



THE CITY OF NEWCASTLE

Ordinary Council Meeting

Councillors,

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

DATE: Tuesday 24 March 2015

TIME: 5.30pm

VENUE: Council Chambers
2nd Floor
City Hall
290 King Street
Newcastle NSW 2300

K Gouldthorp
General Manager

**City Administration Centre
282 King Street
NEWCASTLE NSW 2300**

13 March 2015

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ORDINARY COUNCIL MEETING 24 March 2015
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NOTE: ITEMS MAY NOT NECESSARILY BE DEALT WITH IN NUMERICAL ORDER

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - PUBLIC VOICE COMMITTEE MEETING 17 FEBRUARY 2015

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 150217 Public Voice Committee meeting minutes

Note: The attached extract of the minutes are the decisions made by Council at the meeting. The full minutes incorporate the business paper reports previously provided and subsequent decisions. They may be viewed at www.newcastle.nsw.gov.au

CITY OF NEWCASTLE

Minutes of the Public Voice Committee Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 17 February 2015 at 5.33pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors D Compton, T Crakanthorp (*arrived 5.39pm*), T Doyle, M Osborne, S Posniak, A Robinson, A Rufo, and L Tierney.

IN ATTENDANCE

K Gouldthorp (General Manager), G Cousins (Director Corporate Services), F Cordingley (Director Infrastructure), P Chrystal (Director Planning and Regulatory), M Blackburn-Smith (Manager Development and Building Services), F Giordano (Manager Council and Legal Services), A Baxter (Manager Regulatory Services), M Heather (Operations Coordinator), T Connelly (Senior Parking Officer), G Summers (Chief of Staff Lord Mayor's Office), K Sullivan (Council Services/Minutes and A Leach (Council Services/Webcasting).

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.

APOLOGIES

MOTION

Moved by Cr Compton, seconded by Cr Posniak

The apologies submitted on behalf of Councillors Dunn, Luke and Waterhouse be received and leave of absence granted.

Carried

PUBLIC VOICE SESSIONS

PV 17/02/2015 - DA 2014/1040 - 9 HARDES AVENUE, MARYLAND - MULTI DWELLING HOUSING (21 X 3 BEDROOM DWELLINGS) AND ASSOCIATED RETAINING WALLS AND STRATA SUBDIVISION

An application has been received seeking consent to erect twenty one – two storey, three bedroom dwellings, associated retaining walls and strata subdivision.

The application has been notified to neighbouring properties in accordance with Council's Public Notification Policy.

Twenty-eight objections were received in response to the notification, including one petition containing 103 signatures. The objectors' concerns include character (density), parking, traffic, pedestrian safety, access for emergency vehicles, overshadowing, waste management, privacy, stormwater management, bushfire, landscaping/private open space, anti-social behavior, social impacts, property values, existing infrastructure, impacts on adjoining wetland, lack of public facilities, air flow, health risk and construction impacts.

The following parties addressed Council and expressed their concerns regarding the proposed lease:

- Monica Gibson - Objector
- Melissa Hole - Objector
- Naomi Simmons - on behalf of the Applicant
- Murray James - on behalf of the Applicant

The objectors' gave a presentation to the Committee explaining their objections to the development.

The proponents gave a presentation to the Committee explaining the merits of the development application.

Councillors raised and received responses from the objectors and on behalf of the Applicant.

Questions related to site zoning, garbage service and waste management plan, noise impact, gated communities, bushfire management, scope to differentiate unit design and disability access.

The meeting concluded at 6.14pm.

MINUTES - BRIEFING COMMITTEE MEETING 17 FEBRUARY 2015

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 150217 Briefing Committee Meeting minutes

Note: The attached extract of the minutes are the decisions made by Council at the meeting. The full minutes incorporate the business paper reports previously provided and subsequent decisions. They may be viewed at www.newcastle.nsw.gov.au

CITY OF NEWCASTLE

**Minutes of the Briefing Committee Meeting held in the Council Chambers, 2nd Floor
City Hall on Tuesday 17 February 2015 at 6.16pm**

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors D Compton, T Crakanthorp, T Doyle, M Osborne, S Posniak, A Robinson, A Rufo, and L Tierney.

IN ATTENDANCE

K Gouldthorp (General Manager), G Cousins (Director Corporate Services), F Cordingley (Director Infrastructure), P Chrystal (Director Planning and Regulatory), M Blackburn-Smith (Manager Development and Building Services), F Giordano (Manager Council and Legal Services), A Baxter (Manager Regulatory Services), M Heather (Operations Coordinator), T Connelly (Senior Parking Officer), K Sullivan (Council Services/Minutes and A Leach (Council Services/Webcasting).

APOLOGIES

MOTION

Moved by Cr Compton, seconded by Cr Posniak

The apologies submitted on behalf of Councillors Dunn, Luke and Waterhouse be received and leave of absence granted.

Carried

BRIEFING COMMITTEE REPORTS

ITEM-1 BR 17/02/15 - GREEN CORRIDOR NATIONAL PARKS CAMPAIGN

Brian Purdue, Coordinator of the Green Corridor Coalition, and Professor Tim Roberts, gave a presentation on the success of a 14 year campaign to place the Stockton Bight to Watagans "Green Corridor" in the National Parks Estate.

The presentation also outlined several outstanding issues for the corridor within the Newcastle local government area.

The following key points were addressed:

- The importance of biodiversity corridors
- Sustainable habitats
- Political and government support
- Lower Hunter Regional Strategy 2006
- Promotional activities
- Campaign milestones
- Stockton Bight to the Watagans Regional Corridor 2015
- Identification of a heavy freight rail bypass

Councillors asked various questions in respect of the presentations.

MOTION

Moved by Cr Osborne, seconded by Cr Posniak

The briefing be received and congratulations be extended to the Green Corridor Coalition on the success of its campaign from 2001 to 2015.

Carried

ITEM-2 BR 17/02/15 - PARK SAFE STAY SAFE SCHOOL SAFETY PROGRAM 2015

Andrew Baxter, Manager Regulatory Services briefed Council on the proposed "Part Safe, Stay Safe" school safety program.

Council's Parking Officers have been actively undertaking school parking patrols since Council assumed the responsibility for on street parking enforcement in July 2002.

Parking Patrols have been undertaken with different approaches over the years. The most recent practice involves all schools in the Local Government Area (LGA) being included in a rotating roster for Parking Officers to visit, primarily for enforcement of the on street parking restrictions, but also to identify those schools with specific community, location or access issues. It is these issues which have generally led to some parents, carers and visitors parking in a manner which may compromise the safety of the students and teachers.

The school safety program is designed to improve road safety by partnering with schools, principals, parents, students, police and the broader community. The emphasis of the "Park Safe Stay Safe" program is on education and safety.

The following key points were addressed:

- Reasons for the program
- Key themes
 - education
 - consultation
 - engagement
- Focus is on safety and assisting children traveling to and from school
- Areas of concern
- How the program will be delivered and measured

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Councillors were given the opportunity to ask questions and raise issues of concern.

MOTION

Moved by Cr Osborne, seconded by Cr Compton

The briefing be received and congratulations be extended to Council staff.

Carried

The meeting concluded at 7.05pm.

MINUTES ORDINARY COUNCIL MEETING 24 FEBRUARY 2015

RECOMMENDATION

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

ATTACHMENTS

Attachment A: Ordinary Council Meeting Minutes 24 February 2015

Note: The attached extract of the minutes are the decisions made by Council at the meeting. The full minutes incorporate the business paper reports previously provided and subsequent decisions. They may be viewed at www.newcastle.nsw.gov.au

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 24 February 2015 at 5.36pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors D Compton, T Crakanthorp (retired 7.27pm), T Doyle, J Dunn, B Luke, M Osborne, S Posniak, A Robinson (retired 7.13pm), A Rufo and S Waterhouse.

IN ATTENDANCE

K Gouldthorp (General Manager), G Cousins (Director Corporate Services), F Cordingley (Director Infrastructure), P Chrystal (Director Planning & Regulatory), F Giordano (Manager Council & Legal Services), P Nelson (Manager Commercial Property), G Sainsbury (Manager Projects and Contracts), J Gaynor (Manager Strategic Planning Services), I Challis (Contracts Management Specialist), K Baartz (Communications) and A Leach (Council Services/Minutes/Webcasting).

MESSAGE OF ACKNOWLEDGEMENT

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

PRAYER

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

APOLOGIES

MOTION

Moved by Cr Compton, seconded by Cr Luke

The apology submitted on behalf of Councillor Tierney be received and leave of absence granted.

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke

Councillor Luke declared a less than significant non-pecuniary interest in Item 5 CCL 24/02/15 - Executive Monthly Performance Report – January, as Council may invest with businesses he is associated with. Councillor Luke said the interest was less than significant as the report to Council was to be received and he was not involved in any decision making processes.

Councillor Dunn

Councillor Dunn declared a conflict of interest in Item 13 CCL 24/2/15 - Subdivision of certain split zones - adoption of amendment to Newcastle Local Environmental Plan 2012. Councillor Dunn said as family members may be affected by the decision he would leave the Chamber when the item was discussed.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - BRIEFING COMMITTEE 2 DECEMBER 2014

MINUTES - PUBLIC VOICE COMMITTEE 2 DECEMBER 2014

MINUTES - ORDINARY COUNCIL MEETING 9 DECEMBER 2014

MOTION

Moved by Cr Osborne, seconded by Cr Doyle

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

Carried

REPORTS BY COUNCIL OFFICERS

ITEM-1 CCL 24/02/15 - LOCAL GOVERNMENT AMENDMENT (ELECTIONS) ACT 2014

MOTION

Moved by Cr Osborne, seconded by Cr Posniak

That Council receive and note the report.

Carried

**ITEM-2 CCL 24/02/15 - NOMINATION OF DIRECTOR FOR HUNTER REGION
SLSA HELICOPTER RESCUE SERVICE**

MOTION

Moved by Cr Crakanthorp, seconded by Cr Osborne

Councillor Nelmes be nominated as Council's representative for appointment as director on the Board of Directors of Hunter Region SLSA Helicopter Rescue Services Limited.

Carried

ITEM-3 CCL 24/02/15 - ADOPTION OF LONG TERM FINANCIAL PLAN 2015 to 2025

MOTION

Moved by Cr Nelmes, seconded by Cr Doyle

The Long Term Financial Plan 2015-2025, which reflects an assessment of all funding options presented to the community during the Road to Recovery engagement campaign, inclusive of the proposed Option 3 Special Rate Variation of 8% per annum (including the IPART rate peg) for five years, be adopted.

For the Motion:

Lord Mayor Cr Nelmes and Councillors Crakanthorp, Doyle, Dunn, Osborne and Posniak

Against the Motion:

Councillors Compton, Luke, Robinson, Rufo and Waterhouse.

Carried

ITEM-4 CCL 24/02/15 - QUARTERLY PERFORMANCE REPORT - DECEMBER 2014

MOTION

Moved by Cr Osborne, seconded by Cr Crakanthorp

Council receives the December 2014 Quarterly Budget Review Statements (**Attachment A**) and adopts the recommended budget variations therein.

Carried

ITEM-5 CCL 24/02/15 - EXECUTIVE MONTHLY PERFORMANCE REPORT - JANUARY

Councillor Luke left the Chamber for this item.

MOTION

Moved by Cr Doyle, seconded by Cr Posniak

The report be received.

Carried

**ITEM-6 CCL 24/02/15 - NEWCASTLE YOUTH COUNCIL ANNUAL REPORT
2013/14 AND YOUTH WEEK 215 GRANT PROCESS**

MOTION

Moved by Cr Doyle, seconded by Cr Posniak

- 1 Council note the 2013/2014 Newcastle Youth Council (NYC) Annual Report **(Attachment A)**.
- 2 Council to permit NYC to recommend payments of up to \$1,000 to successful applicants of Youth Week 2015 events in accordance with Council's adopted annual budget (see paragraph 12).
- 3 The General Manager (or delegate) determine distribution of the grants upon recommendation of the Youth Council **(Attachment B)**.

Carried

ITEM-7 CCL 24/02/15 - LEASE OF BERESFIELD GOLF COURSE

MOTION

Moved by Cr Luke, seconded by Cr Dunn

- 1 (a) Council note that Golf North Pty Limited has withdrawn from lease negotiations and are not proceeding with a lease for Beresfield Golf Course.
- (b) Council approves the grant of a new lease of the Beresfield Golf Course (Lot 1 DP112196) **(Attachment A** - Diagram of Lease Area being community land) to Avana Pty Ltd (Avana) for a term of five years from 1 April 2015 at \$12,000 pa net plus GST with the tenant liable for all expenses of running the golf course.
- (c) The lease provide that the Beresfield Golf Course continue as a public golf course.

Carried

ITEM-8 CCL 240215 - SPONSORSHIP AND GRANT POLICY REVIEW

MOTION

Moved by Cr Posniak, seconded by Cr Osborne

1. Council delete the sentence *"Applications that fail to meet all Eligibility Criteria or fail to respond to the Assessment Criteria may be removed from consideration."* From section 9.1 in the Draft Events Sponsorship Policy, Economic Development Sponsorship Policy and Community Assistance Grant Policy and from section 11.1 in the Place Making Grant Policy.
2. Council releases the revised policies for public comment for a period of 28 days. The policies are: Events Sponsorship Policy; Economic Development Sponsorship Policy; Community Assistance Grant Policy; and Place Making Grant Policy.
3. Following the public comment period, comments be summarised and reported to Council with the final policies for adoption.

Carried

ITEM-9 CCL 24/02/15 BERESFIELD COMMUNITY CHILDRENS EDUCATION CENTRE ONGOING MANAGEMENT

MOTION

Moved by Cr Dunn, seconded by Cr Osborne

- 1 Rescind Council's decision of 9 October 2012 to gift the Beresfield Community Children's Education Centre.
- 2 Council retain full ownership and operation of the Beresfield Community Children's Education Centre.

Carried

ITEM-10 CCL 24/02/15 - TEMPORARY SUSPENSION OF ALCOHOL FREE ZONE BEAUMONT, CLEARY, JAMES AND LINDSAY STREETS HAMILTON

MOTION

Moved by Cr Osborne, seconded by Cr Luke

Council approves the temporary suspension of the Alcohol Free Zones for Beaumont Street, Cleary Street, James Street and Lindsay Street, Hamilton on Sunday 1 March 2015 from 6am to 10pm for the purpose of the Beaumont Street Carnivale.

Carried

ITEM-11 CCL 24/02/15 - SALE OF 21 BRADFORD CLOSE KOTARA - LOT 182 DP 850168

MOTION

Moved by Cr Compton, seconded by Cr Posniak

- 1 a) Council endorses the sale of 21 Bradford Close Kotara to BB Retail Capital Pty Ltd (BBRC) for consideration of \$100,000 plus GST. The sale is subject to special conditions including reclassification of the land and the registration and transfer of required easements and covenants. The contract will further stipulate that any future development applications in relation to the land will be assessed on merit and the sale of the property by Newcastle City Council (NCC) does not, and should not, be inferred to fetter NCC's planning regulatory role in anyway.
- b) Authority is granted to the General Manager or his delegate to execute all relevant documentation to effect the transaction.
- c) The net proceeds of the sale are to be credited to the Land and Property Reserve.

Carried

ITEM-12 CCL 24/2/15 - LAND AT ROBERT, JOHN AND JAMES STREETS WALLSEND - ADOPTION OF AMENDMENT TO NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012

MOTION

Moved by Cr Luke, seconded by Cr Compton

- 1 Council resolves to:
 - a) Endorse the planning proposal PP_2013_NEWCA_006_00, within **Attachment A** of this report, to amend Newcastle Local Environmental Plan 2012 in order to:
 - i) Rezone the subject site from part R2 Low Density Residential and IN2 Light Industrial to part R3 Medium Density Residential and E2 Environmental Conservation*
 - ii) Amend the Height of Building map to show a maximum building height of 10m and 14m over part of the subject land zoned R3 Medium Density Residential*
 - iii) Amend the Floor Space Ratio map to reflect a maximum floor space of 0.9:1 over some parts of the subject land and 1.5 over other parts*
 - iv) Amend the Minimum Lot Size Map over part of the subject land zoned R3 Medium Density Residential to show a minimum lot size of 450m² and 250m².*

**All the proposed mapping amendments are shown in Appendix A of the planning proposal provided at Attachment A.*

- b) Forward planning proposal PP_2013_NEWCA_006_00 to the Department of Planning and Environment requesting that a draft Local Environmental Plan be prepared and made pursuant to Section 59 of the *Environmental Planning and Assessment Act 1979*.

Following questions from Councillors Osborne and Doyle regarding flood plans, the Lord Mayor indicated that staff would take the questions on notice.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Compton, Crakanthorp, Doyle, Dunn, Luke, Osborne, Posniak Robinson, Rufo and Waterhouse

Against the Motion:

Nil

Carried

ITEM-13 CCL 24/2/15 - SUBDIVISION OF CERTAIN SPLIT ZONES - ADOPTION OF AMENDMENT TO NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012

Councillor Dunn left the Chamber for the determination of this item.

MOTION

Moved by Cr Osborne, seconded by Cr Posniak

1 Council resolves to:

- a) Endorse the planning proposal PP_2014_NEWCA_008_00, within **Attachment A** of this report, to amend Newcastle Local Environmental Plan 2012, pursuant to Section 55 of the *Environmental Planning and Assessment Act 1979*, in order to:
- i) Enable subdivision of lots within certain 'split zones'.
 - ii) Apply the minimum lot size maps to community title subdivision across all zones which the maps apply.
- b) Forward planning proposal PP_2014_NEWCA_008_00 to the Department of Planning and Environment requesting that a draft Local Environmental Plan be prepared and made pursuant to Section 59(1) of the *Environmental Planning and Assessment Act 1979*.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Compton, Crakanthorp, Doyle, Dunn, Luke, Osborne, Posniak Robinson, Rufo and Waterhouse

Against the Motion:

Nil.

