



11 May 2018

To All Councillors

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993, that the next Ordinary Meeting of Council will be held in the Council Chambers, on Wednesday, 16 May 2018 at 6.30 pm, for the purposes of transacting the undermentioned business.

**AGENDA:**

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- (1) **OPENING PRAYER**
- (2) **ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS**
- (3) **RECEIPT OF APOLOGIES**  
Leave of absence has been granted to:  
Councillor John Fagg - 15 April 2018 to 16 May 2018 Inclusive
- (4) **CONFIRMATION OF MINUTES OF PREVIOUS MEETING**  
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- (9) **MAYORAL MINUTES**  
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## ***Principles for Local Government***

### **Exercise of functions generally**

The following general principles apply to the exercise of functions by Councils:

- a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- e) Councils should work co-operatively with other Councils and the State government to achieve desired outcomes for the local community.
- f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- g) Councils should work with others to secure appropriate services for local community needs.
- h) Councils should act fairly, ethically and without bias in the interests of the local community.
- i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

### ***Council's Values***

- Integrity
- Accountability
- Respect
- Excellence
- Teamwork

### ***Our Community's Vision***

Cessnock will be a cohesive and welcoming community living in an attractive and sustainable rural environment with a diversity of business and employment opportunities supported by accessible infrastructure and services which effectively meet community need.

*Cessnock – thriving, attractive and welcoming.*

### ***Our Community's Desired Outcomes***

- A connected, safe and creative community.
- A sustainable and prosperous economy.
- A sustainable and healthy environment.
- Accessible infrastructure, facilities and services.
- Civic Leadership and effective governance.



## ***Council Model Code of Conduct***

Council adopted its current Code of Conduct on 3 February 2016. This Code provides details of statutory requirements and gives guidance in respect of the way in which pecuniary and conflict of interest issues should be approached.

Generally, the policies refer to the following issues:

1. Councillors are under an obligation at law to disclose any interest they may have in any matter before the Council and to refrain from being involved in any consideration or to vote on any such matter
2. Councillors must disclose any interest in any matter noted in the business paper prior to or at the opening of the meeting
3. The nature of the interest shall be included in the notification
4. Councillors shall immediately and during the meeting disclose any interest in respect of any matter arising during the meeting which is not referred to in the business paper
5. All declarations of interest shall be recorded by the General Manager
6. All disclosures of interest shall as far as is practicable be given in writing
7. Any member having a pecuniary or non-pecuniary significant conflict of interest shall leave the meeting and remain absent while the subject of the interest is being considered by Council
8. The meeting shall not discuss any matter in which a Councillor has a pecuniary or non-pecuniary significant conflict of interest while the Councillor is present at the meeting

**MINUTES OF ORDINARY COUNCIL MEETING OF THE CESSNOCK CITY COUNCIL  
HELD IN COUNCIL CHAMBERS ON WEDNESDAY, 2 MAY 2018, COMMENCING AT  
6.30 PM**

**PRESENT:** His Worship the Mayor, Councillor R Pynsent (in the Chair) and Councillors Olsen, Doherty, Dunn, Stapleford, Suvaal, Fitzgibbon, Gray, Dagg, Sander and Lyons.

**IN ATTENDANCE:** General Manager  
Director Planning and Environment  
Director Corporate and Community Services  
Director Works and Infrastructure  
Development Services Manager  
Principal Development Engineer  
Finance & Administration Manager  
Operations Accountant  
Media & Communication Officer  
Corporate Governance Officer

**APOLOGY:**

**MOTION**

**Moved:** Councillor Dunn

**Seconded:** Councillor Fitzgibbon

452

**RESOLVED** that the apology tendered on behalf of Councillor Burke, for unavoidable absence, be accepted and leave of absence granted.

**FOR**

**AGAINST**

Councillor Olsen  
Councillor Doherty  
Councillor Dunn  
Councillor Stapleford  
Councillor Suvaal  
Councillor Fitzgibbon  
Councillor Gray  
Councillor Dagg  
Councillor Sander  
Councillor Lyons  
Councillor Pynsent

**Total (11)**

**Total (0)**

**CARRIED UNANIMOUSLY**

**MINUTES:****MOTION**

**Moved:** Councillor Sander  
**Seconded:** Councillor Fitzgibbon

453

**RESOLVED** that the Minutes of the Ordinary Meeting of Council held on 18 April 2018, as circulated, be taken as read and confirmed as a correct record, with the following amendment:-

That Councillor Olsen's leave of absence for the meeting of 18 April 2018 be noted.

**FOR**

Councillor Doherty  
Councillor Dunn  
Councillor Stapleford  
Councillor Suvaal  
Councillor Fitzgibbon  
Councillor Gray  
Councillor Dagg  
Councillor Sander  
Councillor Lyons  
Councillor Pynsent

**Total (10)**

**AGAINST**

Councillor Olsen

**Total (1)**

**CARRIED**

## ***DISCLOSURES OF INTEREST***

### ***DISCLOSURES OF INTEREST NO. DI7/2018***

***SUBJECT: DISCLOSURES OF INTEREST***

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#### ***RECOMMENDATION***

**That Councillors now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.**

**CO13/2018 - Cessnock Correctional Centre Access** – Councillor Suvaal declared a Non Pecuniary Interest – Less Than Significant conflict for the reason that his sister is an employee of Justice Health at the Cessnock Correctional Centre. Councillor Suvaal remained in the Chamber and participated in discussion and voting as the conflict has not influenced him in carrying out his public duty.

## PETITIONS

NIL

### ADDRESS BY INVITED SPEAKERS

The following people addressed the meeting of Council:

Speakers	For / Against	Report	Page No.	Duration
Mr Warren Haddock	Against Recommendation	PE24/2018 - Development Application 8/2017/718/1 proposing a twenty-four lot residential subdivision including construction of associated road and drainage works, and the creation of a drainage reserve  65 Baileys Lane, Abermain	<b>Error! Bookmark not defined.</b> 3	3 mins

#### EXTENSION OF TIME

**Moved:**

Councillor Suvaal

**Seconded:**

Councillor Gray

454

#### RESOLVED

That an extension of one minute be given for Mr Haddock to complete his presentation.

#### FOR

Councillor Doherty  
Councillor Dunn  
Councillor Stapleford  
Councillor Suvaal  
Councillor Fitzgibbon  
Councillor Gray  
Councillor Dagg  
Councillor Sander  
Councillor Lyons  
Councillor Pynsent  
**Total (10)**

#### AGAINST

Councillor Olsen

**Total (1)**

#### CARRIED

Darryl Punnett	For Recommendation	PE24/2018 - Development Application 8/2017/718/1 proposing a twenty-four lot residential subdivision including construction of associated road and drainage works, and the creation of a drainage reserve  65 Baileys Lane, Abermain	<b>Error! Bookmark not defined.</b> 3	3 mins
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**PLANNING AND ENVIRONMENT NO. PE24/2018**

**SUBJECT: DEVELOPMENT APPLICATION 8/2017/718/1 PROPOSING A TWENTY-FOUR LOT RESIDENTIAL SUBDIVISION INCLUDING CONSTRUCTION OF ASSOCIATED ROAD AND DRAINAGE WORKS, AND THE CREATION OF A DRAINAGE RESERVE**

**65 BAILEYS LANE, ABERMAIN**

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**MOTION**                      **Moved:**    Councillor Sander                      **Seconded:**    Councillor Gray  
455  
**RESOLVED**

1. That Council determine Development Application No 8/2017/718/1 proposing a 24 lot residential subdivision including construction of associated road and drainage works and the creation of a drainage reserve, at Lot 790, DP257363, 65 Baileys Lane Abermain pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, by the granting of consent subject to the conditions contained in this report, and with condition 18 amended to read as follows:

**18. Road Upgrade – Baileys Lane**

The registered proprietors of the land shall construct Baileys Lane for a distance of approximately 520m (*which excludes the current unsealed sections of Baileys Lane*) in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to the release of the S138 Roads Act Approval.

- (a) Construct a 6m sealed pavement with gravel shoulders for the length of Baileys lane from the intersection of Frame drive to Church Street, *excluding existing unsealed sections*.
  - (b) Place two (2) coat hot bitumen seal on road shoulders.
  - (c) Construct drainage works as necessary.
2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.
3. That Council not apply the Existing Unsealed Roads Policy in Baileys Lane and instead:
  - (a) Construct a 6m sealed pavement with gravel shoulders on the existing unsealed sections of Baileys Lane (including any lead-up works);
  - (b) Place a two coat hot bitumen seal on road shoulders; and construct drainage works as necessary.
  - (c) That the works to seal the unsealed sections of Baileys Lane be funded by section 94 contributions specifically collected for local roadworks in Abermain.

# CONDITIONS OF CONSENT

## SCHEDULE 1

### TERMS OF CONSENT

#### CONDITIONS OF CONSENT

##### 1. General Terms of Approval

All General Terms of Approval issued by NSW Rural Fire Service dated 12 March 2018 shall be complied with prior, during and at the completion of the development, as required.

A copy of the General Terms of Approval is attached to this determination notice.

##### 2. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2017/718 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Plan of Proposed Subdivision of Lot 790 DP 257363 Instruction Number: 16/176 File ID: 123976 Sheet: 1 Rev No: G	PCB (Pulver Cooper & Blackley)	08/03/2018

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

#### PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

**The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of a Construction Certificate.**

##### 3. Local Traffic Committee Approval

Prior to the issue of CC, the applicant is to submit a road marking plan indicating required regulatory signage, line marking and/or traffic control devices. Full details shall be submitted to, and approved by the Council Local Traffic Committee, prior to the issue of any CC, and subsequent Section 138 Roads Act Approval.

All approved signage, line marking and/or traffic control devices are to be designed in accordance with the relevant standards and Councils guidelines for development and constructed prior to SC.

##### 4. Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a CC.

## 5. Security for Cost of Damage and Completion of Public Work

Prior to issue of a CC authorising the carrying out of any work in accordance with this development consent, the applicant must provide security to the Council for the payment of the cost of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which the consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,
- c) remedying any defects in any such public work that arise within six (6) months after the work is completed.

The security is to be for an amount that is the greater of \$5000 or 5% of the estimated cost of carrying out the development and may be provided by way of:

- a) cash deposit with the Council, or
- b) an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred above and on application being made to the Council by the person who provided the security, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the security within six (6) years of the date of issue of the SC for the development the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

## 6. Residential 7.11 (formerly S94) Contributions Plan

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of a CC:

Fee Code	Type	Contribution Type	Amount Payable
525		District Open Space	\$30,933.62
523		District Community Facilities (Halls)	\$18,946.48
524		District Community Facilities (Libraries)	\$5,058.62
522		District Community Facilities (Bushfire)	\$1,410.36
526		District Roads – Rural Areas	\$23,575.69
534		Local Roads – Abermain	\$121,128.35
529		Local Drainage – Abermain	\$24,587.46
543		Studies (Plan Preparation)	\$1,778.13
542		Studies (Flood Study) – Abermain South	\$4,230.85
540		Plan Administration	\$6,744.75
		<b>Total</b>	<b>\$238,394.31</b>

A copy of the Residential Contributions Plan may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at [www.cessnock.nsw.gov.au](http://www.cessnock.nsw.gov.au).

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

## **7. Street Trees**

Prior to the issue of a CC, a Street Tree Planting Plan must be submitted to and approved by Council.

Tree species used for street tree planting are to be native species of local provenance grown from seed collected in the nearby area by a specialist native plant nursery. Native species are to be characteristic of Lower Hunter Spotted Gum - Ironbark Forest EEC or Kurri Sand Swamp Woodland EEC.

## **8. Road Works Required**

The applicant must bear the cost of construction of the following works:

- a) Road and Stormwater Drainage works in Church Street, Frame Drive and Baileys Lane in accordance with the approved plans.
- b) All works within the Council road reserve as identified by the structural engineering design plans.

Development Consent does not give approval to undertake any works on Council property. An application must be made to Council for a S138 Roads Act Approval to construct these works. Detailed engineering drawings (plans, sections and elevation views) and specifications of the works required by this Condition must accompany the application form.

The Roadworks Approval request/application must be submitted to, and approved by, Council prior to the issue of a CC.

These works must be constructed in accordance with the conditions of the Roadworks Permit and be completed prior to the issue of an OC.

Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.

## **9. Road – Access Construction**

The registered proprietor of the land shall construct an access road in accordance with Council's 'Engineering Requirements for Development' to serve the subdivision.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

## **10. Road Bond – New Internal Road**

The applicant shall lodge payment of fees and contributions as follows:-

Based on a road length of approximately 300 metres. Final bond amounts will be levied on accurate dimensions contained within the engineering plans.

- a) Road fees - engineering plan checking and supervision of \$12,600.00.
- b) A performance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (transferable).
- c) A road maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (refundable).

It will be necessary for the applicant to submit evidence of the contract price of all construction works in order for Council to assess accurate bond amounts. If no contract price is submitted, Council will estimate the value of construction works.

The fees and bonds shall be payable prior to the issue of a CC for the Civil Works and/or release of the Subdivision Certificate and shall be in accordance with Council's adopted fees and charges current at the time of payment.

The bond may be used to meet any costs referred to above, and on application being made to the Council by the person who provided the bond, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the bond within 6 years of the date of issue of the Subdivision Certificate for the development, the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

## **11. Road – Road Widening Requirement: Frame Drive**

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to issue of a CC for the civil works.

- a) Construct a Channelised right turn treatment (CHR)(s) on Frame Drive
- b) Construct a Basic Left Turn (BAL) on Frame Drive
- c) Place two (2) coat hot bitumen seal on new works
- d) Construct drainage works as necessary.

## **12. Road Bond – Frame Drive**

The applicant shall lodge payment of fees and contributions as follows:-

Based on a road length for the intersection works, bond amounts will be levied on accurate dimensions contained within the engineering plans.

- a) Road fees - engineering plan checking and supervision

- b) A performance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (transferable).
- c) A road maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (refundable).

It will be necessary for the applicant to submit evidence of the contract price of all construction works in order for Council to assess accurate bond amounts. If no contract price is submitted, Council will estimate the value of construction works.

The fees and bonds shall be payable prior to the issue of a CC for the Civil Works and/or release of the Subdivision Certificate and shall be in accordance with Council's adopted fees and charges current at the time of payment.

The bond may be used to meet any costs referred to above, and on application being made to the Council by the person who provided the bond, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the bond within 6 years of the date of issue of the SC for the development, the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

### **13. Road Construction Church Street and Baileys Lane**

The registered proprietors of the land shall construct the following for the full frontage of the Lot on Church Street and Baileys Lane for a distance of approximately 550m in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to the release of the S138 Roads Act Approval.

- a) Construct kerb and gutter
- b) Construct and gravel road shoulders
- c) Place two (2) coat hot bitumen seal on road shoulders
- d) Topdress and turf footpath
- e) Construct drainage works.

### **14. Road Bond – Church Street**

The applicant shall lodge payment of fees and contributions as follows:-

Based on a road length of approximately 400 metres. Final bond amounts will be levied on accurate dimensions contained within the engineering plans.

- a) Road fees - engineering plan checking and supervision of \$16,600.
- b) A performance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (transferable).
- c) A road maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (refundable).

It will be necessary for the applicant to submit evidence of the contract price of all construction works in order for Council to assess accurate bond amounts. If no contract price is submitted, Council will estimate the value of construction works.

The fees and bonds shall be payable prior to the issue of a CC for the Civil Works and/or release of the Subdivision Certificate and shall be in accordance with Council's adopted fees and charges current at the time of payment.

The bond may be used to meet any costs referred to above, and on application being made to the Council by the person who provided the bond, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the bond within 6 years of the date of issue of the SC for the development, the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

## **15. Stormwater- Detailed Design Requirements**

A stormwater drainage design, incorporating on site stormwater retention/detention facilities, prepared by a qualified practising Civil Engineer must be provided to the CA prior to the issue of a CC. The design must be prepared/amended to make provision for the following:

- a) The design must be generally in accordance with the stormwater drainage concept plan on Drawing No. 16/176 prepared by PCB and dated 24/11/2017
- b) Comply with Council's Engineering Requirements for Development.
- c) All plumbing within the site must be carried out in accordance with AS 3500.3.2003 *Plumbing and Drainage – Stormwater Drainage*
- d) An inspection opening or stormwater pit must be installed inside the property adjacent to the boundary for all stormwater outlets
- e) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- f) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system
- g) Stormwater must be discharged by gravity to the kerb and gutter of a public road or to Council's piped drainage system
- h) Stormwater must be discharged by gravity directly into Council's drainage system
- i) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm

Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.

## **16. Stormwater – Construction Management Plan Requirement**

A construction management plan shall be submitted with the application for the CC and approved by the CA as satisfying the below requirements:

- a) Details of sedimentation and erosion control

- b) Details of provision of truck and machinery wash down areas. Note: All trucks and machinery must be free from all foreign material where such material is likely to cause pollution. An area must be set aside for the cleaning of concrete agitator trucks.
- c) Details of dust mitigation on building sites and access roads
- d) Location and phone number of the site office
- e) Details regarding provision of areas set aside for the storage/stockpiling of:
  - i) Construction refuse
  - ii) Construction materials
  - iii) Raw materials such as sand, soil, mulch and the like
  - v) Details regarding the provision of facilities for workers associated with the development.

Note: All protection and control of earthworks shall be carried out in accordance with Council's "Engineering Requirements for Development", Department of Conservation and Land Management's 'Urban Erosion and Sediment Control' requirements, and the Department of Housing 'Soil and Water Management for Urban Developments'.

#### **17. Stormwater – Detention Requirement**

The registered proprietor of the land is to provide a stormwater detention facility within the boundaries of the site to reduce the peak stormwater discharge from the developed lot to that of the peak stormwater discharged from the undeveloped lot for all storm events from the 1 in 1 year to the 1 in 100 year Average Recurrence Interval (ARI) storm event. A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property. Details shall include onsite storage, the method of controlled release from the site, and connection to an approved drainage system in accordance with Council's 'Engineering Requirements for Development'.

Detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development, must be prepared by an engineer suitably qualified and experienced in the field of hydrology and hydraulics. The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

#### **18. Road Upgrade – Baileys Lane**

The registered proprietors of the land shall construct Baileys Lane for a distance of approximately 520m (*which excludes the current unsealed sections of Baileys Lane*) in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to the release of the S138 Roads Act Approval.

- (a) Construct a 6m sealed pavement with gravel shoulders for the length of Baileys lane from the intersection of Frame drive to Church Street, *excluding existing unsealed sections*.

- (b) Place two (2) coat hot bitumen seal on road shoulders.
- (c) Construct drainage works as necessary.

## **19. Road Bond – Baileys Lane**

The applicant shall lodge payment of fees and contributions as follows:-

Based on a road length of approximately 720 metres. Final bond amounts will be levied on accurate dimensions contained within the engineering plans.

- a) Road fees - engineering plan checking and supervision of \$29,400.
- b) A performance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (transferable).
- c) A road maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (refundable).

It will be necessary for the applicant to submit evidence of the contract price of all construction works in order for Council to assess accurate bond amounts. If no contract price is submitted, Council will estimate the value of construction works.

The fees and bonds shall be payable prior to the issue of a CC for the Civil Works and/or release of the Subdivision Certificate and shall be in accordance with Council's adopted fees and charges current at the time of payment.

The bond may be used to meet any costs referred to above, and on application being made to the Council by the person who provided the bond, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the bond within 6 years of the date of issue of the SC for the development, the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

## **20. Street Lighting Design**

Prior to the issue of a CC, submit to Council for approval plans and specifications for a proposed lighting design prepared by a Level 3 Ausgrid Accredited Service Provider which complies with the following design brief:

Street lighting design standards:

- Ausgrid's *NS119 Street Lighting Design and Construction*, and
- *AS/NZS 60598.2.3 Particular requirements – Luminaires for road and street lighting*;

Street lighting design requirements:

- Unpainted galvanised light poles and associated fittings;
- Minimum of 20 year design life for all lighting components and structures, and
- Best practice energy efficient LED luminaires to meet Council's participation in the IPART Energy Saving Scheme for Public Lighting.

Street lighting level standards for minor collector and local roads (residential):

- *AS/NZ 1158 Lighting for roads and public spaces*, and
- *AS/NZ 1158 Part 3.1: Pedestrian area (Category P) lighting – Performance and design requirements*.

Street lighting level standards for arterial and major roads (Traffic Route Lighting):

- *AS/NZ 1158 Lighting for roads and public spaces*, and
- *AS/NZ 1158 Part 1.1: Vehicular traffic (Category V) lighting – Performance and design requirements*.

## **21. Exterior Lighting Generally**

Prior to the issue of a construction certificate, submit to Council for approval a proposed exterior lighting plan. Design and position all exterior/outdoor lighting, to minimise any detrimental impact upon the amenity of other premises, adjacent dwellings and the road reserve, and in accordance with the relevant provisions of:

- *AS 4282:1997 Control of the obtrusive effects of outdoor lighting*.

## **22. Telecommunications**

Prior to the issue of CC the developer must provide documentary evidence to the CA that the telecommunications carrier is satisfied that the fibre ready facilities are fit for purpose and an agreement has been made with the carrier for the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all premises/individual lots.

## **PRIOR TO COMMENCEMENT OF WORKS**

**The following conditions are to be complied with prior to the commencement of works on the subject site/s.**

## **23. PCA Signage and Contact Details**

Prior to the commencement of works, a sign must be erected in a prominent position on the site on which the proposal is being carried out. The sign must state:

- a) Unauthorised entry to the work site is prohibited
- b) The name of the principal contractor (or person in charge of the site) and a telephone number on which that person may be contacted at any time for business purposes and including outside working hours
- c) The name, address and telephone number of the *PCA* for the work

Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

## **24. S138 Roads Act Approvals**

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, or public road reserve be required, a S138 Roads Act Approval will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The S138 application is to be submitted to, and approved by, Council prior to works commencing.

## **25. Relocation of Services**

The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. Council and other service authorities should be contacted for specific requirements prior to commencement of any works.

## **26. Soft-felling of Hollow Bearing/Habitat Trees**

A hollow bearing/habitat tree survey must be undertaken by a fauna ecologist in the week prior to the felling of any trees. During the survey, the ecologist is to tap the tree, by banging the base of each tree with a mallet or using a similar method, to encourage any fauna to vacate. An observation period of at least 5 minutes per tree is required to observe the emergence of any fauna, and observations must be noted. All hollow bearing/habitat trees must be marked as part of the survey.

All surrounding trees that are not hollow bearing or habitat trees must be cleared at least one day prior to felling of any hollow bearing/habitat trees.

Equipment used to fell hollow bearing or habitat trees must be capable of slowly lowering the trees to the ground. A qualified fauna ecologist must be present during the felling of the trees. The fauna ecologist must have the appropriate skills and equipment to perform euthanasia if necessary. Immediately prior to felling, each hollow bearing/habitat tree should be tapped or gently shaken with the equipment followed by an observation period of at least one minute to watch for the emergence of any fauna. The tree should be tapped again, followed by a second observation period of at least one minute. If fauna appear during the observation period, the ecologist should encourage the fauna to relocate. If no fauna appear, the tree is to be lowered to the ground slowly and gently. The hollows of the felled tree should be inspected for fauna by the ecologist after it has settled.

## **27. Care of Native Fauna Found in Felled Trees**

Any uninjured fauna should be relocated to nearby bushland. Any nocturnal fauna should be kept in a suitable cage in a shaded location until dusk, and then released into nearby bushland. If juvenile fauna are discovered in hollows after a tree is felled, they are to be taken into the care of an organisation such as the Native Animal Trust Fund.

Injured fauna should be assessed by the ecologist, and euthanised if their injuries are such that the ecologist considers that they are unlikely to survive. If injured fauna are likely to survive, they should be taken to a vet for treatment. After treatment, fauna should be taken to an organisation such as the Native Animal Trust Fund for care until they can be released.

## **28. Toilet Facilities**

Toilet facilities are to be provided prior to works commencing, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be a sewage management facility approved by the NSW Department of Health and/or Council, and operate in an environmentally responsible manner, free of nuisance or offence, and be appropriately serviced.

## **29. Construction and Traffic Management Plan**

The applicant must prepare a Construction Management and Traffic Management Plan incorporating the following matters. The plan must be submitted to and approved by the CA as satisfying these matters prior to the commencement of works.

- a) A plan view of the entire site and frontage roadways indicating:
- i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
  - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
  - iii) The locations of proposed work zones in the frontage roadways.
  - iv) Location of any proposed crane, concrete pump, truck standing areas on and off the site.
  - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
  - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
  - vii) An onsite parking area for employees, tradespersons and construction vehicles as far as possible.
  - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
  - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
  - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer.
- b) During excavation, demolition and construction phases, noise generated from the site must be controlled.
- c) All site works must comply with the work health and safety requirements of the New South Wales WorkCover Authority.
- d) During excavation, demolition and construction phases, toilet facilities are to be provided on site, at the rate of one (1) toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.
- e) All traffic control plans must be in accordance with the *RMS publication Traffic Control Worksite Manual* and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of six (6) weeks prior to the proposed activity being undertaken.

### **30. Soil and Water Management Plan**

The applicant must prepare a Soil and Water Management Plan (SWMP), being compatible with the Construction Management and Traffic Management Plan referred to in this Development Consent and incorporating the following matters. The plan must be submitted to and approved by the CA as satisfying these matters prior to the commencement of works.

- a) Minimise the area of soils exposed at any one time
- b) Conservation of top soil
- c) Identify and protect proposed stockpile locations
- d) Preserve existing vegetation. Identify revegetation technique and materials
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner
- f) Control surface water flows through the site in a manner that:
  - i) Diverts clean-runoff around disturbed areas
  - ii) Minimises slope gradient and flow distance within disturbed areas
  - iii) Ensures surface run-off occurs at non erodible velocities
  - iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences
- h) Materials are not tracked onto the road by vehicles entering or leaving the site.
- i) Details of drainage to protect and drain the site during works.

### **31. Public Liability Insurance**

Any person or contractor undertaking works on public property must take out Public Risk insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within, public property. The Policy is to note, and provide protection for Cessnock City Council as an interested party, and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property. The insurance shall also note the location and the risk.

### **32. Soil and Water Management Plan Implemented**

The requirements of the Soil and Water Management Plan shall be in place prior to the commencement of demolition works and/or construction works and shall be maintained throughout the demolition and/or construction process.

## **DURING WORKS**

**The following conditions are to be complied with during works.**

### **33. Construction Hours**

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. Work is not to be carried out on Sundays and public holidays.

### **34. Site is Securely Fenced**

The site must be appropriately secured and fenced at all times during works.

### **35. Trees Approved to be Cleared**

Only the trees located within the footprint of the proposed road, on lot boundaries or within the drainage reserve are to be cleared. All other trees are to be retained to provide habitat for local native fauna.

### **36. Location of Council Pipes**

During all phases of demolition, excavation and construction, it is the full responsibility of the applicant and their contractors to:

- a) Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works
- b) Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits
- c) Ensure dedicated overland flow paths are satisfactorily maintained through the site

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage, and the like). All proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

If the Council pipeline is uncovered during construction, all work must cease, and the PCA and Council must be contacted immediately for advice. Any damage caused to the Council stormwater drainage system must be immediately repaired in full as directed, and at no cost to Council.

### **37. Virgin Fill To Be Used**

All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste, and which has been excavated from areas of land that are not contaminated with human made chemicals as a result of industrial, commercial, mining or agricultural activities, and which do not contain sulphate ores or soils.

### **38. Stormwater – Impact on Adjoining Land – Natural Drainage**

Filling shall not be placed in such a manner that natural drainage from adjoining land will be obstructed.

**39. Stormwater – Impact on Adjoining Land – Surface Water**

Filling shall not be placed on land in such a manner that surface water will be diverted to adjoining land.

