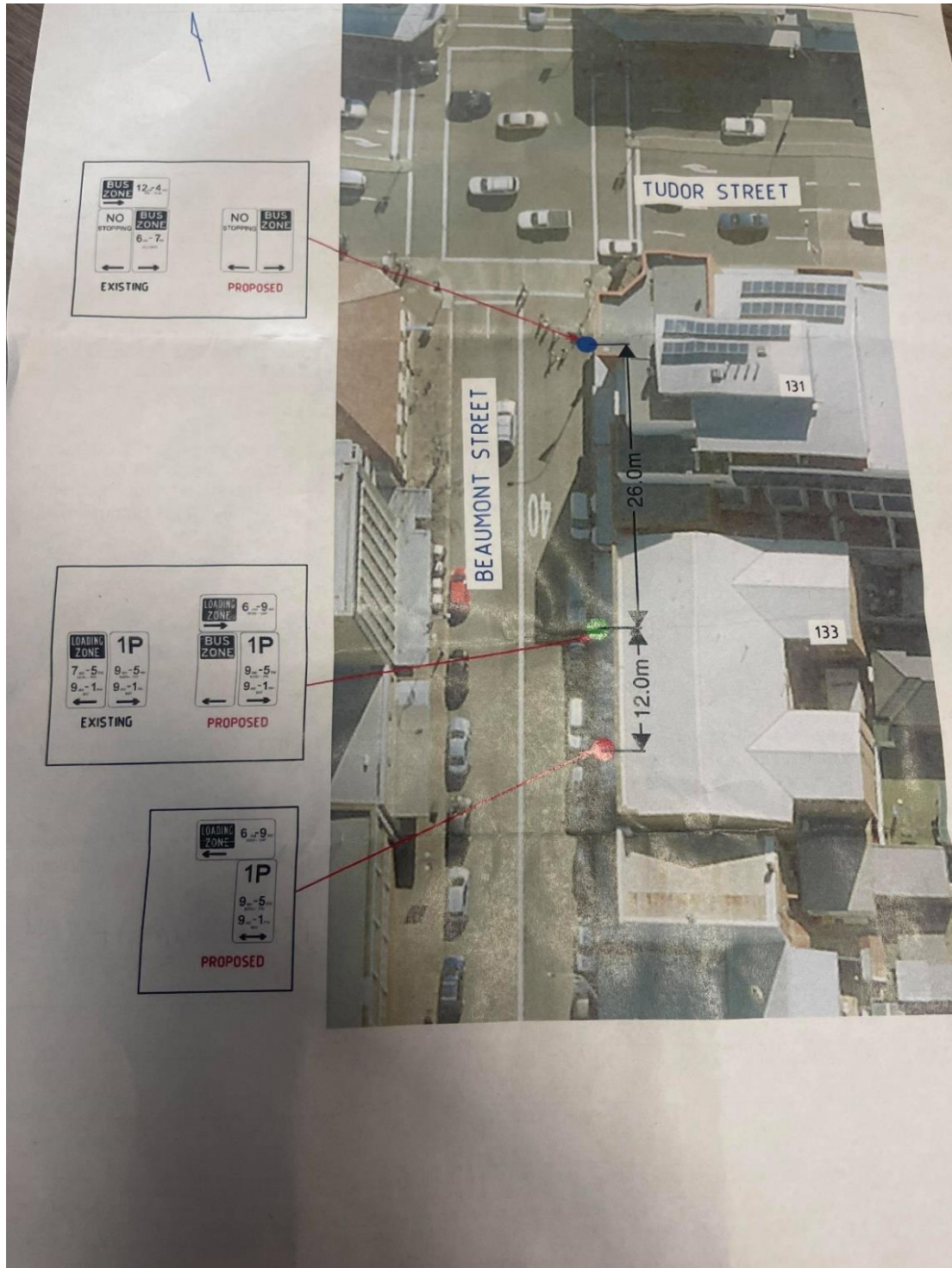
Comments: _____

Protecting your privacy: The City of Newcastle is committed to protecting your privacy. We take reasonable steps to comply with relevant legislation and Council policy. **Purpose of collecting personal details:** Council is collecting this information to determine the local community's views and opinions on the proposal outlined. **Intended recipients:** Information provided as part of the consultation will be used as part of the investigation into the proposal, and may be included in future reports on the issue. **Storage and security:** Information provided will be stored on Council's database and will be subject to Council's information and privacy policies. **Access:** Individuals can access data to check accuracy by contacting Council.

PLEASE NOTE: When making written comments or submissions to Council, the following information should be considered – Should an objector consider that the disclosure of their name and address would result in detriment to them the words 'OBJECTION IN CONFIDENCE' must be stated prominently at the top of the submission. Council may, however, be obliged to release full details of the submission including the name and address under the relevant access-to-information legislation, even if these words are in the submission.

Attachment B

CN letter - further attachment showing changes (map)



**9.2.1. REPORT ON NOTICE OF MOTION – NOM 26/09/23 – BEAUMONT STREET
- MOCKINGBIRD OUTDOOR DINING REFUSAL**

To be distributed under separate cover.

10. CONFIDENTIAL REPORTS

**10.1. NEWCASTLE AND TECHNOLOGY ONE - PROPOSED NEW SAAS
AGREEMENT**

*Refer Confidential Ordinary Council Meeting Agenda 26 September 2023 for Item
10.1 - to be distributed under separate cover.*