Carried

PROCEDURAL MOTION

Moved by Cr Crakanthorp, seconded by Cr Posniak

In accordance with Clause 20 of Council's Code of Meeting Practice Council rule that the late item of business Future Cities Program 2015 be heard as a matter of great urgency.

Carried

ITEM-14 CCL 24/02/15 - FUTURE CITIES PROGRAM 2015

MOTION

Moved by Cr Posniak, seconded by Cr Doyle

Council supports participation in the Future Cities Program 2015.

Carried

Councillor Dunn re-entered the Chamber at 6.32pm.

NOTICES OF MOTION

ITEM-1 NOM 24/02/15 - RESCISSION MOTION ITEM 4 - LMM 09/12/14 - SHOW HOLIDAY

MOTION

Moved by Cr Luke, seconded by Cr Waterhouse

We the undersigned Councillors wish to rescind the motion passed at the Ordinary Council meeting of 9 December 2014 regarding a public holiday for the Newcastle Show.

For the Motion:

Councillors Compton, Luke, Robinson, Rufo and Waterhouse

Against the Motion:

Lord Mayor, Cr Nelmes and Councillors Crakanthorp, Doyle, Dunn, Osborne and Posniak.

Defeated

MOTION

Moved by Cr Nelmes, seconded by Cr Osborne

1. That council notes the Minister for Industrial Relations Andrew Constance's determination not to have a Public Show Holiday in 2015 and invitation for Newcastle City Council to apply for a Local events Day as per his letter dated 4 February 2015.
2. That in light of the Minister's determination Newcastle City Council apply for a Local Events Day for the 2015 Newcastle Show.
3. The Council re-endorses the policy to apply for a Newcastle Show Public Holiday in future years in accordance with its resolution of 9 December 2014.
4. Council notes the result of a community consultation program regarding the Public Show Holiday, undertaken by Council up till 31 December 2014, Council was in receipt of 384 submissions supporting a Newcastle Public Show Holiday and 55 submissions not supporting a Newcastle Public Show Holiday.

PROCEDURAL MOTION

Moved by Cr Luke, seconded by Cr Rufo

Motion be dealt with in seriatim.

**Procedural motion defeated
Motion carried**

ITEM-2 NOM 24/02/15 - FIT FOR THE FUTURE

MOTION

Moved by Cr Posniak, seconded by Cr Doyle

That Council receives a briefing from Council Officers regarding Council's response to the NSW Government's "Fit for the Future" initiative.

This briefing should include, but not be limited to the following:

1. Status of talks between officers from Newcastle City Council and Lake Macquarie City Council (LMCC) re issues arising from "Fit for the Future" submissions.
2. Timing on availability of NCC's draft "Fit for the Future" report (for ultimate submission to the NSW Government), to be presented to the elected council for consideration.

Carried

**ITEM-3 NOM 24/02/15 - HUNTER LOCAL VENUES HUNTER SPORTS
ENTERTAINMENT PRECINCT**

MOTION

Moved by Cr Crakanthorp, seconded by Cr Posniak

That Council receive a briefing from Hunter Local Venues Council on their plan for the Hunter Sports and Entertainment Precinct at Broadmeadow.

Carried

ITEM-4 NOM 24/02/15 - MINE SUBSIDENCE TASKFORCE

MOTION

Moved by Cr Crakanthorp, seconded by Cr Osborne

That Council receive a briefing from the Mine Subsidence Taskforce. That the briefing provide information on the Taskforce's Terms of Reference and its progress on these.

Carried

Councillor Compton left the Chamber at 7.03pm returned at 7.06pm

**ITEM-5 NOM 24/02/15 - DEVELOPMENT OF GUIDELINES FOR URGENT
BRIEFINGS TO COUNCIL**

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

1. That Council develop guidelines for the provision of urgent briefings to the elected council.
2. That the General Manager provide a report proposing guidelines that achieve a reasonable balance between the need for expedition and the practical constraints on council officers in providing urgent briefings.

Carried

Councillor Robinson retired from the Chamber at 7.13pm.

ITEM-6 NOM 24/02/15 - BRIEFING ON COUNCIL PARTICIPATION IN RAIL TRUNCATION WORKS

Cr Crakanthorp retired from the Chamber at 7.27pm.

MOTION

Moved by Cr Doyle, Seconded by Cr Osborne

That Council receive an open briefing at its next briefing session from council officers that clearly outlines:

The works that council staff are currently carrying out on behalf Transport for NSW, Roads and Maritime Services (RMS) or any other NSW State government agency that is associated with the truncation of the rail service into Newcastle. These would include works on rail crossings and road works and street signage associated with level crossings along the rail corridor from Hamilton to Newcastle Station.

How Council can act on its resolutions of 9 December 2014 in support of retaining a full rail service into Newcastle, that council “regards the intercity rail services to Newcastle Station as a key component of Newcastle public transport infrastructure, and crucial to the achievement of the State Government’s Long Term Transport Masterplan 2021”.

PROCEDURAL MOTION

Moved by Cr Posniak, seconded by Cr Nelmes

Item lay on the table pending a confidential briefing to Council.

Procedural motion carried

ITEM-7 NOM 24/02/15 - ABORINGINAL HERITAGE

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

1. That Council develop an Aboriginal Heritage Management Strategy for the sustainable management and protection of Aboriginal cultural heritage in the Newcastle Local Government Area.
2. That this Strategy be developed by a committee comprising appropriate representatives of the local Aboriginal community, councillors, council staff, and representatives of the NSW Office of Environment and Heritage, and
3. That the General Manager provide a report outlining a strategy for how this resolution can be most effectively implemented.

PROCEDURAL MOTION

Moved by Cr Rufo, seconded by Cr Luke

The motion be moved in seriatim.

Procedural motion carried

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

That Council develop an Aboriginal Heritage Management Strategy for the sustainable management and protection of Aboriginal cultural heritage in the Newcastle Local Government Area.

Carried

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

That this Strategy be developed by a committee comprising appropriate representatives of the local Aboriginal community, Councillors, council staff, and representatives of the NSW Office of Environment and Heritage.

Carried

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

That the General Manager provide a report outlining a strategy for how this resolution can be most effectively implemented.

Carried

ITEM-8 NOM 24/02/15 - INVESTIGATE OPPORTUNITY FOR FURTHER ANGLED PARKING IN NEWCASTLE CBD AND THE HILL

MOTION

Moved by Cr Rufo, seconded by Cr Osborne

That Council officers investigate and report to the full Council on the opportunity for further angled-parking in the CBD of Newcastle and in The Hill area, with a view to extension of existing successful angle-parking in the main thoroughfares, including but not limited to; Newcomen, Wolf and Bolton Streets.

Carried

ITEM-9 NOM 24/02/15 - MINMI ROAD UPGRADES

Councillor Luke left the chamber at 7.41pm and returned at 7.42pm.

MOTION

Moved by Cr Dunn, seconded by Cr Posniak

That Council:

Receive a briefing from Council officers on Council's future plans and current projects for upgrades to Minmi Road, including dual-lanes and off-road walkway-cycleways to the Minmi township.

Carried

PROCEDURAL MOTION

Moved by Cr Luke, seconded by Cr Rufo

Council move into confidential session to discuss Item-1 CON 24/02/15 - 2016 Council Elections – Engagement of Election Service Provider.

Procedural motion carried

Council moved into confidential session at 7.44pm and reconvened into open session at 7.49pm.

ITEM-1 CON 24/02/15 - 2016 COUNCIL ELECTIONS – ENGAGEMENT OF ELECTION SERVICE PROVIDER

MOTION

1. The Council to receive the report.
2. Pursuant to sections 296(2) and (3) and 296AA of the *Local Government Act 1993* (NSW) that an election arrangement be entered into by contract for the NSW Electoral Commissioner to administer the 2016 general council election for Council.
3. The General Manager, or his delegate, be authorised to execute all documentation required to effect the engagement of the NSW Electoral Commissioner to administer the 2016 ordinary council election for Council.
4. Council endorses a total budget of \$765,000 (excluding GST and including additional Council costs such as advertising) be allocated to the conduct of the 2016 ordinary council election as part of the 2016/17 Budget Plan, noting that this may require reduction in other operational budgets.
5. This confidential report relating to the matters specified in s. 10A of the Act be treated as confidential and remain confidential.
6. Council notes that the approval of the entering into of an election arrangement and contract with the NSWEC to conduct Council's 2016 ordinary council election qualifies for an exemption under s. 55(3)(p) of the Act from the need to invite tenders.

Carried

The meeting concluded at 7.51pm

REPORTS BY COUNCIL OFFICERS

ITEM-15 CCL 24/03/15 - ELECTION OF DEPUTY LORD MAYOR

REPORT BY: EXECUTIVE MANAGEMENT
CONTACT: GENERAL MANAGER / MANAGER COUNCIL AND LEGAL SERVICES

PURPOSE

The purpose of this report is to initiate the election, by Councillors, of a replacement Deputy Lord Mayor for a specified term following the expiration of the current Deputy Lord Mayor's term of office on 23 March 2015.

RECOMMENDATION

- 1 Council approves the term of the Deputy Lord Mayor to be for a period of 12 months commencing from 24 March 2015 and concluding on 23. March 2016.
- 2 Council approves the conduct of an election of a Deputy Lord Mayor by ordinary ballot voting in accordance with the election procedures set out in Parts 1 and 2 of Schedule 7 of the *Local Government (General) Regulation 2005 (NSW)* at an election to be conducted at the Ordinary Council Meeting to be held on 24 March 2015.

KEY ISSUES

- 3 Section 231 of the Local Government Act (the Act) provides that Councillors may elect a person from among their number to be the deputy mayor. The person may be elected for the mayoral term or a shorter term. The deputy mayor may exercise any function of the mayor, inter alia, if requested by the mayor or if the mayor is prevented by illness, absence or otherwise from exercising a mayor's function.
- 4 Councillor Rufo was elected as Deputy Lord Mayor on 25 November 2014 for a term expiring at the commencement of the Ordinary Council Meeting to be held on 24 March 2015. The short term was approved by Council in order to ensure that once the outcome of the Councillor Ward 3 By-election held on 21 February 2015 was determined, the new Councillor for Ward 3 could also participate in the election of a replacement Deputy Lord Mayor at the Ordinary Council Meeting to held on 24 March 2015.

- 5 At the Ordinary Council meeting held on 9 December 2014, Council approved the appointment of the New South Wales Electoral Commission to administer the Councillor Ward 3 By-election held on 21 February 2015 following the resignation of Councillor Nelmes as a Ward 3 Councillor on 20 November 2014 consequential upon her declaration on that date as the winner of the Lord Mayor By-election held on 15 November 2014.
- 6 With the election of the new Ward 3 Councillor, it is appropriate that Council holds an election to fill the vacancy that will exist on 24 March 2015 with the expiration of the term of the current Deputy Lord Mayor, Councillor Rufo.

FINANCIAL IMPACT

- 7 There is no additional fee payable to the Deputy Lord Mayor whilst the office of Lord Mayor is filled. Therefore, the election of a new Deputy Lord Mayor should have no additional financial impact.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 8 Nil.

IMPLEMENTATION PLAN/IMPLICATIONS

- 9 The election of a Deputy Lord Mayor is to be conducted in accordance with section 231 (1) – (3) of the Act and schedule 7 of the Local Government (General) Regulation (NSW) (**Regulation**) as outlined in the background section below.
- 10 Providing for a new term for the Deputy Lord Mayor commencing from the date of the next Ordinary Council Meeting to be held on 24 March 2015 will ensure that there is continuity in the Deputy Lord Mayor's office. The purpose in having the term of the current Deputy Lord Mayor expiring at the start of the next Ordinary Council Meeting to be held on 24 March 2015 was to enable the newly elected Ward 3 Councillor to participate in that election. Councillor Clausen was declared elected as the new Ward 3 Councillor on 25 February 2015 (being the day after the last Council Meeting).

RISK ASSESSMENT AND MITIGATION

- 11 Whilst it is not essential that a new Deputy Lord Mayor be elected by Council on 24 March 2015, it has been Council's consistent practice during the term of the current Council to have a duly elected Deputy Lord Mayor in order to facilitate the Lord Mayor's functions being able to be carried out in accordance with section 231 of the Act in the event that, for whatever reason, the Lord Mayor is prevented by illness, absence or otherwise from exercising any of the Lord Mayor's functions. Having an incumbent Deputy Lord Mayor removes the risk that any of the Lord Mayor's functions may not be able to be carried out should the Lord Mayor be unable or unavailable to carry out the Lord Mayor's functions.

RELATED PREVIOUS DECISIONS

- 12 Councillor Rufo was elected as Deputy Lord Mayor on 25 November 2014 for a term expiring at the commencement of the next scheduled Ordinary Council meeting to be held on 24 March 2015.

CONSULTATION

- 13 Nil

OPTIONS

Option 1

- 14 The recommendation as at paragraphs 1 and 2.

Option 2

- 15 Council not proceed to approve the term of the Deputy Lord Mayor for the period specified in paragraph 1 until a future date and to choose not to elect a Deputy Lord Mayor. This is not the recommended option. Council needs to fill the office of Deputy Lord Mayor so that the functions of the office of the Lord Mayor may be carried out by the Deputy Lord Mayor in the event that the Lord Mayor is unable or unavailable to carry out the functions of the Lord Mayor.

Option 3

- 16 Council proceed to approve the term of the Deputy Lord Mayor to be for a term of just over 16 months expiring on 9 September 2016 and to choose to proceed with an election for the Deputy Lord Mayor for that term. This is not the recommended option as this will be for a period of time that is greater than the 12 month term of office that has consistently been applied for the election of a Deputy Lord Mayor during the term of this present Council (except for the short terms that were applied to deal with the recent Lord Mayor By-election and Councillor Ward 3 By-election.)

BACKGROUND

- 17 Section 231 (1)-(3) of the Act provides:

(1) The councillors may elect a person from among their number to be deputy mayor.

(2) The person may be elected for the mayoral term or a shorter term.

(3) The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.

- 18 Parts 1 and 2 of Schedule 7 of the Regulation provides the following procedure for the election of a deputy mayor.

Part 1 Preliminary

1 Returning officer

The general manager (or a person appointed by the general manager) is the returning officer.

2 Nomination

- (1) *A councillor may be nominated without notice for election as mayor or deputy mayor.*
- (2) *The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.*
- (3) *The nomination is to be delivered or sent to the returning officer.*
- (4) *The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.*

3 Election

- (1) *If only one councillor is nominated, that councillor is elected.*
- (2) *If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.*
- (3) *The election is to be held at the council meeting at which the council resolves on the method of voting.*
- (4) *In this clause:*
ballot *has its normal meaning of secret ballot.*

open voting *means voting by a show of hands or similar means.*

Part 2 Ordinary ballot or open voting

4 Application of Part

This Part applies if the election proceeds by ordinary ballot or by open voting.

5 Marking of ballot-papers

- (1) *If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.*
- (2) *The formality of a ballot-paper under this Part must be determined in accordance with clause 345 (1) (b) and (c) and (6) of this Regulation as if it were a ballot-paper referred to in that clause.*
- (3) *An informal ballot-paper must be rejected at the count.*

6 Count-2 candidates

- (1) *If there are only 2 candidates, the candidate with the higher number of votes is elected.*
- (2) *If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.*

7 Count-3 or more candidates

- (1) *If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.*
- (2) *If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.*
- (3) *If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.*
- (4) *A further vote is to be taken of the 2 remaining candidates.*
- (5) *Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.*
- (6) *If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.*

- 19 For the purposes of Clause 5 (2) of Schedule 7 of the Regulation, Clause 345(1)(b) and (c) and (6) of the Regulation provide as follows:
345 Informal ballot-papers

A ballot-paper of an elector at an election is informal if:

- (b) it has not been initialled on the front by an election official, or
 - (c) it contains a mark or writing that, in the returning officer's opinion, would enable the elector to be identified.
- (6) Despite subclause (1), a ballot-paper of an elector at an election is not informal by virtue of the existence of an unnecessary mark on the ballot-paper if, in the opinion of the returning officer, the elector's intention is clearly indicated on the ballot-paper.

REFERENCES

ATTACHMENTS

Nil.

**ITEM-16 CCL 24/03/15 - AFFIXATION OF COUNCIL'S COMMON SEAL
TO A COUNCIL BUSINESS RELATED DEED OF INDEMNITY**

REPORT BY: EXECUTIVE MANAGEMENT
**CONTACT: GENERAL MANAGER/MANAGER, COUNCIL AND LEGAL
SERVICES**

PURPOSE

To approve and authorise the affixation of the Council's common seal to the Deed of Indemnity between Wayne Wallis, Newcastle City Council and Port Stephens Council in accordance with the requirements of Clause 400(4) of the Local Government (General) Regulation 2005 (Regulation).

RECOMMENDATION

- 1 In accordance with Clause 400(4) of the Local Government (General) Regulation 2005, Council approves and authorises:
 - a. the affixation of Council's common seal to the Deed of Indemnity to be entered into between Mr Wayne Wallis, Newcastle City Council and Port Stephens Council; and
 - b. each of the Lord Mayor and any one other Councillor witnessing the affixation of Council's common seal to the aforesaid Deed of Indemnity,on the grounds that the Deed of Indemnity relates to the business of Council.