**40. Road – Obstruction of Footpath Restriction**

No obstruction is to be caused to Council's footpaths, roads and/or other public areas during construction of the development.

No spoil, building materials, excavated or demolition material from the site shall be stored or deposited on the public road, footpath, public place or Council owned property, without prior approval of Council.

**41. Implementation of Soil and Water Management Plan**

The requirements of the Soil and Water Management Plan must be maintained at all times during the works, and any measures required by the Soil and Water Management Plan shall not be removed until the site has been stabilised.

Materials from the site are not to be tracked into the road by vehicles entering or leaving the site. At the end of each working day, any dust/dirt or other sediment shall be swept off the road and contained on the site, and not washed down any stormwater pit or gutter.

The sediment and erosion control measures are to be inspected daily, and defects or system failures are to be repaired as soon as they are detected.

**42. Erosion and Sediment Controls**

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's "Engineering Requirements for Development", and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks, and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

**43. Stormwater Runoff**

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

**44. Dam Proposed**

The dam and overflow spillway must be designed by a suitably qualified person. The overflow spillway is not to directly discharge on to any neighbouring property, other than through an existing watercourse.

The materials used for the banks of the dam are to be comprised of material excavated from the site if suitable. If materials are to be imported from other sites, the applicant is to notify Council of the origin of the fill.

The site surface levels are to be designed so that site surface stormwater is deflected away from buildings and neighbours' boundary fences, and does not cause nuisance or flooding of those areas for storm events less than 1% AEP.

To ensure stability of the dam embankment, exposed soil embankments are to be stabilised using appropriate grass species, to the satisfaction of Council. Trees or shrubs are not to be planted on the embankment, as roots may provide a seepage path for water, and weaken the dam wall.

The dam must be designed to handle storm flows, and the dam walls are to be sufficiently compacted to prevent seepage or slumping.

The dam wash is not to direct flows onto the downstream top of wall of the dam.

The dam is to have a cut off trench that is to be taken down a minimum of 30mm into impervious soil and backfilled with suitable impervious material.

The toe of all proposed fill batters is to be at least 3 metres clear of all lot boundaries.

The dam is to be maintained in a condition free of noxious aquatic weeds, and in a manner that minimises the breeding of mosquitoes.

## **PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

**The following conditions are to be complied with prior to issue of a Subdivision Certificate by Council.**

### **45. Requirement for a Subdivision Certificate**

Prior to the issue of a SC, the applicant must submit an original plan of subdivision plus six (6) copies for Council's endorsement. The plan of subdivision must show street names and house numbering as allocated by Council. The following details are also to be submitted:

- a) Evidence that all conditions of Development Consent have been satisfied
- b) Evidence of payment of all relevant fees
- c) The 88B instrument plus six (6) copies
- d) All surveyor's or engineer's certification required by the Development Consent

### **46. All Services Provided Within Lots**

A registered surveyor must provide certification that all services (eg drainage, stormwater, water supply, sewer, gas, electricity, telephone) as constructed are contained within each lot, or within appropriate easements to accommodate such services. The certification is to be provided to the *PCA*, prior to the issue of a SC.

### **47. Works-As-Executed Plan**

Two (2) copies of a *WAE* Plan prepared by a registered surveyor (both marked up in red), must be submitted to, and approved by, Council clearly showing all aspects of the constructed drainage and / or *OSD*. The plan must include:

- a) Sufficient levels and dimensions to verify the constructed storage volumes
- b) Location and surface levels of all pits

- c) Invert levels of the tanks, internal drainage line, orifice plates fitted, and levels within the outlet control pit
- d) Finished floor levels of all structures and driveways
- e) Verification that trash screens and/or *GPTs* have been installed
- f) Locations and levels of any overland flow paths
- g) The *WAE* plan information should be shown on a stamped copy of the approved civil works drawings
- h) Surface levels of pits and surrounding ground levels
- i) Levels of spillways and surrounding kerb
- j) Floor levels of buildings, including garages
- k) Top of kerb levels at the front of the lot
- l) Dimensions of stormwater basins and extent of inundation
- m) Calculation of actual detention storage volume provided

The plan must be accompanied by a report from the designer stating the conformance, or otherwise, of the as-constructed basins in relation to the approved design.

The *WAE* plan and report shall be submitted to, and approved by, Council prior to the release of the SC.

#### **48. 88B Certificate Required**

The Section 88B instrument will be submitted to Council with all relevant signatures and company seals (where applicable) prior to endorsement of the linen plan of subdivision and issue of the SC. Alternatively, Council will accept, at their discretion, a copy of the Section 88B instrument with an accompanying letter from the acting solicitor or surveyor giving an undertaking that the Section 88B Instrument will be signed and submitted as presented to Council, unaltered, and registered with the linen plan of subdivision.

#### **49. Road Dedication**

The proposed road within the subdivision shall be dedicated as a public road at no cost to Council. The public road shall be delineated on the final plan of subdivision submitted with the application for a SC.

#### **50. Inter-allotment Drainage Easement**

The applicant shall provide a 1.5m wide inter-allotment drainage easement to drain proposed Lots 1-4, 6-10, 16-24. Construction of the drainage line, together with the necessary grated yard inlet pits, shall be carried out in accordance with Council's 'Engineering Requirements for Development' - full details shall be submitted to, and approved by, Council prior to release of the SC.

Note:

- a) A suitable 88B instrument creating the easement, in accordance with the requirements of the *Conveyancing Act 1919*, shall be submitted to Council, prior to endorsement of the surveyor's transparency.
- b) Construction must be completed prior to endorsement of the surveyor's transparency.

#### **51. Street Lighting Installation**

Prior to issue of a subdivision certificate, install and commission street lighting to all roads and pathways in accordance the approved plans and specifications. Coordinate and stage the installation of street lights with construction of roads.

#### **52. Engineering Checking Fee**

The applicant shall pay an engineering plan checking and site supervision fee per site visit in accordance with Council's current Fees & Charges, prior to submitting the final plan of survey and application for a SC.

#### **53. Section 50 – Hunter Water Board (Corporation) Act 1991**

Evidence shall be submitted to Council that the registered proprietors of the land on whose behalf the application was made have complied with the requirements of Section 50 of the Hunter Water Board (Corporation) Act 1991. Such evidence shall be submitted to Council prior to the release of the final plan of survey for the subdivision and the SC.

#### **54. Provision of Utilities**

The applicant shall submit to Council evidence that the requirements of an energy supplier and telecommunications authority have been met in regard to the provision of these services to each lot within the approved subdivision. Such evidence shall be submitted to Council prior to release of the SC.

#### **55. Inspection and Payment of Fee Relating to Street Trees**

Prior to the issue of an SC, Council will undertake an inspection of the street tree planting to ensure compliance with the approved Street Tree Planting Plan, for which a fee is payable in accordance with Council's adopted Fees and Charges.

#### **56. Telecommunications**

Prior to the issue of SC the developer must provide documentary evidence to the CA that the telecommunications carrier is satisfied that the fibre ready facilities are fit for purpose and an agreement has been made with the carrier for the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots.

## ONGOING USE

The following conditions are to be complied with as part of the ongoing use of the premises.

### 57. Approved Fencing Materials

Any new fencing using wire is to be constructed with plain wire. Barbed wire is not to be used in any new fencing on the site. Any new fencing is to be designed and erected so that native fauna movement is not impaired or restricted to reduce the chance of native fauna being injured.

### 58. Stormwater – Impact on Adjoining Land

Filling shall not be placed in such a manner that obstructs natural drainage from adjoining land.

Filling shall not be placed on land in such a manner that surface water will be diverted to adjoining land.

## ADVISORY NOTES

### A. Disability Discrimination Act

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The applicant/owner is responsible for ensuring compliance with this, and other, anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *AS 1428.1 - Design for Access and Mobility*. *AS1428 Parts 2, 3 & 4* provide the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

### B. “DIAL BEFORE YOU DIG” DIAL 1100

Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables.  
[www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au)

### C. Salinity Levels

The Cessnock City Council Local Government area soils and ground water may be subject to varying levels of salinity. Whilst Council may require applicants to obtain salinity reports relating to some developments, no assessment may be made by Council in that regard. Soil and ground water salinity levels can change over time due to varying factors. It is recommended that all applicants make their own independent enquiries as to appropriate protection against the current and future potential effect of salinity, to ensure the ongoing structural integrity of any work undertaken. Cessnock City Council will not accept any liability for damage occurring to any construction of any type affected by soil and/or ground water salinity.

#### **D. Dividing Fences**

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.

#### **E. Other Approvals and Permits**

The applicant shall apply to Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, and/or any other approvals under *Section 68 (Approvals)* of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

#### **F. Responsibility for Other Consents/Agreements**

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

#### **G. Site Contamination Issues During Construction**

Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination, Council must be immediately notified by the applicant, and works must cease. Works must not recommence on site until approval is granted by Council.

#### **H. Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Relics**

If any archaeological relics are uncovered during the course of the work, all works shall cease immediately in that area, and the OEH Heritage Branch shall be contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *NSW Heritage Act 1977*, may be required before further works can continue in that area.

#### **I. Discovery of Aboriginal Heritage**

If Aboriginal artefacts are uncovered during work, excavation or disturbance of the area, work must stop immediately. The Environmental Protection and Regulation Group of the OEH is to be contacted. Aboriginal archaeological excavation must be co-ordinated with any proposed investigation of non-indigenous material.

<b>FOR</b>	<b>AGAINST</b>
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (1)</b>

***CARRIED***

## **CONSIDERATION AND ADOPTION OF ALL REPORTS BY ENGLOBO OR INDIVIDUALLY WITH NOMINATED EXCEPTIONS**

**MOTION**            **Moved:**    Councillor Suvaal            **Seconded:**    Councillor Gray

**That Report No's:-**

**PE26/2018 - Minutes of Strategic Property and Community Facilities Committee Meeting**

**PE27/2018 - Development Application Performance Monitoring Report - March  
2018 Quarter**

**CC29/2018 - Draft Procurement Policy**

**CC30/2018 - Adoption of Draft 2018-19 Operational Plan for Public Exhibition**

**CC31/2018 - Minutes of Dollar for Dollar Committee Meeting held 18 April 2018**

**CC32/2018 - Minutes of Cultural Facilities Committee Meeting held 18 April 2018**

**WI30/2018 - Aquisition for Road Widening**

**WI31/2018 - Branxton Greta 2018 Community Movie Night - Request for Fee Waiver**

**CO12/2018 - Hunter Expressway - Funding for Construction of Commuter Car  
Parks**

**CO13/2018 - Cessnock Correctional Centre Access**

**CO14/2018 - NSW Government Funding for Tourist Route 33 - Wollombi Road -  
Wollombi to Bellbird**

**be dealt with englobo.**

Councillor Olsen indicated that he wished to speak on all reports and the Motion was not put.

## **MAYORAL MINUTES**

### **MAYORAL MINUTES NO. MM2/2018**

**SUBJECT: INSTITUTE OF INTERNAL AUDITORS AUSTRALIA - AUDIT AND RISK COMMITTEE FORUM**

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**MOTION**      **Moved:**    Councillor Pynsent  
456

**RESOLVED**

**That Council endorse the attendance of Mayor Pynsent and Councillor Dunn to the Institute of Internal Auditors Australia (IAA) Audit and Risk Committee Forum in Melbourne on Monday 21 May 2018.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (1)</b>

**CARRIED**

## **MOTIONS OF URGENCY**

### **MOTIONS OF URGENCY NO. MOU7/2018**

**SUBJECT: MOTIONS OF URGENCY**

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#### **RECOMMENDATION**

That Councillors now indicate if there are any matters of urgency which they believe should be conducted at this meeting of Council.

#### **Councillor Dagg**

I seek permission of the Chamber to move a motion of urgency which relates to the Hart Road/Gingers Lane intersection at Weston. My reasons for it being urgent are simple. Last week alone, there were 3 accidents at this location and we are incredibly lucky that no one has been hurt yet! In my motion, I will be seeking investigations into the redevelopment of this intersection, but additionally and importantly I am seeking the urgent and immediate implementation of traffic calming measures, to ensure we are doing all we can to prevent future accidents, injuries and the loss of life.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (11)</b>	<b>Total (0)</b>

The Urgency Motion was **PUT** and **CARRIED** and will be dealt with at the conclusion of the listed matters on the Business Paper.

## **PLANNING AND ENVIRONMENT**

### **PLANNING AND ENVIRONMENT NO. PE25/2018**

**SUBJECT: DEVELOPMENT APPLICATION 8/2018/39/1 - SECONDARY DWELLING  
- 55 WATSON STREET, ELLALONG**

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**MOTION**      **Moved:** Councillor Suvaal      **Seconded:** Councillor Gray  
457  
**RESOLVED**

That Council determine Development Application No.8/2018/39/1 proposing Secondary Dwelling (Granny Flat) at Lot 332, DP879525, 55 Watson Street, Ellalong pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to the conditions contained in this report.

### **CONDITIONS OF CONSENT/REASONS FOR REFUSAL**

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#### **CONDITIONS OF CONSENT**

##### **1. Approved Plans and Documents**

Development must be carried out strictly in accordance with DA No. 8/2018/39/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

<b>Plan Reference</b>	<b>Drawn By</b>	<b>Dated</b>
2017-26 Rev 02	Graham Burston Drafting Services Pty Ltd	18/07/17

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

##### **2. CC, PCA & Notice Required**

In accordance with the provisions of Section 6.6 of the *EP&A Act 1979* construction works approved by this consent must not commence until:

- A CC has been issued by the consent authority, Council or an accredited certifier; and
- A PCA has been appointed by the person having benefit of the development consent in accordance with Section 109E of the *EP&A Act 1979*; and
- If Council is not the PCA, notify Council no later than two (2) days before building work commences as to who is the appointed PCA; and
- At least two (2) days before commencement of building work, the person having benefit of the development consent is to notify Council as to the intention to commence building work.

## PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of a Construction Certificate.

### 3. Residential S94 Contributions Plan

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of a CC:

Fee Type Code	Contribution Type	Amount Payable
	District Open Space	\$974.38
	District Community Facilities (Halls)	\$595.82
	District Community Facilities (Libraries)	\$159.95
	District Community Facilities (Bushfire)	\$45.32
	District Roads – Urban Areas	\$742.45
	Studies (Plan Preparation)	\$55.98
	Plan Administration	\$213.27
	<b>Total</b>	<b>\$2,787.17</b>

A copy of the Residential Contributions Plan may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at [www.cessnock.nsw.gov.au](http://www.cessnock.nsw.gov.au).

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

## PRIOR TO COMMENCEMENT OF WORKS

The following conditions are to be complied with prior to the commencement of works on the subject site/s:

### 4. PCA Signage and Contact Details

Prior to the commencement of works, a sign must be erected in a prominent position on the site on which the proposal is being carried out. The sign must state:

- Unauthorised entry to the work site is prohibited
- The name of the principal contractor (or person in charge of the site) and a telephone number on which that person may be contacted at any time for business purposes and including outside working hours
- The name, address and telephone number of the *PCA* for the work

Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

## **5. Home Building Act Requirements**

Pursuant to Section 6.6 of the EP&A Act 1979, residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA for the development to which the work relates has given the council written notice of the following information:

- a) in the case of work for which a principal contractor is required to be appointed:
  - i) the name and licence number of the principal contractor, and
  - ii) the name of the insurer by which the work is insured under Part 6 of that Act
- b) in the case of work to be done by an owner-builder:
  - i) the name of the owner-builder, and
  - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information required by (a) or (b) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates has given the council written notice of the updated information.

## **6. Road Opening Permit**

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, public road reserve, or public reserve (open space) be required, a "Road Opening Permit" will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The Permit application is to be submitted to, and approved by, Council prior to works commencing.

## **7. Toilet Facilities**

Toilet facilities are to be provided prior to works commencing, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be a sewage management facility approved by the NSW Department of Health and/or Council, and operate in an environmentally responsible manner, free of nuisance or offence, and be appropriately serviced.

## **8. Relocation of Services**

The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. Council and other service authorities should be contacted for specific requirements prior to commencement of any works.

## **DURING WORKS**

**The following conditions are to be complied with during works:**

### **9. BCA Compliance**

Pursuant to Section 6.6 of the *EP&A Act 1979* all building work must be carried out in accordance with the requirements of the *BCA*.

### **10. Construction Hours**

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. No work is to be carried out on Sundays and public holidays.

### **11. Road – Obstruction of Footpath Restriction**

No obstruction is to be caused to Council's footpaths, roads and/or other public areas during construction of the development.

No spoil, building materials, excavated or demolition material from the site shall be stored or deposited on the public road, footpath, public place or Council owned property, without prior approval of Council.

### **12. Protection of Street Trees**

No tree on public property (footpaths, road reserves etc) are to be removed or damaged during construction, including for the erection of any fences, hoardings or other temporary works, unless specially approved in this consent.

### **13. Erosion and Sediment Controls**

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's "Engineering Requirements for Development", and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks, and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

### **14. Stormwater Runoff**

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

### **15. Waste Management**

Rubbish generated from the development is to be suitably contained on site at all times. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown off site.

### **16. Building Materials on Site**

All building materials, plant and equipment are to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves, etc.

## **17. BASIX Certificate**

Development shall be undertaken strictly in accordance with all commitments specified in the current BASIX certificate.

## **18. Securing Excavations**

All associated excavations and backfilling associated with the development must be executed safely and in accordance with the appropriate professional standards, and must be properly guarded and protected to prevent them from being dangerous to life or property.

### **PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

**The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of either an Interim or Final Occupation Certificate (as specified within the condition):**

## **19. Roads – Bitumen Crossing**

The registered proprietors shall construct and maintain a bitumen sealed access crossing from the edge of the road formation in Watson Street to the property boundary, in accordance with Council's "Engineering Requirements for Development" and AS 2890.1. A S138 Roads Act Approval is required from Council prior to any construction commencing within the road reserve. The access crossing is required to be constructed prior to the issue of a Final OC. Where an Interim OC is issued the crossing shall be completed within six (6) months from the date of the Interim OC.

Construction of the crossing will require inspections to be undertaken by Council. The applicant shall pay Council engineering site supervision fees in accordance with Council's current Fees & Charges, prior to the inspections being undertaken.

The initial fee will facilitate approval of the application and one (1) construction inspection (gravel in place but prior to sealing of the crossing).

A final inspection will be required upon completion of the driveway and restoration of all disturbed footway areas. (A separate fee will be required to be paid when the final inspection is booked.). Should further inspections become necessary as a result of unsatisfactory or defective works, additional inspection fees will be charged in accordance with Council's current Fees & Charges.

The applicant is to advise Council at least 48 hours prior to inspection of works within the footpath and/or road reserve.

## **20. BASIX Certification**

The applicant shall provide Council with a completed BASIX Pre-Final Self Certification Form (available at Council's offices on Council's website [www.cessnock.nsw.gov.au](http://www.cessnock.nsw.gov.au)) to certify that the schedule of BASIX commitments have been complied with. The BASIX Pre-Final Self Certification Form shall be submitted to Council for consideration and approval, prior to the final inspection and prior to the issue of an OC.

## **21. Finish of Excavated &/or Filled Areas Around Site**

Prior to issue of a Final OC, the excavated and/or filled areas of the site are to be stabilised and drained, to prevent scouring onto adjacent private or public property. The finished ground around the perimeter of the building is to be graded to prevent ponding of water, and to ensure the free flow of water away from the building and adjoining properties.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (11)</b>	<b>Total (0)</b>

***CARRIED UNANIMOUSLY***

**PLANNING AND ENVIRONMENT NO. PE26/2018**

**SUBJECT: MINUTES OF STRATEGIC PROPERTY AND COMMUNITY FACILITIES  
COMMITTEE MEETING HELD 18 APRIL 2018**

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**MOTION**      **Moved:** Councillor Suvaal      **Seconded:** Councillor Gray  
458  
**RESOLVED**

1. That the Minutes of the Strategic Property and Community Facilities Committee Meeting held on the 18 April 2018 be adopted as a resolution of the Ordinary Council.
2. That the Committee meet at 8:30am on May 9, 2018 with the agenda to be restricted to Hebburn Estate, Vineyard Grove and the Airport Strategic Plan.
3. A site inspection of the Airport to be scheduled for 4pm on Tuesday 8th, May 2018.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (11)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**PLANNING AND ENVIRONMENT NO. PE27/2018**

**SUBJECT: DEVELOPMENT APPLICATION PERFORMANCE MONITORING  
REPORT - MARCH 2018 QUARTER**

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**MOTION**      **Moved:** Councillor Suvaal      **Seconded:** Councillor Stapleford  
459  
**RESOLVED**

**That Council receives the report and notes the information.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (11)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

## **CORPORATE AND COMMUNITY**

### **CORPORATE AND COMMUNITY NO. CC29/2018**

**SUBJECT: DRAFT PROCUREMENT POLICY**

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**MOTION**      **Moved:** Councillor Suvaal      **Seconded:** Councillor Stapleford

460

#### **RESOLVED**

That Council place the draft Procurement Policy on Public Exhibition for a period of 28 days and if there are no significant public submissions received that the policy be automatically adopted at the end of the exhibition period.

<b>FOR</b>	<b>AGAINST</b>
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Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	

**Total (11)**

**Total (0)**

**CARRIED UNANIMOUSLY**

**CORPORATE AND COMMUNITY NO. CC30/2018**

**SUBJECT: ADOPTION OF DRAFT 2018-19 OPERATIONAL PLAN FOR PUBLIC EXHIBITION**

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**MOTION**      **Moved:** Councillor Suvaal      **Seconded:** Councillor Dagg  
461  
**RESOLVED**

**That Council place the Draft 2018-19 Operational Plan on public exhibition for 28 days in accordance with Section 405 of the Local Government Act 1993.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (1)</b>

**CARRIED**

**CORPORATE AND COMMUNITY NO. CC31/2018**

**SUBJECT: MINUTES OF DOLLAR FOR DOLLAR COMMITTEE MEETING HELD 18 APRIL 2018**

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**MOTION**      **Moved:** Councillor Stapleford      **Seconded:** Councillor Gray  
462  
**RESOLVED**

1. That Council adopt the Minutes of the Dollar for Dollar Committee held on 18 April 2018.

**Schools Environment Grant**

2. That the returned \$500 grant funds from Nulkaba Public School for the Schools Environment Program be forwarded into the 2018-19 budget to enable an additional grant opportunity within the Schools Environment Program.

**Community and Cultural Dollar for Dollar Grant**

3. That Council fund the eligible projects as per the 'Funding Payable' column in Table 2 of the Community and Cultural Development Dollar for Dollar Grant Scheme 2017-18 report.
4. That Council write to all applicants advising them of the outcome of their application and thanking them for their contribution to the development of community, arts and culture in the Cessnock LGA.

**Table 2 - Community and Cultural Development Dollar for Dollar Grant Scheme report**

APPLICANT	PROJECT DESCRIPTION	TOTAL COST	FUNDING SOUGHT	FUNDING PAYABLE
Cessnock Regional Art Gallery	Cessnock Regional Art Gallery Spring Art Fair – Cessnock City Council Art Prize Acquisitive art prize	\$6,950	\$2,000	\$2,000*
Towns with Heart	2018 Town of Murals Art Show Regional Award (\$1000) Major Award (\$2000) Acquisitive art prizes	\$16,500	\$3,000	\$2,000*
The Greater Cessnock AECG	Kullaburra Awards Promotion, printing, catering	\$4,000	\$2,000	\$2,000
Cessnock Senior Citizens Association Incorporated	Piano storage unit – for keyboard and equipment	\$1,800	\$900	\$900

Wollombi Valley Progress Association	Lantern Parade and lantern making workshops Advertising, grounds hire, materials	\$3,318	\$1,659	\$1,659
Marthaville Arts and Culture Centre	Supply and install vinyl flooring to studio / program area	\$1,760	\$800	\$800
Wine Country Music Association	Stage Sound Mixing Desk	\$1,504.30	\$752.15	\$752.15
Kurri Kurri Community Centre	Greta/Branxton/Huntlee Community Disco Promotions, decorations, entertainment, catering	\$3,900	\$1,950	\$1,950
Wollombi Sculpture in the Vineyards	Wollombi Sculpture in the Vineyards Marketing, transportation, venue hire, printing	\$35,000	\$5,000	\$2,000**
Ungooroo Aboriginal Corporation	WUPA @ Wanaruah Aboriginal Art Exhibition and Trail Materials, advertising, printing, venue hire	\$37,400	\$3,000	\$2,000**
Kiray Putjung Aboriginal Corporation (Formerly Black Creek Aboriginal Corporation)	Kiray Putjung Aboriginal Corporation Cultural Program Language classes term 2, 3 and 4, trainer, resources	\$6,000	\$3,000	\$3,000
Cessnock Multipurpose Childrens Centre	Cultural Competence Aboriginal Cultural Workshops for students, staff and families. Presenter, materials	\$6,720	\$3,000	\$3,000
Cessnock High School	Mental health conference Key presenter, transport for students. Printed materials and resources for families	\$5,940	\$2,940	\$2,400***
Cessnock Regional Art Gallery	Replace frosted glass in foyer with clear glass	\$1,183	\$538	\$538
	<b>TOTAL</b>		<b>\$30,539.15</b>	<b>\$24,999.15</b>

**FOR****AGAINST**

Councillor Olsen  
Councillor Doherty  
Councillor Dunn  
Councillor Stapleford  
Councillor Suvaal  
Councillor Fitzgibbon  
Councillor Gray  
Councillor Dagg  
Councillor Sander  
Councillor Lyons  
Councillor Pynsent  
**Total (11)**

**Total (0)**

***CARRIED UNANIMOUSLY***

**CORPORATE AND COMMUNITY NO. CC32/2018**

**SUBJECT: MINUTES OF CULTURAL FACILITIES COMMITTEE MEETING HELD 18 APRIL 2018**

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**MOTION**      **Moved:** Councillor Dagg      **Seconded:** Councillor Suvaal  
463  
**RESOLVED**

**That the minutes of the meeting of the Cultural Facilities Committee held on 18 April 2018 be adopted as a resolution of the Ordinary Council.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (1)</b>

**CARRIED**

## **WORKS AND INFRASTRUCTURE**

### **WORKS AND INFRASTRUCTURE NO. WI30/2018**

**SUBJECT:     AQUISITION FOR ROAD WIDENING**

---

**MOTION**           **Moved:**   Councillor Suvaal           **Seconded:**   Councillor Dagg

464

#### **RESOLVED**

1.     That Council acquire part of Lot 22 DP 872192, being proposed Lot 2 on Plan of Acquisition DP 1241524 with an area of 285.2m<sup>2</sup> for road widening;
2.     That Council acquire part of Lot 120 DP 755244, being proposed Lot 3 on Plan of Acquisition DP 1241524 with an area of 3,491m<sup>2</sup> for road widening;
3.     That Council authorise the General Manager to negotiate compensation with the property owners by private agreement for acquisition of proposed Lots 2 and 3 on DP 1241524 accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*;
4.     That in the event that negotiations with the property owners cannot be satisfactorily finalised, that Council make application to the Office of Local Government for approval of the Minister and the Governor to proceed with compulsory acquisition of proposed Lots 2 and Lot 3 on DP 1241524;
5.     That Council authorise the Common Seal of Council to be affixed to all documents relating to the acquisitions between Cessnock City Council and:
  - i)     Robert Ernest Warner, owner of proposed Lot 2 on Plan of Acquisition DP 1241524, and to any application to the Office of Local Government for the approval of the Minister and the Governor that may be required for compulsory acquisition if needed, and
  - ii)    ZAP Finance Pty Ltd, owner of proposed Lot 3 on Plan of Acquisition DP 1241524, and to any application to the Office of Local Government for the approval of the Minister and the Governor for compulsory acquisition if needed.
6.     That Council authorise the Mayor and the General Manager to execute all documents relating to the acquisitions between Cessnock City Council and:
  - i)     Robert Ernest Warner, owner of proposed Lot 2 on Plan of Acquisition DP 1241524, and to any application to the Office of Local Government for the approval of the Minister and the Governor that may be required for compulsory acquisition if needed, and
  - ii)    ZAP Finance Pty Ltd, owner of proposed Lot 3 on Plan of Acquisition DP 1241524, and to any application to the Office of Local Government for the approval of the Minister and the Governor for compulsory acquisition if needed.