KEY ISSUES

- 2 At the Council Meeting held on 7 August 2012, the Newcastle City Council (NCC) resolved (in conjunction with shareholder council Port Stephens Council (PSC)) to implement the restructure of Newcastle Airport Limited.
- 3 At the Extraordinary Council Meeting held on 8 October 2013, Council approved and authorised the execution of the relevant legal documents that implemented the corporate restructure of Newcastle Airport Pty Ltd (NAPL). The corporate restructure legal documents were executed on, and became effective on, 9 October 2013.
- 4 Mr Wayne Wallis, the General Manager of Port Stephens Council, was appointed as a Director of NAPL on 28 November 2014. The present Deed of Indemnity provides that both NCC and PSC shall indemnify him in respect of claims subject to the claim not arising from his failure to comply with the duties and obligations imposed on him by NAPL's corporate governance charter, its constitution or any laws.

- 5 The provision of such a Deed of Indemnity is a necessary requirement in order to ensure that individuals such as Mr Wallis appropriately act as a director of NAPL and continue to remain as a director of NAPL. This is a common practice in relation to companies that seek to appoint directors onto their boards of directors and is permissible under the Corporations Act, 2001 (Commonwealth).
- 6 NCC is a 50% shareholder of NAPL, the other 50% shareholder being PSC. NCC is the 100% shareholder of Newcastle Airport Partnership Company 1 Pty Ltd (NAPC 1) and Newcastle Airport Partnership Company 2 Pty Ltd (NAPC 2) which respectively act as the corporate trustees of the Newcastle Airport Partnership Trust 1 and Newcastle Airport Partnership Trust 2. NCC is the sole unitholder in each of the two trusts. The two companies are two of the four partners that constitute the Newcastle Airport Partnership (NAP). The other two partners are Newcastle Airport Partnership Company 3 Pty Ltd (NAPC 3) and Newcastle Airport Partnership Company 4 Pty Ltd (NAPC 4) which similarly act as the corporate trustees of the Newcastle Airport Partnership Trust 3 and Newcastle Airport Partnership Trust 4. These latter two companies are wholly-owned by PSC. The four companies comprise all of the four partners of NAP.
- 7 NAPC 1 and NAPC 3 each own a 25.5% partnership interest in NAP and NAPC 2 and NAPC 4 each own a 24.5% partnership interest in NAP. This corporate structure was adopted by the two councils in October 2013 in order to facilitate the eventual divestment of NAPC 2 and NAPC 4 to private sector investors as a means of funding additional equity capital for investment into the Newcastle Airport operations and facilities, whilst jointly retaining a 51% interest in NAP. NAPL'S role is to manage, operate and administer the Newcastle Airport as exclusive agent for NAP.
- 8 NCC is a 50% owner of the Newcastle Airport business enterprise which represents a key investment asset jointly owned by NCC with PSC. For this reason, the Deed of Indemnity relates to NCC's business and it is therefore appropriate that NCC provide, jointly with PSC, the indemnity to Mr Wallis and that the Deed of Indemnity be executed by NCC under its common seal.
- 9 The Deed of Indemnity has been already executed by Mr Wallis and PSC as the other parties to the tripartite Deed which has been prepared by Herbert Smith Freehills. It is in NCC's best interests for the Deed of Indemnity to be executed by it and to approve and authorise its common seal being affixed to the Deed of Indemnity in accordance with the requirements of Clause 400(4) of the Regulation.

FINANCIAL IMPACT

- 10 There is no financial cost associated with NCC's execution of the Deed of Indemnity. In the event that a legal claim was ever made against Mr Wallis in respect of any alleged failure by him to comply with the duties and obligations imposed on him in his capacity as a director of NAPL, it is expected that NAPL's Directors and Officers Indemnity Insurance Policy would fully cover the financial costs of the claim, thereby protecting NCC and PSC from any financial costs associated with any particular claim and this Deed of Indemnity being called upon. The Deed of Indemnity specifically provides that the indemnity provided by it does not apply to the extent:
- (i) the claim arises in connection with a failure by Mr Wallis to comply with the duties and obligations imposed on him by NAPL's Corporate Governance Charter; NAPL's constitution, or any laws; or
 - (ii) that proceeds are payable to Mr Wallis for the relevant claim "under a policy of insurance".

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 11 N/A

IMPLEMENTATION PLAN/IMPLICATIONS

- 12 No further action is required in order to enable the Deed of Indemnity coming into legal effect.

RISK ASSESSMENT AND MITIGATION

- 13 Refer to paragraph 10. NAPL has a comprehensive Corporate Governance Charter by which its directors are expected to comply with, in addition to having a formally constituted Board Audit, Risk and Compliance Committee which has oversight of NAPL's audit, legal compliance and risk management strategies.

RELATED PREVIOUS DECISIONS

- 14 8 October 2013 – Approval of execution of NAPL corporate restructure legal documents.
- 15 24 September 2013 - Adoption of Instrument of Delegation to Newcastle Airport Ltd
- 16 7 August 2012 - Adoption of Newcastle Airport Ownership Restructure

CONSULTATION

- 17 Council staff have consulted with the Chief Financial Officer and Company Secretary of NAPL.

OPTIONS

Option 1

18 The recommendation as at Paragraph 1.

Option 2

19 Council not adopt the recommendation as at Paragraph 1. This is not the recommended option.

REFERENCES

LOCAL GOVERNMENT (GENERAL) REGULATION 2005 - REG 400

Clause 400 Council seal

- (1) The seal of a council must be kept by the mayor or the general manager, as the council determines.
- (2) The seal of a council may be affixed to a document only in the presence of:
 - (a) the mayor and the general manager, or
 - (b) at least one councillor (other than the mayor) and the general manager, or
 - (c) the mayor and at least one other councillor, or
 - (d) at least 2 councillors other than the mayor.
- (3) The affixing of a council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence.
- (4) The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.
- (5) For the purposes of subclause (4), a document in the nature of a reference or certificate of service for an employee of the council does not relate to the business of the council.

**ITEM-17 CCL 24/03/15 - SUPPLEMENTARY REPORT TO ITEM-105 CCL
09/12/14 - ADOPTION OF REVISED CODE OF MEETING
PRACTICE**

REPORT BY: EXECUTIVE MANAGEMENT
**CONTACT: GENERAL MANAGER/MANAGER, COUNCIL AND LEGAL
SERVICES**

PURPOSE

This matter was laid on the table since the Ordinary Council Meeting held on 9 December 2014 (Item 105) pending a Councillor Workshop being delivered to Councillors on the proposed amendments to the revised Code of Meeting Practice. The original report is attached as **Attachment A**.

RECOMMENDATION

- 1 Council adopts the revised Code of Meeting Practice in the form as attached at **Attachment B**.
- 2 Council adopts the guideline for preparation of notices of motion, incorporating a guideline on preparing notices of motion requesting urgent action (such as urgent workshops or briefing committee meetings) in the form as attached in **Attachment C**

KEY ISSUES

- 3 A Councillor Workshop to discuss the proposed amendments to the revised Code of Meeting Practice was held on 10 March 2015. The Workshop also considered a draft guideline for the preparation of notices of motion, incorporating a guideline on preparing notices of motion requesting urgent action (such as urgent workshops or briefing committee meetings in the latter in response to the Council resolution made at the last Council meeting)

OPTIONS

Option 1

- 4 Council adopts the recommendation at paragraph 1 and 2

Option 2

- 5 Council does not adopt the recommendation at paragraph 1 and 2 This is not the recommended option as the current Code of Meeting Practice will remain in force and will not assist with improving the Council meeting process. The current Code of Meeting Practice has a revision date of 9 October 2014 which has past and accordingly the adoption of the revised Code of Meeting Practice is overdue for adoption and implementation by Council. Similarly, the guideline for preparation of Notices of Motion goes towards addressing a Council resolution approved at the last Council Meeting that requested the preparation of a guideline for the provision of urgent briefings that achieve a reasonable balance between the need for expedition and the practical constraints on Council Staff in providing urgent briefings.

REFERENCES

ATTACHMENTS

**ATTACHMENT A: REPORT TO 9 DECEMBER 2014 - ITEM-105 CCL 09/12/14
ADOPTION OF THE CODE OF MEETING PRACTICE**

ATTACHMENT B: REVISED CODE OF MEETING PRACTICE

ATTACHMENT C: GUIDELINE FOR PREPARATION OF NOTICES OF MOTION

Attachments A to C distributed under separate cover

ITEM-18 CCL 24/03/15 - EXECUTIVE MONTHLY PERFORMANCE REPORT - FEBRUARY

REPORT BY: CORPORATE SERVICES
CONTACT: DIRECTOR CORPORATE SERVICES / MANAGER FINANCE

PURPOSE

To report on Council's Monthly Performance. This includes:

- a) Monthly financial position and performance against the 2014/15 Operational Plan as at the month end of February 2015.
- 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

- 1 The report be received.

KEY ISSUES

- 2 At the end of February 2015 the consolidated year to date actual **operating position** is a **surplus** of **\$7.9m** which represents a positive variance of \$0.5m against budget. This variance is due to a combination of income and expenditure variances which are detailed in the Financial Impact Section of Attachment A. The full year revised budget for 2014/15 is an operating deficit of \$6.3m.
- 3 The February year to date position includes a number of revenue items which are considered to be non-recurrent or are unable to be applied to supporting operating activities. When these items are removed Council's **sustainable operating position** at the end of February is a **deficit** of **\$3.6m**. These items include:
 - i **Non-Recurrent revenue – \$3.7m**
The recoupment of the Glenelg collateralised debt obligation (CDO) (\$1m) and above budget interest income (\$2.7m).
 - ii **Restricted Income – \$7.8m**
Consolidation of the Council's 50% share of the airport operating result (\$1.9m), the 2012 Special Rate Variation (\$3.2m), the storm water management service charge (\$1.4m) and the Local Roads component of the Financial Assistance Grant (\$1.3m).
- 4 At the end of February 2015, Council's expenditure on the capital works program is \$10.5m below the revised budget. Analysis indicates that this also has a flow on effect, reducing operational expenditure by approximately \$2m (ie capital spending in-line with budget would have created an additional \$2m of operational expenditure).

- 5 The **net funds generated** at the end of February 2015 is a **surplus** of **\$23.8m** (after Capital Revenues, Expenditure and loan principal repayments). This is a positive variance to budget of \$13.1m and represents a net reduction in restricted cash reserves of \$17m offset by an increase in unrestricted cash reserves of \$40.8m. Again **capital spending in-line** with **budget forecasts** would have reduced the net funds generated to a **balanced position** which is roughly in-line with expectations.
- 6 A listing of significant contract variations totaling (\$1.7m) is provided within the Executive Monthly Performance Report (**Attachment A**). \$0.7m of contract variations required additional project budgets which have been reallocated from within existing approved program budgets. The remaining \$1m of contract variations were within the original project budgets. All contract variations and budget changes have been appropriately approved and reported in the September and December Quarterly Budget Reviews.

	<i>Full Year Revised Budget₁</i>	<i>YTD Revised Budget</i>	<i>YTD Actual Result</i>	<i>Variance to YTD Budget</i>	<i>Variance</i>	<i>Outstanding Commitments</i>
	<i>\$'000</i>	<i>\$'000</i>	<i>\$'000</i>	<i>\$'000</i>	<i>%</i>	<i>\$'000</i>
Total Operating Revenue	225,486	150,700	150,447	(253)	0%	
Total Operating Expenses	231,775	143,309	142,515	794	1%	17,268
Total Operating Revenue Less Operating Expenditure	(6,289)	7,391	7,932	541	7%	0
Total Capital Raising revenue	22,662	14,725	16,835	2,110	14%	
Add Back Non Cash Items	43,684	29,422	29,423	(1)	()	
Funding available for capital expenditure	60,057	51,538	54,190	2,652	5%	
Total capital spend	70,655	39,080	28,623	10,457	27%	12,086
Loan Principal Repayment ₂	(2,697)	(1,798)	(1,798)		0%	0
Net Funds Generated / (Used)	(13,295)	10,660	23,769	13,109	123%	
Net Transfers (from)/to						
Restricted Cash Reserves	(34,200)	(24,418)	(17,033)	7,385	-30%	
Net Transfers (from)/to						
Unrestricted Cash	20,905	35,078	40,802	5,724	16%	
Net change in Council's Reserves	(13,295)	10,660	23,769	13,109	123%	

Note 1 - Budget revised at the December Quarterly Budget Review

Note 2 - Actual and Budget results include an estimate for the Newcastle Airport

FINANCIAL IMPACT

- 7 The budget to actual year to date financial position at the end of February 2015 is provided in the Executive Monthly Performance Report (**Attachment A**). Key elements are:

	<i>Full Year Revised Budget, \$'000</i>	<i>YTD Revised Budget \$'000</i>	<i>YTD Actual Result \$'000</i>	<i>Variance to YTD Budget \$'000</i>	<i>Variance %</i>	<i>Outstanding Commitments \$'000</i>
Operating Revenue						
Rates & charges	128,289	86,939	86,939		0%	
User charges & fees	60,450	40,765	39,812	(953)	-2%	
Interest	8,852	5,863	6,608	745	13%	
Other operating revenues	10,391	7,275	7,348	73	1%	
Grants & contributions - Operating	17,504	9,858	9,740	(118)	-1%	
Total Operating Revenue	225,486	150,700	150,447	(253)	0%	
Operating Expenses						
Employee costs	90,880	55,202	55,987	(785)	-1%	0
Borrowing costs	4,257	2,218	2,218		0%	0
Materials & contracts	45,633	25,128	24,626	502	2%	8,412
Depreciation & amortisation	48,476	32,617	32,618	(1)	0%	0
Other operating expenses	42,529	28,144	27,066	1,078	4%	8,856
Total Operating Expenses	231,775	143,309	142,515	794	1%	17,268
Total Operating Revenue Less Operating Expenditure	(6,289)	7,391	7,932	541	7%	

Note 1 - Budget revised at the December Quarterly Budget Review

Note 2 - Actual and Budget results include an estimate for the Newcastle Airport

8 **Factors favourably impacting Financial Position**

i ***Interest – increase of \$0.7m***

Council's Investment Portfolio continues to return a higher than forecast investment return. Interest earned for the month of February was \$0.8m and brought the total Year to Date (YTD) interest earnings to \$6.6m.

ii ***Other operating expenses – decrease of \$1m***

Lower than budget State Government Waste Levy (\$0.7m) at Summerhill. This is offset by reduced income (\$1m)

9 **Factors adversely impacting Financial Position**

i ***User Fees & Charges – decrease of \$1m***

Commercial tonnages are below forecast at Summerhill Waste Management Centre (\$1m). This is offset by a lower state waste levy (\$0.7m).

10 At the end of February commitments raised against operating expenses totalled \$17.3m. The commitments represent both the work currently being undertaken and awaiting invoice as well as the work planned for the future. Major commitments include:

i **State waste levy – \$8m**

Commitment raised by Summerhill Waste Management Centre to pay the forecast state waste levies to 30 June 2015. The cost is roughly \$2m a month and the commitment will be exhausted in June 2015.

ii **Operational project work – \$3.2m**

Commitments raised by working crews for materials used in operational project work. Expense is generally \$1m a month with regular commitments raised.

iii **Building maintenance – \$0.9m**

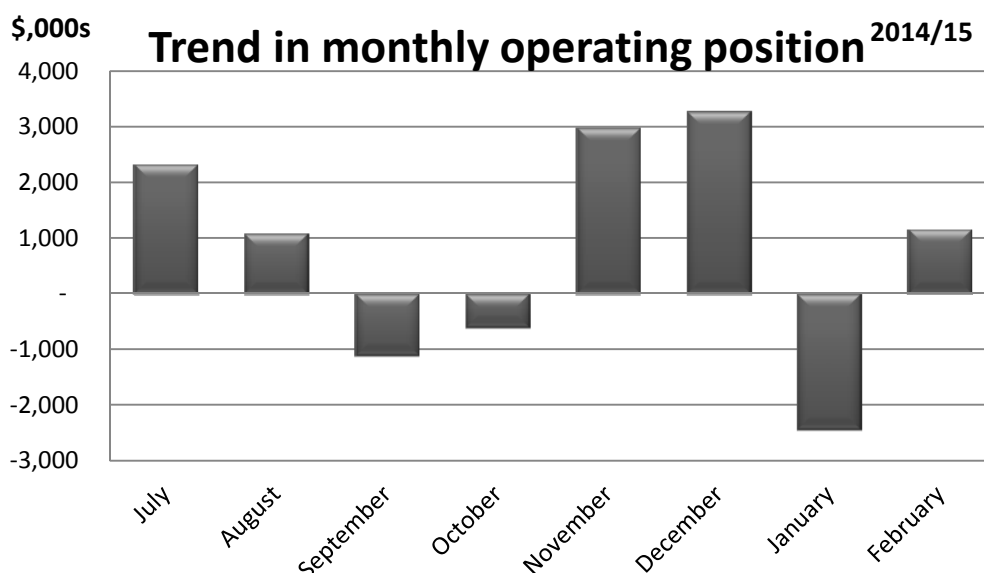
Commitments raised by working crews for materials used in maintaining Council's built infrastructure. Expense is generally \$0.6m a month with regular commitments raised.

iv **Events and Cultural Programming – \$0.8m**

Commitments raised for expenditure across Council's cultural facilities, libraries and tourism areas.

v **Park maintenance – \$0.5m**

Commitments raised by working crews for materials used in maintaining Council's parks and gardens. Expense is generally \$0.4m a month with regular commitments raised.



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- 11 Typically Council's capital works program accelerates as the year progresses and there will be seasonal factors which will result in both revenue and expense timing variations by month. The month of February reported an operational surplus of \$1.1m, which is less than the \$3.3m surplus budgeted. Future periods will be closely monitored and the full year forecast reviewed during the March Quarterly Budget Review.

	Full Year Revised Budget, \$'000	YTD Revised Budget \$'000	YTD Actual Result \$'000	Variance to YTD Budget \$'000	Variance %	Outstanding Commitments \$'000
Capital Revenues						
Grants & contributions - Capital	15,491	9,898	9,778	(120)	-1%	
Proceeds from the sale of Assets	7,171	4,827	7,057	2,230	46%	
Total Capital Raising revenue	22,662	14,725	16,835	2,110	14%	
Net Surplus/(deficit) after capital revenue						
	16,373	22,116	24,767	2,651	12%	
Adjustments for Non Cash Items						
Add back Depreciation	48,476	32,617	32,618	(1)	0%	
Less land & infrastructure donations	(4,792)	(3,195)	(3,195)		0%	
Funding available for capital expenditure	60,057	51,538	54,190	2,652	5%	
Capital Expenses						
Asset renewals	27,483	14,952	12,406	2,546	17%	4,484
New / upgrade	29,872	15,272	11,234	4,038	26%	3,828
Special Projects	13,300	8,856	4,983	3,873	44%	3,774
Total capital spend	70,655	39,080	28,623	10,457	27%	12,086
Loan Principal Repayment ₂	(2,697)	(1,798)	(1,798)		0%	0
Net Funds Generated / (Used)	(13,295)	10,660	23,769	13,109	123%	
Net Transfers (from)/to						
Restricted Cash Reserves	(34,200)	(24,418)	(17,033)	7,385	-30%	
Net Transfers (from)/to Unrestricted Cash	20,905	35,078	40,802	5,724	16%	
Net change in Council's Reserves	(13,295)	10,660	23,769	13,109	123%	

Note 1 - Budget revised at the December Quarterly Budget Review

Note 2 - Actual and Budget results include an estimate for the Newcastle Airport

- 12 At the end of February there is a positive variance to budget of \$2m in the proceeds from the sale of assets. This is a timing variance as Council's asset sale program settled ahead of forecast. It is expected that the full year forecast will be met for 2014/15 financial year.

- 13 Council's total capital spend is \$10.5m is below the year to date budget of \$39.1m. In aggregate Council's budget assumes that the capital work program of \$70m generates \$9m of additional operational expenditure. This ratio indicates that a YTD capital spend \$10m below budget would have a flow on effect of \$2m to Materials & Contracts.
- 14 At the end of February commitments raised against capital work totalled \$12m. The commitments represent both the work currently being undertaken and awaiting invoice as well as the work planned for the future. Major commitments include:
- i **Coastal Revitalisation – \$3.3m**
Commitment raised to pay the contractors (Daracon) constructing the Nobbys to Newcastle section of Bathers Way (\$2.7m). This commitment will be realised by April 2015.
 - ii **Major Asset Preservation Program – \$4.4m**
Commitments include \$2m for the contractors rebuilding the City Hall Clock Tower. This commitment covers the entire contract and will be partially expensed each month until December 2015.
- Various commitments have been raised as Council undertakes road resurfacing (\$1m), city wide drainage (\$0.7m) and the rehabilitation of headwalls (\$0.3m).
- iii **Fleet Replacement – \$2m**
Commitments raised cover fleet vehicles ordered and expected to be received up to May 2015.
 - iv **Other works**
Other major works currently underway include Islington Park (\$0.4m), Dixon Park (\$0.4m), Blackbutt (\$0.2m), and the Customer Contact Centre (\$0.2m).
- 15 Council's temporary surplus funds are invested consistent with Council's Investment Policy, Investment Strategy and the Act and Regulations. Detail of all Council funds invested under s625 of the Act is provided in the Investment Policy and Strategy Compliance Report (section 4 of **Attachment A**).

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 16 This report aligns to the Community Strategic Plan under the strategic direction of 'Open and collaborative leadership' action 7.4b *'ensure the management of Council's budget allocations and funding alternatives are compliant with Council policy and relevant legislation to ensure the long term financial sustainability of the organisation.'*

IMPLEMENTATION PLAN/IMPLICATIONS

- 17 The recommendation for the report to be received is consistent with:
- a) Council's resolution to receive monthly financial position and performance result on a monthly basis,

- b) Council's Investment Policy and Strategy, and
- c) the Regulation and clause s625 of the Act.

RISK ASSESSMENT AND MITIGATION

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

RELATED PREVIOUS DECISIONS

- 19 Council resolved to receive a report containing Council's financial performance on a monthly basis.

CONSULTATION

- 20 A monthly workshop is conducted with the Councillors to provide detailed information and a forum to ask questions. In circumstances where a workshop cannot be scheduled the information is distributed under separate cover.

OPTIONS

Option 1

- 21 The recommendation as at Paragraph 1.

Option 2

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

BACKGROUND

- 23 Previous resolutions of Council and the Internal Audit Committee identified the need for careful monitoring of Council's financial strategy and operational budget result. The presentation of a monthly Executive Performance Report to Council and a workshop addresses this need and exceeds the requirements of the Act.
- 24 The Executive Monthly Performance Report now incorporates a Customer Service section. This will be refined as Council develops a more detailed and comprehensive customer service solution with integrated tracking of customer requests through to completion.
- 25 In response to the internal audit on project management an additional report has been added to the Executive Monthly Performance Report (**Attachment A**) report outlining significant contract variations.

REFERENCES

ATTACHMENTS

Attachment A: Executive Monthly Performance Report for February 2015
Distributed under separate cover

ITEM-19 CCL 24/02/15 - ASSET ADVISORY COMMITTEE CHARTER

REPORT BY: CORPORATE SERVICES
CONTACT: DIRECTOR CORPORATE SERVICES / MANAGER
COMMERCIAL PROPERTY

PURPOSE

The purpose of this report is to recommend the adoption of a charter for Council's Asset Advisory Committee (AAC). The charter will replace the previous constitution which has passed the required revision date. The report further recommends election of a new Councillor member to fill an existing vacancy.

RECOMMENDATION

- 1 a) Adopt the Asset Advisory Committee Charter as drafted.
- b) *[Insert name of one or more Councillor/s]* is elected as Councillor member to fill an existing Asset Advisory Committee vacancy.
- c) The Lord Mayor, currently acting as Chairperson of the Asset Advisory Committee, is formally appointed to the role.

KEY ISSUES

- 2 A review of the Asset Advisory Committee Constitution (Constitution) has been undertaken and it is proposed that the draft AAC Charter (**Attachment A**) is a more appropriate document to govern the AAC than the existing constitution.
- 3 The original revision date for the current constitution was September 2012. The review was delayed due to significant changes in executive leadership, the Council election and subsequent By-election and organisational structure.
- 4 To ensure the guiding document for Council's peak property asset advisory body is brought into line with Office of Local Government Audit Committee and contemporary private sector standards, it is necessary to convert the document format and have the revised AAC Charter adopted by the elected Council.
- 5 In accordance with membership clauses of the current Constitution and new Charter, new Councillor AAC members are elected by a resolution of Council and committee membership of a Councillor is immediately terminated if that member is no longer a Councillor. Membership clauses further stipulate the need for three Councillor Members of the AAC and a vacancy currently exists.
- 6 In accordance with clauses of the current Constitution and new Charter, the Chairperson is appointed by the elected Council. As elected Deputy Chairperson, the Lord Mayor of Newcastle City Council Cr Nuatali Nelmes has been acting in the role since the position became vacant and this report recommends formal appointment to the role for the remaining term of the current Council.

FINANCIAL IMPACT

- 7 There is no financial impact associated with adoption of the report recommendations.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 8 A key responsibility of the AAC is the provision of strategic property advice to Newcastle City Council in relation to development and implementation of asset policy and strategy.

IMPLEMENTATION PLAN/IMPLICATIONS

- 9 Key responsibilities also include monitoring and reviewing progress with property asset strategies and providing guidance in relation to property asset acquisition, disposal, utilisation and management. The continued effectiveness of the AAC in performing these functions is critical in terms of the links to Council's Long Term Financial Plan and sustainability objectives.

RISK ASSESSMENT AND MITIGATION

- 10 There are no statutory or political impacts, personal or reputational risks associated with adopting the report recommendations as stated.

RELATED PREVIOUS DECISIONS

- 11 As part of the Strategic Advisory Committees (SAC) structure, the current AAC Constitution was first adopted on 17 September 2009.
- 12 Since the Asset Board (as it was formerly known) was first formed in 1998, Councillor Committee members have been nominated and elected by Newcastle City Council as soon as practicable following the commencement of each new Council term.

CONSULTATION

- 13 The Executive Management Team considered an Issues Report on the 4 March 2015 and recommended the draft AAC Charter be submitted to Council for approval.

OPTIONS

Option 1

- 14 The recommendation as at Paragraph 1 a) – c).

Option 2

- 15 Council resolves not to adopt the AAC Charter, resulting in continued use of an outdated Constitution as the guiding document for Council's peak asset advisory body. Should Council resolve not to elect a new Committee member, the Committee would continue to operate meetings without the benefit of a third elected Councillor's advice and expertise. This is not the recommended option.

BACKGROUND

- 16 The current AAC Constitution was adopted by the previous elected Council in December 2011. The Constitution was due for review in September 2012. Although the review date was set by former staff members, it is thought this date was chosen so the document could be reviewed and re-adopted on election of the new Council. Like many other documents due for review at the end of 2012, the review was delayed due to changes to executive leadership and structural changes throughout the organisation. In 2014, the need to review the Constitution was made a priority.
- 17 When the Council and Legal Services unit reviewed the Constitution, it was noted to be a very lengthy and somewhat complicated document incorporating some of Council's Code of Meeting Practice. Incorporation of the Code of Meeting Practice is not practical or appropriate as the AAC does not operate on a formal basis like a full Council meeting.
- 18 In recent years, the focus of the AAC has been on dealing with matters relating to Council property assets. With the creation of the Project Steering Group to oversee infrastructure-related projects, it is considered prudent to formally delineate responsibilities for oversight of infrastructure and property asset projects. As such, the Charter now defines 'asset' in the AAC terms of reference as 'a property asset ie land or land and buildings'.
- 19 On 2 August 2014, a vacancy opened for a new Councillor Member of the AAC due to the resignation of the former Lord Mayor.

REFERENCES

ATTACHMENTS

Attachment A: Draft Asset Advisory Committee Charter

Attachment A

The City of Newcastle
Charter

Draft Asset Advisory Committee

PO Box 489 (282 King Street)
NEWCASTLE NSW 2300
Ph 02 4974 2000
Fax 02 4974 2222
Email mail@ncc.nsw.gov.au
www.newcastle.nsw.gov.au



Asset Advisory Committee Charter



Policy title	Asset Advisory Committee Charter
Policy owner	Manager Commercial Property
Prepared by	Commercial Property
Approved by	Council
Date approved	TBC
Commencement Date	TBC
Version	1
Category	Governance
Revision date	insert
Amendments	Replaces Asset Advisory Committee Constitution
Relevant strategic direction	Open and Collaborative Leadership
Relevant legislation/codes	Local Government Act 1993 (NSW)
Related policies/documents	Code of Conduct Media Policy Deed of Confidentiality
Related forms	

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1 Objective

- 1.1 The objective of the Committee is outlined in the Terms of Reference at clause 5.1.

2 Interpretation

- 2.1 Act means the Local Government Act 1993 (NSW).
- 2.2 Asset means a property asset ie land or land and buildings.
- 2.3 Chairperson means the person appointed in accordance with clause 9.
- 2.4 Council means Newcastle City Council and where appropriate includes its administration and elected Council (a specific reference to the elected Council means a decision of Councillors at a Council meeting).
- 2.5 Committee means the Council's Asset Advisory Committee constituted in accordance with clause 6.
- 2.6 Member means those described in clause 6.1.
- 2.7 Facilitator means a Council officer appointed to fulfil the tasks set out in clause 10.
- 2.8 General Manager means the General Manager of Council and includes his/her nominee.
- 2.9 Guest means any person invited by the General Manager or at the request of the Committee to attend a meeting only for a specific purpose. Guests have no voting rights.
- 2.10 Secretary means the Council Officer appointed by the General Manager to fulfil the role of secretary.

Unless stated otherwise, a reference to a clause is a reference to a clause of this Charter.

3 Establishment and dissolution

- 3.1 The elected Council resolved to establish the Committee on 17 November 2009.
- 3.2 The Committee may be dissolved by resolution of the elected Council.

4 Authority

- 4.1 The Committee is an advisory committee only. In carrying out its responsibilities, the Committee must at all times recognise that primary responsibility for management of Council rests with the Council and the General Manager, as provided in the Act.
- 4.2 The Committee's resolutions, which record its decisions, should be treated only as recommendations of the Committee. The Committee has no executive powers and cannot make decisions on behalf of Council.
- 4.3 Neither the Committee nor any of its Members may direct any Council officer in his or her duties.
- 4.4 The Chairperson of the Committee may, if considered reasonably necessary and in consultation with the General Manager, request external professional advice to allow the Committee to meet its responsibilities.

- 4.5 The General Manager may facilitate, and provide the necessary financial resources, to engage the provision of any such external professional advice required.

5 Responsibilities of Committee

- 5.1 The responsibilities of the Committee are set out in the Terms of Reference as follows:
- 5.1.1 To provide strategic advice on and guide the development and implementation of asset policy and strategy for the City of Newcastle.
 - 5.1.2 To monitor and review progress of Council's asset strategies, policies and determinations.
 - 5.1.3 To guide and provide recommendations on Council's asset acquisition, disposal, utilisation and management.
 - 5.1.4 To align the utilisation, function and nature of Council assets with Council's strategic priorities.
 - 5.1.5 To determine and provide recommendations on Council's asset funding priorities.
- 5.2 This Committee was constituted to investigate, consider, and provide advice on strategic issues within the Terms of Reference set out in this clause.
- 5.3 This Committee will, where considered beneficial, work collaboratively with Council's other Committees to consider issues that are within the terms of reference of more than one Committee.
- 5.4 This Committee will, where deemed necessary by the Committee, form working parties to investigate, consider, and provide expert advice on defined tasks and issues.
- 5.5 The Committee will consider issues within its Terms of Reference which are referred to it by Council.

6 Membership

- 6.1 The Committee will be constituted by the following membership:
- 6.1.1 Three Councillors appointed by the elected Council; and
 - 6.1.2 Council's Executive Management Team (EMT).

7 Selection of Councillor Members

- 7.1 Council will call for nominations for Councillor Members at the commencement of each Council term.
- 7.2 The elected Council will elect three Councillor Members by resolution.
- 7.3 Councillor Members remain Members of the Committee until:
- 7.3.1 the Committee is dissolved pursuant to clause 3.2 of this Charter;
 - 7.3.2 they resign; or
 - 7.3.3 their membership is otherwise terminated.
- 7.4 Councillor membership terminates immediately upon a Councillor Member no longer being a Councillor.
- 7.5 If a Councillor Member does not remain on the Committee for the entire Council term, appointment of a replacement Councillor Member must be by

resolution of the elected Council as soon as practicable after the Councillor Member ceases to be a Member of the Committee.

- 7.6 If re-elected to Council, retiring Councillor Members are entitled to nominate for re-appointment.

8 Responsibility of Members

- 8.1 Members are expected to:
- 8.1.1 understand the relevant legislative and regulatory requirements applicable to Council;
 - 8.1.2 be able to contribute the time needed to understand the Committee's business papers and to attend Committee meetings; and
 - 8.1.3 In accordance with the Terms of Reference, provide advice and feedback on matters brought before the Committee.

9 Appointment and responsibility of Chairperson

- 9.1 The Chairperson will be appointed by the elected Council.
- 9.2 The Chairperson will be responsible for keeping order at the meeting.
- 9.3 If the Chairperson is absent from a Committee meeting, a Member of the Committee will be nominated by the General Manager to chair the meeting.

10 Responsibility and requirements of Facilitator

- 10.1 The Facilitator will be a suitably qualified Council officer. The position may be shared amongst a number of suitably qualified Council officers.
- 10.2 The role of the Facilitator is to:
 - 10.2.1 Liaise with Members, including Councillor Members, where the Members have a day to day enquiry of an administrative nature (including clarification of a Committee report or information about a meeting or process);
 - 10.2.2 Facilitate discussion at Committee meetings, provide input at Committee meetings and participate at Committee meetings as an attendee;
 - 10.2.3 Where appropriate, liaise closely with the facilitators of Council's other Committees to assist collaboration between Committees, the sharing of information and the efficient use of Council and Member resources, where approved by the Committee; and
 - 10.2.4 Work closely with the Chairperson and other Committee Members to administer the Committee and its meetings.

11 Termination of Membership

- 11.1 Membership of any Member of the Committee may be terminated by either Council resolution of the elected Council or a decision of the General Manager due to:
 - 11.2.1 the Member's non-attendance at three consecutive Committee meetings without prior notification of their non-attendance or the granting of leave by resolution of the Committee.
 - 11.2.2 the Member's conduct being inconsistent with clause 20 or a breach of confidentiality as provided at clause 22.

12 Attendance at meetings

- 12.1 Attendance at any meeting of the Committee is limited to the following:
 - 12.2.1 Members;
 - 12.2.2 Facilitator and Secretary;
 - 12.2.3 Councillors (as observer/s). Councillors must give 14 days written notice to the Facilitator of their intention to attend and do not have the right to ask questions, participate in discussion or vote on matters before the Committee.
 - 12.2.4 Other Council officers or guests, by invitation of the General Manager or as approved by a resolution of the Committee.

13 Meeting administration

- 13.1 The General Manager is responsible for ensuring that the Committee has adequate secretarial support and access to administrative resources by appointing a Secretary.

14 Quorum

- 14.1 A quorum is constituted by attendance of at least four Members, including at least one Councillor and one Member of the EMT.

15 Meeting schedule

- 15.1 The Committee will meet at least four times per year or as resolved by the Committee.
- 15.2 A forward meeting plan will be agreed by the Committee prior to the end of each calendar year.

16 Meeting agendas

- 16.1 The Secretary is responsible for preparation and distribution of meeting agendas and Committee business papers.
- 16.2 The Secretary will provide notice of meetings, including the agenda and business papers, to Members at least seven business days prior to the day of the meeting. These may be transmitted electronically.