FOR	AGAINST
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Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	

<b>Total (11)</b>	
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	<b>Total (0)</b>
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***CARRIED UNANIMOUSLY***

**WORKS AND INFRASTRUCTURE NO. WI31/2018**

**SUBJECT: BRANXTON GRETA 2018 COMMUNITY MOVIE NIGHT - REQUEST FOR FEE WAIVER**

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**MOTION**      **Moved:** Councillor Dagg      **Seconded:** Councillor Suvaal  
465  
**RESOLVED**

**That Council supports the Branxton Greta 2018 Community Movie Night on 25 May 2018 by providing in-kind support as detailed in the report for the following services; waste management and park management.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (11)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

## **BUSINESS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN**

### **BUSINESS WITH NOTICE NO. BN9/2018**

**SUBJECT: STRATEGIC PLANNING FOR CESSNOCK LIBRARY**

---

**MOTION**                      **Moved:**    Councillor Gray                      **Seconded:**    Councillor Lyons

466

#### **RESOLVED**

That Council prepare a business case for an expanded Cessnock Library Branch, including investigating its location within a cultural hub and be in accordance with Council's adopted 2031 Community Infrastructure Strategic Plan and Cessnock City Library Strategic Plan 2014-2024.

<b>FOR</b>	<b>AGAINST</b>
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (1)</b>

#### **CARRIED**

**BUSINESS WITH NOTICE NO. BN10/2018**

**SUBJECT: COSTS ASSOCIATED WITH MARKETS HELD ON COUNCIL LAND**

---

**MOTION**      **Moved:** Councillor Gray      **Seconded:** Councillor Suvaal  
467  
**RESOLVED**

That a report be prepared for Council with the following information regarding markets that are held on Council land:-

- The annual income Council receives for market days held on Council land and the impact on the budget if the income is not received
- The details and value of market stall fee exemptions granted in the last two financial years
- Why there is a “Market Stall” fee included in the Fees and Charges
- Information on any other applicable fees if a group wanted to hold markets on Council land eg food inspection
- The difference between fees charged for a not for profit organisation and a registered charity
- That the information be brought back to Council at the first meeting in June

FOR	AGAINST
Councillor Dunn	Councillor Olsen
Councillor Stapleford	Councillor Doherty
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (9)</b>	<b>Total (2)</b>

**CARRIED**

**BUSINESS WITH NOTICE NO. BN11/2018**

**SUBJECT: POST BOX IN MULBRING**

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**MOTION**      **Moved:** Councillor Stapleford      **Seconded:** Councillor Suvaal

468

**RESOLVED**

**That the General Manager liaise with Australia Post to establish a post box in Mulbring as a result of the recent closure of the Post Office Shop in Mulbring.**

<b>FOR</b>	<b>AGAINST</b>
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Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	

**Total (11)**

**Total (0)**

**CARRIED UNANIMOUSLY**

***ANSWERS TO QUESTIONS FOR NEXT MEETING***

***ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ38/2018***

***SUBJECT: FOOTPATH - WINE COUNTRY DRIVE TO KERLEW STREET***

---

The answer was noted.

***ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ39/2018***

***SUBJECT: UNFORMED FOOTPATH NORTHCOTE STREET, KURRI KURRI***

---

The answer was noted.

***ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ40/2018***

***SUBJECT: NAMING OF BRIDGES HILL PARK***

---

The answer was noted.

## **QUESTIONS FOR NEXT MEETING**

*Councillor Ian Olsen*

### **EMAIL REGARDING UNIVERSITY OF TECHNOLOGY**

Councillor Olsen asked who brought the issue to the General Manager's attention and why does any enquiries that the students may have, have to be referred to the Mayor for comment and why Councillors cannot comment themselves.

*Councillor Ian Olsen*

### **FRAME DRIVE ROADWORKS**

Councillor Olsen asked what month and what year will the Frame Drive roadworks be completed.

*Councillor Melanie Dagg*

### **COMMUTER CAR PARKING**

Councillor Dagg asked if Council could consider preparing long term plans dealing with informal commuter car parks across the Local Government Area.

*Councillor Anne Sander*

### **KURRI KURRI AQUATIC CENTRE**

Councillor Sander asked if Council is going out to open tender for the management and operation of the Kurri Kurri Aquatic Centre this year.

*Councillor Anne Sander*

### **NEIGHBOUR NOTIFICATION – GRANNY FLATS**

Councillor Sander asked if Council can inform residents/neighbours of Development Applications that are lodged for Granny flats.

*Councillor Rod Doherty*

### **ACCESS TO NEARMAPS**

Councillor Doherty asked if Councillors could have access to Nearmaps

## **CORRESPONDENCE**

### **CORRESPONDENCE NO. CO12/2018**

**SUBJECT: HUNTER EXPRESSWAY - FUNDING FOR CONSTRUCTION OF  
COMMUTER CAR PARKS**

---

**MOTION**      **Moved:** Councillor Dagg      **Seconded:** Councillor Stapleford  
469  
**RESOLVED**

**That Council note the correspondence received.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (11)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**CORRESPONDENCE NO. CO13/2018**

**SUBJECT: CESSNOCK CORRECTIONAL CENTRE ACCESS**

---

**MOTION**      **Moved:** Councillor Dagg      **Seconded:** Councillor Sander  
470  
**RESOLVED**

**That Council note the correspondence received.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (1)</b>

**CARRIED**

**CORRESPONDENCE NO. CO14/2018**

**SUBJECT: NSW GOVERNMENT FUNDING FOR TOURIST ROUTE 33 - WOLLOMBI ROAD - WOLLOMBI TO BELLBIRD**

---

**MOTION**      **Moved:** Councillor Suvaal      **Seconded:** Councillor Dagg  
471  
**RESOLVED:**

**That Council note the correspondence received.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (11)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

## ***COUNCILLORS REPORTS***

Mayor

### **Pledge of Homelessness**

The Mayor reported on his attendance at the Pledge of Homelessness along with five other Councils. There were 20 organisations that have signed the pledge which was well attended and shows that this Council is supporting the fight against homelessness in the Hunter.

## **MOTION OF URGENCY**

**MATTER OF URGENCY**

**Moved:**

Councillor Dagg

**Seconded:**

Councillor Gray

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### **RESOLVED**

1. That the General Manager immediately correspond with the following persons:

- State Member for Cessnock, Clayton Barr MP
- State Minister for Roads, Maritime & Freight, the Hon. Melinda Pavey MP
- Federal Member for Paterson, Meryl Swanson MP
- Federal Minister for Infrastructure & Transport, the Hon. Michael McCormack MP
- Federal Minister for Regional Development, Territories and Local Government, the Hon. Dr John McVeigh MP
- Parliamentary Secretary for Planning, the Central Coast and the Hunter, Scot MacDonald

to seek their support and actively pursue any and all funding available through both State and Federal grant programs, including but not limited to the Black Spot Funding and Fixing Country Roads programs, together with any other potential sources of grant funding to fast-track the redevelopment of the intersection at Hart Road, Government Road and Gingers Lane, Weston.

2. That the General Manager urgently investigate the intersection and its various approaches, and prepare a report outlining interim solutions to be assessed by the Traffic Committee at its June meeting, including but not limited to speed reductions, speed humps, warning lights, speed notification signs and other traffic calming measures, for immediate implementation.
3. That the General Manager investigate the appropriateness of the continued use of that intersection as a school bus stop.
4. That the General Manager continue to liaise with RMS in a holistic approach as to the required improvements to Government Road, Gingers Lane, Frame Drive, Orange Street and where appropriate their intersections with Cessnock Road at Weston and Abermain, in an attempt to improve and future-proof safety and traffic flow, as a direct result of their increased use due to the Hunter Expressway.
5. That the General Manager write to the State Minister for Police, the Hon. Troy Grant MP and the Hunter Local Area Command requesting increased policing of the area and/or targeting by mobile speed cameras to assist in improving driver behaviour.
6. That the General Manager provide a report to Councillors by the end of July 2018 with an update on progress.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (11)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

*The Meeting Was Declared Closed at 7.58pm*

**CONFIRMED AND SIGNED** at the meeting held on 16 May 2018

.....**CHAIRPERSON**

.....**GENERAL MANAGER**

**Disclosures Of Interest**

**Report No. DI8/2018**

**Corporate and Community Services**



**SUBJECT:** *DISCLOSURES OF INTEREST*

**RESPONSIBLE OFFICER:** *Finance and Administration Manager - Andrew Glauser*

**RECOMMENDATION**

**That Councillors now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.**

**SUMMARY**

The provisions of Chapter 14 of the Local Government Act, 1993 regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions, voting on that matter, and require that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

**ENCLOSURES**

There are no enclosures for this report.

Mayoral Minute

Report No. MM3/2018

General Manager's Unit



***MAYORAL MINUTE No. MM3/2018***

**SUBJECT:** ***MINUTES OF THE GENERAL MANAGERS REVIEW COMMITTEE MEETING HELD 9 MAY 2018***

**RECOMMENDATION**

That the Minutes of the General Managers Review Committee of 9 May 2018 be adopted as a resolution of the Ordinary Council.

***MINUTES OF THE REVIEW OF GENERAL MANAGER'S EMPLOYMENT ARRANGEMENTS COMMITTEE MEETING OF THE CESSNOCK CITY COUNCIL HELD ON 9 MAY 2018, COMMENCING AT 10.00 AM***

**PRESENT:** The Mayor, Councillor Bob Pynsent  
Councillors Stapleford, Suvaal and Lyons (Alternate)

**IN ATTENDANCE:** Councillors Fitzgibbon and Sander  
Darrylen Allan, Human Resource Manager

**APOLOGIES:** Councillors Burke, Dunn, Doherty and Olsen

**Moved:** Councillor Suvaal      **Seconded:** Councillor Lyons

**LISTED MATTERS**

- a. Review the General Manager's draft Performance Agreement including Key Performance Indicators' (KPI's).

**RESOLUTIONS**

1. That the General Manager participate in the discussion regarding KPI's.

**Moved:** Councillor Stapleford      **Seconded:** Councillor Lyons

2. That the committee endorse the KPI's for the General Manager for the review period July 2017 to June 2018.

**Moved:** Councillor Suvaal      **Seconded:** Councillor Stapleford

**Mayoral Minute**

**Report No. MM3/2018**

**General Manager's Unit**

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3. That the Committee reconvene on the 29 August 2018 to undertake the General Managers performance review.

**Moved:** Councillor Lyons

**Seconded:** Councillor Suvaal

**GENERAL BUSINESS**

**NIL**

**ENCLOSURES**

- 1** GM Performance Agreement 2017-2018 - *This matter is considered to be confidential under Section 10A(2) (a) of the Local Government Act, as it deals with personnel matters concerning particular individuals.*

**Motions of Urgency**

**Report No. MOU8/2018**

**Corporate and Community Services**



**SUBJECT:                                *MOTIONS OF URGENCY***

**RESPONSIBLE OFFICER: *Finance and Administration Manager - Andrew Glauser***

**RECOMMENDATION**

**That Councillors now indicate if there are any matters of urgency which they believe should be conducted at this meeting of Council.**

**SUMMARY**

Under Clause 10.5 of Council's Code of Meeting Practice, business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. This can only happen if a motion is passed to have the business transacted at the meeting, the Mayor rules that the business is of great urgency and the business notified in the agenda for the meeting has been disposed of.

Only the mover of such a motion can speak to the motion before it is put.

**ENCLOSURES**

There are no enclosures for this report.

Planning and Environment

Report No. PE29/2018

Planning and Environment



**SUBJECT:** *DEVELOPMENT APPLICATION NO. 8/2017/282/1  
PROPOSING CONSTRUCTION OF A ROUNDABOUT TO  
FACILITATE ACCESS TO ST PHILIP'S CHRISTIAN  
COLLEGE*

*WINE COUNTRY DRIVE, NULKABA*

**RESPONSIBLE OFFICER:** *Development Services Manager – Janine McCarthy*

<b>APPLICATION NUMBER:</b>	8/2017/282/1
<b>PROPOSAL:</b>	Construction of a roundabout to facilitate access to St Philip's Christian College
<b>PROPERTY DESCRIPTION:</b>	Lot 1 DP 744377
<b>PROPERTY ADDRESS:</b>	Wine Country Drive, Nulkaba
<b>ZONE:</b>	RU2 Rural Landscape and SP2 Infrastructure
<b>OWNER:</b>	St Phillip's Christian College
<b>APPLICANT:</b>	Barr Property and Planning

## RECOMMENDATION

That Council determine Development Application No. 8/2017/282/1 proposing the construction of a roundabout to facilitate access to St Philip's Christian College at Wine Country Drive (Lot 1 DP 744377) Nulkaba, pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, by refusing to grant consent for the reasons detailed in this report.

## REASON FOR REPORT

Development Application No. 8/2017/282/1 is being referred to Council for determination as the Application is recommended for refusal and the refusal is considered to be merits-based.

## EXECUTIVE SUMMARY

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Council is in receipt of Development Application No. 8/2017/282/1 seeking approval for the construction of a roundabout to facilitate access to 'St Philips Christian College', at Wine Country Drive, Nulkaba. The purpose of the roundabout is to provide an additional access point to the school, with the aim of resolving traffic issues relating to safety and congestion. The proposed roundabout will also connect to a recently approved service station (Reference No. 2015/545), located opposite the school on Wine Country Drive, which is currently under construction. It is noted that the proposed access differs from the approved access to the service station, as illustrated in the plans relating to the development consent, and as approved by the Roads and Maritime Services (RMS) under a Works Authorisation Deed (WAD).

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulations 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

Wine Country Drive is a state (classified) road, and the relevant roads authority for Wine Country Drive is the RMS. As such, the application was referred to the RMS for comment. The RMS have formally objected to the proposed roundabout for the following reasons:

- The roundabout is not a suitable intersection treatment for Wine Country Drive;
- The roundabout will have an adverse impact on the safety and efficiency of Wine Country Drive;
- The proposed intersection has not been designed in accordance with *Austroads Guide to Road Design*, and associated supplements;
- Pedestrian and road user safety has not been adequately addressed in the design of the proposed development; and
- Consideration for the integration and relocation of existing utilities and services has not been considered in the proposed roundabout design.

The RMS have also noted that owner's consent from the owner of the approved service station has not been submitted with the application. Whilst Council officers also raised this issue with the applicant immediately following lodgement of the application, the applicant responded by stating that owner's consent is not required on the basis that the roundabout is wholly contained within the road reserve and land under the ownership of St Philips. A review of the plans has identified that whilst this is technically correct, the proposed access to the roundabout from the service station site conflicts with the access approved in conjunction with Development Consent No. 2015/545.

The applicant has been requested on a number of occasions to withdraw the development application due to the deficiencies outlined above. However, given that the applicant to date has not withdrawn the application, and considering the length of time the application has been under assessment by Council, it is necessary to determine the application. Accordingly, it is recommended that the application be refused.

Whilst it is open to Council to approve the application, it is likely that the applicant would be unable to act on any such approval, as separate legislation (in this case, the *Roads Act 1993*), requires the applicant to also obtain separate approval (via a Works Authorisation

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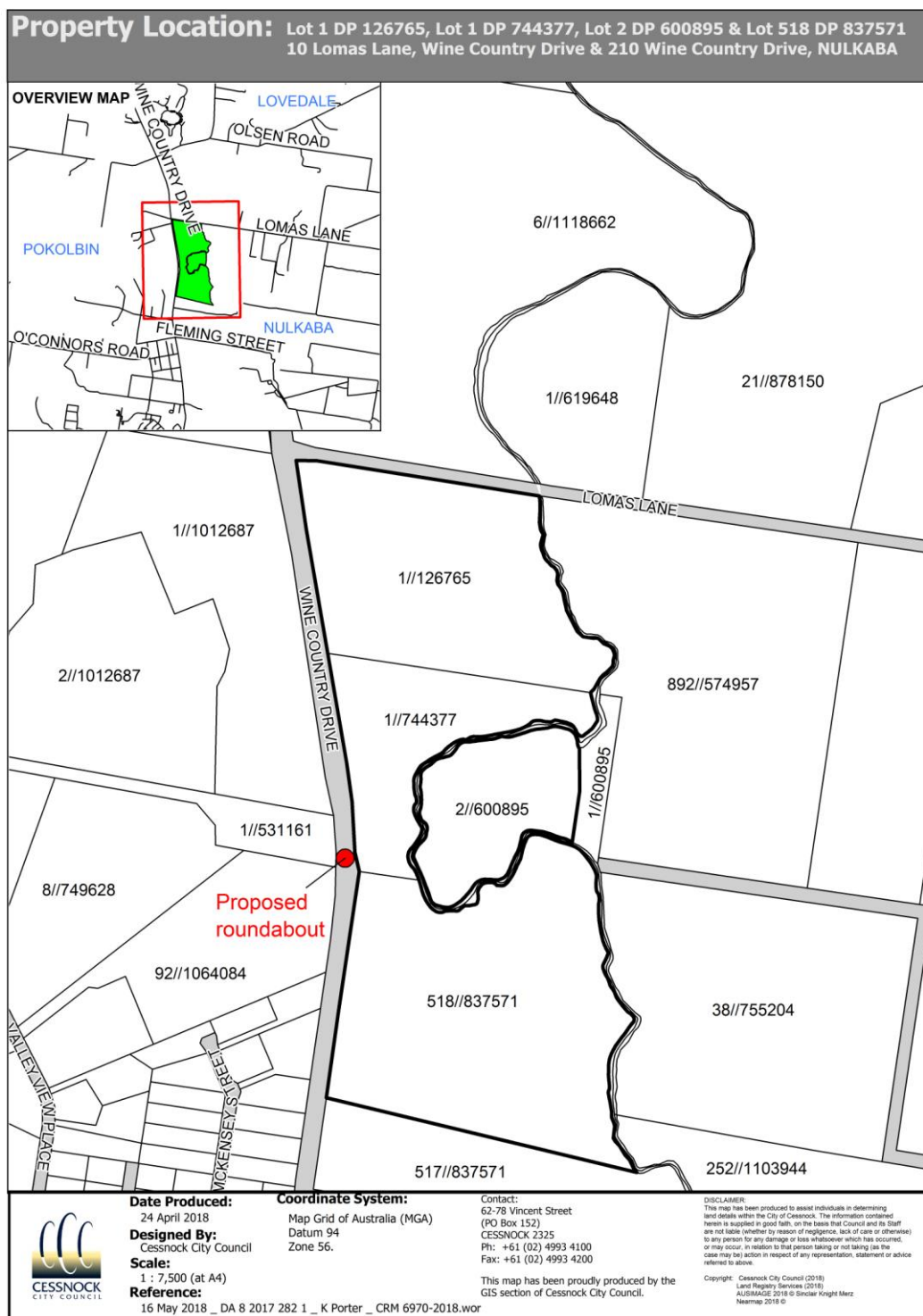
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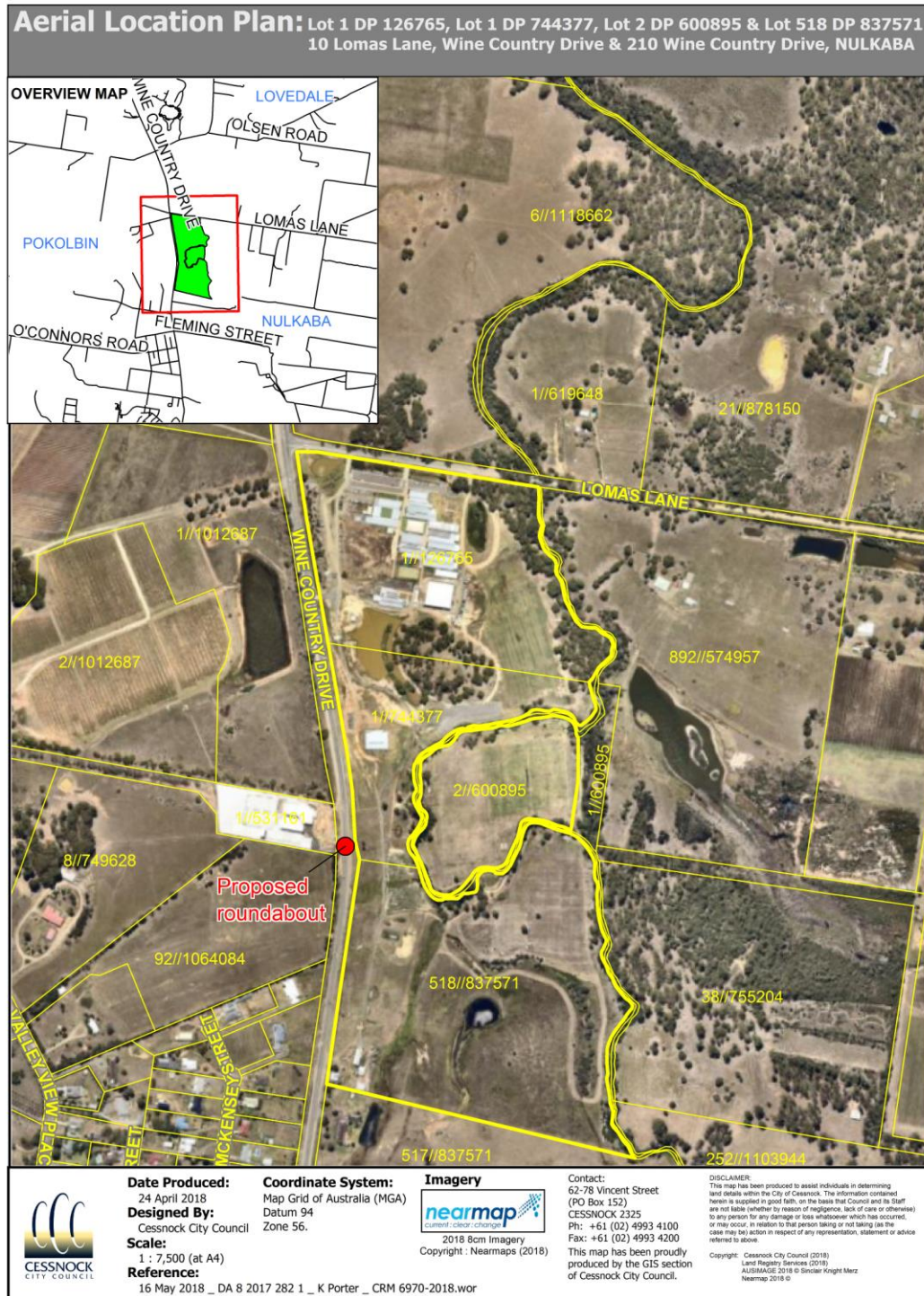


Deed) from the RMS, and to date, the RMS has indicated a strong objection to the proposed roundabout and would therefore be unlikely to issue a WAD.

## LOCATION MAP



# AERIAL



## SITE DESCRIPTION AND LOCALITY

The educational establishment known as St Philip's Christian College comprises four (4) allotments legally described as Lot 1 DP 126765, Lot 1 DP 744377, Lot 2 DP 600895 and Lot 518 DP 837571. The address of the property is commonly known as 10 Lomas Lane, 0 and 210 Wine Country Drive, Nulkaba. The total area of the site is approximately 41.8 hectares.

The subject land affected by the proposed roundabout is Lot 1 DP 744377.

The bulk of the roundabout will be located within the road reserve of Wine Country Drive, with the remainder of the roundabout, including the vehicle access points off the roundabout, to be located within Lot 1 DP 744377 (owned by St Philips).

The following is a summary of applications relevant to St Philip's Christian College:-

Application Reference No.	Details
DA 8/2009/677/1	<p>Masterplan and Stage 1 approval for an educational establishment and associated works, approved by the Hunter and Central Coast Joint Regional Planning Panel, on 16 December 2010.</p> <p>The development consent authorised the carrying out of Stage 1 works, as follows:</p> <ul style="list-style-type: none"> <li>• information resource centre;</li> <li>• senior school specialist facilities building;</li> <li>• demountable administration building;</li> <li>• demountable general learning spaces;</li> <li>• open shelter structures (including demountable canteen and toilets);</li> <li>• 48 car parking spaces;</li> <li>• 12 car set down space;</li> <li>• 7 bus set down spaces;</li> <li>• filling of 4.75ha to create a building platform of approximately 220m x 240m above the 1:100 year flood level; and</li> <li>• access to the site from Lomas Lane.</li> </ul> <p>The approved masterplan comprised: -</p> <ul style="list-style-type: none"> <li>• agriculture and bio-gas plant;</li> <li>• junior school building;</li> <li>• senior school building;</li> <li>• sports centre;</li> <li>• middle school building;</li> <li>• special education;</li> <li>• auditorium;</li> <li>• administration building;</li> </ul>

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	<ul style="list-style-type: none"> <li>• chapel and parents centre;</li> <li>• early learning centre;</li> <li>• young mothers facility; and</li> <li>• dale alternative learning centre.</li> </ul>
<p>Section 96(1A) to modify Development Consent 2009/677</p> <p>(8/2009/677/2)</p>	<p>Section 96(1A) Application approved by Council (delegation) on 19 December 2011, with consent granted with respect to the following:</p> <ul style="list-style-type: none"> <li>• modify masterplan within condition 1 by moving playing field wholly onto Lot 1 DP 126765;</li> <li>• plans referenced within Condition 5 amended to reflect the following changes: <ul style="list-style-type: none"> <li>➤ alter the internal layout of the information resource centre;</li> <li>➤ add an electrical sub-station, sitting on a concrete pad 3.3m x 5.3m;</li> <li>➤ add a main switch room with an area of 6.54m x 6.6m and a height of 3.4-5m;</li> <li>➤ add a pump house with an area of 5.18m x 5.18m and a height of 2.7-3.4m, to be partially constructed into landscaping berm.</li> <li>➤ modify the construction details for Lomas Lane within condition 28; and</li> <li>➤ Alteration of the wording "Occupation Certificate" to "Final Occupation Certificate" within conditions 39, 63, 68, 70, 72, 73, 74, 75, 76, 77, and 79.</li> </ul> </li> </ul>
<p>Section 96(1A) to modify Development Consent 2009/677</p> <p>(8/2009/677/3)</p>	<p>Section 96(1A) Application approved by Council (delegation) on 9 November 2012, with consent granted with respect to the following:</p> <ul style="list-style-type: none"> <li>• modification of Conditions 1, 3(ii) and 78 in relation to the staging within the proposed masterplan, the timing of details for the southern landscaping berm, and timing of consolidation of lots; and</li> <li>• amend the staging schedule of the approved masterplan.</li> </ul>
<p>Section 96(2) to modify Development Consent 2009/677</p> <p>(8/2009/677/4)</p>	<p>Section 96(2) Application proposed amendments to the masterplan for the school, specifically with regards to incorporating a new access to the site from Wine Country Drive via a roundabout to be shared with the service station opposite the site.</p> <p>On 24 April 2018, the masterplan approved in conjunction with Development Consent No. 2009/677 was officially surrendered by the applicant in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Accordingly, the Section 96(2) Application was withdrawn on 26 April 2018 given that the masterplan was no longer valid.</p>

## HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
26 May 2017	Development Application No. 8/2017/282/1, lodged with Council.
1 June 2017	Application referred to Development Engineers, Works and Infrastructure, RMS and Flood Engineers for comment.
5 June 2017	Additional information requested from the applicant in respect of confirmation of affected properties, owner's consent from the service station site located opposite the school, and clarification if consent was also sought for proposed new internal roads and parking areas.
5 June 2017	Flood referral received.
18 July 2017	Response received from applicant identifying that all proposed work in relation to the roundabout is contained within the road reserve and land owned by St Philips.
31 August 2017	Meeting held at Council with applicant to discuss outstanding issues.
22 November 2017	RMS referral received objecting to the proposal.
27 November	Applicant advised in writing by Council that the application is not supported due to RMS objection. The applicant is requested to withdraw DA.
7 December 2017	Applicant advises that they have met with RMS to discuss relocating the new access to the site, and requests an extension of time to hold further discussions with the RMS, and to consider withdrawing the DA.
8 December 2017	Council provides the applicant an extension of time to 31 January 2018 to address RMS issues and provide intentions with respect of the application.
8 February 2018	Applicant advised by Council that given no further information has been lodged by the requested time, the application will be determined.
9 February 2018	Applicant advises discussions are still taking place with RMS.
12 February 2018	Council provides the applicant a further extension until 16 February 2018, to consider withdrawing the application.