17 Resolutions of the Committee

- 17.1 Resolutions of the Committee must be consistent with this Charter which limits decisions (resolutions) of the Committee to be treated as recommendations only as set out in clause 4.
- 17.2 The Committee will make decisions (resolutions) by majority vote and record its decisions (resolutions) in the minutes of the Committee meeting.
- 17.3 The relevant EMT Member responsible for implementing a recommendation made by the Committee may action resolutions as they deem appropriate in accordance with their individual delegations and authorisations.

18 Reports by EMT

- 18.1 The relevant EMT Member responsible for implementing a recommendation made by the Committee must report to the Committee on a monthly basis as to the status of actions taken. The Facilitator will coordinate such reports.

19 Minutes

- 19.1 All Committee business will be appropriately minuted and recorded by the Secretary.
- 19.2 Draft minutes will be distributed to the Committee at least 5 business days prior to the next meeting.
- 19.3 Draft minutes of the previous meeting are to be adopted by resolution of the Committee at the following meeting. The Committee must then authorise Committee Chairperson to sign the confirmed minutes.

20 Conduct by members and attendees

- 20.1 All Members and attendees are expected to conduct themselves in accordance with Council's Code of Conduct.
- 20.2 Conflicts of Interests must be declared and managed in accordance with the Code of Conduct. A record of a declared conflict of interest in the minutes is sufficient.

21 Public Comment

- 21.1 The Lord Mayor or General Manager are the official spokespeople for the Committee, in accordance with Council's Media Policy, and no other Members should speak to the media or members of the public in regard to Committee business.

22 Confidentiality

- 22.1 Due to the potential commercial implications, items of Committee business remain confidential unless confirmed otherwise by the Committee.
- 22.2 Prior to attending a meeting, any Guests invited in accordance with clause 12.2.4 (who are not Councillors or Council officers) must sign a deed of confidentiality and agree to abide by the terms of Council's Code of Conduct relating to confidentiality.
- 22.3 Unless otherwise resolved by the Committee, all meetings of the Committee will be closed to the general public.

23 Induction

- 23.1 New Committee Members will receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities.

24 Review of Committee performance

- 24.1 The Chairperson will initiate a review of the Committee's performance at least once every two years.

25 Review of Charter

- 25.1 This Charter will be reviewed every two years and may only be amended by resolution of the elected Council.

**ITEM-20 CCL 24/03/15 - WASTE MANAGEMENT FEES AND CHARGES
2015/2016**

REPORT BY: INFRASTRUCTURE – WASTE MANAGEMENT
CONTACT: DIRECTOR INFRASTRUCTURE / MANAGER WASTE
MANAGEMENT

PURPOSE

The purpose of this report is to seek Council approval to place on public exhibition proposed changes to the Waste Management Fees and Charges for 2015/16. The proposed changes cover the following matters:

- Waste Management Collections, Disposals and associated services Fees and Charges for the 2015/2016 financial year;
- pricing incentives to encourage participation in the separation of materials for recycling;
- sale prices for recovered materials;
- establish criteria for the waiver or reduction of fees and charges for Waste Management services and disposal; and
- a delegation to the General Manager to determine appropriate waivers or reductions of fees according to certain criteria.

RECOMMENDATION

- 1 Council endorses the draft amended 2015/2016 fees and charges for Waste Management collection, disposal and associated services at **Attachment A** being placed on public exhibition for 28 days, with a further report to be provided for Council to approve the amended fees and charges following exhibition.

KEY ISSUES

- 2 The fees and charges once adopted will need to be implemented by 1 July 2015. Adopting the fees and charges before 1 June 2015 will allow council time to provide sufficient notification to commercial and internal customers and provide educational materials to residents within the domestic 'waste calendar'. Previously fees and charges for Waste Management services and disposals were combined within Council's Delivery and Operational Plan and overall Fees and Charges. The 'last minute' adoption of the waste management fees created uncertainty in customers' budgets and caused conflict at the Summerhill Weighbridge.
- 3 External influences and legislative changes continue to have a direct financial impact on waste management activities. These drivers continue to significantly increase the cost of waste management, the landfill Waste Levy alone is expected to rise from the current \$120.90 per tonne to just under \$135.00 per tonne from July 2015.

- 4 The adoption of a wider range of products and recycling incentives in last year's fees and charges has proved popular and has encouraged source separation of recyclable materials. This range of options has continued in the 2015/16 fees and charges.
- 5 The purpose of combining of all Waste Management fees and charges into one report is to avoid the confusion and errors in the public exhibition of the fees and charges that occurred in 2014/15 fees and charges.
- 6 Council sometimes considers it appropriate to waive, reduce or negotiate these fees in cases of hardship or to support charitable organisations or to attract commercial waste. This is permissible under section 610E of the *Local Government Act 1993* (NSW):
 - (1) *A council may waive payment of, or reduce, a fee (whether expressed as an actual or a maximum amount) in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the council has determined payment should be so waived or reduced.*
 - (2) *However, a council must not determine a category of cases under this section until it has given public notice of the proposed category in the same way as it is required to give public notice of the amount of a proposed fee under section 610F (2) or (3).*
- 7 The proposal includes the ability to waive or reduce fees in categories for (i) bulk waste (ii) hardship and (iii) not for profit charitable organisations. The proposal includes a delegation to the General Manager to determine appropriate waiver, reductions or negotiation in fees after a set of criteria have been applied for each category.
- 8 It is appropriate that Council is able to consider waiving or reducing fees and charges in circumstances where Council is satisfied that the payment of the fee would cause a person genuine financial hardship, having regard to the principles of social justice, equity and fairness.
- 9 For the commercial waste and collections category, the objective for the proposal is to provide a range of turnover or volume based prices that will maintain or grow market share and achieve financial objectives.
- 10 Council through its community assistance plan can provide support for charitable organisations, who typically undertake resource recovery and recycling activity yet still need to dispose their residual waste to landfill.

FINANCIAL IMPACT

- 11 It is expected that the changes in the structure and methodology behind the incentives for recycling will improve the overall financial performance of the Summerhill Waste Management Centre by way of sales revenue, reduction in levy payments and the increase in available void space.

- 12 The total amount of any fees waived or reduced because of hardship is anticipated to be small and have minimal impact on overall revenues.
- 13 For the commercial waste category, the proposal will provide a range of turnover or volume based prices that will maintain or grow market share and achieve financial objectives.
- 14 The Community Assistance Plan (CAP) will fund (up to approximately \$100 K) for eligible not for profit charities. The category is required to set a minimum price for waste to internally recharge the CAP based minimum disposal costs. This will drive the CAP funding further than the currently adopted fees and charges.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 15 The recommendation aligns with following Community Strategic Plan directions:

“2.1a - Improve waste minimisation and recycling practices in homes, work places, development sites and public places”

“4.1a - Provide support to community organisations to improve their ability to plan and deliver appropriate and accessible services to the community”

“7.4b – Ensure long term financial sustainability through short, medium and long term financial planning”.

IMPLEMENTATION PLAN/IMPLICATIONS

- 16 The fees and charges are required to be adopted by Council by 30 June 2015 following a 28 day public exhibition period. A delay in endorsement of this report will impact on the time available to collate and incorporate community feedback to ensure adoption of the final report by the deadline and the subsequent publication and promotion of the Waste Management fees and charges prior to the deadline.
- 17 Council will write to all commercial customers notifying the amended fees, a notice will be displayed at Summerhill detailing the fees and implementation date and the adopted fees will be incorporated into the residents ‘waste calendar’ along with other educational items regarding recycling and waste management.
- 18 The recommendation, if adopted, will enable Council to enter into competitive negotiations to secure market share for commercial waste. It will also allow Council to pursue other commercial opportunities in order to achieve Operational Plan financial objectives.
- 19 Eligibility for Hardship and Not for Profit Charitable Categories will be determined through an application and assessment process.

RISK ASSESSMENT AND MITIGATION

- 20 Adopting the Waste Management fees and charges a month before implementation will reduce the risk of adverse reaction at the weighbridge and improve customer relationship management.

RELATED PREVIOUS DECISIONS

- 21 On 20 December 2011 Council received a report on Summerhill Waste Management Centre Fees and Charges.
- 22 On 15 May 2012 Council adopted Council's Schedule of Fees and Charges for 2012/13.
- 23 On 21 August 2012 Council adopted changes to Summerhill fees and charges to allow General Manager, or delegate, to vary the price paid per tonne of waste received at Summerhill Waste Management Centre.
- 24 On 27 May 2014 Council adopted the 2014/15 Summerhill fees and delegations.
- 25 On 27 May 2014 Council adopted that the waste collection fees be advertised as an addendum to correct an error in the public exhibition of the collection fees and charges.
- 26 On 24 June 2014 Council adopted the waste collection fees within the overall fees and charges.

CONSULTATION

- 27 Both commercial and residential users of Summerhill have expressed the need for better publication and promotion of waste fees prior to implementation.
- 28 Consultation has been and continues to be, undertaken with Summerhill Waste Management Centre's major clients. A number of models were proposed and feedback from clients was consistent; they request stable pricing which encourages exceeding a level of tonnes per month. This is considered the most easily understood and predictable approach to structuring turnover or volume based pricing for waste inputs and material sales.
- 29 Commercial waste producers and purchasers of recovered materials require the ability to approach each waste or product stream with pricing that reflects the type of material and quantity required. Pricing also needs to consider items such as vehicle types, timescales for delivery, quantity per day, site resources required, void space consumed, density of materials, site operational requirements, material composition, environmental risks and additional plant or equipment. Each of these aspects will have an impact on the cost of disposal and therefore the price charged

OPTIONS

Option 1

- 30 The recommendations as at Paragraph 1.

This is the preferred option. The proposed changes will allow Council to provide adequate notice of increased fees and provide the ability to waiver or reduce fees in cases of hardship, for supporting charitable organisations and to negotiate to provide the capacity to retain and compete for market share for commercial bulk waste.

Option 2

- 31 Council alters or changes the recommendations outlined in 1 above.

This is not the preferred option because it results in Council being unable to provide adequate notice, education or the ability to waive or reduce fees in cases of hardship or bulk waste. The changing of the fees and charges will also impact the budget assumptions and deliverables within Waste Management.

BACKGROUND

- 32 The ongoing effect of the NSW government's annually increasing levy imposed under Section 88 of the Protection of the Environment Operations Act 1997 and will contribute to market volatility for waste disposal in NSW. Capacity is required to negotiate reductions in fees for commercial bulk waste in order to achieve Council's long term financial objectives.
- 33 The *Local Government Act 1993* (NSW) requires Council to have in place approved price categories and processes to manage and support the waiver or reduction of fees on the grounds of hardship and other categories.

REFERENCES

ATTACHMENTS

Attachment A: Draft Amended fees and charges for Summerhill 2015/16

CITY OF NEWCASTLE

Ordinary Council Meeting 24 March 2015

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WASTE MANAGEMENT							
						2014-2015	2015-2016
REF.	FEE OR CHARGE	RECEIPT CODE	DESCRIPTION	PRICING POLICY	GST	FEE OR CHARGE GST Inclusive	FEE OR CHARGE GST Inclusive
Landfill and Resource Recovery							
I 23	Waste Disposal and Recycling						
	Type Of Waste		LGA 1993, S608 S404 (5)				
	100% Garden Waste - excluding stumps (no food)	T29	per tonne	M	10%	110.00	118.00
			minimum charge	M	10%	17.00	20.00
	General Solid Waste - Mixed	T29	per tonne	M	10%	230.00	255.00
			minimum charge	M	10%	30.00	35.00
	Soil - Virgin Excavated Natural Material (VENM) (Strict conditions apply)	T29	per tonne	M	10%	162.00	170.00 28.00
			minimum charge	M	10%	25.00	
	Clean Bricks, Tiles, Concrete	T29	per tonne	M	10%	143.00	140.00
			minimum charge	M	10%	22.00	20.00
	General Solid Waste - Special or Difficult	T29	per tonne	M	10%	350.00	360.00
			minimum charge	M	10%	53.00	55.00
	Mixed Road Base Wastes (Sand, Gravel, Stones, Concrete, minimal Asphalt)	T29	per tonne	M	10%	143.00	140.00 20.00
			minimum charge	M	10%	22.00	
	Clean Asphalt (no coal tar)	T29	per tonne	M	10%	82.50	85.00
			minimum charge	M	10%	13.00	15.00
	Clean Concrete (No rebar - non structural, minimal reo. Max 500mm)	T29	per tonne	M	10%	44.00	50.00 10.00
			minimum charge	M	10%	7.00	
	Clean Concrete - Structural (With rebar or significant reo. Max 500mm)	T29	per tonne	M	10%	52.00	60.00 10.00
			minimum charge	M	10%	8.00	
	Wood - Clean, untreated	T29	per tonne	M	10%	165.00	180.00
			minimum charge	M	10%	25.00	30.00
	Recyclables - Separated (Domestic Dry Clean Card, Paper, Bottles, Cans)	T29	per tonne	M	10%	38.50	40.00
			minimum charge	M	10%	6.00	6.50
	Recyclables - Mixed (Domestic Dry Clean Card, Paper, Bottles, Cans)	T29	per tonne	M	10%	93.50	100.00
			minimum charge	M	10%	15.00	18.00
	Scrap Metal (Whitegoods - exc fridges, car parts, bikes, steel, Aluminium)			M	N/A	Free	Free
	Electrical Waste (TV's, Computers, Printers/Scanners, Fans Phones, VCR's, DVD Players, Radios/Stereos, Power Tools Kitchen Appliances, Vacuum Cleaners, Heaters etc.)		Households only	M	N/A	Free	Free
			Commercial Customers				190.00

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REF.	FEE OR CHARGE	RECEIPT CODE	DESCRIPTION	PRICING POLICY	GST	FEE OR CHARGE GST Inclusive	FEE OR CHARGE GST Inclusive
	The following charges will be in addition to tonnage charge if included in mixed load						
	<u>Tyres:</u>						
	Small - Off Rim	T29	each	M	10%	7.00	8.00
	Small - On Rim	T29	each	M	10%	16.00	17.00
	Medium - Off Rim	T29	each	M	10%	12.00	13.00
	Medium - On Rim	T29	each	M	10%	21.50	24.00
	Large - Off Rim	T29	each	M	10%	22.00	25.00
	Large - On Rim	T29	each	M	10%	27.00	30.00
	<u>Mattresses:</u>						
	Single/Double	T30	each	F	GST Free	27.50	30.00
	Queen/King	T30	each	F	GST Free	33.00	35.00
	Batteries - Lead Acid (dry cell batteries - Free)	T30	each	F	GST Free	5.00	5.00
	Gas Bottles	T30	each	F	GST Free	20.00	20.00
	<u>Fridges</u>						
	Gassed	T30	each	F	GST Free	27.50	30.00
	Degassed	T30	each	F	GST Free	10.00	11.00
I 24	Product List - Materials for Sale (All grades & sizes are nominal)						
	Crushed Recycled Road Base 0-25mm	T29	per tonne	M	10%	27.25	28.00
			minimum charge	M	10%	14.00	15.00
	Crushed Sandstone 0-25mm	T29	per tonne	M	10%	27.25	28.00
			minimum charge	M	10%	14.00	15.00
	Crushed Recycled Aggregate 7-15mm	T29	per tonne	M	10%	30.00	31.00
			minimum charge	M	10%	15.00	16.00
	Crushed Recycled Aggregate 15-25mm	T29	per tonne	M	10%	30.00	31.00
			minimum charge	M	10%	15.00	16.00
	Crushed Recycled Aggregate 25-50mm	T29	per tonne	M	10%	30.00	31.00
			minimum charge	M	10%	15.00	16.00
	Crushed Recycled Aggregate 50-100mm	T29	per tonne	M	10%	25.00	26.00
			minimum charge	M	10%	13.00	14.00
	Crushed Recycling Fines/Sand 0-7mm	T29	per tonne	M	10%	35.00	36.00
			minimum charge	M	10%	18.00	19.00
	Sandstone Rocks - Various Sizes	T29	per tonne	M	10%	22.50	25.00
			minimum charge	M	10%	12.00	13.00
	Turf Underlay/Recovered Fines	T29	per tonne	M	10%	35.00	35.00
			minimum charge	M	10%	18.00	18.00
	Ungraded General Fill - VENM	T29	per tonne	M	10%	5.00	9.00
			minimum charge	M	10%	10.00	15.00