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27 February 2018	With the requested information remaining outstanding, Council advises the applicant that the application will be reported to the next available Council meeting for consideration/determination.
9 March 2018	Applicant advises discussions are still ongoing with RMS to resolve access issues.
20 March 2018	<p>Meeting held with the applicant, Principal of St Philips, and Council's General Manager and Development Services Manager to discuss the matter.</p> <p>The applicant requests additional time to facilitate further discussions with the RMS and relevant local and state members. Applicant advised that extension granted until May 2018. Applicant advised that, after this, the matter will be reported to a Council meeting in May for consideration/determination.</p>

## DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2017/282/1 seeks approval for the construction of a roundabout on Wine Country Drive, to be located approximately 650 metres south of Lomas Lane. The roundabout has been designed as a four-leg, single lane roundabout.

The roundabout is proposed to be a shared access point by St Philips Christian College and the service station located opposite the school at 247 Wine Country Drive, Nulkaba. As outlined previously, the applicant has demonstrated that the roundabout is wholly contained within the road reserve and land under the ownership of St Philips. A review of the plans has identified that whilst this is technically correct, the proposed access to the roundabout from the service station site conflicts with the access approved in conjunction with Development Consent No. 2015/545.

## ASSESSMENT

### ***Roads Act 1993***

Wine Country Drive is a state (classified) road, and the relevant roads authority for Wine Country Drive is the RMS. In accordance with the *Roads Act 1993*, the RMS is responsible for road works, traffic control facilities, connections to roads and other works on the classified road network.

In this case, the proposed roundabout on Wine Country Drive requires the concurrence of the RMS under Section 138(2) of the *Roads Act 1993*. This process is completed via a Works Authorisation Deed (WAD), which is a legally binding contract between the RMS and the developer, authorising the developer to undertake roadworks on a State road. Council cannot issue a WAD, as Council is not the roads authority in respect of Wine Country Drive.

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When provided with the opportunity to comment on the proposed development, the RMS formally objected to the roundabout on the basis of the following:

- The roundabout is not a suitable intersection treatment for Wine Country Drive;
- The roundabout will have an adverse impact on the safety and efficiency of Wine Country Drive;
- The proposed intersection has not been designed in accordance with *Austroads Guide to Road Design*, and associated supplements;
- Pedestrian and road user safety has not been adequately addressed in the design of the proposed development; and
- Consideration for the integration and relocation of existing utilities and services has not been considered in the proposed roundabout design.

A copy of the RMS correspondence is included as Enclosure 2. It should be noted that the RMS correspondence refers to a Section 96(2) Application to modify Development Consent 2009/677 (the original approval for the school), which was subsequently withdrawn by the applicant. On 24 April 2018, the masterplan approved in conjunction with Development Consent No. 2009/677 was officially surrendered by the applicant in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979*. Accordingly, the Section 96(2) Application was withdrawn on 26 April 2018 given that the masterplan was no longer valid. Notwithstanding the above, both this DA, and the Section 96 Application were referred to the RMS for comment, and issues/concerns relating to the proposed roundabout the subject of this application are contained within Pages 4 and 5 of the RMS correspondence.

As outlined above, Wine Country Drive is a state (classified) road, and therefore, Council cannot issue a Section 138 approval for the proposed works, rather, the RMS is the relevant roads authority. Therefore, whilst Council is able to issue a development consent for the roundabout, there would in effect be no utility in doing so, as it is unlikely that the RMS would issue a WAD for the proposed works, as required under the *Roads Act 1993*.

In summary, in the event this application is approved, it is likely that the applicant would be unable to act on it, as separate legislation (in this case, the *Roads Act 1993*), requires the applicant to also obtain a WAD from the RMS, and the RMS has indicated a strong objection to the proposed roundabout and would therefore be unlikely to issue a WAD.

***Environmental Planning and Assessment Act 1979 – Section 79C(1)***

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

***(a)(i) The Provisions of any Environmental Planning Instrument***

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy (Infrastructure) 2007
2. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

## 1. State Environmental Planning Policy (Infrastructure) 2007

Clause 101 of the SEPP ('development with frontage to classified roads') is relevant to the proposed development. The objectives of the Clause are as follows:

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

Clause 101(2) states as follows:

*(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) the design of the vehicular access to the land, or*
  - (ii) the emission of smoke or dust from the development, or*
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

It is considered that the proposed development does not satisfactorily address 101(2)(a) in that a primary access point is proposed from the classified road, i.e., Wine Country Drive. The intention of 101(2)(a) is to ensure that, where practicable, vehicular access to the site is provided by a road other than Wine Country Drive, in this case, Lomas Lane. The school currently accesses the site via Lomas Lane, and in various meetings held between the applicant, Council and the RMS, the RMS has consistently taken the position that Lomas Lane could be appropriately upgraded to address the traffic issues being experienced by the school, rather than creating an additional access point onto a classified road.

It is considered that 101(2)(b) and (c) are not relevant in this case as these considerations predominantly relate to new development adjacent to classified roads, rather than the addition of a new access point to an existing development.

As previously outlined in this report, the application was referred to the RMS for comment, who formally objected to the proposed roundabout on the basis of the following:

- The roundabout is not a suitable intersection treatment for Wine Country Drive;
- The roundabout will have an adverse impact on the safety and efficiency of Wine Country Drive;
- The proposed intersection has not been designed in accordance with *Austroads Guide to Road Design*, and associated supplements;

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- Pedestrian and road user safety has not been adequately addressed in the design of the proposed development; and
- Consideration for the integration and relocation of existing utilities and services has not been considered in the proposed roundabout design.

Following consultation with the RMS, Council is not satisfied that the application addresses the above relevant provisions of the SEPP.

## 2. Cessnock Local Environmental Plan 2011

### 2.1 Permissibility

The subject site is zoned RU2 Rural Landscape and SP2 Infrastructure under the provisions of Cessnock Local Environmental Plan (CLEP) 2011. The application proposes works associated with a "road" which is defined under the *Roads Act 1993* as follows:

**"road"** includes:

- (a) the airspace above the surface of the road, and*
- (b) the soil beneath the surface of the road, and*
- (c) any bridge, tunnel, causeway, road-ferry, ford or other work or structure forming part of the road.*

Roads are permitted in the RU2 zone with the consent of Council, and permitted without consent in the SP2 zone.

Notwithstanding the provisions of CLEP 2011, separate approval is required for work on a classified road under the *Roads Act 1993*, as explained previously in this report.

### 2.2 Objectives

The objectives of the SP2 Zone are as follows:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

Comment – While the development is consistent with the overall intent of these objectives in that it is a form of infrastructure, the proposed roundabout is not considered a suitable intersection treatment for Wine Country Drive.

The objectives of the RU2 Zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To enable other forms of development that are associated with rural activity and require an isolated location or support tourism and recreation.*
- *To ensure that the type and intensity of development is appropriate in relation to the rural capability and suitability of the land, the preservation of the agricultural, mineral*

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*and extractive production potential of the land, the rural environment (including scenic resources) and the costs of providing services and amenities.*

- *To maintain and enhance the scenic character of the land.*
- *To ensure that development does not create unreasonable or uneconomic demands for the provision or extension of services.*
- *To minimise the visual impact of vegetation clearing in order to be consistent with the rural character of the locality.*
- *To minimise disturbance to the landscape from development through clearing, earthworks, access roads and construction of buildings.*
- *To ensure development does not intrude into the skyline when viewed from a road or other public place.*

Comment – The above objectives predominantly apply to rural land uses. It is noted that the school is a permitted land use within the RU2 zone, however, it is not rural in nature. Overall, it is noted that the majority of the roundabout is located within the SP2 zone, and only a small part of the roundabout will encroach on RU2 zoned land. As such, it is considered that the proposed works will not compromise the underlying objectives of the RU2 zone.

### **2.3 Relevant Clauses**

There are no clauses under the CLEP 2011 of relevance to the proposed development.

**(a)(ii) *The Provisions of any Draft Environmental Planning Instrument (that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)).***

No Draft Environmental Planning Instruments are relevant to the application.

**(a)(iii) *The Provisions of any Development Control Plan***

#### **Cessnock Development Control Plan 2010**

There are no provisions contained in Cessnock Development Control Plan 2010 of relevance to the development.

**(a)(iia) *The Provision of any Planning Agreement that has been entered into under Section 94F, or any draft Planning Agreement that a developer has offered to enter into under Section 93F***

No such agreement has been proposed as part of this application.

**(a)(iv) *The Regulations***

There are no specific provisions of the Regulations relevant to the application.

**(b) *The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality***

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As demonstrated by the above assessment, it is considered that the proposed roundabout is not a suitable intersection treatment for Wine Country Drive, and will have an adverse impact on the safety and efficiency of Wine Country Drive. On this basis, the proposed development is likely to result in adverse traffic impacts.

**(c) The suitability of the site**

As demonstrated by the above assessment, the site of the proposed roundabout is not considered suitable in terms of location and treatment type from a traffic safety perspective.

**(d) Any submissions made in accordance with this Act or the Regulations**

The Development Application was not required to be publicly exhibited under Chapter B.2 – 'Public Notification and Advertising' of Cessnock DCP 2010.

**(e) The public interest**

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act, 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, the proposed development is considered contrary to the public interest due to the potential for the roundabout to result in adverse traffic safety issues.

## SECTION 94/94A CONTRIBUTIONS

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Section 94/94A Contributions are not payable for the proposal.

## INTERNAL REFERRALS

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The Development Application was referred to the following Council officers for comment:

Officer	Comment
Development Engineer	The application was referred to Council's Development Engineer for assessment, however, because the proposed roundabout was not supported by the RMS (and the RMS is the appropriate roads authority), no specific comment was provided.
Flood Engineer	Council's Flood Engineer provided flood levels for the site.
Works and Infrastructure	The application was referred to Works and Infrastructure for comment. Considering that the roundabout is proposed on a state road, no specific comments were provided.

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	Notwithstanding the above, the Section 96 Application (later withdrawn by the applicant on 26 April 2018), was considered by the Local Development Committee at their meeting of 17 July 2017, and the minutes of the LDC make reference to the proposed roundabout, noting that an appropriate solution is required to work through the traffic issues being experienced at the school.
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## EXTERNAL REFERRALS

The Development Application was referred to the following external agency for comment:

Agency	Comment
Roads and Maritime Services	The application was referred to RMS for comment, and such comments have been outlined throughout this report.

## CONCLUSION

The Development Application has been assessed in accordance with Section 79C(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

Based upon the assessment of the application, Council officers are not satisfied that the proposed roundabout will not adversely impact the safety and efficiency of traffic flow along Wine Country Drive. Further, the RMS have objected to the proposal on the grounds that the roundabout is not a suitable intersection treatment for Wine Country Drive.

Whilst it is open to Council to approve the application, it is likely that the applicant would be unable to act on any approval issued, as separate legislation (in this case, the *Roads Act 1993*), requires the applicant to also obtain a WAD from the RMS, and the RMS has indicated a strong objection to the proposed roundabout and would therefore be unlikely to issue a WAD.

Based on the assessment, Development Application No. 8/2017/282/1 is recommended for refusal, subject to the reasons included in this report.

## ENCLOSURES

- [1](#) Development plans
- [2](#) Correspondence from RMS

## REASONS FOR REFUSAL

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1. The proposed development is not considered appropriate for the following reasons:
  - The roundabout is not considered a suitable intersection treatment for Wine Country Drive;
  - It is likely that the roundabout will have an adverse impact on the safety and efficiency of Wine Country Drive;
  - The proposed intersection has not been designed in accordance with *Austroads Guide to Road Design*, and associated supplements;
  - Pedestrian and road user safety has not been adequately addressed in the design of the proposed development; and
  - Consideration for the integration and relocation of existing utilities and services has not been considered in the proposed roundabout design.

(Consideration under Clause 79(C)(1)(b) of the *Environmental Planning and Assessment Act 1979*).
2. The site of the proposed roundabout is not considered suitable in terms of location and treatment type from a traffic safety perspective.

(Consideration under Clause 79(C)(1)(c) of the *Environmental Planning and Assessment Act 1979*).
3. The proposed development is considered contrary to the public interest due to the potential for the roundabout to result in adverse traffic safety issues.

(Consideration under Clause 79(C)(1)(e) of the *Environmental Planning and Assessment Act 1979*).

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**SUBJECT:** *FLYING-FOXES - PROGRESS OF EAST CESSNOCK CAMP MANAGEMENT PLAN AND UPDATE ON COMMONWEALTH GOVERNMENT RESPONSE TO "LIVING WITH FRUIT BATS"*

**RESPONSIBLE OFFICER:** *Director Planning and Environment - Gareth Curtis*

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### **SUMMARY**

The purpose of this report is to update Council regarding:

- Implementation of the East Cessnock Flying-fox Camp Management Plan; and
- The current status of the Commonwealth Government's response to the 2016 House of Representatives Standing Committee on Energy and Environment's Inquiry into Flying-fox management in the Eastern States and the Committee's final report "*Living with fruit bats*" released in February 2017.

### **RECOMMENDATION**

1. That Council note that all efforts are being made to progress the implementation of the East Cessnock Flying-fox Camp Management Plan.
2. That Council note that the best way to help affected residents is to continue to comply with the legislation, implement the actions of the East Cessnock Flying-fox Camp Management Plan and continue to work with State agencies to seek grant funding.
3. That Council note with some concern, that the Australian Government is yet to respond to the final report and recommendations of the Standing Committee on Environment and Energy Inquiry into Flying-foxes in the Eastern States - "*Living with Fruit Bats*" dated February 2017.
4. That Council write to The Hon Josh Frydenberg MP, Minister for the Environment and Energy, Mr Andrew Broad MP, Chair of the Standing Committee on Environment and Energy, and The Hon Joel Fitzgibbon MP, Member for Hunter, outlining Council's concerns and urging the Australian Government to respond to the final report and recommendations of the Standing Committee on Environment and Energy Inquiry into Flying-foxes in the Eastern States - "*Living with Fruit Bats*" dated February 2017.

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**BACKGROUND**

Council has considered many reports on the issue of the East Cessnock Flying-fox Camp and the impact it is having on local residents.

At its Ordinary meeting of 20 September 2017 Council unanimously resolved:

1. *That Council adopt the East Cessnock Flying-Fox Camp Management Plan which includes the management actions to be implemented by Cessnock City Council and other landowners.*
2. *That Council write to all members of the stakeholder working group and all persons who made a submission to notify them of Council's decision and to thank them for their input and involvement.*
3. *That Council work with all relevant landowners and State agencies to seek grant funding to assist in implementing the East Cessnock Flying-Fox Camp Management Plan.*

This report provides an update on progress of the implementation of the East Cessnock Flying-fox Camp Management Plan (the "Plan").

Additionally, Council may also be aware that at its Ordinary meeting of 5 April 2017, Council resolved in relation to report PE10/2017 - *Standing Committee on the Environment and Energy Report on Flying-foxes in the Eastern States* as follows:

1. *That Council note the Standing Committee on the Environment and Energy Enquiry Report into Flying Fox Management in the Eastern States has released the final report titled "Living with Fruit Bats".*
2. *That Council support in principle the recommendations from the final report of the Standing Committee on the Environment and Energy Enquiry Report into Flying Fox Management in the Eastern States, titled "Living with Fruit Bats" and that progress towards its implementation be monitored and periodically reported to Council.*
3. *That Council note that the Standing Committee on the Environment and Energy Enquiry Report into Flying Fox Management in the Eastern States has positively referenced the endorsed submission from Cessnock City Council and that the recommendations from the final report reflect the serious issues and concerns raised by Council and our impacted residents regarding East Cessnock Flying Fox Camp.*
4. *That Council contact Sunshine Coast Council regarding Canopy Sprinklers.*

This report will address resolution point 2 of the above resolution and provides a status update on the Commonwealth Government's response to the Standing Committee's final report. Items 1 and 3 of the resolution were noted by Council with no further action required. Item 4 resulted in staff follow up with Sunshine Coast Council in April 2017 and was considered in the development of the Plan.

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**REPORT/PROPOSAL**

**Progress update on East Cessnock Flying-fox Camp Management Plan**

As outlined earlier, Council adopted the East Cessnock Flying-fox Camp Management Plan (the "Plan") at its meeting of 20 September 2017.

Since that time Council staff have continued to liaise with state agencies regarding actions and grant funding, respond to complaints and implement actions from the Plan. The following progress has been made:

On 14 December 2017 an application was made to NSW Office of Environment and Heritage seeking a Threatened Species Licence under Part 2 of the *Biodiversity Conservation Act 2016*. The licence is required in order to carry out certain management actions from the Plan, as identified in the grant work program, including:

- General landscape maintenance such as weed removal
- Clearing to create a 10m buffer zone between the camp and boundaries of residences.
- Planting works bordering Cessnock Road to reduce the impact of road noise to Hallam Street residents.

In early May 2018 Council received a copy of the draft Licence to review and provide comments back to OEH. Comments were returned on the 8 May 2018.

On 23 March 2018 Council applied for land owners consent in the form of an Environmental Management Licence from the Department of Industry – Lands and Water in order to carry out management actions within the camp area.

The Department of Industry – Lands and Water will not issue the Licence (consent) until Council has provided them with a copy of its Threatened Species Licence issued under Part 2 of the *Biodiversity Conservation Act 2016*.

On 10 November 2017, Council applied for \$50,000 in grant funding from LGNSW under the funding source Stream 3 – Implementing approved actions in flying-fox camp management plans. The application also involved \$50,000 of in kind funding from Cessnock City Council making the overall grant program a \$100,000 project.

ON 20 December 2017 Council was confidentially advised that our grant application was successful. Council received permission to publicise receipt of the grant funding on 6 February 2018

Council staff are preparing subsidy application forms and guidelines for residents to apply for part funding of gurneys, car covers, caravan covers and pool cover. This will be advertised in the near future.

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Council staff are currently seeking quotations for vegetation clearing works to create a buffer zone between the camp and residences; and to plant some additional species between Cessnock Road and Hallam Street. The additional plant species will not be roosting or feeding species for the Flying-foxes.

Council staff are preparing educational materials, including site signage (**Enclosure 1**) to be installed at the flying-fox camp, Council staff have sought quotes for manufacture and are in the process of evaluating those quotes.

Council staff have also been liaising with residents and other stakeholders and are aware that the local population of Flying-foxes recently increased due to the breeding season of the grey-headed flying-fox species. The East Cessnock Flying-Fox Camp is recognized as a maternal camp. It should be anticipated that the numbers of flying-fox at the camp will increase annually during the March – April breeding season. At the time of preparing this progress report, the local population has decreased as a result of the cessation of the breeding period and the seasonal migration of the species to Northern NSW and Queensland for the winter months. The situation at the camp continues to be monitored.

Council staff have received complaints and continue to respond according to Council's adopted position and within the legislation. The best and most effective way for Council to assist affected residents is to continue to ensure we comply with the legislation, implement the adopted Plan and resolutions of the Council, and to work with state agencies to seek grant funding.

Council has shown good community leadership in the matter by coordinating multiple State agencies and stakeholders, developing, adopting, and implementing the Plan and by seeking grant funding. If Council had not taken the lead, we would not be in a position to lawfully carry out any work to manage the camp or to assist the affected residents.

Council staff are currently working on the implementation of the grant funded actions of the Plan. The aim of the grant project is to reduce the impact of the flying-fox camp on surrounding residents and assets. The objectives of the project as outlined in Council's grant application are:

- Provide residents with support and practical solutions to better protect assets from the flying-fox camp.
- Improve the health of vegetation within the flying-fox camp.
- Improve community awareness and education of flying-foxes.

To achieve these objectives Council will:

- Provide subsidies for the purchase of pool, car and clothesline covers and high pressure hoses to residents who live within a 500m radius of the camp. Priority will be given to residents within 400m of the camp.
- Carry out site maintenance including weeds removal, trimming and clearing of non-native understory and general landscape maintenance.
- Extend the buffer zone between the site and the adjoining residential properties.
- Install informational signage about the grey-headed flying fox.

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- Implement an education campaign to improve community awareness of the importance of the grey-headed flying fox.

It is important to note that Council could not have commenced site works until the end of breeding season. In addition, no works can be carried out on site without relevant licencing. As outlined above, Council's licence applications have been submitted to the relevant State approval authorities and are being processed.

**Australian Government response to "Living with Fruit Bats" - the final report and recommendations of House of Representatives Standing Committee on the Environment and Energy Inquiry into Flying-fox Management in the Eastern States.**

As Council may be aware following consideration of the matter at its ordinary meeting of 5 April 2017, the Standing Committee into the Environment and Energy released its final report "Living with Fruit Bats" following the inquiry into Flying-fox Management in the Eastern States.

It is understood the final report was tabled to the Australian Government on 27 February 2017 (Parliamentary Paper 37/2017). At the time of this report being finalised on 9 May 2018, the Standing Committee website indicates "*Date of Government Response: No response to date*".

This is of some concern given it is now almost 15 months since the Inquiry report was completed and tabled. There has been no communication or contact from the Australian Government or the Standing Committee on the progress of the recommendations of the report.

In the interest of advocating for and assisting our affected residents, Council has made serious commitments and lodged submissions to the Standing Committee Inquiry, and in addition, staff and management representatives attended the Inquiry's Public Roundtable in Canberra, ACT in an effort to ensure local voices were heard and acknowledged. Council should be concerned that there is no response from the Government to date. In this regard, Council may consider voicing that concern and endorsing draft correspondence which has been prepared to the following federal Government members:

- The Hon Josh Frydenberg MP, Minister for the Environment and Energy,
- Mr Andrew Broad MP, Chair of Standing Committee on Environment and Energy

A draft letter seeking assistance from the local Federal Member, the Hon Joel Fitzgibbon MP, Member for Hunter, is enclosed to this report, also for Council's consideration. The draft letters are at **Enclosure 3**.

It is noted that recent correspondence (**Enclosure 2**) from the Hon Josh Frydenburg, MP, Minister for the Environment and Energy relates to guidelines and other advice from the government on managing flying-foxes however, does not address the final report and recommendations of the Standing Committee. The draft letter to the Minister will thank him for his letter however will request a response to the Standing Committee's final report as outlined earlier in the report.

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Council staff will provide further reports to Council on progress of the matter and in relation to any correspondence received.

**OPTIONS**

1. Council may choose to accept the recommendation as outlined in the report.

The recommendation is considered self explanatory as it provides an update on the progress of implementing the East Cessnock Camp Management Plan, recommends the best way to continue assisting affected residents and also to urge the Australian Government to act on the final report and recommendations of the Standing Committee on Environment and Energy Inquiry into Flying-foxes in the Eastern States - "*Living with Fruit Bats*" dated February 2017.

This is the preferred option.

2. Council may choose an alternative course of action or to simply note the report and take no further action.

This is not recommended as it will create uncertainty in the community over Council's commitment to implement to East Cessnock Flying-fox Camp Management Plan. It would also not hold the Government accountable to the community for the lack of response to the final report and recommendations of the Standing Committee on Environment and Energy Inquiry into Flying-foxes in the Eastern States - "*Living with Fruit Bats*" dated February 2017.

**CONSULTATION**

Strategic Planning staff  
Strategic Planning Manager  
General Manager

**STRATEGIC LINKS**

**a. Delivery Program**

This report is linked to *Objective 3.1 Protecting and enhancing the natural and the rural character of the area* of the Delivery Program 2017-21.

**b. Other Plans**

The actions being implemented by the grant work program align with the East Cessnock Flying Fox Camp Management Plan.

The East Cessnock Flying-fox Camp Management Plan is consistent with the Council's adopted Biodiversity Strategy 2013-2017, in particular the following implementation actions:

**4.1 Identification of Cessnock LGA's Biodiversity Assets:**

A6 - Make information available to community, where appropriate.

**4.3 Protection and enhancement of areas of biodiversity value – incentives:**

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- IP 2 Council investigate and where appropriate enter partnerships with others
- IP 5 Council actively promote and where feasible, apply for biodiversity related grants to undertake key projects.
- 4.6 Integrating with other programs for value adding:
  - C 3 Strengthen the existing partnerships with Hunter Council's on common biodiversity management issues.

**IMPLICATIONS**

**a. Policy and Procedural Implications**

The actions being implemented by the grant work program align with the East Cessnock Flying Fox Camp Management Plan.

**b. Financial Implications**

If the works identified within the Stream 3 – Implementing approved actions in flying-fox camp management plans grant work program are not completed by the 30 June 2018 Council will have to return funding to LG NSW.

There are no financial implications in forwarding correspondence to the Australian Government at this time.

**c. Legislative Implications**

As outlined in the report, Council has sought licences from both the Office of Environment and Heritage and the Department of Industry – Lands and Water.

**d. Risk Implications**

There is a reputational risk if Council does not continue to implement the East Cessnock Flying-fox Camp Management Plan and follow up the Australian Government response to the Standing Committee's final report, that the community may perceive that Council is no longer showing leadership on behalf of the community. The risk can be addressed by endorsing the recommendation.

**e. Environmental Implications**

The grey-headed flying-fox is listed as vulnerable under the Biodiversity Conservation Act 2016. It is imperative to note, the grey-headed flying-fox was not listed based on numbers of animals in existence, but rather on the rapid rate of decline in species numbers of a short period of time.

Additionally, the East Cessnock Flying-Fox Camp is protected under the EPBC Act 1999 because it is considered to be a Nationally Important Camp based on the following criteria:

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- *Contained  $\geq 10,000$  GHFF in more than one year in the last 10 years, or*

*The designation of the Camp as Nationally Important requires land managers to ensure all management activities meet the following standards:*

- *The action must not occur if the camp contains females that are in the late stages of pregnancy or have dependent young that cannot fly on their own.*
- *The action must not occur during or immediately after climatic extremes (heat stress event, cyclone event), or during a period of significant food stress.*
- *Disturbance must be carried out using non-lethal means, such as acoustic, visual, and/or physical disturbance or use of smoke.*
- *Disturbance activities must be limited to a maximum of 2.5 hours in any 12 hour period, preferably at or before sunrise or at sunset.*
- *Trees are not felled, lopped or have large branches removed when flying-foxes are in or near to a tree and likely to be harmed.*
- *The action must be supervised by a person with knowledge and experience relevant to the management of flying-foxes and their habitat, who can identify dependent young and is aware of climatic extremes and food stress events. This person must make an assessment of the relevant conditions and advise the proponent whether the activity can go ahead consistent with these standards.*
- *The action must not involve the clearing of all vegetation supporting a nationally-important flying-fox camp. Sufficient vegetation must be retained to support the maximum number of flying-foxes ever recorded in the camp of interest.*

The Camp Management Plan outlines that the East Cessnock Flying-Fox Camp is potentially habitat for a number of threatened species and ecological communities; and nominates that the site vegetation is consistent with the Lower Hunter Spotted Gum.

There are a number of endangered ecological communities (EEC) that are mapped as potentially occurring across the East Cessnock Flying-Fox Camp. These are the Wollombi Redgum – River Oak Woodland, Lower Hunter Spotted Gum – Iron Bark Forrest and Hunter Lowland Redgum Forest.

Council has sought the necessary statutory environmental licences and permits and will ensure our activities comply with the legislation and any conditions of the licences imposed by state agencies.

**f. Other Implications**

Completion of the implementation of the grant program is critical to the management of the flying-fox camp as well as managing community expectation.

**CONCLUSION**

Council may be assured that the East Cessnock Flying-fox Camp Management Plan adopted in September 2017 is progressing. Grant funds have been received and actions are being implemented as outlined in the report. It is recognised that the best way Council can help our impacted residents is to continue to implement the Plan, work with State agencies and seek funding to support our actions.

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Additionally, as it has become evident that the Australian Government has yet to respond to **“Living with Fruit Bats” - the February 2017 final report and recommendations of the House of Representatives Standing Committee on the Environment and Energy Inquiry into Flying-fox Management in the Eastern States**, the Council may now consider writing to the Minister for the Environment and Energy and the Chair of the Standing Committee on the Environment and Energy, as well as the local federal member, seeking an urgent response to the matter.

**ENCLOSURES**

- 1 ➡ Signage Design
- 2 ➡ Management of Flying Fox Camps \_ Clarification 24-04-18 \_ Minister for the Environment and Energy
- 3 ➡ Draft Correspondence to Federal Members

**SUBJECT:** *HUNTER AND CENTRAL COAST JOINT REGIONAL PLANNING PANEL*

**AUTHOR:** *Development Services Manager - Janine McCarthy*

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### **SUMMARY**

Council is in receipt of correspondence from the NSW Department of Planning and Environment regarding new legislative provisions relating to Joint Regional Planning Panels.

The purpose of this report is to review Council's nominated Hunter and Central Coast Joint Regional Planning Panel members to ensure their continuing eligibility to participate; nominate additional alternate members to enable Section 8.2 review of determinations to be carried out; and confirm Council's agreement to the use of Council's audio recording equipment for the purpose of recording meetings.

In addition, a JRPP meeting is scheduled for 24 May 2018 in respect of DA 8/2016/557/1 (also known as 'Golden Bear'), and both Council's member (the Mayor Councillor Pynsent), and Council's alternate member (Councillor Stapleford) have a conflict of interest in the matter, as they previously voted in relation to the Planning Proposal to rezone the site on 22 January 2014. Therefore, it is recommended that Council nominate an alternate member to participate in the meeting regarding DA 8/2016/557/1.

### **RECOMMENDATION**

1. That Council confirm with the NSW Department of Planning and Environment that each of its currently nominated members of the Hunter and Central Coast Joint Regional Planning Panel, being the Mayor Councillor Pynsent (full member), Councillor Sander (full member), and Councillors Stapleford and Lyons (alternate members), are not developers or real estate agents, and are therefore eligible to continue to participate as a member.
2. That Council nominate additional alternate members to enable Section 8.2 review of determinations to be carried out, and advises the NSW Department of Planning and Environment of these nominations.
3. That Council advises the NSW Department of Planning and Environment that agreement is given to the use of Council's audio recording equipment for the purpose of recording meetings.
4. That Council nominate an alternate member to participate in the Hunter and Central Coast Joint Regional Planning Panel meeting scheduled for 24 May 2018 in respect of DA 8/2016/557/1, and advise the Panel Secretariat of this nomination.

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**BACKGROUND**

Council is in receipt of correspondence from the NSW Department of Planning and Environment regarding new legislative provisions relating to Joint Regional Planning Panels (JRPP's). Specifically, the following three (3) issues are of relevance to Council:

- Amendments to the *Environmental Planning and Assessment Act 1979* came into force on 1 March 2018, and a key change in the Act now means that property developers and real estate agents are no longer eligible to sit as either state-nominated or council-nominated Panel members. In response to the introduction of this provision, the NSW Department of Planning and Environment has requested that Council review their nominated Panel members to ensure their continuing eligibility to participate;
- Under Section 8.2 of the *Environmental Planning and Assessment Act 1979*, Panel determinations are now subject to reviews of decisions made in respect of development and modification applications. These reviews will be undertaken by different Panel members to those that made the original decision. In response to the introduction of this provision, the NSW Department of Planning and Environment has requested that Council ensure that sufficient alternate Council members are appointed to enable the decision review function to be carried out in a timely manner; and
- All public Panel meetings are to be recorded, and the recordings made available on the Planning Panel's website. In response to the introduction of this provision, the NSW Department of Planning and Environment has requested that, in the event Council is equipped to make audio recordings, Council consider making these facilities available for Panel meetings. In the event this is not available/agreed to, the Panels Secretariat has arranged for audio recording specialists to record Panel meetings.

In addition to the above, it is noted that a JRPP meeting is scheduled for 24 May 2018 in respect of DA 8/2016/557/1, proposing the following:

*Staged Development - Integrated Tourist Development in Seven (7) Stages Proposing an 18 Hole Golf Course, 50 Room Hotel, 250 Serviced Apartments, 300 Residential Lots and Ancillary Function Centre & Aboriginal Heritage Centre, Retail & Food Outlet and Spa & Recreation Facilities - Masterplan Approval and Stage 1 - Four (4) Lot Community Title Subdivision at Wine Country Drive (Lots 2 – 4 DP 869651 and Lot 11 DP 1187663), Lovedale.*

A review of Council's records has identified that both Council's member (the Mayor Councillor Pynsent), and Council's alternate member (Councillor Stapleford) have a conflict of interest in the matter, as they previously voted in relation to the Planning Proposal to rezone the site on 22 January 2014. Therefore, it is recommended that Council nominate an alternate member to participate in the meeting scheduled for 24 May 2018 regarding DA 8/2016/557/1.

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**REPORT****Council's Current JRPP Members**

Council's current appointed JRPP members are the Mayor Councillor Bob Pynsent and Councillor Anne Sander, with the alternate members being Councillors Stapleford and Lyons. The following table identifies Council's members, and their appointment timeframe:

Member	Type of member	Date appointed	Expiry of membership
Mayor Councillor Pynsent	Full member	5 October 2016	5 October 2019
Councillor Sander	Full member	5 October 2016	5 October 2019
Councillor Stapleford	Alternate member	5 October 2016	5 October 2019
Councillor Lyons	Alternate member (James Street Planning Proposal)	5 April 2017	5 April 2020 or completion of James Street Planning Proposal

As outlined in the above table, each appointment to the JRPP is for a maximum of three (3) years is in accordance with Clause 11(1) of Part 4 of Schedule 2 of the Environmental Planning and Assessment Act 1979.

**Changes to the *Environmental Planning and Assessment Act 1979***

New provisions in respect of JRPP's contained within the *Environmental Planning and Assessment Act 1979* commenced on 1 March 2018, and the NSW Department of Planning and Environment has written to Councils requesting their consideration of three (3) key issues. These are outlined in detail below:

**1. Exclusion of property developers and real estate agents as Panel members**

Section 2.13(3) of the *Environmental Planning and Assessment Act 1979* prescribes that 'property developers' and 'real estate agents' are not eligible to sit as either state-nominated or council-nominated Panel members. Specifically, Section 2.13(3) of the *Environmental Planning and Assessment Act 1979*, states as follows:

(3) A person is not eligible to be a member of a Sydney district or regional planning panel if the person is:

(a) a **property developer** within the meaning of section 96GB of the *Election Funding, Expenditure and Disclosures Act 1981*, or

*Note. Section 96GB (1) of the Election Funding, Expenditure and Disclosures Act 1981 provides that property developer includes a person who is a close associate of a property developer.*

(b) a **real estate agent** within the meaning of the *Property, Stock and Business Agents Act 2002*.

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*However, a person is not ineligible to be a member of a Sydney district or regional planning panel merely because the person carries on the business of a planning consultant.*

Section 96GB of the *Election Funding, Expenditure and Disclosures Act 1981*, states as follows:

(1) *Each of the following persons is a **property developer** for the purposes of this Division:*

(a) *a corporation engaged in a business that regularly involves the making of relevant planning applications by or on behalf of the corporation in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit,*

(b) *a person who is a close associate of a corporation referred to in paragraph (a).*

The *Property, Stock and Business Agents Act 2002*, states as follows:

**real estate agent** means a person (whether or not the person carries on any other business) who, for reward (whether monetary or otherwise), carries on business as an auctioneer of land or as an agent:

(a) *for a real estate transaction, or*

(b) *for inducing or attempting to induce or negotiating with a view to inducing any person to enter into, or to make or accept an offer to enter into, a real estate transaction or a contract for a real estate transaction, or*

(c) *for the introduction, or arranging for the introduction, of a prospective purchaser, lessee or licensee of land to another licensed agent or to the owner, or the agent of the owner, of land, or*

(d) *collecting rents payable in respect of any lease of land and otherwise providing property management services in respect of the leasing of any land, or*

(e) *for any other activity in connection with land that is prescribed by the regulations for the purposes of this definition,*

*but does not include a person who carries on business as an auctioneer or agent in respect of any parcel of rural land unless the regulations otherwise provide.*

*Note. This definition is not limited to the selling of land and extends to an agent acting on behalf of the buyer of land (a buyer's agent).*

*As noted in section 168 of the [Retirement Villages Act 1999](#), a selling agent acting on the sale of residential premises in a retirement village must be licensed as a real estate agent under this Act.*

In response to the introduction of this provision, the NSW Department of Planning and Environment has requested that Council review their nominated Panel members to ensure their continuing eligibility to participate.

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A review of Council's records in respect to the current members of the JRPP has identified that none of Council's nominated members are either 'property developers' or 'real estate agents'.

On the basis of the above, this report recommends that Council write to the NSW Department of Planning and Environment to confirm the eligibility of its nominated representatives to continue to participate as members of the JRPP.

## 2. Alternate members

In accordance with Section 8.2 of the *Environmental Planning and Assessment Act 1979*, Panel determinations are now subject to reviews of decisions made in respect of development and modification applications. The NSW Department of Planning and Environment has advised that the '*Planning Panels Operational Procedures*' will shortly be amended/updated to require such reviews to be undertaken by different Panel members to those that made the original decision.

In response to the introduction of this provision, the NSW Department of Planning and Environment has requested that Council ensure that sufficient alternate Council members are appointed to enable the decision review function to be carried out in a timely manner.

Council has a number of options in respect of this, including:

1. Council may consider that the current alternate members are adequate, and that new appointments are not necessary; or
2. Council may consider that additional alternate members are necessary, and could appoint such representatives via either of the following processes:
  - Additional alternate members could either be elected representatives of Council, or appropriate staff members employed by Council, or a combination of these; or
  - Council may seek to appoint external representatives to the JRPP as alternate members, and in this case, it would be appropriate to call for expressions of interest from the community, and subsequently process/consider any applications received.

This report recommends that Council nominate additional alternate members to enable Section 8.2 review of determinations to be carried out, via either of the options identified above, and advises the NSW Department of Planning and Environment of these nominations.

## 3. Recording of Panel meetings

In accordance with Schedule 2(25)(3) of the *Environmental Planning and Assessment Act 1979*, all public Panel meetings are required to be recorded (whether an audio/video record, an audio record or a transcription record), and the recordings made available on the Planning Panel's website.

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In response to the introduction of this provision, the NSW Department of Planning and Environment has requested that, in the event Council is equipped to make audio recordings, Council consider making these facilities available for Panel meetings. In the event this is not available/agreed to, the Panels Secretariat will arrange for audio recording specialists to record Panel meetings.

In Council's case, previous meetings of the JRPP have been held in the Council Chambers. Whilst the Council Chambers are equipped to make audio recordings, to date, the JRPP have not recorded any public meetings. These facilities could continue to be made available to the JRPP, inclusive of recording equipment. It is noted that Council may incur some costs in doing so, for example, in ensuring that staff who are adequately trained in the use of such equipment are available during the JRPP meeting. Whilst this cost is acknowledged, it is also noted that the '*Planning Panels Operational Procedures*' are clear in that Council may be required to assist the JRPP with the provision of meeting venues, arrangements for site visits and briefings, and the provision of a minute taker for meetings. The recording of meetings could be seen as an extension of these responsibilities, and on this basis, would be considered reasonable. Furthermore, from a preliminary review, it is considered that the minute taker (which Council is currently required to provide), could be trained to operate the recording equipment.

On the basis of the above, this report recommends that Council write to the NSW Department of Planning and Environment to confirm that agreement is given to the use of Council's audio recording equipment for the purpose of recording meetings.

**JRPP meeting scheduled for 24 May 2018 in respect of DA 8/2016/557/1 ('Golden Bear')**

It is noted that a JRPP meeting is scheduled for 24 May 2018 in respect of DA 8/2016/557/1.

The '*Planning Panels Operational Procedures*' (September 2016), state the following:

*'To avoid any perceptions of bias, and to meet the requirements of the Code of Conduct (Section 3.22), councillors who have deliberated or voted on a matter that is to come before the panel (such as submission from the council on a DA for regional development, a related voluntary planning agreement or a planning proposal), must stand aside from their place on the panel and allow council's nominated alternative member to take their place.'*

A review of Council's records has identified that both Council's member (the Mayor Councillor Pynsent), and Council's alternate member (Councillor Stapleford) previously voted in relation to the Planning Proposal to rezone the subject site on 22 January 2014. Therefore, in accordance with the Code of Conduct, they must both stand aside from their place on the panel.

In this case, Council does not have an alternate member nominated who could take their place. Therefore, it is recommended that Council nominate an alternate member to participate in the meeting scheduled for 24 May 2018 regarding DA 8/2016/557/1. It is important to note that the alternate member must not have voted in respect of the Planning Proposal relating to the site.

**OPTIONS**

1. Council may resolve in accordance with the report recommendation; or

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2. Council may resolve differently in respect of any of the issues identified, for example:
- In the event one of Council's nominated JRPP representatives is either a 'property developer' or 'real estate agent', Council may resolve to appoint a new member, noting the expertise requirements prescribed in the *Environmental Planning and Assessment Act 1979*;
  - Council may consider that the current alternate members are adequate, and that new appointments are not required. Alternatively, in the event Council seeks to appoint external representatives to the JRPP as alternate members, Council may resolve to call for expressions of interest from the community, and subsequently process/consider any applications received;
  - In the event Council does not wish to make its audio recording equipment available, Council may resolve to advise the NSW Department of Planning and Environment of this position.
  - Council may not wish to appoint an alternate member in respect of the meeting scheduled for 24 May 2018 regarding DA 8/2016/557/1, and in this regard, may consider that adequate representation can be provided by Council's remaining representative (Councillor Sander).

**CONSULTATION**

Director Planning and Environment

**STRATEGIC LINKS**

**a. Delivery Program**

This report is linked to Objective 3.1.6 Continue to efficiently and effectively process development applications, and respond to planning related enquiries.

This matter also relates to the Community's Desired Outcome for "*Civic Leadership and Effective Governance*".

**b. Other Plans**

N/A

**IMPLICATIONS**

**a. Policy and Procedural Implications**

N/A

**b. Financial Implications**

As outlined above, there may be some resource implications for Council in terms of recording JRPP meetings, however, from a preliminary review, it is considered that the minute taker (which Council is currently required to provide), could be trained to operate the recording equipment.

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**c. Legislative Implications**

This report outlines the new provisions under the *Environmental Planning and Assessment Act 1979*, as they apply to the Hunter and Central Coast JRPP.

**d. Risk Implications**

In appointing sitting Councillors to represent Council as additional alternate members on the JRPP, there is a risk that Council may not be represented during JRPP meetings, especially in the event the current Council has already voted in respect of a Planning Proposal relating to the same site.

**e. Other Implications**

N/A

**CONCLUSION**

Council is in receipt of correspondence from the NSW Department of Planning and Environment regarding new legislative provisions relating to Joint Regional Planning Panels.

The NSW Department of Planning and Environment has requested that Council's nominated Hunter and Central Coast Joint Regional Planning Panel members be reviewed to ensure their continuing eligibility to participate; that Council nominate additional alternate members to enable Section 8.2 review of determinations to be carried out; and that Council confirm their agreement to the use of Council's audio recording equipment for the purpose of recording meetings.

In addition, a JRPP meeting is scheduled for 24 May 2018 in respect of DA 8/2016/557/1 ('Golden Bear'), and both Council's member (the Mayor Councillor Pynsent), and Council's alternate member (Councillor Stapleford) have a conflict of interest in the matter, as they previously voted in relation to the Planning Proposal to rezone the site on 22 January 2014. Therefore, it is recommended that Council nominate an alternate member to participate in the meeting regarding DA 8/2016/557/1.

**ENCLOSURES**

- [1](#) ⇨ Correspondence from NSW Department of Planning and Environment

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**SUBJECT:** ***CESSNOCK CITY COUNCIL INNOVATE RECONCILIATION ACTION PLAN 2018-2020***

**RESPONSIBLE OFFICER:** ***Community & Cultural Engagement Manager - Natalie Drage***

## **SUMMARY**

Council with encouragement and support from the previous Aboriginal and Torres Strait Islander Advisory Committee developed its first ever Reconciliation Action Plan (RAP), called the Reflect RAP in 2015. The Reflect RAP was adopted by Council on the 9 December 2015, endorsed by Reconciliation Australia on the 14 December 2015 and following implementation Council on the 19 April 2017 was provided with a report to advise its completion and outcomes.

With the completion of the Reflect RAP, the current Aboriginal and Torres Strait Islander Committee (the Committee) assisted to develop the Innovate RAP. The Innovate RAP builds on the success of the Reflect RAP and provides Council with a further framework for reconciliation, unity and respect between Aboriginal and Torres Strait Islander peoples and other Australians. The Innovate RAP is a two year plan, comprising 4 themes and 22 actions.

## **RECOMMENDATION**

1. **That Council adopt the Cessnock City Council Innovate Reconciliation Action Plan.**
2. **That the Cessnock City Council Innovate Reconciliation Action Plan be submitted to Reconciliation Australia for final endorsement.**
3. **That if the Cessnock City Council Innovate Reconciliation Action Plan requires changes during the final endorsement process, the General Manager be provided with the delegation to allow minor changes for items where the intent remains and Councillors be informed of any changes via a memo.**
4. **That if Council resolves to adopt the Cessnock City Council Innovate Reconciliation Action Plan, the Plan be launched during National Reconciliation Week, 27 May to 3 June 2018.**

## **BACKGROUND**

A RAP is a business plan that uses a holistic approach to create meaningful relationships, enhance respect and promote sustainable opportunities for Aboriginal and Torres Strait Islander peoples.

Reconciliation Australia is the endorsing body for RAPs and supports corporate entities, the not-for-profit sector and government organisations to develop RAPs. Reconciliation Australia is an independent, national not-for-profit organisation promoting reconciliation by building

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relationships, respect and trust between the wider Australian community and Aboriginal and Torres Strait Islander peoples.

The benefits for Council in having an endorsed RAP from Reconciliation Australia includes:-

- Access to an evidence based program that has demonstrated success in working towards and achieving reconciliation.
- Utilisation of an established framework for action. In establishing this framework, consultation has occurred with Aboriginal and Torres Strait Islander peoples and organisations including government and corporate Australia.
- Placement of the RAP on the Reconciliation Australia website which demonstrates to the community that Council is:-
  - A dynamic, innovative and diverse workforce
  - A culturally safe and respectful workplace
  - Continually improving its service delivery to Aboriginal and Torres Strait Islander peoples and communities.

**REPORT/PROPOSAL**

With the completion of Council's Reflect RAP and in accordance with the Reconciliation Australia framework (Reflect, Innovate, Stretch, Elevate) Council is eligible to develop the Innovate RAP.

Council, the Committee and Reconciliation Australia have collaborated to develop the Cessnock City Council Innovate RAP. An Innovate RAP is targeted to organisations that have developed relationships with local Aboriginal and Torres Strait Islander stakeholders and are ready to develop or implement further programs for cultural learning, Aboriginal and Torres Strait Islander employment and supplier diversity.

The Cessnock City Council Innovate RAP is based on the themes:-

1. Relationships
2. Respect
3. Opportunities
4. Governance, Tracking, Progress and Reporting

These themes list a total of 22 actions and each action includes deliverables, timeline and responsibility.

Included within the theme 'Respect' is an action for Cultural Learning. Council at its meeting on the 1 November 2017 resolved:-

- *'That the Draft Innovate Reconciliation Action Plan include an action to provide Cultural Awareness training as part of the induction process for the future, newly elected Council'.*

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- *'That the Draft Innovate Reconciliation Action Plan include an action for the General Manager to consider inviting the present elected Council to participate in the current program of Cultural Awareness training'.*

Action 2.2 includes Council's resolution and is framed:-

- Cultural awareness training to be included in the induction program for the future, newly elected Council.
- Invite the present elected Council to participate in the current program of cultural awareness training.

Considerable community consultation has been undertaken to develop the Plan and this includes engagement with Aboriginal and Torres Strait Islander peoples, the Committee and Reconciliation Australia. Within this report, the section titled 'Consultation' documents the process undertaken including Council staff being informed by Reconciliation Australia that the Plan has been conditionally endorsed. The final stage of the endorsement process is for the Plan to be adopted by Council.

If the Plan was to be adopted by Council at its meeting of 16 May 2018, opportunity presents for the Plan to be launched during National Reconciliation Week 27 May to 3 June 2018.

## **OPTIONS**

### Option One – Preferred Option

- Adopt the Cessnock City Council Innovate Reconciliation Action Plan

This is the preferred option as it allows the implementation of the recommended actions and demonstrates Council's commitment to reconciliation. Adoption of the Plan also allows it to be launched during National Reconciliation Week 27 May to 3 June 2018.

It should be noted that Reconciliation Australia does not require a public exhibition period and the RAP is more a business plan for Council, clarifying its strategic direction for how it can adopt continuous improvement in the delivery of services to Aboriginal and Torres Strait Islander peoples. The Committee, and comprises community representatives who identify as an Aboriginal person, have regularly been consulted on the RAP throughout its development, including being provided with drafts of the RAP at numerous committee meetings. The previous RAP 'Reflect' was not placed on public exhibition and was considered to be a business plan for Council.

### Option Two

- Amend the Cessnock City Council Innovate Reconciliation Action Plan

Council may resolve to amend the RAP. However the process of endorsement with Reconciliation Australia will need to recommence, resulting in the Plan not being launched during National Reconciliation Week.

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Option Three

- Not adopt the Cessnock City Council Innovate Reconciliation Action Plan

Council may resolve to not adopt the RAP. However the risk to Council would be the loss of an opportunity to deliver its next strategic framework that enhances reconciliation at the local level. It could also limit opportunities for continuous improvements in the delivery of services to Aboriginal and Torres Strait Islander peoples.

**CONSULTATION**

On the 19 October 2016 a community meeting was held to discuss ideas and opportunities for inclusion in the Innovate RAP. It was attended by approximately 30 people and the majority of attendees were Aboriginal and Torres Strait Islander peoples. The ideas from the meeting were reported to the Committee and assisted to inform the actions listed in the Innovate RAP.

The Committee was instrumental in guiding Council with the development of the Innovate RAP and were consulted throughout the process. During 2017 and 2018, the Innovate RAP was either discussed or tabled at the following Committee meetings:-

- 28 April 2017
- 9 June 2017
- 11 August 2017
- 8 September 2017 - workshop format with the Committee
- 13 October 2017
- 16 February 2018

The family of Uncle Les Elvin were consulted regarding the 'Message from the Aboriginal and Torres Strait Islander Committee' and the acknowledgment within that message.

Consultation has occurred with a number of Council staff to scope potential action strategies suitable for delivery. Council staff involved in the development of the RAP include Community and Cultural Engagement Manager, Finance and Administration Manager, Human Resource Manager, Infrastructure Manager, Economic Development Manager and Open Space and Community Facilities Manager.

The Executive Leadership Team was consulted on the Innovate Plan and this was recommended by the Committee at its meeting held on the 13 October 2017:-

*'The formal endorsement process commence with Council's Executive Leadership Team, Reconciliation Australia and Council for the adoption of the Innovate Reconciliation Action Plan'.*

Reconciliation Australia have been consulted on the Innovate RAP and includes a Draft RAP being forwarded on:-

- 6 July 2017
- 2 November 2017
- 2 January 2018

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On the 2 March 2018, Reconciliation Australia advised Council staff that the Innovate RAP was 'conditionally endorsed based on the understanding that the exact content will be reflected in the official version'.

**STRATEGIC LINKS**

**a. Delivery Program**

The 2017-21 Delivery Program has the action 'Engage with the community in Reconciliation activities'.

The 2017-18 Operational Plan has the actions 'Commence implementation of the Innovate Reconciliation Action Plan' and 'Participate in NAIDOC Week and Reconciliation Week activities'.

**b. Other Plans**

The Innovate RAP builds on the achievements of the completed Reflect RAP.

**IMPLICATIONS**

**a. Policy and Procedural Implications**

Nil

**b. Financial Implications**

In developing the Plan, consideration was given to the financial resources required for its implementation. The majority of actions can be absorbed within existing allocated budgets. For situations where this cannot be achieved, the action advises grant funding will be sought or to be investigated further. Workload management has also been considered and staff have been involved in the scoping of resources required to implement the Plan.

**c. Legislative Implications**

Nil

**d. Risk Implications**

Nil

**e. Environmental Implications**

Nil

**f. Other Implications**

Nil

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### **CONCLUSION**

In summary, the Innovate RAP will allow Council to continue building relationships both internally and externally and raise awareness of Aboriginal cultures and histories. It provides opportunities for Council to be a community leader and demonstrates ongoing commitment to reconciliation at a local level.

### **ENCLOSURES**

- 1 ➡ Cessnock City Council Innovate Reconciliation Action Plan (provided under separate cover)

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**SUBJECT:** *INVESTMENT REPORT - APRIL 2018*

**RESPONSIBLE OFFICER:** *Finance and Administration Manager - Andrew Glauser*

## **SUMMARY**

Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policy require a monthly report to Council detailing all money invested.

## **RECOMMENDATION**

**That Council receive the report and note the information.**

## **BACKGROUND**

The Local Government Act 1993, the Local Government (General) Regulation 2005 and Council's Investment Policy requires a monthly report to Council detailing all money invested.

## **REPORT**

### **Statement by the Responsible Accounting Officer**

I, Robert Maginnity, as Responsible Accounting Officer, hereby certify that this report is produced in accordance with Clause 212 of the Local Government (General) Regulation 2005 and that all investments have been made in accordance with the Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy.

### **General Investment Commentary**

Following assessment of projected cash flow requirements, surplus funds are invested in accordance with Council's Investment Policy.

The Reserve Bank of Australia (RBA) official cash rate as at 30 April 2018 was 1.50%. Scheduled RBA Board meetings are held on the first Tuesday of each month (excluding January) at which the official cash rate is one of the matters considered. The May meeting held on 1 May 2018 retained the official cash rate at 1.50%.

Investment revenues to the end of April 2018 exceeded the benchmark in the Investment Policy with an actual level of return 4.53 % more than budget.