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REF.	FEE OR CHARGE	RECEIPT CODE	DESCRIPTION	PRICING POLICY	GST	FEE OR CHARGE GST Inclusive	FEE OR CHARGE GST Inclusive
	Other Items						
	<u>Hire of Frank Rigby Room</u>		LGA 1993, S608				
	- Full Day	T29	per day	M	10%	365.00	365.00
	- Half Day		per half day	M	10%	165.00	165.00
	- Casual (short term internal hire attracts nil fee)		per hour	M	10%	55.00	55.00
	Customer account reprints and enquiries (Account Customers)	T29	first enquiry	M	N/A	Free	Free
			additional enquiries	M	10%	3.50	3.50
	Customer reprints and enquiries (Other Customers)	T29	all enquiries	M	10%	5.00	5.00
	Notes						
1	Payments made by Credit Card will attract a 0.75% (GST incl) surcharge						
2	Some or all of the items listed may not be available or acceptable due to operating requirements or product availability						
3	Site Management reserves the right to refuse to receive and/or load vehicles at any time and/or for any reason						
	<u>WASTE AND COMMERCIAL COLLECTIONS</u>						
I 25	Garbage Fees						
			LGA 1993, S608				
	Wheeled Container Service - 140 litre residual waste - KERBSIDE						
	140 litre } Mon-Fri - 1 to 4 weekly services	T30	per service	F	GST Free	9.30	9.80
			per annum	F	GST Free	481.80	509.60
	140 litre } Mon-Fri - 5 to 8 weekly services	T30	per service	F	GST Free	NEW	9.51
	New service		per annum	F	GST Free	NEW	494.31
	140 litre } Mon-Fri - 9 and over	T30	per service	F	GST Free	NEW	9.31
	New service		per annum	F	GST Free	NEW	484.12
	140 litre } Saturday & Sunday	T30	per service	F	GST Free	NEW	10.91
	New service		per annum	F	GST Free	NEW	567.27
	Wheeled Container Service - 240 litre residual waste - KERBSIDE						
	240 litre } Mon-Fri - 1 to 4 weekly services	T30	per service	F	GST Free	10.55	12.05
			per annum	F	GST Free	547.45	626.36
	240 litre } Mon-Fri - 5 to 8 weekly services	T30	per service	F	GST Free	10.15	11.68
			per annum	F	GST Free	528.30	607.57
	240 litre } Mon-Fri - 9 and over	T30	per service	F	GST Free	9.95	11.44
			per annum	F	GST Free	518.60	595.05
	240 litre } Saturday & Sunday	T30	per service	F	GST Free	13.75	14.79
			per annum	F	GST Free	714.60	769.01
	Wheeled Container Service - 660 litre residual waste - KERBSIDE						
	660 litre service } Mon-Fri	T30	per service	F	GST Free	31.90	35.20
			per annum	F	GST Free	1,658.80	1,830.18
	660 litre service } Saturday & Sunday	T30	per service	F	GST Free	NEW	41.74
			per annum	F	GST Free	NEW	2,170.23

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Wheeled Container Service - 1100 litre residual waste - KERBSIDE						
1100 litre service } Mon-Fri	T30	per service per annum	F	GST Free	53.25	55.90
			F	GST Free	2,768.50	2,906.80
1100 litre service } Saturday & Sunday	T30	per service per annum	F	GST Free	NEW	65.96
			F	GST Free	NEW	3,429.92

REF.	FEE OR CHARGE	RECEIPT CODE	DESCRIPTION	PRICING POLICY	GST	FEE OR CHARGE GST Inclusive	FEE OR CHARGE GST Inclusive
Wheeled Container Service - 240 litre residual waste - KERBSIDE - UPGRADE							
	Service cost for increased domestic waste bin to 240L (Upgrade from standard 140 litre bin)	T30	per service	F	GST Free	225.00	250.00
Wheeled Container Service - 240 litre greenwaste - KERBSIDE additional service							
	Excess greenwaste bin (240 litre additional green waste bin, standard service day only)	T30	per service	F	GST Free	267.70	100.00
Miscellaneous							
	Cancellation fee to cover administration costs	T30	per cancellation	M	GST 10%	46.30	65.00
User Pays Recycling Service - additional services							
	240 litre Recycling bin, standard service day	T30	per annum	F	GST Free	146.95	100.00
	360 litre Recycling bin, standard service day	T30	per annum	F	GST Free	NEW	120.00
	Upgrade Standard 240 litre Recycling bin to 360 litre Recycling bin (DWMSC properties only) - admin costs	T30	one off fee	F	GST Free	25.00	25.00
	Cancellation fee to cover admin costs (no refund for removal of service due to contamination)	T30	per cancellation	F	GST Free	46.30	65.00
Bulkwaste Services Kerbside (Additional to Rated Services)							
	Pickup & disposal (up to 2 cubic metres of eligible material, collected as per the regular schedule)	T30	up to 2 cubic metres	F	GST Free	158.00	168.18
		T30	per additional cubic metre	F	GST Free	85.00	89.09
Special Event Bin Hire - RESIDUAL WASTE							
	Delivery and removal of Bins (240 litre bins) - bins delivered to central / single location	T30	Per load up to 12 bins	M	GST 10%	79.00	220.00
	Delivery and removal of Bins (660 litre & 1100 litre bins) - bins delivered to central/single location	T30	Per load up to 2 bins	M	GST 10%	NEW	250.00
	Service Charges of Event bins - 240 litre bin - bins emptied from kerbside location	T30	per service	M	GST 10%	19.45	19.88
	Service Charges of Event bins - 660 litre bin - bins emptied from kerbside location	T30	per service	M	GST 10%	NEW	58.08
	Service Charges of Event bins - 1100 litre bin - bins emptied from kerbside location	T30	per service	M	GST 10%	NEW	92.24

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Special Event Bin Hire - RECYCLING							
Delivery and removal of Bins (240 litre bins) - bins delivered to central / single location	T30	Per Load up to 12 bins	M	GST 10%	79.00	220.00	
Delivery and removal of Bins (360 litre bins) - bins delivered to central / single location	T30	Per Load up to 8 bins	M	GST 10%	NEW	250.00	
Delivery and removal of Bins (660 litre & 1100 litre bins) - bins delivered to central/single location	T30	Per Load up to 2 bins	M	GST 10%	NEW	250.00	
Service Charges of Event bins - 240 litre bin - bins emptied from kerbside location	T30	per service	M	GST 10%	NEW	15.00	
Service Charges of Event bins - 360 litre bin - bins emptied from kerbside location	T30	per service	M	GST 10%	NEW	23.00	
Service Charges of Event bins - 660 litre bin - bins emptied from kerbside location	T30	per service	M	GST 10%	NEW	42.00	
Service Charges of Event bins - 1100 litre bin - bins emptied from kerbside location	T30	per service	M	GST 10%	NEW	68.00	
Wheeled Container Service – misc. Sizes & Types							
Different sizes, types and delivery methods other than those listed in this schedule			M	GST 10%		POA	

The General Manager, or delegate, may, at their discretion, negotiate an appropriate rate for waste collected, deposited or material sales that fall within the following categories:

Category One – Commercial waste clients

Service and/or Waste Type	Criteria
Waste Collections	Any customer who requires additional services over and above the basic domestic waste collection services having regard to: - the number of additional services required - the scope and frequency of additional services required - the suitability of the premises, access and/or waste types presented - the best interests of Council
Waste inputs	Account holders who present waste valued in excess of \$150,000 and having regard to: - volumes presented and waste composition - any other relevant commercial or operational considerations - the best interests of Council
Material outputs	Account holders who purchase materials valued in excess of \$10,000 and having regard to: - volumes purchased - any other relevant commercial or operational considerations - the best interests of Council

Category two – financial hardship

If a written application is made for the reduction or waiver of a fee, the General Manager, or delegate, may reduce or waive that fee if the General Manager, or delegate, is satisfied that:

- the payment of the fee would cause the person genuine financial hardship;
- the waste was generated within the Newcastle local government area; and
- having regard to the principles of social justice, equity and fairness the fee should be reduced or waived.

NOTE: Council will only consider reducing or waiving fees in this category in extreme circumstances.

Category three – Not for Profit Charitable Organisations

If a written application or an internal recommendation is made for the reduction or waiver of a fee, the General Manager, or delegate, may reduce or waive that fee if the General Manager, or delegate, is satisfied that:

- the organisation making the application is a Not for Profit Charitable Organisation that is registered or has an office or operational facility within the Newcastle local government area;
- the organisation received an authorisation from New South Wales Environmental Protection Agency to waive the application of the Landfill Levy;
- the waste was generated within the Newcastle local government area;
- the reduction or waiving of the fee is within Council's allocated budget; and
- having regard to the principles of social justice, equity and fairness the fee should be reduced or waived.

ITEM-21 CCL 24/03/15 - ADOPTION OF BULK WASTE SERVICE

REPORT BY: INFRASTRUCTURE – WASTE MANAGEMENT
CONTACT: DIRECTOR INFRASTRUCTURE / MANAGER WASTE
MANAGEMENT

PURPOSE

To seek Council approval for the adoption and continuation of the current on-demand Bulk Waste Service, comprising kerbside collection bookings and self-haul (tipping) vouchers. Formal adoption of the service is being sought as the current model has been delivered on a trial basis for the past three years.

RECOMMENDATION

- 1 Council approve the provision of the Bulk Waste Service in its current form, comprising a kerbside collection booking system and the issuing of self-haul (tipping) vouchers, provided to ratepayers up to twice per year on an on-demand basis, over a rolling 12 month period.
- 2 Council approve additional promotion and education campaigns, as required, to raise public and community awareness and increase participation of the Bulk Waste Service.
- 3 Council approve that, from time to time, the Bulk Waste Service may be amended for reasons such as operational, legislative, service improvements and/or financial reasons and authorises the General Manager or delegate to approve any changes necessary providing that they remain broadly in line with the approved service.

KEY ISSUES

- 4 In 2012 Council changed its Bulk Waste Service from a twice-yearly kerbside pickup across entire suburbs to an on-demand service. The current service provides ratepayers with the choice to book up to two kerbside collections or request two self-haul vouchers for tipping at Summerhill Waste Management Centre, or to arrange for one of each option.
- 5 The previous model was performed under contract with Council being charged for all households in the local government area regardless of whether they utilised the service or not. The majority of bulk waste presented was sent to landfill by the contractor. In addition, the amenity of areas presenting bulk waste was adversely impacted during the presentation period. Scavenging was prevalent and Council regularly received complaints regarding safety and amenity.

- 6 The in-house trial has delivered annual savings in excess of \$130,000 compared to the former arrangement. Council is also now able to recycle a number of materials such as white goods, mattresses and green waste in line with its resource recovery aspirations. In addition to the associated environmental and social benefits, this has allowed the service to be delivered to ratepayers at a lower cost, with Council collecting approximately \$40,000 each year from scrap metal recovery.
- 7 A total of 31,669 bookings from 20,141 individual properties were placed in 2014. There does not appear to be a need to increase the current level of service (two collections/vouchers), with only 16% of participating households, excluding Housing NSW properties, making use of both of their service entitlements in 2014 (Waste Services schedules two annual services with Housing NSW every 12 months in advance).
- 8 The trial service has not been heavily promoted since its inception. An increase in self-haul requests was noted following inclusion of the service details in the inaugural Waste Calendar mailed to all households in July 2014.
- 9 A need has been identified for further promotion and education to improve compliance with the service rules (such as not putting waste on the kerb prior to booking a collection) and to help reduce incidences of illegal dumping across the city.
- 10 The use of vouchers by landlords only, does not assist tenants in disposing of their waste. The current system relies on landlords passing the voucher on to tenants and controlling who is allowed a collection. It is proposed that the bulk waste scheme going forward will be provided to householders irrespective of their occupancy status and will be allocated to the property and not the owner. The investment into software and electronic management of the voucher system will improve delivery of the service directly to the householder whilst reducing instances of rorting the service.
- 11 It is likely that as a result of this recommendation, demand for the service may increase which may result in the increase of staff and plant resources over the longer term.
- 12 Adoption of this recommendation will continue to provide a means of disposal for waste materials not able to be placed in the kerbside bin and will assist in the ongoing reduction in instances of illegal dumping.

FINANCIAL IMPACT

- 13 The financial impact from adopting the recommendations at paragraphs 1, 2 and 3 is approximately \$958,000 per annum based on current service utilisation. An increase of \$342,000 up to \$1.3 million has been allocated in the 2015/16 budget in anticipation of any moderate increase in participation. Council provides the current service with one collection truck and three staff members. The increase of \$342,000 allocated within the 2015/16 budget provides for additional waste disposal, fuel and contract/overtime labour costs associated with a moderate increase in household participation.

- 14 Should Council resolve to accept the recommendation of this report, it is proposed to continue to manage the funding for the service through the current Domestic Waste Management Service Charge (DWMSC).
- 15 These potential increases in costs over the longer term will have an effect on the DWMS charge of about \$5.60 per property, although, there is no immediate increase in the DWMSC planned as savings elsewhere will enable the current DWMSC to remain as is. Further promotion and encouragement in the use of the self-haul vouchers will also reduce the impact on the DWMSC, as Council will not incur the costs associated with the actual collection. The self-haul option will naturally become increasingly popular as booking times for collections may become longer with increased participation.
- 16 If Council were to discontinue the service as outlined in Option 2, there would be a direct saving of approximately \$730,000 per annum, although these savings may be offset by increases in the cost associated with increased instances of illegal dumping. There would only be small savings in plant costs (besides some fuel savings) as the large rear loader employed for the current service will still be required to perform other operations such as the collection of illegally dumped waste, and continue as a back-up support vehicle for other services.
- 17 If demand for the kerbside collection service were to increase substantially beyond the current level, an additional large rear loader would be required, with an associated capital cost of approximately \$340,000 with annual operating costs of about \$155,000 (including fuel, maintenance, registration, insurance and depreciation). Three additional operational staff would also be required at a collective annual cost of approximately \$200,000. This could have the effect of increasing the DWMSC by an additional circa \$5.80 per property, although as noted above, this cost potential will be minimised by operational efficiencies and the increase in self-haul options.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 18 The recommendation aligns with the following *Newcastle 2030* “A protected and enhanced environment” objectives:
 - 2.1 Greater efficiency in the use of resources** - 2.1a Improve waste minimisation and recycling practices in homes, work places, development sites and public places.
 - 2.2 Our unique natural environment is maintained, enhanced and connected** – 2.2a Encourage and support active community participation in local environmental projects.
- 19 It also supports the following actions in the *Newcastle 2020 Carbon and Water Management Action Plan*:
 - RES-39 Waste Education** – Continue to deliver Council’s waste education program, promoting Council’s waste services to residents and increasing knowledge of waste minimisation and correct recycling practices.
 - RES-42 Resource Recovery** – Explore opportunities to increase resource recovery when renewing kerbside bulk waste collection contracts.

IMPLEMENTATION PLAN/IMPLICATIONS

- 20 The service has been functioning satisfactorily in its current form since early 2012, with 31,669 collections and vouchers arranged last calendar year.
- 21 Service efficiency will be improved by investigating the procurement of software that will allow for electronic dissemination of the self-haul vouchers, such as by email or SMS barcode. Further improvements and savings could be found in improvements in vehicle management and improved utilisation.

RISK ASSESSMENT AND MITIGATION

- 22 Risks were assessed prior to implementation of the current service, together with risks from a Workplace Health and Safety perspective.
- 23 The self-haul voucher provision minimises WHS risk by reducing the amount of waste to be collected by Council staff, by reducing the amount of waste presented on streets, and by helping to discourage the placement of problem wastes (such as car batteries, gas cylinders and asbestos) in kerbside waste bins. The on-demand kerbside collection service has reduced the prevalence of scavenging behaviour and the associated safety and amenity issues arising from the presentation and scattering of waste on nature strips along streets.
- 24 If Council were to discontinue the service, it would most likely be met with strong negative public opinion due to the widely held perception that Council should provide a bulk waste service. Additional resources would also be required to address any anticipated increase in illegal dumping across the city.

RELATED PREVIOUS DECISIONS

- 25 Provision for the improvement of the Bulk Waste Service was endorsed within the Waste Review of 2009. The continuation of this service is directly related to financial and environmental improvements from that process.

CONSULTATION

- 26 Prior to the introduction of the current service delivery model, consultation took place with ratepayers via a Newcastle Voice survey in 2009 together with Community Forum sessions in 2010.
- 27 More recently, internal consultation has taken place with senior management, Waste Services, Summerhill Waste Management Centre and Compliance Services. Through this process, a need has been identified for more education and publicity about the service and the investigation into software that could improve service efficiency.

OPTIONS

Option 1

28 The recommendation as at Paragraphs 1, 2 and 3:

Option 2

29 Council reject the recommendation and the service is discontinued. This is not the recommended option and would leave ratepayers without a bulk waste service.

Option 3

30 Council amends the recommended option or amends the proposal as it sees fit.

BACKGROUND

- 31 For the past three years, Council has successfully trialled an on-demand bulk waste service, allowing ratepayers to book a kerbside collection at their own convenience or to request a self-haul voucher to transport their allotted bulk waste to Summerhill Waste Management Centre. Two service provisions are available to each rateable property each calendar year.
- 32 The service was amended from the previous area-wide kerbside collection model due to identified financial savings, plus additional benefits such as improved amenity, lower WHS risks, and the ability for ratepayers to book a service at a time convenient to them, such as when moving house.
- 33 The self-haul component accounts for about one-third of all booking requests, delivering collection cost savings to Council. The popularity of this option is likely due to the wider variety of materials permitted for disposal than via the kerbside collection, including fridges, freezers, asbestos, problem materials and green waste, and the shorter time lag between booking and disposal opportunity.
- 34 The change in the service delivery model is consistent with that of other councils. Out of 42 Sydney and Central Coast councils surveyed, 26 provide an on-demand service, 12 provide a scheduled area-wide collection, and four provide a combination of on-demand and scheduled services. The majority of Hunter councils still provide a scheduled kerbside collection service, however, Port Stephens plans to introduce an on-demand service in the near future and Cessnock, Maitland and Singleton councils are currently tendering for an on demand service.

- 35 The service is delivered at an annual cost of approximately \$958,000 based on current participation rates, including plant, staff and disposal costs. This includes three operational staff to undertake the collections and a dedicated administrative resource to process approximately 120 daily requests for kerbside collections and self-haul vouchers via phone, email and online requests.
- 36 The total weight of bulk waste received via the service in 2014 was 19% higher than that in 2010-11. Because it is not known how many households previously participated in the area-wide service, it is difficult to tell if more households are now making use of the service, or if this number has remained relatively stable but the participating households are generating more bulk waste.
- 37 The trial service has not been heavily promoted, aside from on Council's website and inclusion in the inaugural 2014 Waste Services Calendar issued to all households. The need to undertake more promotion and education has been identified to target illegal dumping, to address incorrect use of the kerbside collection service, and to encourage use of the self-haul option.
- 38 It is likely that further promotion of the service will increase participation rates. To meet this demand, Council would need to invest in more plant and staff with the potential for service costs to increase in the long term.

ATTACHMENTS

Nil.