### **Investment Portfolio Information**

Total cash and investments held by Council as at 30 April 2018 are:

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Invest No	Financial Institution Investment Held With	Invest Type	Interest Coupon Term	Maturity / Next Coupon Date	Current Coupon Rate	Par Value \$'000
	Commonwealth Bank	CASH			1.15%	6,463
	Commonwealth Bank	At Call			0.50%	41
1243	AMP Bank	At Call			1.80%	500
1233q	Suncorp Bank	TD	90	10-Jul-18	2.56%	700
1260j	National Bank	TD	181	17-Jul-18	2.51%	1,000
1263k	Westpac Bank	TD	122	25-Jun-18	2.53%	600
1264l	IMB Bank	TD	91	24-Jul-18	2.50%	600
1270q	Bendigo & Adelaide Bank	FRN	89	14-May-18	3.04%	500
1277p	Greater Bank	FRN	87	24-May-18	3.23%	500
1281g	National Bank	TD	182	23-May-18	2.50%	700
1282g	Maitland Mutual Building Society	TD	91	18-Jul-18	2.50%	500
1286h	IMB Bank	TD	181	11-Sep-18	2.50%	900
1287j	IMB Bank	TD	217	11-Jul-18	2.50%	700
1288g	Members Equity Bank	TD	195	04-Sep-18	2.50%	800
1293e	Maitland Mutual Building Society	TD	202	29-May-18	2.60%	800
1297f	Members Equity Bank	TD	187	24-Sep-18	2.50%	900
1298k	Newcastle Permanent Building Society	VRD	91	03-Jul-18	3.44%	800
1303e	IMB Bank	TD	97	03-Jul-18	2.50%	700
1304e	AMP Bank	TD	279	15-Jan-19	2.65%	800
1305e	Commonwealth Bank	TD	273	29-Aug-18	2.50%	900
1306d	Suncorp Bank	TD	217	09-May-18	2.55%	900
1307f	Bankwest	TD	182	06-Jun-18	2.45%	800
1308f	Bankwest	TD	161	02-May-18	2.45%	900
1311d	Bankwest	TD	182	16-May-18	2.45%	600
1312d	Newcastle Permanent Building Society	TD	91	13-Jun-18	2.30%	700
1319a	Maitland Mutual Building Society	TD	152	09-Jul-18	2.40%	800
1320b	Bankwest	TD	152	18-Jun-18	2.55%	600
1322a	Bankwest	TD	121	25-Jul-18	2.55%	900
1323	Bankwest	TD	275	16-May-18	2.45%	800
1324a	National Bank	TD	62	19-Jun-18	2.51%	900
1325	Members Equity Bank	TD	281	23-May-18	2.60%	900
1326b	Bankwest	TD	181	29-May-18	2.50%	2,000
1327a	Members Equity Bank	TD	182	15-Aug-18	2.55%	700
1330	National Bank	TD	306	26-Sep-18	2.50%	900
1331	IMB Bank	TD	273	24-Aug-18	2.45%	800
1332	Suncorp Bank	TD	92	07-Jun-18	2.45%	1,000
1334	Commonwealth Bank	TD	187	17-Sep-18	2.54%	800
<b>TOTAL</b>						<b>34,404</b>

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The following table provides information on the level of funds held and the percentage invested with financial institutions in the investment portfolio:

Financial Institution	Amount \$'000	% of Portfolio
Commonwealth Bank	8,204	23.87%
Bankwest	6,600	19.18%
IMB Bank	3,700	10.75%
National Bank	3,500	10.17%
Suncorp Bank	2,600	7.56%
Members Equity Bank	3,300	9.59%
Maitland Mutual Building Society	2,100	6.10%
Newcastle Permanent Building Society	1,500	4.36%
AMP Bank	1,300	3.78%
Westpac Bank	600	1.74%
Greater Bank	500	1.45%
Bendigo & Adelaide Bank	500	1.45%
<b>TOTAL</b>	<b>34,404</b>	<b>100.00%</b>

The following table provides information on investment types including a risk assessment and the amount and percentage invested compared to the total investment portfolio:

Investment Type	Risk Assessment		Amount \$'000	% of Portfolio
	Capital	Interest		
Term Deposits	Low	Low	25,600	74.41%
Cash/At Call Deposits	Low	Low	7,004	20.35%
Variable Rate Deposit	Low	Low	800	2.33%
Floating Rate Notes	Low	Low	1,000	2.91%
<b>TOTAL</b>			<b>34,404</b>	<b>100.00%</b>

The following table provides information on interest rates and earnings this year compared to last year as well as a comparison of investment balances from this year to last year:

Performance Measures	This Year	Last Year
Portfolio Average Interest Rate (year to date)	2.38%	2.51%
BBSW Average Interest Rate (year to date) *	1.79%	1.78%
Actual Investment Interest Earned (year to date)	\$718,636	\$753,842
Budget Investment Interest (year to date)	\$687,500	\$704,160
Original Budget Investment Interest (Annual)	\$825,000	\$825,000
Revised Budget Investment Interest (Annual)	\$825,000	\$845,000

Investment Balances (Par Value)	This Year	Last Year
Opening Balance as at 1 July	\$36,277,000	\$37,684,000
Month End Current Balance	\$34,403,807	\$33,960,816

- \* BBSW 90 day Bank Bill Reference Rate (performance measure as per Council's Investment Policy)

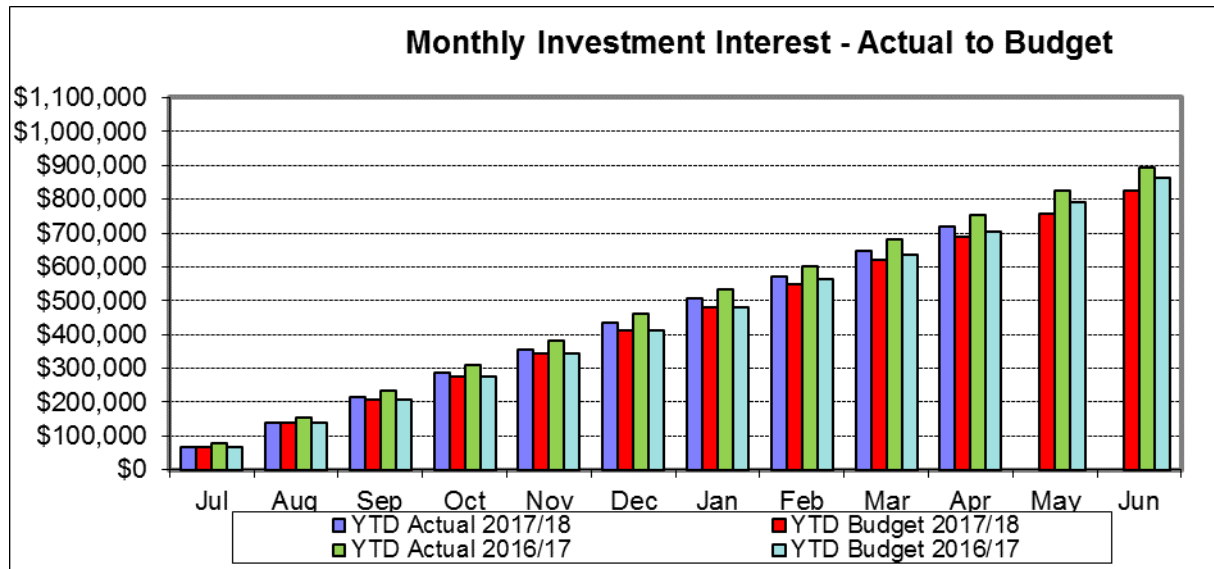
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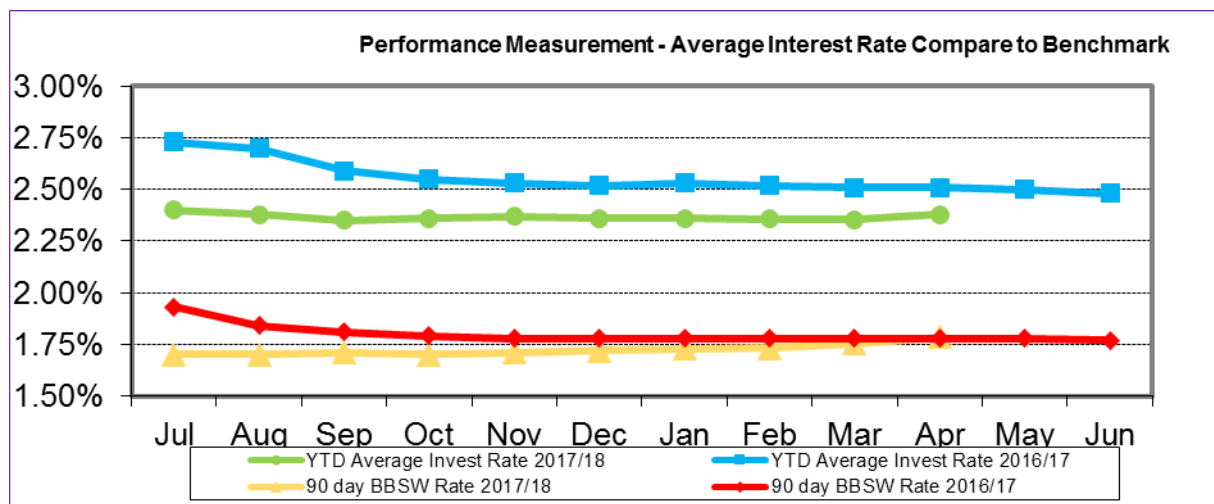
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The following graph compares actual interest earned to budget for this year and last year.



The following graph compares current year portfolio performance to prior year performance.



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**Restrictions over cash and investments:**

Developer Contributions	10,713
RMS Contributions (Reserve)	2,469
Specific Purpose Unexpended Grants	900
Loan Funds Unexpended	1,500
Plant & Vehicle Replacement Reserve	1,135
Employees Leave Entitlement Reserve	2,557
Bridge Replacement	561
Insurance Provisions	580
Miscellaneous and Property Reserve	1,202
Property Investment Fund	709
Single Invitation Contracts	846
Waste Depot and Rehabilitation Reserve	7,980
Other Reserves and Council funds still to be spent	3,252
<b>TOTAL</b>	<b>34,404</b>

**OPTIONS**

N/A

**CONSULTATION**

Director Corporate &amp; Community Services

**STRATEGIC LINKS****a. Delivery Program**

Investment returns are an integral part of funding sources for future services and community expectations within the Delivery Program and Operational Plan.

This report is a part of the organisation's governance framework – providing feedback on the progress against the investment policy and budget adopted by Council. This is in line with the community's desired outcome of: *"Civic Leadership and Effective Governance."*

**b. Other Plans**

N/A

**IMPLICATIONS****a. Policy and Procedural Implications**

Investments are held in accordance with Council's Investment Policy which accords with the Ministerial Investment Order.

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**b. Financial Implications**

Investment returns are included in Council's Delivery Program and Operational Plan. Amendments are effected through the Quarterly Budget Review process. Investment portfolio performance is detailed within the report with comparisons to prior year and budget.

A portion of the portfolio and its associated investment income is restricted as it relates to funds held from Developer Contributions, Domestic Waste Management and Property Investment Reserve and is not available for operational projects.

**c. Legislative Implications**

This report meets Council's statutory obligations under the Local Government (General) Regulation 2005 and the Local Government Act 1993.

**d. Risk Implications**

Investment risks are detailed within this report.

**e. Other Implications**

There are no environmental, community, consultative or other implications to this report.

***CONCLUSION***

The report details investments held and meets statutory and policy reporting obligations.

***ENCLOSURES***

There are no enclosures for this report.

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**SUBJECT:** *RESOLUTIONS TRACKING REPORT*

**RESPONSIBLE OFFICER:** *Finance and Administration Manager - Andrew Glauser*

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**SUMMARY**

The enclosure contains pending actions from previous meetings as well as completed actions for period 16 March to 4 May 2018.

**RECOMMENDATION**

**That Council receive the report and note the information.**

**ENCLOSURES**

- 1 ➡ Completed Actions from 16/3/2018
- 2 ➡ Outstanding Actions

**SUBJECT:** *MAYORAL & COUNCILLOR FEES 2018-19*

**RESPONSIBLE OFFICER:** *Finance and Administration Manager - Andrew Glauser*

### **SUMMARY**

Following the Local Government Remuneration Tribunal (the Tribunal) determinations, Council is required to set the level of fees to be paid to the Mayor, Deputy Mayor (if applicable) and Councillors for 2018-19. If Council does not make an election to set the fees, then the minimum determinations of the Tribunal will apply

### **RECOMMENDATION**

1. That Council set the annual Mayoral Fee for 2018-19 at \$43,170 in accordance with the provisions of Section 249 of the Local Government Act 1993.
2. That Council set the annual Councillor Fee for 2018-19 at \$19,790 in accordance with the provisions of Section 248 of the Local Government Act 1993.
3. That Council set an allowance for 2018-19 of \$800 to be paid to the Deputy Mayor, with the Mayoral fee adjusted accordingly.

### **BACKGROUND**

Pursuant to Sections 239 and 241 of the Local Government Act 1993 (the Act), the Tribunal has made its determination for categories of Councils and the maximum and minimum levels for Mayor and Councillor Fees for 2018-19.

Council is required to set the fees to be paid to the Mayor and Councillors and to determine if a separate fee or allowance is to be paid to the Deputy Mayor. If Council does not make an election to set the fees, then the minimum determinations of the Tribunal will apply.

### **REPORT/PROPOSAL**

The Tribunal has handed down its determinations pursuant to Section 239 (categorisation of Councils and Mayoral offices) and Section 241 (determination of fees) of the Act.

The Tribunal has determined that an increase of 2.5 percent for the majority of Councils for all Councillors and Mayors Fees in NSW is appropriate for 2018-19, effective from 1 July 2018. Each year the Tribunal sets a minimum and a maximum fee for the Mayor and Councillors within each category. It is a matter for each Council to fix the fees payable to the Mayor and Councillors within these ranges.

The table below shows the descriptive titles for Councils and determinations of the Tribunal for annual fees for 2018-19.

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Category	Councillor Annual Fee		Mayor Fee *	
	Minimum	Maximum	Minimum	Maximum
Principal CBD	26,970	39,540	164,980	217,080
Major CBD	17,980	33,310	38,200	107,620
Metropolitan Large	17,980	29,670	38,200	86,440
Metropolitan Medium	13,480	25,160	28,640	66,860
Metropolitan Small	8,970	19,790	19,100	43,150
Regional City	17,980	31,260	38,200	97,370
Regional Strategic Area	17,980	29,670	38,200	86,440
<b>Regional Rural</b>	<b>8,970</b>	<b>19,790</b>	<b>19,100</b>	<b>43,170</b>
Rural	8,970	11,860	9,540	25,880
Water	1,780	9,890	3,820	16,250
Other	1,780	5,910	3,820	10,790

\* This fee must be paid in addition to the fee paid to the Mayor as a Councillor (Sec 249(2) of the Act).

Cessnock remains classified as a Regional Rural Council. The table below shows the minimum and maximum fees applicable for the year commencing 1 July 2018, the current 2017-18 fees, and the fees included in the 2018-19 draft budget. Council has previously determined a Deputy Mayoral allowance of \$800.

	Fees as set by Council for 2017-18	Fees as determined by tribunal for 2018-19		Draft Budget 2018-19
		Minimum	Maximum	
Mayor	\$42,120	\$19,100	\$43,170	\$42,300
Councillor	\$19,310	\$8,970	\$19,790	\$19,600

\* The fees set by Council for the 2017-18 year were the maximum amounts as determined by the Tribunal for that year.

Council is required to fix by resolution the annual fees to be paid to the Mayor and Councillors pursuant to Sections 248 and 249 of the Act. Should Council not determine or fix an annual fee, then in accordance with Sections 248 (4) and 249 (4) the minimum remuneration levels as determined by the Tribunal will apply.

The fees fixed by Council must be in the range determined and it is mandatory for the fees to be paid to the Mayor and Councillors. However, where the payment of an annual fee adversely affects a Councillor's entitlement to a pension, benefit or allowance, the Council may agree to the non-payment or reduction of the annual fee.

Council may pay the Deputy Mayor a fee determined by Council for such time as the Deputy Mayor acts in the office of the Mayor. The amount of such fees so paid must be deducted from the Mayor's annual fee.

The draft 2018-19 budget estimated the Mayoral Allowance of \$42,300 and total Councillor Fees of \$254,800 (being \$19,600 per Councillor) included in the draft document exhibited. If Council elects to apply the maximum, then a small budget adjustment of \$870 for the Mayoral allowance and \$2,470 for councillor allowances will be required.

As Council is at the upper end of its category in terms of size, it is recommended that the fees continue to be set at the maximum amount allowable under the Tribunal determination.

## **OPTIONS**

1. Fix a fee structure anywhere between the new minimum and maximum levels as determined by the Local Government Remuneration Tribunal.
2. Reduce the fees paid to the minimum determinations of the Local Government Remuneration Tribunal (Mayor \$19,100 and Councillor \$8,970).
3. Retain the current fee structure (Mayor \$42,300 and Councillor \$19,600).
4. Fix the fees at the maximum determination of the Local Government Remuneration Tribunal (Mayor \$43,170 and Councillor \$19,790).
5. Fix the fees at the draft budgeted amounts (Mayor \$43,170 and Councillor \$19,790).
6. Retain the fee for the Deputy Mayor at \$800 or set the fee at a higher or lower level, with the amount of such fee to be deducted from the Mayor's annual fee.

## **CONSULTATION**

Director Corporate and Community Services  
Finance and Administration Manager

## **STRATEGIC LINKS**

### **a. Delivery Program**

Councillors are elected to provide strategic leadership for the community. This report is linked to Item 5 - "Civic leadership and effective governance" of the Community's Desired Outcome as adopted in the Community Strategic Plan.

### **b. Other Plans**

N/A

## **IMPLICATIONS**

### **a. Policy and Procedural Implications**

N/A

### **b. Financial Implications**

The maximum Tribunal fee recommendations could be accommodated for by adjustments to increase the draft budget for 2018-19 when it is reported back to Council in June 2018 for adoption.

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**c. Legislative Implications**

Councils are required under Sections 248 and 249 of the Act to fix the annual fees to be paid to the Mayor and Councillors. Should Council not determine or fix an annual fee, then in accordance with Sections 248 (4) and 249 (4) the minimum remuneration levels as determined by the Tribunal will apply.

Categorisation of Councils and Mayoral Offices are covered under Section 239 of the Local Government Act 1993.

Section 241 requires the Local Government Remuneration Tribunal to determine each year the minimum and maximum fees for Councillors and Mayors in each of the categories determined under Section 239.

**d. Risk Implications**

N/A

**e. Other Implications**

N/A

**CONCLUSION**

No obligation exists for Council to accept the increase determined by the Tribunal, provided that the Councillor and Mayoral Fees are set within the prescribed ranges.

Council is required to set the fees to be paid to the Mayor and Councillors and to determine if a separate fee or allowance is to be paid to the Deputy Mayor. If Council does not make an election to set the fees then the minimum determinations of the Tribunal will apply.

**ENCLOSURES**

[1](#) Local Government Remuneration Tribunal Determination 2018

**SUBJECT:** *QUARTERLY BUDGET REVIEW STATEMENTS - MARCH 2018*

**RESPONSIBLE OFFICER:** *Finance and Administration Manager - Andrew Glauser*

## **SUMMARY**

The purpose of this report is to present the March 2018 Quarterly Budget Review Statements (QBRs) for Council's consideration, as per requirements of Clause 203 of the Local Government (General) Regulation 2005.

## **RECOMMENDATION**

1. That Council note the March 2018 Quarterly Budget Review Statements were presented to and endorsed by the Audit Committee on 1 May 2018.
2. That Council approve the variations to the income, expenditure and capital budgets as detailed in the March 2018 Quarterly Budget Review Statements.

## **BACKGROUND**

Clause 203 of the *Local Government (General) Regulation 2005* requires Quarterly Budget Review Statements to be prepared and submitted to Council. A separate report to Council contains information in regard to Council's Delivery Program and reporting requirements under Integrated Planning and Reporting legislation.

The review is presented in accordance with the Office of Local Government's reporting guidelines and, in line with these requirements, an operating statement, capital expenditure statement, cash and investment summary, reserves listing, legal expenditure summary and consultants' expenses summary are shown for the quarter.

The QBRs for March 2018 are presented to the Council for consideration and adoption. The Audit Committee has reviewed and endorsed the QBRs prior to referral to Council.

## **REPORT/PROPOSAL**

The budget review process involved responsible cost centre managers reviewing income and expenditure patterns and after consultation with finance staff, proposing any required changes. Changes may have been from unforeseen circumstances or elements beyond the control of Council, additional funding opportunities, or from Council resolutions.

Directors have been provided full group summaries for review and have endorsed the proposed changes as outlined in the QBRs.

The quarterly review has taken into account a range of cost increases/decreases. Additional revenues and reductions in expenditure items have been identified where appropriate to ensure the adopted budget strategy remains intact and that an appropriate source of funding is identified for unexpected expenditure variations.

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*General Budget Commentary*

The QBRs are provided to Council at **Enclosure 1** and are showing on a cash basis a surplus of \$59,644. The surplus is recommended for retention as a buffer against future deteriorations and to help improve Council's unrestricted cash position.

*Profit and Loss Statement Commentary*

The Income & Expenses Budget Review Statement (Profit & Loss) shows a net decrease of approximately \$1,063,000. The major items altered in this review are:

- User Charges and Fees Income – an increase in RMS user charges \$3,862,033.
- Rates and Annual Charges – an increase of \$152,174.
- Grants and Contributions Income – Operating – WHS Incentive grant \$89,479, Environmental grants \$88,599 and Natural Disaster Floods reimbursement \$791,683.
- Materials and Contracts – an increase of \$3,843,833 for RMS works, an increase in the S88 waste levy of \$1,500,000 and waste management expenses \$580,330.

*Road and Infrastructure Programs*

Budget review changes to Road and Infrastructure Programs are contained in the Capital Budget Review Statement which is reported in the enclosed QBR Reports.

**Responsible Accounting Officer Statement**

Section 203 (2) of the Local Government (General) Regulation 2005 requires that the budget review statement include or be accompanied by a report from the responsible accounting officer. This report is required to indicate whether the Responsible Accounting Officer believes that the statement indicates that the financial position of the Council is satisfactory, having regard to the original estimate of income and expenditure, and if that position is unsatisfactory, recommendations for remedial action.

Upon inspection of the quarterly budget review statements, I Robert Maginnity, as Responsible Accounting Officer hereby certify that having regard to the original estimates of income and expenditure, and the projected estimates of income and expenditure to 30 June 2018, the financial position of Council is considered **satisfactory** as the identified changes proposed have been offset by suitable funding allocations.

In making this statement and the presentation of the QBRs it is highlighted that while the adopted balanced budget strategy has been preserved through a cash surplus, the review of current operations and future commitments continues with budget commitments and associated processes reviewed with a view to identifying opportunities for improvement.

**Continued Improvement Strategies**

1. Continuation of the improvement actions as identified in previous QBRs reports.

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2. That the review of all expenditure commitments to identify projects or programs that can be reduced or delayed while at the same time identifying additional income opportunities.
3. That any additional revenues identified be quarantined for the purpose of improving Councils cash position.
4. That any loan repayment commitments not required from loans not drawn down be quarantined for the purpose of improving Councils cash position.

**CONSULTATION**

The following staff provided input into the preparation of this report and its enclosures:

- General Manager
- Directors
- Managers
- Senior finance staff

**STRATEGIC LINKS**

**a. Delivery Program**

This report is a crucial part of the organisation's governance framework – providing feedback on the progress against the budget adopted by Council. This is in line with the community's desired outcome of: *Civic Leadership and Effective Governance.*"

**IMPLICATIONS**

**a. Policy and Procedural Implications**

N/A

**b. Financial Implications**

The QBRS are presented in accordance with the adopted balanced budget strategy. The detailed review of all operational and capital budgets is a continuous process. The objective is to improve Council's financial position.

**c. Legislative Implications**

Clause 203 of the *Local Government (General) Regulation 2005* requires the responsible accounting officer to prepare and submit to Council a QBRS that shows revised estimates of income and expenditure for the year.

**d. Risk Implications**

The current year budget was framed prior to the Federal Government's decision to prepay 50% of the 2017/18 Financial Assistance Grant in June 2017. There will only be clarity on whether there will be another prepayment of the FAG when the Federal Budget is determined in May 2018. Given this uncertainty Council has assumed a 6 month

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prepayment of the FAG again in this financial year to remain consistent with last year's prepayment. In assessing risk a key consideration is that any prepayment only impacts the timing and not the quantum of total payments received.

As a result of there being only a timing impact there is no funding risk created by this prepayment. Council places any prepaid FAG grants in reserve so they are utilised in the year for which they are intended. The current year will therefore have the full funding of the 2017/18 FAG available for this year (as the 6 months prepayment has been held in reserve). If there is a prepayment of the 2018/19 FAG the funds received will likewise be placed in reserve to ensure the funds are only available for use in that year. The only cash impact is that Council receives a modest benefit from investing any prepaid funds until utilised.

Although a decision by the Federal Government to not make a prepayment would impact to the operating surplus for 2017/18 there would be no impact on Council's financial sustainability. Due to the accounting treatment of the FAG (cash accounting rather than accrual basis) prepayments distort the reported operating position of Council. If a prepayment does not eventuate this year Council's full year result will reflect approximately \$3.5m less in Grant Income which would result in an operating deficit being reported. A more accurate view of trends in improvement is achieved by reflecting the FAG in the year it applies. On this basis Council's 2017/18 Operating Position (before Capital Grants and Contributions) will be breakeven. This forecast therefore maintains the trend of ongoing improvement is Council's Operating Position that has occurred over recent years.

**e. Other Implications**

N/A

**CONCLUSION**

The QBRS for March 2018 are submitted for consideration and adoption.

**ENCLOSURES**

[1](#) ➡ March 2018 Quarterly Budget Review Statement

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Report No. CC38/2018

Corporate and Community Services



**SUBJECT:** *MARCH 2018 QUARTERLY REVIEW OF 2017-21 DELIVERY PROGRAM*

**RESPONSIBLE OFFICER:** *Finance and Administration Manager - Andrew Glauser*

## **SUMMARY**

Update of progress against Council's 2017-21 Delivery Program.

## **RECOMMENDATION**

1. That Council note the progress in implementing the 2017-21 Delivery Program as at 31 March 2018.
2. That Council endorse the following changes to the 2017-21 Delivery Program:
  - a. Remove: Water cooling system inspections measure.
3. That Council note the inclusion of individual projects in the Local Road SRV Resurfacing Program & Regional Roads SRV Resurfacing Program.

## **BACKGROUND**

Section 404(5) of the Local Government Act 1993 requires the General Manager to provide regular progress reports to Council with respect to progress against the principal activities detailed in its Delivery Program with reports provided at least every six months.

The Quarterly Budget Review Statements, required under clause 203 of the Local Government (General) Regulation 2005, provide financial information in regards to estimates of income and expenditure and are separately reported to Council.

Council adopted the 2017-21 Delivery Program and 2017-18 Operational Plan in June 2017. The Delivery Program outlines the activities that Council will undertake to implement the strategies identified in the Community Strategic Plan and is the single point of reference for all principal activities undertaken by an elected Council during its term in office.

At the end of each quarter (September, December, March and June) a report is prepared to assess our progress against 2017-21 Delivery Program actions and the Capital Works Program.

## **REPORT/PROPOSAL**

The 2017-18 Operational Plan is a one year plan developed to implement the adopted actions from the 2017-21 Delivery Program. A summary of progress for the March quarter including highlights for the quarter are provided below.

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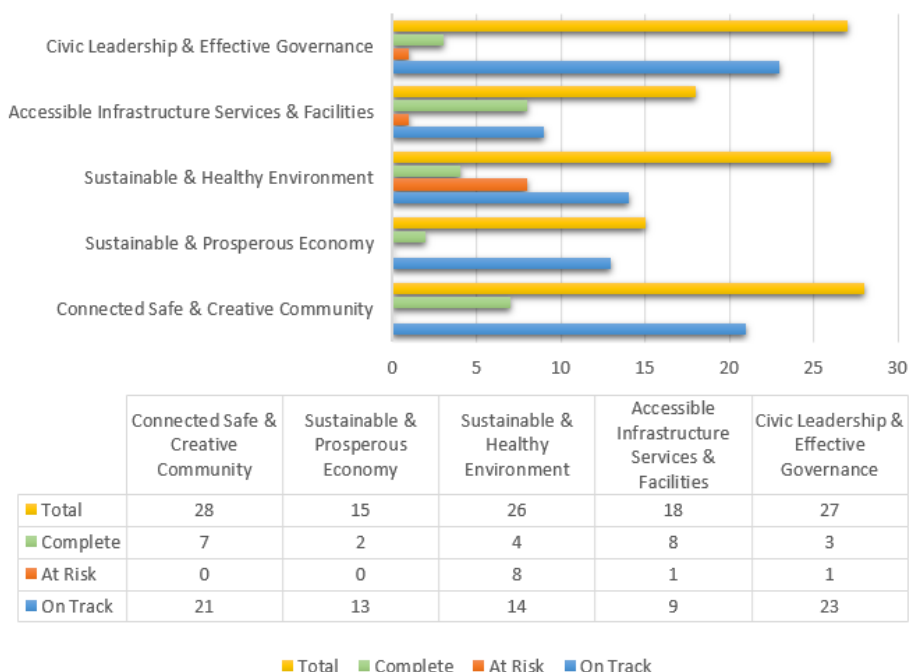
March 2018 quarter highlights included:

- The Cessnock Performing Arts Centre 2018 Season launch held in February was a great success. It was enjoyed by almost 350 people.
- Council's Youth First Employment Toolkit has been well received by Australian Councils. Now international with a council in NZ considering. The toolkit was presented to the NSW LG Association. Small Business Friendly Councils also invited Council to speak at all 13 state wide meetings.
- Bridges Hill playground design 85% complete; pathway linking CBD to the park scheduled to commence in March.
- Council's adopted Health and Well-being Plan includes the 5 Ways to Well-being Framework and was initiated by Mount View High School. A community launch of the 5 Ways to Well-being Framework in partnership with Mount View High School and the Cessnock Healthy Lifestyle Network (in which Council is a member of) was held March 2018 and was called "Night of Champions".

2017-21 Delivery Program

At 31 March 2018, 24 (or 21%) of the deliverables (from the Operational Plan) were completed, 80 (or 70%) were on-track and 10 (or 9%) were at risk. Of the 10 at risk deliverables, 8 are awaiting recruitment of staff to progress projects, 1 is progressing but dependent on IPART recommendations which have been with the Minister for 12 months.

Status of Deliverables



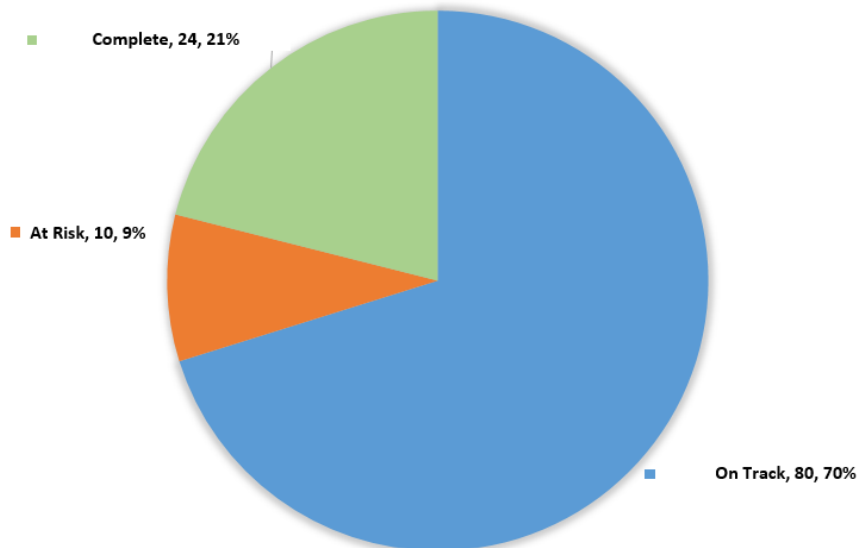
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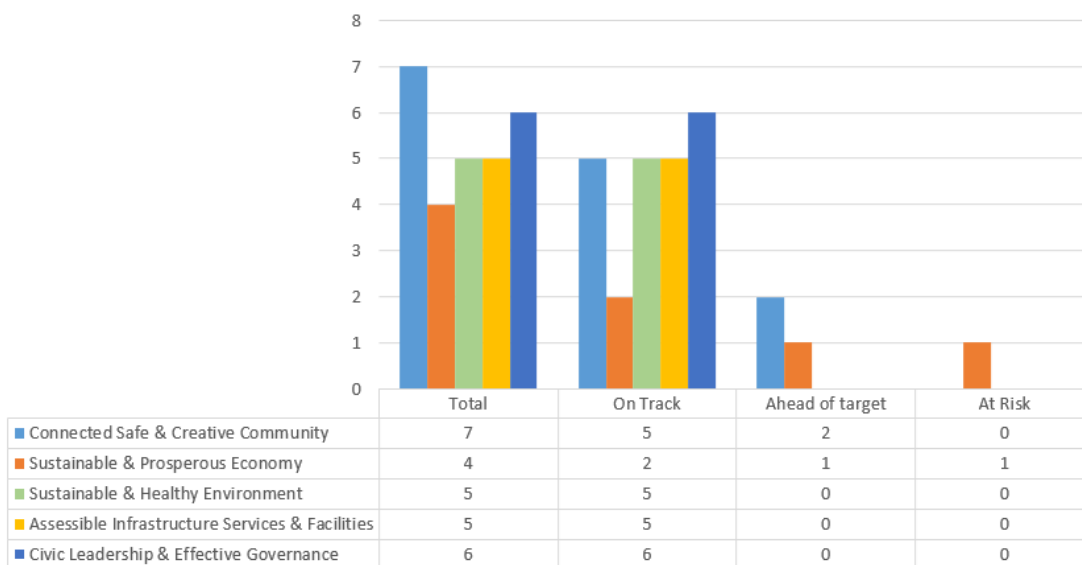
There is a total of 114 actions within the 2017-18 Operational Plan. The chart below shows the overall status of these actions.



2017-21 Delivery Program – Measures

At 31 March 2018, 23 (or 85%) of the Delivery Program measures were on-track, 3 (or 11%) were ahead of target and 1 (or 4%) was at risk.

Due to a change in legislative requirements 1 measure (Water cooling system inspections) will be removed and no longer reported. The *Public Health Act, 2010* now places the onus on property owners to have systems inspected and submit reports to Council on operational compliance for cooling towers.



## Corporate and Community

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Details of progress against each action and measure in the 2017-21 Delivery Program are included in **Enclosure 1** to this report.

### 2011-13 Delivery Program and 2013-17 Delivery Program – carried forward deliverables

Council has resolved to continue to monitor the incomplete deliverables from the 2011-13 Delivery Program and 2013-17 Delivery Program in future quarterly reviews.

Three deliverables remain outstanding from the carried forward 2011-13 Delivery Program. Of the remaining three deliverables, one of them is substantially (over 95%) complete.

Three deliverables remain outstanding from the carried forward 2013-17 Delivery Program. All three of the remaining deliverables are over 90% complete.

Details of the remaining carry-forward deliverables, along with progress comments, are included in **Enclosure 1** to this report.

### 2017-18 Capital Works Program

At 31 March 2018, 40 (or 40%) of the Capital Works Program projects were completed, 52 (or 52%) were on-track and 3 (or 3%) were flagged at risk.

	<b>Connected, Safe &amp; Creative Community</b>	<b>Sustainable &amp; Prosperous Economy</b>	<b>Sustainable &amp; Healthy Environment</b>	<b>Accessible Infrastructure, Services &amp; Facilities</b>	<b>Total Projects</b>	<b>%</b>
Complete	8	-	6	26	40*	40%
On Track	5	8	13	26	52	52%
In Progress	2	1	2	-	5	5%
At Risk	-	-	-	3	3	3%
<b>Total Program</b>	<b>15</b>	<b>9</b>	<b>21</b>	<b>55</b>	<b>100*</b>	<b>100%</b>
Unfunded/ not proceeding				8		

\* Includes 25 projects from the Local & Regional Roads SRV Resurfacing Programs

During the March 2018 quarter the Local & Regional Roads Special Rate Variation Resurfacing Programs were completed. The Programs are made up of 25 individual projects which have been listed in Enclosure 2.

The Cemeteries Facilities Construction Program for 2017-18 was completed during the March 2018 quarter.

Of the remaining eighteen outstanding projects carried forward from the 2016-17 capital works program, ten have been completed, two are at risk and one is grant funding dependent.

Detailed information on the Capital Works Program is included in Enclosure 2.

## **OPTIONS**

Option 1 – adopt the report.

Option 2 – adopt the report with amendments.

## **CONSULTATION**

The General Manager, Directors, Managers and Coordinators provided the information for inclusion into this report and its enclosures.

## **STRATEGIC LINKS**

### **a. Delivery Program**

This report is part of the organisation's governance framework – providing feedback on the progress against the key plans adopted by Council. This is in line with the community's desired outcome of: *"Civic Leadership and Effective Governance."*

### **b. Other Plans**

N/A

## **IMPLICATIONS**

### **a. Policy and Procedural Implications**

N/A

### **b. Financial Implications**

The March quarter budget review forecasts have been reported separately to Council.

### **c. Legislative Implications**

This report satisfies the requirements of Section 404 of the *Local Government Act 1993*.

### **d. Risk Implications**

The IPART report noted that the implications of a Council not meeting its *Fit for the Future* projections will be matters for the NSW Government.

### **e. Other Implications**

N/A

Corporate and Community

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**CONCLUSION**

The review of the Delivery Program for the quarter ended 31 March 2018 is submitted for Council's consideration.

**ENCLOSURES**

- [1](#) ➡ March 2018 Quarter Review of the 2017-21 Delivery Program
- [2](#) ➡ March 2018 Quarter Review of the 2017-21 Capital Works Program

Works and Infrastructure

Report No. WI34/2018

Works and Infrastructure



**SUBJECT:** *MINUTES OF THE FLOODPLAIN MANAGEMENT COMMITTEE HELD 5 APRIL 2018*

**RESPONSIBLE OFFICER:** *Infrastructure Manager - Katrina Kerr*

#### **RECOMMENDATION**

That the Minutes of the Floodplain Management Committee Meeting held 5 April 2018 be adopted as a resolution of the Ordinary Council, which includes the following:

1. Listed Matter FLOCLM1/2018:
  - That Council note the adjustments to the Floodplain Management Program within the Delivery Program 2017-21, as reported to Council in report WI11/2018.
2. Listed Matter FLOCLM2/2018:
  - That Council note the status of the voluntary house raising scheme in Cessnock, Weston and Abermain.
3. Listed Matter FLOCLM3/2018:
  - That Council adopt changes to the Cessnock City (Black Creek) Flood Model between Greta Street and Aberdare Road, Aberdare.
  - That Section 149 Certificates be modified for affected properties between Greta Street and Aberdare Road, Aberdare.
  - That amendments to the Cessnock City (Black Creek) Flood Model in Aberdare, downstream of Aberdare Road, be deferred pending a 2016 ARR compliant modelling and updated the flood study.
  - That the findings of the updated flood model be reported back to the Floodplain Management Committee for reconsideration.
4. Listed Matter FLOCLM4/2018:
  - That Council note the status of the design of the South Cessnock Bund Wall Scheme.
5. Listed Matter FLOCLM5/2018:
  - That Council note the status of the Greta Flood Study.
6. Listed Matter FLOCLM6/2018:
  - That Council note the status of the Wallis, Fishery & Swamp Creek Flood Study.
7. Listed Matter FLOCLM7/2018:
  - That Council note the status of the Cessnock, and Abermain & Weston Flood Warning Systems.
8. Listed Matter FLOCLM8/2018:
  - That Council note the status of the Wollombi Flood Warning System.



**MINUTES OF FLOODPLAIN MANAGEMENT COMMITTEE MEETING  
OF  
CESSNOCK CITY COUNCIL  
HELD IN COUNCIL CHAMBERS ANTE ROOM  
ON  
THURSDAY, 5 APRIL 2018, COMMENCING AT 9.04AM**

**PRESENT:** The Mayor, Councillor Pynsent (in the Chair till 9:40am)  
Councillor Gray, Ward D (in the Chair from 9:40am)  
Councillor Lyons, Ward A  
Ms Angela Halcrow, Office of Environment and Heritage  
Mr Tom Jory, NSW SES  
Mr Craig Schulz, Cessnock  
Ms Raechel Squires, NSW SES

**IN ATTENDANCE:** Ms Saadia Arain, Student Engineer  
Ms Karen Burges, Minute Taker  
Mr Martin Conner, Project Engineer  
Mr Gareth Curtis, Director Planning & Environment  
Mr Martin Johnson, Strategic Planning Manager  
Mrs Katrina Kerr, Infrastructure Manager

**INVITEES:** Nil

**APOLOGIES**

**RECOMMENDED** that the apologies tendered for unavoidable absence, be accepted and leave of absence granted on behalf of:

Ms Alison Dee,  
Mr Justin Fitzpatrick Barr,  
Mr Peter Jennings, and  
Mr Ian Robinson,

**MOTION** **Moved:** Councillor Lyons **Seconded:** Tom Jory

**CARRIED UNANIMOUSLY**

## **CONFIRMATION OF MINUTES**

**RECOMMENDED** that the Minutes of the Floodplain Management Committee held on 15 December 2017, as circulated, be taken as read and confirmed as a correct record.

**MOTION**

**Moved:** Tom Jory

**Seconded:** Craig Shultz

**CARRIED UNANIMOUSLY**

## **LISTED MATTERS**

**LISTER MATTER:** COMMITTEE NO. FLOCLM1/2018

**SUBJECT:** ADJUSTMENTS TO FLOODPLAIN MANAGEMENT PROGRAM

**DISCUSSION:** Adjustments to redistribute the Floodplain Management Program budget within the Delivery Program 2017-21, as previously adopted on 21 February 2018 (WI11/2018), are proposed. The adjustments aim to account for likely expenditure if Council applies for, and is successful in obtaining grant funding for the design and construction of flood warning systems at Cessnock and Abermain/Weston, and for the Greta Floodplain Risk Management Study and Plan, which is expected to follow completion of the current Greta Flood Study.

Effect on progress of the design for South Cessnock Bund Wall was questioned. The design is being progressed in 2017/18 with current grant funds. The current estimated cost for construction of the bund wall cannot be met within the current Floodplain Management Program. Design plans would be available with construction pending further funds and priorities.

### **RECOMMENDATION**

That Council note the adjustments to the Floodplain Management Program within the Delivery Program 2017-21.

**MOTION**

**Moved:** Councillor Gray

**Seconded:** Councillor Lyons

**CARRIED UNANIMOUSLY**

Works and Infrastructure

Report No. WI34/2018

Works and Infrastructure



**LISTED MATTER: COMMITTEE NO. FLOCLM2/2018**

**SUBJECT: UPDATE ON VOLUNTARY HOUSE RAISING SCHEME**

**DISCUSSION:** To date only one of 87 owners of targeted residential properties has committed to participate in the scheme. Discussions with 18 property owners that submitted an expressions of interest suggests that cost, inability to climb stairs and inconvenience, including the effort to move out of home during the house raising, are factors discouraging participation.

It was acknowledged that the one property in Ferguson Street, East Cessnock that had committed to the scheme would provide a good example and promote the scheme to others.

It was suggested that the low participation rate in South Cessnock may also relate to the current mine subsidence claim, as it is uncertain whether retrospective mines subsidence compensation would be provided to property owners who participate in the scheme.

Whether mine subsidence is still active in South Cessnock was questioned. In 2017, Council officers arranged a survey against state survey marks installed in 2000. Although there was subsidence in the mid 80's, the survey last year did not find evidence of recent subsidence.

**RECOMMENDATION**

That Council note the status of the voluntary house raising scheme in Cessnock, Weston and Abermain.

**MOTION**                      **Moved:** Councillor Gray              **Seconded:** Craig Schulz

**CARRIED UNANIMOUSLY**

**LISTED MATTER: COMMITTEE NO. FLOCLM3/2018**

**SUBJECT: AMENDMENT TO THE BLACK CREEK FLOOD MODEL**

**DISCUSSION:** Recent development in Aberdare, at the top of the existing drainage system has brought validity of flood maps produced by Cardno for the 2016 Cessnock City (Black Creek) Floodplain Risk Management Study and Plan into question. As a result, a further flood study for the eastern section of Aberdare, on the edge of the originally modelled area has been commissioned from consultants BMT WBM.

The study was presented to the meeting. The study showed significantly less flooding at the top of the catchment around Greta Street compared to the Cardno model, which did not appear to take into account detention of storm water east of the railway embankment, or extensive piped street drainage, at the top of the catchment.

It was pointed out that the new model did not consider a blockage factor in the existing pipe system and did not follow the new 2016 Australia Rainfall and Runoff (ARR) recommended methodology. Remedies for blockage in the existing pipe system were discussed including screens, raised grated inlets, and use of min 375mm pipes to cater for smaller debris, such as garden mulch, and silt.

It was agreed that a further study be undertaken for Aberdare using methodology consistent with the 2016 ARR, including use of new Bureau of Meteorology data with revised intensity duration curves, more representative use of 10 modeling scenarios, and also account for the railway embankment.

It was also agreed that a further study is unlikely to result in changes to the flood levels at the top of the catchment, and that rather than defer, it is preferable that Council adopt changes to the original flood model between Greta Street and Aberdare Road and defer adoption of remainder of catchment for further consideration by the Committee.

It was noted that changes may occur toward the end of the catchment which would require community consultation as part of the process for updating in flood levels and updates to relevant s149 certificates.

Other possible anomalies in the original modelling was questioned, however Council officers are not aware of issues in other locations. More recent modeling undertaken to date has not been different enough to warrant change.

#### **RECOMMENDATION**

1. That Council adopt changes to the Cessnock City (Black Creek) Flood Model between Greta Street and Aberdare Road, Aberdare.
2. That Section 149 Certificates be modified for affected properties between Greta Street and Aberdare Road, Aberdare.
3. That amendments to the Cessnock City (Black Creek) Flood Model in Aberdare, downstream of Aberdare Road, be deferred pending a 2016 ARR compliant modelling and updated the flood study.

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4. That the findings of the updated flood model be reported back to the Floodplain Management Committee for reconsideration.

**MOTION**                      **Moved:** Mayor Pynsent                      **Seconded:** Councillor Lyons

**CARRIED UNANIMOUSLY**

**LISTED MATTER:**    **COMMITTEE NO. FLOCLM4/2018**

**SUBJECT:**                      **UPDATE ON DESIGN OF SOUTH CESSNOCK BUND WALL SCHEME**

**DISCUSSION:**                      An update was presented. A consulting engineer will be engaged to commence the design.

**RECOMMENDATION**

That Council note the status of the design of the South Cessnock Bund Wall Scheme.

**MOTION**                      **Moved:** Councillor Lyons                      **Seconded:** Tom Jory

**CARRIED UNANIMOUSLY**

Works and Infrastructure

Report No. WI34/2018

Works and Infrastructure



**LISTED MATTERS: COMMITTEE NO. FLOCLM5/2018**

**SUBJECT: UPDATE ON GRETA FLOOD STUDY**

**DISCUSSION:** An update was provided. The Model was received last week and is to be reviewed. The final report is due mid-year.

Concern was raised with the calibration, as while past events and the large 2015 event have been looked at, there are possible impacts due to development in catchment. There is also a lack of public rain gauges in catchment.

It was agreed that the consultants need to mind assumptions, and match what people have experienced to ensure community acceptance of the model. Inaccuracies in the model are due to the use of Singleton rainfall data and the need for more accurate gauges.

Use of radar data was questioned as this was very relevant to the local intensity of rain. It was noted that April 2015 flood event rainfall radar data was used in calibration however a mismatch had not yet not resolved which is necessary to ensure the model is representative of actual flooding.

It was agreed that attempts should be made to obtain private data from those in the vineyards.

**RECOMMENDATION**

That the Council note the status of the Greta Flood Study.

**MOTION**                      **Moved:** Tom Jory                      **Seconded:** Councillor Lyons

**CARRIED UNANIMOUSLY**

Works and Infrastructure  
Report No. WI34/2018  
Works and Infrastructure



**LISTED MATTER: COMMITTEE NO. FLOCLM6/2018**

**SUBJECT: UPDATE ON WALLIS, FISHERY & SWAMP CREEK FLOOD STUDY**

A brief update was provided. The study is being managed by Maitland City Council as a joint project.

Although the study area does not cover whole catchment, it does cover an extensive creek system that flows into the river at the top end Abermain / Weston. Calibration is using 2015 and other data.

It was agreed that Council officers will following up Maitland for an updated program.

**RECOMMENDATION**

That Council note the status of the Wallis, Fishery & Swamp Creek Flood Study.

**MOTION**                      **Moved:** Councillor Lyons                      **Seconded:** Craig Schulz

**CARRIED UNANIMOUSLY**

Works and Infrastructure

Report No. WI34/2018

Works and Infrastructure



**LISTED MATTERS: COMMITTEE NO. FLOCLM7/2018**

**SUBJECT: UPDATE ON CESSNOCK, AND ABERMAIN & WESTON FLOOD WARNING SYSTEMS**

A brief update was provided.

It was noted that Request for Quotations documents were being prepared and quotations would be sought thereafter.

Martin Conner advised that the critical storm duration in Cessnock locations is generally less than 6 hours and up to 12 hours in Abermain/Weston. Catchments with critical response periods less than 6 hours are considered to be affected by flash flood. Flash flood systems may use Bureau of Meteorology data but no flood warnings will be issued by the Bureau. Rainfall rather than flood data is appropriate as it is too slow for people and emergency services to respond.

It was noted that flash flood systems are likely that rely on rainfall data rather than stream gauges. Warning messages to the public will be managed by the NSW SES and may include local SMS messaging and warning lights/sirens at key locations. While local SMS and community bulletins over the radio are important, residents need to be aware of own circumstances and make safe decisions. It is envisaged that notifications will be hosted by early warning network with an "opt in opt out" sign up to receive warnings.

**RECOMMENDATION**

That Council note the status of the Cessnock, and Abermain & Weston Flood Warning Systems.

**MOTION**                      **Moved:** Councillor Lyons                      **Seconded:** Craig Schulz

**CARRIED UNANIMOUSLY**

Works and Infrastructure

Report No. WI34/2018

Works and Infrastructure



**LISTED MATTER: COMMITTEE NO. FLOCLM8/2018**

**SUBJECT: UPDATE ON WOLLOMBI FLOOD WARNING SYSTEM**

A brief update was provided.

It was noted that the Request for Quotation seeks a joint proposal from the Bureau of Meteorology and Water NSW. These two government organisations currently manage the flood warning system in the lower reaches of Wollombi Brook. It was noted that Manly Hydraulics are an alternative supplier to Water NSW but their focus is on the lower reaches of coastal rivers and streams.

It was noted that the public education at Wollombi Easter markets did not proceed due to operational commitments of the NSW SES. It was suggested that SES/Council officers meet with high risk properties face to face with a general community meeting Questions and Answers forum.

It was noted that NSW SES was planning to meet with Wollombi commander of RFS and progress association. The community education booklet is currently being designed. It was agreed that the booklet needed more focus on livestock management. The booklet could be accompanied with a fridge magnet with simple messages and useful contacts in a flood emergency.

High risk properties will be encouraged to develop individual flood plan. Education will focus on the speed of rising flood waters and being prepared for lengthy isolation. Farm stays and B&Bs will be asked how they inform visitors.

It was suggested that a community action group be formed to keep track of new property owners in the valley and inform them how the community is managing flood risks. Messages need to draw attention to isolation due to road blocks and the need to prepare to be self-sufficient. The Group could also assist farm stays and B & B operators to inform visitors. It was suggested that a welcome to new neighbours include a video to encourage personal responsibility.

**RECOMMENDATION**

That Council note the status of the Wollombi Flood Warning System.

**MOTION**

**Moved:** Tom Jory

**Seconded:** Councillor Lyons

**CARRIED UNANIMOUSLY**

**CORRESPONDENCE**

Nil

Works and Infrastructure

Report No. WI34/2018

Works and Infrastructure

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## ***GENERAL BUSINESS***

Tom Jury mentioned the upcoming annual 2018 Floodplain Management Australia National Conference to be held on the Gold Coast 29 May to 1 June. The conference provides a good overview of the latest technology and approaches in floodplain management, and reports what has come out of emergencies and community services. He commended attendance as good for Councillors new to floodplain management as a place to learn.

*The Meeting was declared closed at 10.22am*

## ***ENCLOSURES***

There are no enclosures for this report.

Works and Infrastructure

Report No. WI35/2018

Works and Infrastructure



**SUBJECT:** *MINUTES OF THE LOCAL TRAFFIC COMMITTEE HELD  
16 APRIL 2018*

**RESPONSIBLE OFFICER:** *Infrastructure Manager - Katrina Kerr*

### **RECOMMENDATION**

That the recommendations of the Local Traffic Committee Meeting of 16 April 2018 be adopted as a resolution of the Ordinary Council being:

1. TC10/2018 - That temporary regulation of traffic be approved for the Lovedale Long Lunch in accordance with the enclosed Lovedale Long Lunch \_ Traffic Control Plans;
2. TC11/2018 - That angle parking, regulatory signage and line marking be installed on Talga Road, Lovedale in accordance with enclosed Talga Road Lovedale \_ Sign & Line Marking Diagram;
3. TC12/2018 - That delineation, line marking, and regulatory parking signage be installed on Dixon Street, Lambert Street, and Mills Crescent, Cessnock in accordance with Dixon Street Cessnock \_ Sign & Line Marking Diagram;
4. TC13/2018 - That line marking, and regulatory parking signage be installed on King Street, Abermain in accordance with King Street Abermain \_ Sign & Line Marking Diagram;
5. TC14/2018 - That signage and pavement markings be installed on Wollombi Road, Cessnock in accordance with Wollombi Road Cessnock \_ Sign Diagram;
6. TC15/2018 - That regulatory parking signage be installed on Lang Street, Kurri Kurri in accordance with Lang Street Kurri Kurri \_ Sign Diagram; and
7. TC16/2018 - That regulatory parking signage be installed on Tomalpin Street, Kearsley in accordance with Tomalpin Street Kearsley \_ Sign Diagram.

**MINUTES OF TRAFFIC COMMITTEE MEETING  
OF  
THE CESSNOCK CITY COUNCIL HELD IN THE ANTE ROOM  
ON MONDAY, 16 APRIL 2018, COMMENCING AT 9.30 AM**

**OPENING:** The meeting was opened at 9.30am

**PRESENT:** Councillor Gray (in the Chair)  
Senior Constable Amy Sweeney – NSW Police  
Ms Perri Hodge – NSW State Member Representative  
Mr Nicholas Trajcevski – RMS

**Works and Infrastructure**

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**Works and Infrastructure**



***IN ATTENDANCE:***

Councillor Lyons  
Councillor Fitzgibbon  
Mr Santosh Deo – Traffic Engineering Officer  
Mr Nathan Goodbun – Traffic Engineering Officer  
Mr Richard Ingall – Rover Coaches  
Mr Warren Jeffery – Road Safety Officer  
Mrs Katrina Kerr – Infrastructure Manager  
Ms Maria Nikolaidis – Strategic Traffic & Transport Engineer

***APOLOGIES***

***RESOLVED*** that the apology tendered on behalf of:

Mr Clayton Barr MP – NSW State Member

for unavoidable absence be accepted.

***CONFIRMATION OF MINUTES***

***NOTED*** that the Minutes of the Local Traffic Committee held on 19 March 2018, as circulated, were previously confirmed as a true and correct record.