**ITEM-22 CCL 24/03/15 - RAILWAY STREET, MEREWETHER-
PROPOSED FULL ROAD CLOSURE AT LINGARD STREET**

REPORT BY: INFRASTRUCTURE
CONTACT: DIRECTOR INFRASTRUCTURE / MANAGER
INFRASTRUCTURE PLANNING

PURPOSE

To gain approval for a full road closure of Railway Street Merewether at Lingard Street, effective immediately.

RECOMMENDATION

- 1 Approve the vehicular full road closure of Railway Street, Merewether at Lingard Street.

KEY ISSUES

- 2 As part of the 2013 Hamilton South Local Area Traffic Management (LATM) Study, a traffic control signal was approved at the intersection of Glebe Road and Lingard Street. The existing pedestrian traffic signal at Glebe Road east of Lingard Street will be removed and incorporated with the new traffic signals at the intersection. Funding has been allocated to install the traffic control signal for the 2015/16 financial year.
- 3 During the detailed design stage, it was noted that the intersecting roads at Railway Street and Lingard Street is in close proximity to the proposed traffic control signal. This is not desirable for safety reasons with the traffic coming out of Railway Street merging onto Lingard Street. There is a tendency for cars to turn left into Lingard Street and then right to Glebe Road, occupying the two lanes of traffic.
- 4 Council's Traffic Engineer recommended either a half or full closure of Railway Street at the Lingard Street intersection. The matter was tabled to the Newcastle City Traffic Committee (NCTC) at its meeting on 18 August 2014 for discussion. The Committee supported road the full closure proposal and for community consultation to be conducted with the residents. A conceptual sketch of the proposed road closure is shown in **Attachment A**.
- 5 Leaflets were distributed to the residents of Railway Street and the surrounding area. There were 19 responses received, 14 supporting and 5 opposing the full road closure. A summary of the residents' comments is shown in **Attachment B**.

- 6 One objector preferred the half closure of Railway Street at the Lingard Street intersection. Another objector is a coach business that runs coaches in Lingard Street and their access route going south is via Railway Street. The others do not agree to the road closure due to heavy traffic in Glebe Road and National Park Street and prefer to use the Lingard Street end access. The residents that support the full road closure note that this will prevent the illegal and dangerous practice of motorists turning right from Railway Street into Lingard Street. This will also increase residential amenity to Railway Street.

FINANCIAL IMPACT

- 7 The proposed full road closure will be funded through Roads to Recovery Funding. The project will cost approximately \$85,000.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 8 The proposed full closure is aligned with the Strategic direction of “Connected City” whereby *“transport network and services will be well connected and convenient. Walking and cycling will be viable options for the majority of our trips”*. The proposal will increase safety for pedestrians heading to the traffic signal lights in Glebe Road.

IMPLEMENTATION PLAN/IMPLICATIONS

- 9 Approval of the full road closure is not delegated to council officers and must be referred to Council for final determination. Approval of the full closure does not have any implications on existing or future planning policies. The proposal will support Council’s mission to enhance the quality of life by improving the safety of road users.

RISK ASSESSMENT AND MITIGATION

- 10 The proposed full road closure is intended to reduce risk at Lingard Street in proximity to the new traffic control signals. Railway Street is approximately 8 metres south of the intersection, and there is a probability that cars turning left from Railway Street to Lingard Street may collide with the northbound traffic. This is a mitigation risk measure to increase safety near the traffic control signal. The Roads and Maritime Services (RMS) are strongly opposed to retaining the eastbound access of Railway Street at Lingard Street.

RELATED PREVIOUS DECISIONS

- 11 The NCTC at its meeting on 17 November 2014 endorsed the full road closure proposal to Council for final consideration.

CONSULTATION

12 Consultation has been conducted with residents in the vicinity of Railway and Lingard Streets. The proposed plan was on public exhibition from 18 September to 24 October 2014. Leaflets were distributed to the residents and other stakeholders that may be affected by the proposed change. Only a small number of responses were received as there are only a small number of residents along Railway Street. Fourteen responses from 19 submissions, shown in **Attachment B**, supported the full closure of Railway Street.

OPTIONS

Option 1

13 Approve the recommendation shown in paragraph 1.

Option 2

14 Approve only the half road closure of Railway Street. Allow only westbound traffic from Lingard Street in to Railway Street. This is not the preferred option.

Option 3

15 No action be taken at this time. Railway Street remains open to vehicular traffic. This is not the preferred option due to the safety issue associated with the traffic control signal installation.

BACKGROUND

16 Background information is shown in the Key Issues Section of this report.

REFERENCES

ATTACHMENTS

Attachment A: Conceptual plan of the full road closure.
Attachment B: Summary of resident comments.

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Attachment B

SUMMARY OF RECEIVED COMMENTS

Railway Street, Merewether - Proposed Closure at Lingard Street Intersection

Reference	Address	Do you agree with the permanent road closure of Railway St at the Lingard St intersection?		Comments
		YES	NO	
4964895	Morgan St	✓		
4965499	Frederick St	✓		This closure will prevent the illegal and dangerous practice of motorists turning right from Railway St into Lingard St on the incorrect side of the road to the Morgan St intersection roundabout.
4966381	Railway St	✓		Having lived in Railway St for over 13 years, 50 metres from the intersection, I have been witness to countless near missed and hearing many collisions over this time. I implore you to go ahead with this proposal for the safety of all concerned especially the school kids crossing, sometimes with cars driving through the red light.
4969481	Railway St	✓		Please insure that the turnaround area is large enough to cope with garbage trucks and vehicles with boats/trailers. I have a boat and need to be able to turnaround in the street to be able to reverse into the garage. Resident parking only would be a good idea as it becomes impossible to park during peak pub times.
4970052	Morgan St	✓		Finally some common sense. Pity about the expense of dismantling the existing (pointless) arrangement.
4974101	Morgan St	✓		Public consultation process much appreciated! Strongly agree with decision on Railway Street and the great news about the much needed upgrading of the Glebe Rd/Smith St intersection. However, what is also needed urgently is an upgrading of the pedestrian safety at the intersection of Morgan Street and Lingard Street. The pub corner is now very unsafe to cross, especially for the many school kids. It is a blind corner. With the upgrading of the park (great!) and the extensions to the hospital, much more pedestrian, cycle and vehicle traffic. Zebra crossings and Stop signs needed.
4978909	Ausgrid	✓		Proposed works are above and in the vicinity of Ausgrid underground cables in the road reserve.
4967954	RMS	✓		No objection.
4984263	Stanley St	✓		I agree with the permanent closure of Railway St at the Lingard St intersection. I agree with the installation of traffic lights at this intersection. There is a need include a no right turn southbound from Smith into Glebe Rd to discourage traffic volumes. Is there a right turn westbound along Glebe into Smith St?

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4995388	Railway St	✓		Parking is already a major concern - with the proposed 'turnaround' area I am assuming the amount of parks will further diminish. How about encroaching on the 'nature strip' between Railway St/Glebe Rd and replacing the parallel parks with angle parks?
4986026	Railway St	✓		I agree that it is necessary to have a full closure of Railway St at the Lingard Street intersection. I believe that if Railway St remained open there would be an increase in traffic volume speeding along Railway St heading west towards Llewellyn St trying to avoid the new traffic signals.
4997637	Morgan St	✓		
5007880	Frederick St	✓		
4965805	Jemena Asset Management (Gas Network)	✓		Objects as there is a pre-existing gas main located in this area. If the road is closed or developed, Jemena needs to maintain legal rights for the use and maintenance of the pipelines. In order to lift the objection, Jemena requires creation of a registered easement over the affected main. Alternatively, Jemena can consider relocation of the gas main to an area outside of the road closure. We would be happy to assist with this where possible. Further advice received - no objection.
4966383	Hunter Water		✓	Have infrastructure located in the area. Should the changes to the road structure mean that Hunter Water's infrastructure will be located in land other than dedicated road reserve the creation of easements over the infrastructure will need to be registered. All costs associated with doing so will be the responsibility of TCoN.
4975562	Railway St		✓	I do not agree that Railway St Merewether should be closed off.
4998091	Railway St		✓	We request that a partial closure of Railway St be made by blocking any traffic from Railway St into Lingard St to allow only traffic to enter Railway St from Lingard St. As residents, it would be extremely beneficial and at times potentially safer for us if we are left with options regarding the ways in which we can return home. This will give all residents the ability to apply their judgement and local knowledge as to when to use the western end intersection to return home and when best to avoid it i.e. at peak times.
5004707	Glebe Rd		✓	I disagree with the permanent road closure of Railway St at the Lingard St intersection. The amount of traffic on Glebe Rd prevents us turning into our property from westbound lane. Because National Park St closed, we have to use Lingard roundabout and Railway St to get to lights to rejoin Glebe Rd (at Mary Ellen Hotel) to enter our property from Glebe Rd.
5013103	Lingard St		✓	We operate 5 coaches each day, a great number to the south, these vehicles are 12.5 metres long, and to turn left into a single lane we must use two lanes to turn from. This will place more vehicles in Glebe Rd. The short distance from Glebe Rd back up Lingard past Railway St, Morgan St to the roundabout is so small. The traffic waiting for the lights to turn will back up into the roundabout, stopping the flow of Morgan St. As 12.5 metre vehicles taking up two lanes to make a left hand turn into Glebe Rd will cause more waiting time for other vehicles.
TOTAL		14	5	

**ITEM-23 CCL 24/03/15 - TEMPORARY SUSPENSION OF ALCOHOL
FREE ZONE KEIGHTLEY LANE NEWCASTLE**

REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER
STRATEGIC PLANNING

PURPOSE

To seek Council's approval to temporarily suspend the Alcohol Free Zone (AFZ) in Keightley Lane, Newcastle on Saturday 25 April 2015 from 6am to 6pm for the purpose of allowing ANZAC Day activities.

RECOMMENDATION

- 1 Subject to the event organiser, Newcastle Diggers Club meeting all requirements of the NSW Police Force's Newcastle Local Area Command, Council approves the temporary suspension of the Alcohol Free Zone for Keightley Lane, Newcastle on Saturday 25 April 2015 from 6am to 6pm for the purpose of allowing ANZAC Day activities.
- 2 The General Manager be authorised to act on the above resolution once he is satisfied that the event organiser, Newcastle Diggers Club, meets all the requirements of the NSW Police Force's Newcastle Local Area Command.

KEY ISSUES

- 3 The Council policy adopted on 27 November 2012 re-established AFZs in locations across the city and required Council approval be sought for the lifting of AFZs when an approved festival or function is to be held.
- 4 Any lifting of an AFZ must be under the direction of the relevant Police Local Area Command (LAC). In this instance, the proposal for the 2015 ANZAC Day activities has been considered by Newcastle LAC and Council officers. The LAC supports the lifting of the AFZ subject to the organiser meeting the conditions placed on the event by Council and Police.
- 5 Section 645 of the Local Government Act 193 (Act) provides for Council, by resolution, to allow the temporary suspension of AFZs. The Act and Ministerial Guidelines on Alcohol-Free Zones (February 2009) provide a specific procedure which must be followed in relation to suspending AFZs, and this includes a requirement to seek Council's endorsement. Following adoption of this suspension Council must publish a notice in a local newspaper informing the community of the suspension of the Alcohol Free Zone that will be in place from 6am to 6pm on 25 April 2015.

- 6 Street signs must be covered immediately on commencement of the time frame and the covers removed immediately following the expiration of the suspended time. This is the responsibility of the organiser of the event but will be overseen by Council staff. Liaison with local police both before and after the council resolution is an essential requirement. This consultation with the police has been undertaken by Council officers and will continue to be undertaken in the lead up to the event.
- 7 The Newcastle LAC is satisfied with the management strategies that have been put in place by the event organiser and supports the suspension of the AFZ on this occasion. Police have indicated that this event poses little or no concerns for police or the community.

FINANCIAL IMPACT

- 8 There are minor costs associated with the advertising of the suspension of AFZs. These costs can be covered within the allocated Anzac Day Event budget. The costs of road closures, covering of signage and any requirements placed on the event organiser by police will be incurred by, and are the responsibility of the event organiser.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 9 Lifting of the AFZ for an approved event is in line with the strategic direction *Vibrant and Activated Public Places* and, more specifically, the objective of *Safe and activated places that are used by people day and night*.

IMPLEMENTATION PLAN/IMPLICATIONS

- 10 The responsibility of implementing the suspension of the AFZ lies with the event organiser. Assistance will be provided by Council officers including notification of the suspension in a local newspaper and overseeing covering and uncovering of AFZ signs before and after the event.

RISK ASSESSMENT AND MITIGATION

- 11 Council officers and officers of the Newcastle LAC are working closely with the event organiser to ensure adequate strategies are in place to manage the consumption of alcohol at the ANZAC Day activities. The licence that is issued by Council to the event organiser for the use of Keightley Lane, Newcastle for the event will include any conditions as specified by Police with regard to the management of alcohol consumption.

RELATED PREVIOUS DECISIONS

- 12 Council has previously suspended the AFZ in Keightley Lane for the purpose of ANZAC Day activities.

CONSULTATION

- 13 No negative feedback was received as a result of temporarily lifting the AFZ in Keightley Lane during ANZAC Day in 2014, therefore no consultation was deemed necessary.

OPTIONS

Option 1

- 14 The recommendation as at paragraph 1.

Option 2

- 15 Council resolves not to support the suspension of the AFZ on this occasion. The disadvantage of this option is that the event would not be able to proceed in its proposed format. This is not the recommended option.

BACKGROUND

- 16 The request for temporary suspension of the AFZ has been received from Newcastle Diggers Club. Newcastle Diggers Club (formerly RSL Club) has successfully managed similar events in previous years where Council has approved the temporary suspension of the AFZ.
- 17 There is no difference between previous applications and this one.

ATTACHMENTS

Nil

ITEM-24 CCL 24/03/2015 - EXHIBITION OF THE FORESHORE DRAFT PLAN OF MANAGEMENT

REPORT BY: **INFRASTRUCTURE**
CONTACT: **DIRECTOR INFRESTRUCTURE / MANAGER FACILITIES AND RECREATION**

PURPOSE

The Foreshore Draft Plan of Management (draft Foreshore PoM) has been prepared in accordance with the *Local Government Act 1993* and the *Crown Lands Act 1989*.

This report seeks Council's approval to place the draft Foreshore PoM on public exhibition.

RECOMMENDATION

- 1 a The draft Foreshore Plan of Management (**Attachment A**) be placed on public exhibition in accordance with the *Local Government Act 1993* for 28 days.
- b A public hearing be held during the exhibition period as per the *Local Government Act 1993*.
- c Council receive a report on the outcome of the exhibition when considering the adoption of the draft Foreshore PoM.

KEY ISSUES

- 2 The key issues for the draft Foreshore PoM have been identified through site analysis, community consultation, stakeholder engagement and literature review. As detailed in Section 5.4 of the draft Foreshore PoM the key issues and action are grouped into 6 broad categories:
 - Recreation;
 - Connectivity;
 - Landscape;
 - Community use and special events;
 - Heritage; and
 - Park management.
- 3 There are two significant actions that are highlighted in the Foreshore PoM. These are the provision of a shared pathway from the Honeysuckle Precinct to Bathers Way at Nobbys Beach and the provision of a Landscape Masterplan for the entire site including the provision of a city level playground. Both of these items are detailed in Section 5.1 of the draft Foreshore PoM.

FINANCIAL IMPACT

- 4 The review of the Foreshore PoM has been undertaken within existing operational budgets. If adopted, actions within the Management Action Table of the draft PoM will require further detailed investigation to enable cost estimates to be prepared and funding streams sought.
- 5 The updated Foreshore PoM will place Council in a strong position to access relevant State and Federal grant funding opportunities when they become available.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 6 The draft Foreshore PoM is in alignment with the Newcastle 2030 Community Strategic Plan (CSP). The draft Foreshore PoM specifically addresses seven objectives under five of the seven strategic directions.

IMPLEMENTATION PLAN/IMPLICATIONS

- 7 *The Local Government Act 1993* is the primary legislation governing the management of Community Land. Community Land is defined by the Act as land set aside for community benefit. The Act requires all Community Land to be included in a plan of management. Sections 35-47 of the Act provide guidance on the use and management of Community Land and the preparation of a Plan of Management. The Act along with the guidelines in the *Local Government (General) Regulation 2005* sets out what is to be included in a plan of management.
- 8 In general, a plan of management must identify:
 - the category of the land;
 - the objectives and performance targets of the plan with respect to land;
 - the means by which these strategies will be achieved; and
 - the methods which will be used to assess whether the strategies are being achieved.
- 9 A plan of management that applies to just one area of Community Land, as this one does, must also include a description of:
 - the condition of the land, and any buildings or other improvements on the land, as at the date of the adoption of the plan of management;
 - the use of the land and any such buildings and improvement as at that date;
 - specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used;
 - specify the purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise; and
 - describe the scale and intensity of any such use or development.
- 10 This Plan of Management will address all of the above requirements for the Foreshore. Plans of Management are public documents and can be reviewed and amended, however they usually remain valid for a minimum of five years from the date of adoption.

RISK ASSESSMENT AND MITIGATION

- 11 The draft Foreshore PoM has been prepared in accordance with the relevant legislative requirements and is now ready for public exhibition. There is community expectation that this draft Foreshore PoM will go on public exhibition in the near future. A report detailing the outcomes of the public exhibition process will be provided when the draft Foreshore PoM is considered by Council.

RELATED PREVIOUS DECISIONS

- 12 There are no related previous Council decisions.

CONSULTATION

- 13 The *Local Government Act 1993* requires plans of management to be prepared in consultation with the community. A community consultation plan was developed at the inception of this project to ensure all members of the community had an opportunity to provide input into the new plan of management. The community and stakeholder consultation identified values for the Foreshore, along with the issues and opportunities for the park and a range of future visions. All of these have been used to guide the development of actions and directions for the future management of the Foreshore.
- 14 If Council endorses the public exhibition of the draft Foreshore PoM, the following consultation process is proposed:
- Draft Foreshore PoM is placed on public exhibition for a period of 28 days, with submissions received for 42 days.
 - As the draft Foreshore PoM is proposing to alter existing categories of community land, a Public Hearing in accordance with Clause 40A of the *Local Government Act 1993* is required. This will be undertaken during the exhibition period.
 - Advertising of the draft Foreshore PoM in local newspapers, plus on Council's website.
 - Copies of the draft foreshore PoM available at local libraries and Council's Administration Centre.
- 15 Council receive a report on the outcome of the exhibition period when considering the adoption of the draft Foreshore PoM.

OPTIONS

Option 1

- 16 The recommendation as at Paragraph 1.

Option 2

- 17 The draft Foreshore PoM not be placed on public exhibition. The existing Foreshore PoM is now fourteen years old and not representative of the current trends, use and values held by the community. Through the extensive consultation process completed to develop the draft Foreshore PoM, there is community expectation that this PoM will be exhibited for comment in the near future. This is not the recommended option.

BACKGROUND

- 18 The Foreshore is a high quality eleven hectare city park situated in the Newcastle City Centre. It borders the Newcastle Harbour, ocean beaches and the culturally significant sites of Fort Scratchley, the Convict Lumberyard and Customs House. The park is situated largely on reclaimed land and has a rich cultural heritage from both Aboriginal and European occupation. Since European occupation it has evolved through many land uses including coal mining, shipping, power supply, bond storage and rail infrastructure to the community open space we see today.
- 19 The Foreshore is made up of the three distinct sectors including the Joy Cummings Promenade, Foreshore Park and Camp Shortland. The park is used regularly by both the local East Newcastle community as well as the wider community for walking, cycling, special events and passive recreation.
- 20 A site specific plan of management for the Foreshore was prepared in 2000. With the changing needs of the community over the past 14 years, a new PoM is now needed for the Foreshore. The draft Foreshore PoM sets out a clear direction for the Park's future and how this area is to be developed, managed and used over the next 5 to 10 years. It reconfirms the values the community holds for the Park, and ensures protection of those values in future management decisions. It also addresses emerging uses or issues that have arisen since the adoption of the last plan.

ATTACHMENTS

- Attachment A:** The Foreshore Draft Plan of Management - **Distributed under separate cover**

**ITEM-25 CCL 24/03/15 - NEWCASTLE EYE HOSPITAL - ADOPTION OF
AMENDMENT TO NEWCASTLE LEP 2012**

**REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER
STRATEGIC PLANNING SERVICES**

PURPOSE

This report seeks Council's endorsement to commence the statutory process to prepare an amendment to Newcastle Local Environmental Plan (LEP) 2012 for the Newcastle Eye Hospital site.

RECOMMENDATION

- 1 Council resolves to:
 - a) Endorse the attached planning proposal to amend Newcastle LEP 2012, pursuant to Section 55 of the *Environmental Planning and Assessment (EP&A) Act 1979* for land at Lot 2, 3 & 4 DP 21366, Lot 7 DP 660745, Lot 8 DP 660746, Lots 1 & 2 DP 1114442 and Lots 100 & 101 DP 569322 with a street address of 174-182 Christo Road, Waratah and 114-116 Griffiths Road, Lambton as follows:
 - i) include 'health services facility' as an additional Schedule 1 permitted use.
 - ii) amend the Height of Buildings Map to include a maximum permissible height of 10 metres over part of the land.
 - b) Forward the planning proposal to the Minister for Planning and Environment for gateway determination pursuant to Section 56 of the *EP&A Act 1979*.
 - c) Advise the Director-General of the Department of Planning and Environment that Council does not seek to exercise delegations for undertaking section 59(1) of the *EP&A Act 1979*.
 - d) Receive a report back on any planning proposal to which a written objection is received during consultation with the community otherwise forward the planning proposal to the Department of Planning and Environment requesting it to make the proposed amendments to Newcastle LEP 2012.

KEY ISSUES

- 2 The Planning proposal at **Attachment A** was prepared in accordance with the Department of Planning and Environment's guidelines and Council's Local Environmental Plan – Request for Amendment Policy.
- 3 If endorsed by Council, the planning proposal will be forwarded to the Minister for Planning and Environment for gateway determination. Gateway determination will confirm the Department's initial support for the draft planning proposal and identify what (if any) further technical studies and community consultation are required prior to the proposed amendments being made.
- 4 Strategic Planning staff recommend that Council do not seek delegations under Section 59(1) of the *EP&A Act 1979* given the added impost on Council resources without any additional influence on the outcomes. These delegations obligate Council to prepare the final reporting, drafting and mapping in order for the Minister for Planning and Environment to 'make' the proposed amendments to Newcastle LEP 2012. Where Council does not exercise these delegations, the Department of Planning and Environment undertakes these requirements.
- 5 **Attachment A** outlines the issues identified and considered by staff in evaluating the proposed amendment to Newcastle LEP 2012.

FINANCIAL IMPACT

- 6 Council is able to recoup costs associated with the preparation of a draft planning proposal, undertaking consultation, and preparation of technical studies, pursuant to Clause 11 of the *Environmental Planning and Assessment (EP&A) Regulation 2000*.
- 7 Fees (as outlined within Council's Fees and Charges Register) will be applied in accordance with Council's LEP Request for Amendment Policy (2012). That is, prescribed fees apply to all formal requests, except where required for the provision of public infrastructure or as a result of correcting a minor anomaly.
- 8 Where costs are unable to be recouped partly or in full, work will be undertaken by Council's Strategic Planning Services staff within their current allocated work program and budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 9 The preparation and processing of the attached draft planning proposal aligns to the strategic direction '*Open and Collaborative Leadership*' identified within the Newcastle Community Strategic Plan 2030.
- 10 Compliance with the LEP amendment process, in particular section 57 of the *EP&A Act 1979*, will assist in achieving the strategic objective; "*Consider decision-making based on collaborative, transparent and accountable leadership*" and the identified strategy 7.2b, which states: "*Provide opportunities for genuine and representative community engagement in local decision making*".

IMPLEMENTATION PLAN/IMPLICATIONS

- 11 The preparation of the attached planning proposal was undertaken in accordance with Council's Local Environmental Plan – Request for Amendment Policy (2012). This policy identifies Council's processes and responsibilities in applying the requirements of Part 3 of the *EP&A Act 1979* for amending an LEP.

RISK ASSESSMENT AND MITIGATION

- 12 The process of amending an LEP is prescribed by Part 3 of the *EP&A Act 1979*. Adherence to the legislative framework reduces the risk to both applicant and Council by ensuring that a planning proposal is considered with regard to relevant strategic planning documents and is determined in an appropriate timeframe.
- 13 Justification has been provided by the applicant for the formal LEP amendment request.
- 14 Further consultation with stakeholders (including the broader community) will occur in accordance with the Minister's requirements following gateway determination. This will ensure all relevant parties are able to consider and comment on the draft planning proposal prior to it being reported back to Council for final adoption of the proposed amendment.

RELATED PREVIOUS DECISIONS

- 15 Newcastle LEP 2012 was adopted by Council on 21 June 2011.
- 16 On 12 March 2013 Council resolved to seek a gateway determination to enable the extension of Newcastle Eye Hospital for the previous application for hospitals in the R2 zone.

CONSULTATION

- 17 The Gateway Determination will determine the length of consultation required in accordance with the Department of Planning's Guide to Preparing Local Environmental Plans. The planning proposal is a low impact proposal and it is expected it will be exhibited for 14 days. Low Impact proposals include proposals that are consistent with the pattern of surrounding land use zones and/or land uses; are consistent with the strategic planning framework; present no issues with regard to infrastructure servicing; are not for a principal LEP and do not reclassify public land.
- 18 The gateway determination will confirm the consultation requirements, however, it is envisaged that this will include a public notice in the Newcastle Herald, letter to adjoining property owners, publication on the City of Newcastle web page, and written referral to relevant government agencies, which may include but are not limited to:
 - Roads and Maritime Services (RMS); and
 - NSW Mine Subsidence Board.

OPTIONS

Option 1

- 19 The recommendation as at Paragraph 1.

Option 2

- 20 Council resolves not to proceed with the planning proposal. This option is not recommended as it would not provide the Newcastle Eye Hospital with the opportunity to expand and the community with the opportunity to provide feedback. This is not the recommended option.

BACKGROUND

- 21 On 31 October 2012 Council received a formal request from the consultants representing the Newcastle Eye Hospital (NEH) to amend the Newcastle LEP 2012. This request proposed to include *health services facilities* as permissible with consent within the existing R2 Low Density Residential zone.
- 22 The applicant was advised that Council would not support having the group term *health services* facility as a permissible use in the R2 Low Density Residential zone. Council staff were concerned that this would introduce a land use for all land zoned R2 Low Density Residential that would be contrary to the zone objectives. Council officers explored various options for enabling the NEH to expand their facility with the Newcastle Eye Hospital (NEH) consultants.
- 23 A Planning Proposal (PP_2013_NEWCA_010_00) was finally agreed and prepared to allow only hospitals in the R2 zone without allowing other health services facilities such as medical centres, health consulting rooms and the like.
- 24 Council received a pre DA application on 4 December 2013 including plans for the expansion of the eye hospital. Council staff advised the NEH consultants that the plans did not appear to show 'hospital' as defined by the LEP but rather represented a medical facility as there was no overnight accommodation. Determining whether the proposal was a 'hospital' or 'medical facility' is a legal question and ultimately determined by the courts. Consent was issued for the building by Council in 1986. However, this consent does not allow the expansion of the hospital.
- 25 During this time, amendment 5 to Newcastle LEP 2012 to permit '*hospitals*' with consent in the R2 Low Density Residential Zone proceeded and was gazetted 28 March 2014.

- 26 Council officers met with a new project team for the NEH on 26 June and 21 November 2014 to discuss further options to enable expansion of the facility. The NEH consultants indicated that they would prefer to eliminate any uncertainty regarding whether the facility could be considered under the definition of a *hospital* by enabling *health services facility* on the site with consent by using Schedule 1 Additional Permitted Uses of Newcastle LEP 2012. The applicant also requested to increase the height from 8.5m to 10m to the site's Griffiths Road frontage, generally away from the adjoining residential area. This was acceptable to Council staff as it would not introduce the term generally in the R2 zone but rather restrict it to the hospital site.
- 27 The request to enable expansion of the Newcastle Eye Hospital was considered by Council's internal LEP Advisory Panel, as per Council's 'Local Environmental Plan – Request for Amendment Policy'. The panel consists of a range of experts in various fields who advise on potential issues to be addressed and identify studies required supporting the proposal. DA officers have confirmed that the proposal for expansion of the facility fits within the definition of health services facility.
- 28 Future expansion of the site will remain restricted by height, FSR, car parking requirements, environmental assessment provisions and the standard public notification process. Any change of use of the premises would need a Development Application.
- 29 The planning proposal (**Attachment A**) provides the necessary justification to satisfy Council that the proposed amendment to Newcastle LEP 2012 can be endorsed and forwarded to the Department of Planning and Environment to seek gateway determination.

ATTACHMENTS

Attachment A: Planning Proposal – Newcastle Eye Hospital

Attachment distributed under separate cover.

CONFIDENTIAL REPORTS

ITEM-2 **CON 24/03/15 - CONFIDENTIAL PROPERTY MATTER LOT 212
DP 660080**

REPORT BY: **CORPORATE SERVICES**
CONTACT: **DIRECTOR CORPORATE SERVICES/ MANAGER
COMMERCIAL PROPERTY**

REASON FOR CONFIDENTIALITY

This report has been classified confidential in accordance with the provisions of the Local Government Act 1993 as follows:

Section 10A(2)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

Section 10B(1)(a) and (b) the discussion of the item in a closed meeting:

a - only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.

and

b - the Council or Committee concerned 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 report take place in a closed session, with the press and public excluded, for the following reasons:

- A The matter relates to the sale of the former School of Arts Building at 182-188 Hunter Street and 1-7 Wolfe Street Newcastle.

Section 10A(2)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business

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

- C It is contrary to the public interest to discuss the matter in an open meeting because the information provided to Council is sensitive commercial information which would provide a commercial advantage to any person making an offer to purchase the land in the event the proposed transaction does not proceed with the recommended purchaser. This could lead to a reduction in the final negotiated sale price and the resulting reduction in revenue to Council.
-

**ITEM-3 CON 24/03/15 - TENDERS FOR THE PROVISION OF CASH IN
TRANSIT SERVICES FOR CONTRACT NO 2015/094T**

REPORT BY: CORPORATE SERVICES
CONTACT: DIRECTOR CORPORATE SERVICES / MANAGER FINANCE

PURPOSE

Tenders were invited for the provision of Cash in Transit Services to Council sites with the additional option of Parking Meter cash collections.

As the value of the works exceeds \$150,000, the *Local Government (General) Regulation 2005* requires Council's acceptance of the tender.

REASON FOR CONFIDENTIALITY

This report has 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 report take place in a closed session, with the press and public excluded, for the following reasons:

- A The matter relates to tenders for Cash in Transit & Parking Meter Cash Collection Services for Contract No. 2015/094T.
 - 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.
 - C The closed session involves only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.
-

**ITEM-4 CON 24/03/15 - UPDATE ON EOI MEREWETHER OCEAN
BATHS AND NEWCASTLE OCEAN BATHS PAVILIONS**

REPORT BY: CORPORATE SERVICES
CONTACT: DIRECTOR CORPORATE SERVICES / MANAGER
COMMERCIAL PROPERTY

REASON FOR CONFIDENTIALITY

This report has been classified confidential in accordance with the provisions of the Local Government Act (Act) 1993 as follows:

Section 10A(2)(d) commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

Section 10A(2)(d) commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the Council.

Section 10A(2)(d) commercial information of a confidential nature that would, if disclosed, reveal a trade secret.

Section 10B(1)(a) and (b) the discussion of the item in a closed meeting:

a - only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.

and

b - the Council or Committee concerned 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) 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 report take place in a closed session, with the press and public excluded, for the following reasons:

- A The matter relates to the Expression of Interest (EOI) processes for Merewether and Newcastle Ocean Bath Pavilion sites.

Section 10A(2)(d) commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it

- B The closed session involves only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.
 - C It is contrary to the public interest to discuss the matter in an open meeting because the information provided to Council is sensitive commercial information which would provide a commercial advantage to any person involved in the tender process.
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**ITEM-5 CON 24/03/2015 - SMALL VEHICLE RECEIVAL CENTRE
EXPANSION & UPGRADE - ENGINEERING CONSULTANCY -
SUMMERHILL WASTE MANAGEMENT CENTRE - CONTRACT
NO. 2015/119T**

**REPORT BY: INFRASTRUCTURE
CONTACT: DIRECTOR OF INFRASTRUCTURE / MANAGER WASTE
MANAGEMENT**

PURPOSE

The City of Newcastle has recently secured an EPA grant of \$1.0 million under the Waste Less Recycle More Initiative towards a proposed \$2.6million (Stage-1 of 2) enhancement and expansion project of the Small Vehicle Reveal Centre (SVRC) recycling facility at Summerhill Waste Management Centre (SWMC).

This tender was called for the provision of engineering consultancy services to undertake the detail design for the expansion and enhancement of the SVRC.

As the value of the works exceeds \$150,000, the Local Government (General) Regulation 2005 requires Council's acceptance of the tender.

REASON FOR CONFIDENTIALITY

This report has 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 report take place in a closed session, with the press and public excluded, for the following reasons:

- A The matter relates to tenders for the Detail Design for the expansion and enhancement of the Small Vehicle Receival Centre located at Summerhill Waste Management Centre under Contract No. 2015/119T.
 - 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.
 - C The closed session involves only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.
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ITEM-6 **CON - 24/03/15 - TENDER FOR THE SUPPLY & INSTALLATION
OF ROAD SAFETY BARRIER SYSTEMS FOR CONTRACT NO.
2015/225T**

REPORT BY: **INFRASTRUCTURE**
CONTACT: **DIRECTOR INFRASTRUCTURE / MANAGER CIVIL WORKS**

PURPOSE

To approve Newcastle City Council (NCC) participation in a number of Regional Procurement contracts for the supply & installation of road safety barrier systems (commonly known as guardrail).

As the value of the services may exceed \$150,000, the *Local Government (General) Regulation 2005* requires Council's acceptance of the recommended tenders.

REASON FOR CONFIDENTIALITY

This report has 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 report take place in a closed session, with the press and public excluded, for the following reasons:

- A The matter relates to tenders for the supply & installation of road safety barrier systems (NCC reference Contract No. 2015/225T).
 - 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.
 - C The closed session involves only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.
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**ITEM-7 CON 24/03/15 - IRONBARK CREEK STAGE 3 CONSTRUCTION -
CONTRACT NO. 2015/100T**

REPORT BY: INFRASTRUCTURE
**CONTACT: DIRECTOR INFRASTRUCTURE / MANAGER PROJECTS &
CONTRACTS**

PURPOSE

Public Tenders were invited for Construction works for the rehabilitation of natural creek line of approx. 300 lm of open drainage channel in Ironbark Creek – from existing Stage 1 to Cardiff Rd to ensure integrity of the channel and improve the aesthetic and performance of this important waterway.

As the value of the works exceeds \$150,000, the *Local Government (General) Regulation 2005* requires Council's acceptance of the tender.

REASON FOR CONFIDENTIALITY

This report has 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 report take place in a closed session, with the press and public excluded, for the following reasons:

- A The matter relates to tenders for Creekline Rehabilitation – Ironbark Creek, Elermore Vale Stage 3 for Contract No. 2015/100T.
 - 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.
 - C The closed session involves only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.
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