***DISCLOSURES OF INTEREST***

NIL

***BUSINESS ARISING FROM PREVIOUS MINUTES***

NIL

***MOTIONS OF URGENCY***

NIL

## LISTED MATTERS

**SUBJECT:** **LOVEDALE, TALGA & WILDERNESS ROADS, LOVEDALE  
TEMPORARY REGULATION OF TRAFFIC  
LOVEDALE LONG LUNCH**

**REPORT NO.:** **TC10/2018**

**REFERENCE:** **46 2018 3**

**MATTER:** Council has received an application for the temporary regulation of traffic in connection with an existing development approval (DA) for the Lovedale Long Lunch, and has assessed the application along with the associated Traffic Management Plan (TMP) and Traffic Control Plans (TCPs).

Approval is sought from RMS under Section 116 of the *Roads Act 1993*, to regulate traffic on various roads in Lovedale in connection with this traffic generating event.

**DISCUSSION:** The road environment was described as per the report, and the matter discussed as follows:

- Height restriction bars may be used to restrict access over Gillies Bridge by heavy vehicles.
- Mini buses are suitable for use on the bridge.
- Rover Coaches have organised mini buses to run between Sandalyn Wilderness Estate and Emma's Cottage.
- Licensing Police have imposed a 3pm lock out to manage issues associated with consumption of alcohol.
- Extra police patrols scheduled on to manage traffic.
- Rover Coaches have arranged transport accordingly.

### RECOMMENDATION

That temporary regulation of traffic be approved for the Lovedale Long Lunch in accordance with the enclosed Lovedale Long Lunch \_ Traffic Control Plans.

**MOTION:** **Moved:** Perry Hodge **Seconded:** Nicholas Trajcevski

**SUPPORT:** **Unanimous**

Works and Infrastructure

Report No. WI35/2018

Works and Infrastructure



**SUBJECT:** *TALGA ROAD, LOVEDALE  
LOVEDALE INFORMATION BAY REGULATORY PARKING*

**REPORT NO.:** *TC11/2018*

**REFERENCE:**

**MATTER:** The imminent installation of a tourist Information Bay as part of implementation of the Hunter Valley Wine Country Signage Strategy has resulted in the construction of a new parking facility at Talga Road, Lovedale, necessitating the installation of regulatory parking.

**DISCUSSION:** The road environment was described as per the report, and the matter discussed as follows:

- Proposal is to install regulatory controls to ensure site used as intended and not for overnight camping or the like.
- Speed humps not used as not well suited to caravans and RVs.
- Street light to be installed over intersection and existing light on map board to be removed.

Agreed to:

- monitor use and install speed humps only if speed on the car park becomes an issue.
- monitor for anti-social behavior.
- liaise with Council's Open Space & Community Facilities Unit for signage re camping, dogs, fires and the like.
- Advise Campervan and Motorhome Club of Australia and Google Maps of location of tourist Information Bay.

**RECOMMENDATION**

That angle parking, regulatory signage and line marking be installed on Talga Road, Lovedale in accordance with enclosed Talga Road Lovedale \_ Sign & Line Marking Diagram.

**MOTION:** *Moved:* Nicholas Trajcevski *Seconded:* Sen Constable Sweeney

**SUPPORT:** *Unanimous*

Works and Infrastructure

Report No. WI35/2018

Works and Infrastructure



**SUBJECT:** *DIXON STREET, LAMBERT STREET, & MILLS CRESCENT,  
CESSNOCK  
INTERSECTION DELINEATION & LINE MARKING*

**REPORT NO.:** *TC12/2018*

**REFERENCE.:** *DOC2018/021745*

**MATTER:** Concerns have been raised by Roads and Maritime Services staff regarding the configuration of the intersection of Dixon Street and Mills Crescent, Cessnock, specifically relating to parking discipline on Dixon Street, and poor vehicle positioning when entering/exiting and queuing at the intersection.

**COMMENT:** The road environment was described as per the report, and the matter discussed as follows:

- Observations by Council officers showed poor compliance with the *Road Rules 2014*, with a majority of vehicles observed, failing to be correctly positioned and crossing to the incorrect side of the road whilst travelling through the intersection, particularly vehicles travelling in each direction on Dixon Street.

Agreed as per Roads and Maritime Services representative requested that the spacing of RRPMs on BB center line be closed up between Lambert and Mills on Dixon.

**RECOMMENDATION**

That delineation, line marking, and regulatory parking signage be installed on Dixon Street, Lambert Street, and Mills Crescent, Cessnock in accordance with Dixon Street Cessnock \_ Sign & Line Marking Diagram.

**MOTION:** *Moved:* Nicholas Trajcevski *Seconded:* Perry Hodge

**SUPPORT:** *Unanimous*

Works and Infrastructure

Report No. WI35/2018

Works and Infrastructure



**SUBJECT:** KING STREET, ABERMAIN  
**REGULATORY PARKING & LINE MARKING**

**REPORT NO.:** TC13/2018

**REFERENCE.:** CRM 14930/2017

**MATTER:** Residents and the school community have expressed concerns regarding pedestrian safety and poor parking discipline in King Street Abermain, in the immediate vicinity of Holy Spirit Infants School.

**COMMENT:** The road environment was described as per the report, and the matter discussed as follows:

- The existing cul-de-sac is semi-formal.
- Original request could not be accommodated.
- Minor drive entrance retained.
- Resurfacing would be ideal to allow for line marking however no budget currently available.

Agreed to provide info to school for inclusion in school newsletter.

Funding to provide approximately 50m<sup>2</sup> of additional seal at the end of King Street will need to be sourced to allow for all line marking works to be completed.

**RECOMMENDATION**

That line marking, and regulatory parking signage be installed on King Street, Abermain in accordance with King Street Abermain \_ Sign & Line Marking Diagram.

**MOTION:** **Moved:** Perry Hodge **Seconded:** Nicholas Trajcevski

**SUPPORT:** Unanimous

Works and Infrastructure

Report No. WI35/2018

Works and Infrastructure



**SUBJECT:** WOLLOMBI ROAD, CESSNOCK  
TURN RESTRICTION - CESSNOCK POOL

**REPORT NO.:** TC14/2018

**REFERENCE:**

**MATTER:** During general discussions at the completion of the March Local Traffic Committee meeting, concerns were raised regarding vehicles making right turns onto Wollombi Road from the Cessnock Swimming Pool car park.

**COMMENT:** The road environment was described as per the report, and the matter discussed as follows:

- Traffic issues associated with the entrance to nearby fast food outlets will be dealt with via the Local Development Committee.
- Swept path out of LGA car park has been checked.
- Using new product for median.

Agreed to:

- Liaise with Council's Open Space & Community Facilities Unit re exit from Swimming Pool car park.
- Advise Network Operations at Roads & Maritime Services to update traffic control plan for traffic signals.

**RECOMMENDATION**

That signage and pavement markings be installed on Wollombi Road, Cessnock in accordance with Wollombi Road Cessnock \_ Sign Diagram.

**MOTION:** **Moved:** Perry Hodge **Seconded:** Nicholas Trajcevski

**SUPPORT:** Unanimous

Works and Infrastructure

Report No. WI35/2018

Works and Infrastructure



**SUBJECT:** *LANG STREET, KURRI KURRI  
REGULATORY PARKING*

**REPORT NO.:** *TC15/2018*

**REFERENCE:**

**MATTER:** The operators of the Kurri Kurri Masonic Village have raised concerns over vehicles parking in Lang Street obstructing access to the village driveways, particularly for large service vehicles.

**COMMENT:** The road environment was described as per the report, and the matter discussed as follows:

- road rules cover the offence of parking too close to a vehicle access crossing however this special circumstance due to size of service vehicles and splayed access.

**RECOMMENDATION**

That regulatory parking signage be installed on Lang Street, Kurri Kurri in accordance with Lang Street Kurri Kurri \_ Sign Diagram.

**MOTION:** *Moved:* Sen Constable Sweeney *Seconded:* Perry Hodge

**SUPPORT:** *Unanimous*

Works and Infrastructure

Report No. WI35/2018

Works and Infrastructure



**SUBJECT:** TOMALPIN STREET, KEARSLEY  
REGULATORY PARKING

**REPORT NO.:** TC16/2018

**REFERENCE:**

**MATTER:** Council officers and the school community have expressed concerns regarding parking availability, and enforcement in Tomalpin Street, Kearsley, in the immediate vicinity of Kearsley Public School.

**COMMENT:** The road environment was described as per the report, and the matter discussed as follows:

- regular non-compliance with parking regulations during school drop off and pick up times has been an issue.

**RECOMMENDATION**

That regulatory parking signage be installed on Tomalpin Street, Kearsley in accordance with Tomalpin Street Kearsley \_ Sign Diagram.

**MOTION:** **Moved:** Perry Hodge **Seconded:** Sen Constable Sweeney

**SUPPORT:** Unanimous

**CORRESPONDENCE**

NIL

**GENERAL BUSINESS**

**HUNTER EXPRESSWAY**

The State member representative questioned the availability of traffic counts on Buchanan Road, Buchanan pre and post opening of the Hunter Expressway. Meeting heard that live traffic counts for some locations are publically available in Roads & Maritime Services web site.

Roads & Maritime Services have recent traffic counts on Main Road, Heddon Greta (MR220) due to current investigation re traffic demand entering and existing Hunter Expressway. A Works Agreement for Development was currently being assessed for the suitability of left in, left out however the lack of right hand turn options is unfavourable.

*The Meeting Was Declared Closed at 10:30am*

**ENCLOSURES**

There are no enclosures for this report

Works and Infrastructure

Report No. WI36/2018

Works and Infrastructure



**SUBJECT:** *2017/2018 AQUATIC SEASON REVIEW AND FAMILY FUN DAYS*

**RESPONSIBLE OFFICER:** *Manager Open Space & Community Facilities - Nicole Benson*

**SUMMARY**

The purpose of this report is to provide an update on the progress of the information being gathered to finalise the 2017/2018 aquatic season review and family fun day vouchers.

**RECOMMENDATION**

**That Council notes the information contained within the report.**

**BACKGROUND**

Over the past 15 months, Council has resolved to upgrade the heating at Branxton Pool, trial free family fun days at all three pools (Branxton, Cessnock and Kurri Kurri Aquatic and Fitness Centre), extend opening hours in times of extreme heat at the outdoor pools, and for officers to investigate the possibility of a voucher system for family pool passes to be sent with each yearly rates notice.

**REPORT/PROPOSAL**

A report has been prepared to update Council and the community on the progress and/or outcome of each resolution. The report was to be considered at the 16 May 2018 Council meeting, however, information on the potential voucher system for family fun days is presently being finalised. The report will be on the Agenda for the 6 June Council meeting.

**OPTIONS**

N/A

**CONSULTATION**

Executive Leadership Team  
Open Space & Community Facilities Team  
Finance and Administration Team

**STRATEGIC LINKS**

**a. Delivery Program**

This report relates to the Delivery Program objectives:

- 3.2 – Better utilisation of existing open space
  - 3.2.4 Provide and maintain recreation facilities, streetscapes and public open space

**Works and Infrastructure**

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- 5.3 – Making Council more responsive to the community
  - 5.3.6 Implement systems and strategies to improve productivity across the organisation
  - 5.3.11 Continue to implementation of the Financial Sustainability Initiative projects

**b. Other Plans**

N/A

**IMPLICATIONS**

**a. Policy and Procedural Implications**

N/A

**b. Financial Implications**

N/A

**c. Legislative Implications**

N/A

**d. Risk Implications**

N/A

**e. Environmental Implications**

N/A

**f. Other Implications**

N/A

**CONCLUSION**

Officers are finalising information relating to the potential voucher system for free family entries to Council's aquatic facilities, prior to providing a comprehensive report on the 2017/18 aquatic season and options for the family fun day vouchers.

**ENCLOSURES**

There are no enclosures for this report

Notices Of Motion

Report No. BN12/2018

General Manager's Unit



***NOTICES OF MOTION No. BN12/2018***

**SUBJECT:** *PLAQUE FOR THE LATE COUNCILLOR JEFF MAYBURY*

**COUNCILLOR:** *Anne Sander*

***MOTION***

**That Council install a plaque acknowledging the late Councillor Jeff Maybury adjacent to the Maybury Peace Park sign in Maybury Peace Park at Weston.**

It is my intention to move the above motion at the next Ordinary Meeting of Council on 16 May 2018.

**RATIONALE**

The late Councillor Jeff Maybury was the longest serving Councillor on Cessnock Council with a distinguished 35 years in civic service. The late Councillor Maybury was known for helping those in the community who were in need and was affectionately referred to as the "Mayor of Weston". The late Councillor Maybury played a leading role in the establishment and development of Peace Park and Chinaman's Hollow at Weston.

In addition to his dedication to Council, the late Councillor Maybury was also very active with the St Vincent de Paul Society, was president of the Weston RSL sub-branch and was committed to helping the Tidy Towns movement.

The late Councillor Maybury supported and pursued many projects to fruition over his years of service to the community including the construction of the Greta Arts and Sports Community Hall and restoration of the former Greta Council Chambers. He was also a long-time advocate for the general maintenance and improvement of Chinaman's Hollow and in particular Peace Park at Weston.

At its 3 August 2016 meeting Council resolved:

1. That Council rename "Peace Park" to "Jeff Maybury Peace Park" subject to gazettal by the New South Wales Geographical Names Board;
2. That if approval is received from the New South Wales Geographical Names Board, Council install appropriate signage in line with the adopted Cessnock LGA Signage Strategy;
3. That the Maybury family be advised of the outcome of the application.

Approval was received from the New South Wales Geographical Names Board and signage was installed for the official unveiling which took place on 22 November 2017 with community members and the Maybury family.

**Notices Of Motion**

**Report No. BN12/2018**

**General Manager's Unit**

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Installation of a plaque similar to those installed at various locations across the LGA as part of the Parks Plaques Program aimed at providing historical information about the name of parks will be a final fitting tribute to the late Councillor Jeff Maybury and his family.

Sgd: Anne Sander

Date: 7 May 2018

***ENCLOSURES***

There are no enclosures for this report

Notices Of Motion

Report No. BN13/2018

General Manager's Unit



***NOTICES OF MOTION No. BN13/2018***

**SUBJECT:** *PAY DAY LENDING MACHINES*

**COUNCILLOR:** *Paul Dunn*

**MOTION**

1. That Council, In Principle, support a ban on PayDay lending machines in the Cessnock Local Government Area.
2. That the General Manager, on behalf of the council, write to ASIC urging the immediate ban on pay day lending machines.
3. That the General Manager write to the Federal Member for the Hunter the Hon Joel Fitzgibbon, MP and the Federal Member for Paterson Meryl Swanson, MP seeking Federal support and representation on behalf of Council, to ASIC, urging the members to lobby any relevant departments that can further our cause to have PayDay Lending Machines banned.

It is my intention to move the above motion at the next Ordinary Meeting of Council on 16 May 2018.

**RATIONALE**

There are three ATM-style 'Pay Day Lending' machines in the Cessnock CBD, that require only ID and bank account details for a consumer to get a loan between \$50 to \$1,000. It has been observed by staff at tobacconists that house these ATMs that the main consumers of these loans could be considered 'low-income'.

Reference: Coote, H & Regan, A. (26 April 2018). Instant cash loan machines may target most vulnerable with quick dollars, financial counsellor says. *ABC Illawarra*. Retrieved from <http://www.abc.net.au/news/2018-04-26/rise-of-instant-cash-loan-machines-in-disadvantaged-nsw-areas/9696134>. 'Pay Day Lending' products are targeted at people who are at very best living 'week to week' and unable to afford basic expenses on a daily basis. These machines, supplied by companies including and similar to Cash and Go Australia do not require any proof of income, and have been noted to be appearing specifically in low socio-economic areas, including Cessnock.

'Pay Day Lending' can be viewed as part of a vicious cycle of poverty and Council needs to ensure that 'Pay Day Lending' machines do not contribute to disadvantage in the area.

In April, Mayor Pynsent made the *Everybody's Home* pledge, on behalf of our council to do what he could to end homelessness. Reference: McKinney, M. (27 April 2018). Newcastle and Hunter Valley organisations make a pledge to end homelessness. *Newcastle Herald*. Retrieved from <https://www.theherald.com.au/story/5367516/hunter-organisations-make->

## Notices Of Motion

## Report No. BN13/2018

## General Manager's Unit



[pledge-to-end-homelessness/](#). This article about the pledge says that 'every year, signatories will be asked to renew their pledge and report on what action they have taken to reduce homelessness'.

The *Financial Stress, Financial Literacy, Counselling and the Risk of Homelessness* report, analyses trends that show how the inability to manage finances is a contributing factor to homelessness. Reference: Steen, Adam and MacKenzie, David, Financial Stress, Financial Literacy, Counselling and the Risk of Homelessness, *Australasian Accounting, Business and Finance Journal*, 7(3), 2013, 31-48. Retrieved from <http://ro.uow.edu.au/cgi/viewcontent.cgi?article=1449&context=aabfi>

As of March, there were 1,747 recorded homeless people in the Hunter region.

We are aware that there is a financial disadvantage in the Cessnock LGA; there were 505 drug charges in 2017, and there are 10,706 households living with a disability in the LGA (ABS). The links between drugs, disability and financial hardship are well established, and our local data clearly represents a vulnerable population that should not be exposed to pay day lending traps.

*Fig 1: Part of data - NSW Bureau of Crime Statistics and Research - Cessnock LGA  
Total of 1285 for all items graphed from 'Motor vehicle theft' to 'steal from person'*

## Crime Trends Tool

Table 1. Recorded incidents of selected offences in the Cessnock Local Government Area  
Annual totals and 24 month trend from January 2016 to December 2017

Offence	Jan 2016 to Dec 2016	Jan 2017 to Dec 2017	24 Month Trend
Assault - domestic violence related	358	355	Stable
Robbery without a weapon	10	5	Not Calculated *
Robbery with a firearm	4	1	Not Calculated *
Robbery with a weapon not a firearm	10	8	Not Calculated *
Break and enter - dwelling	420	401	Stable
Break and enter – non-dwelling	215	174	Stable
Motor vehicle theft	297	338	Stable
Steal from Motor Vehicle	527	513	Stable
Steal from retail store	181	135	Stable
Steal from dwelling	290	265	Stable
Steal from Pearson	22	34	Stable
Fraud	348	292	Stable

Recorded Drug Offences = 505 in 2017 alone (1.4 per day) (see Fig 2)

Theft = 1285 direct thefts recorded from Jan 2016 to Dec 2016 (see Fig 1)

Unemployment rate = 6.8% unemployment, compared to national average 5.6% = 21% higher than the national average (ABS)

## Notices Of Motion

Report No. BN13/2018

General Manager's Unit



Domestic violence = 355 *recorded* incidents in 2017 (See Fig 1)

Disability = 10706 people with a disability living in private dwellings (2011)

'Core activity need for assistance' = 7.2% (meaning they can't do basic things like shopping for themselves)

Biggest employer is retail trade (2011) which we know is a low-paid industry.

*Fig 2: Part of data: NSW Bureau of Crime Statistics and Research - Cessnock LGA - Recorded Drug related offences Jan 2017 - Dec 2017*

<b>NSW Bureau of Crime Statistics and Research</b>	
NSW Recorded Crime Statistics 2013-2017	
<b>Number of recorded incidents and rate per 100,000 population, (for 2017)</b>	
<b>24-month and 60-month trend and Local Government Areas rankings</b>	
<b>Cessnock Local Government Area (Jan – Dec 2017)</b>	
<b>Incident</b>	<b>Number of Incidents</b>
Possession and/or use of cocaine	4
Possession and/or use of narcotics	5
Possession and/or use of cannabis	206
Possession and/or use of amphetamines	150
Possession and/or use of ecstasy	14
Possession and/or use of other drugs	40
Dealing, trafficking in cocaine	0
Dealing, trafficking in narcotics	1
Dealing, trafficking in cannabis	2
Dealing, trafficking in amphetamines	31
Dealing, trafficking in ecstasy	5
Dealing, trafficking in other drugs	0
Cultivating cannabis	10
Manufacture drug	0
Importing drugs	0
Other drug offences	37
<b>Total</b>	<b>505</b>

**Notices Of Motion**

**Report No. BN13/2018**

**General Manager's Unit**



**Argument for ban on Pay Day Lending (to be included in letter to ASIC)**

We believe that the 'pay day lending' product, which is able to legally charge a vulnerable customer up to 200% of the original amount borrowed if the loan defaults, constitutes 'unconscionable conduct within the meaning of the unwritten law' and 'unconscionable conduct in connection with goods and services', and its trade within our LGA is therefore in contravention of Schedule 2, Chapter 2 of the Australian Competition and Consumer Act, previously known as the Trade Practices Act.

**Legal justifications for banning 'Pay Day Lending' in Cessnock LGA retail businesses;**

- Many customers desiring a payday loan can be categorised as being addicted to drugs including alcohol, and therefore having a disability.
- Drug addiction can be classified as a disability (Australian Human Rights Commission)
- One of the core principles/ goals of the Australian Competition and Consumer Act (formerly the Trade Practices Act) is to 'not take advantage of the disadvantaged'.
- Schedule 2, Chapter 2 of the Australian Competition and Consumer Act covers 'General protections' including Part 2-2 Unconscionable conduct, especially;
  - 21. Unconscionable conduct within the meaning of the unwritten law
  - 22. Unconscionable conduct in connection with goods or services.

**Alternate argument to 'restraint of trade'**

*'Restraint of trade' regulation is only applicable where it does not conflict with the Competition and Consumer Act (formerly the Trade Practices Act 1974) - outlined above.*

**People in financial crisis have many far more desirable alternatives to predatory pay day loans;**

- Negotiate with utility provider
- Centrelink offer advance payments for crisis
- Charities offer food, transport and chemist vouchers

**'Pay Day Lenders' are regulated, but federal regulation is minimal**

- establishment fee is regulated at up to 20%
- monthly account-keeping fees up to 4% of the loan
- unlimited 'government fees or charges' can be associated with loan
- default fees or charges - credit provider can not collect more than 200% of the loan

**For anyone in crisis, a pay day loan is the last thing they need.**

Sgd: Paul Dunn

Date: 8 May 2018

**ENCLOSURES**

There are no enclosures for this report.

Answers To Questions For Next Meeting

Report No. AQ41/2018

Planning and Environment



**SUBJECT:** ***PRAM RAMP AND FOOTPATH - O'CONNORS ROAD AND OCCIDENT STREET, NULKABA***

**RESPONSIBLE OFFICER:** ***Development Services Manager - Janine McCarthy***

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**Q40/2018 – Pram Ramp and Footpath – O'Connors Road and Occident Street, Nulkaba**

Asked by Councillor Fitzgibbon at the Ordinary Meeting of Council held on 18 April 2018:

*“Why Council did not include a pram ramp and footpath in the kerb and guttering on O'Connors Road and Occident Street at Nulkaba?”*

Council issued Development Consent No. 2015/439 for an eight (8) lot subdivision at 12 O'Connors Road, Nulkaba, on 11 May 2017. As part of the conditions of consent, the applicant was required to construct kerb and gutter in accordance with Council's interim kerb and gutter resolution (1 October 2014), as the application proposed a subdivision of three (3) lots or more.

Council did not impose a condition of consent requiring construction of either a pram ramp or footpath, as the application was assessed against the provisions of Part E.15 of Cessnock DCP 2010 - 'Nulkaba Urban Release Areas - BC10 and Valley View Place'. Under Part E.15 (Figure 4), a shared off road footpath is only indicated as being required along Pinchen Street to ensure safe access to Wine Country Drive, connectivity between neighbourhoods, and access to the school. This work has been identified under the relevant Section 94 Contributions Plan, and in this regard, the applicant paid a monetary contribution towards roads and traffic facilities in accordance with the conditions of consent imposed on the determination notice.

In areas other than those identified in Figure 4 of Part E.15, the need for footpaths is assessed against the requirements of Part D.1 of Cessnock DCP 2010 – 'Subdivision Guidelines'. In this case, the subdivision is not of sufficient size and does not meet the traffic movement thresholds to warrant conditioning of a footpath and pram ramp.

**ENCLOSURES**

There are no enclosures for this report

**Answers To Questions For Next Meeting**

**Report No. AQ42/2018**

**General Manager's Unit**

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**SUBJECT:** *EMAIL REGARDING UNIVERSITY OF TECHNOLOGY*

**RESPONSIBLE OFFICER:** *General Manager - Stephen Glen*

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**Q41/2018 – Email Regarding University of Technology**

Asked by Councillor Olsen at the Ordinary Meeting of Council held on 2 May 2018.

*“who brought the issue to the General Manager’s attention and why does any enquiries that the students may have, have to be referred to the Mayor for comment and why Councillors cannot comment themselves.*

In accordance with clause 3.1 and 3.2 of the Media Policy, the Mayor is the spokesperson for Council. All Council communication with the media will be authorised by the Mayor. The Mayor may delegate Councillors to act as spokespersons for Council.

The General Manager was alerted to the University of Technology student’s assessment task by a Councillor and the Media and Communication team. This assessment is conducted on an annual basis and Council is happy to assist students to complete their task.

**ENCLOSURES**

There are no enclosures for this report

Answers To Questions For Next Meeting

Report No. AQ43/2018

Works and Infrastructure

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**SUBJECT:** *FRAME DRIVE ROADWORKS*

**RESPONSIBLE OFFICER:** *Infrastructure Manager - Katrina Kerr*

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**Q42/2018 – Frame Drive Roadworks**

Asked by Councillor Olsen at the Ordinary Meeting of Council held on 2 May 2018.

*“what month and what year will the Frame Drive roadworks be completed”.*

Under the current construction schedule, work on Frame Drive is due to be complete by December 2018, weather permitting. The current works relate to the Federal Government’s Bridge Renewal Program grant.

It is noted that a further \$4.45M grant was received by Council through the NSW Government’s Fixing Country Roads Program. The scoping and scheduling of additional works associated with this Program, along the route from Hart Rd, Loxford to Orange Street, Abermain, is the subject of current discussions with the funding body. An update will be provided to Council once an agreement has been reached.

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**ENCLOSURES**

There are no enclosures for this report

Answers To Questions For Next Meeting

Report No. AQ44/2018

Works and Infrastructure



**SUBJECT:** *COMMUTER CAR PARKING*

**RESPONSIBLE OFFICER:** *Infrastructure Manager - Katrina Kerr*

**Q43/2018 – Commuter Car Parking**

Asked by Councillor Dagg at the Ordinary Meeting of Council held on 2 May 2018.

*“if Council could consider preparing long term plans dealing with informal commuter car parks across the Local Government Area”.*

The Department of Planning and Environment is coordinating preparation of the Hunter Expressway Land Use Strategy with input from Roads and Maritime Services (RMS), Council and other stakeholders. The provision and location of commuter car parks has been raised by Council officers for consideration in the preparation of the Strategy.

The Draft Cessnock Traffic and Transport Strategy has also identified the need to provide a long term approach to carpooling facilities across the Local Government Area and this will inform further discussions with State Agencies.

A number of sites, generally associated with HEX interchanges, have been identified by Council Officers. The RMS has been made aware of these locations and the potential formalisation of three of the sites has been investigated. The sites are:

- Heddon Greta Main Road/Stanford Road,
- Branxton southern on/off ramp to New England Highway, and
- Buchanan John Renshaw Drive.

A former carpooling site was also investigated at:

- Loxford Hart Road

A Concept Design has been prepared for the Heddon Greta site for consideration by RMS.

**ENCLOSURES**

There are no enclosures for this report

Answers To Questions For Next Meeting

Report No. AQ45/2018

Works and Infrastructure

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**SUBJECT:** *KURRI KURRI AQUATIC CENTRE*

**RESPONSIBLE OFFICER:** *Manager Open Space & Community Facilities - Nicole Benson*

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**Q44/2018 – Kurri Kurri Aquatic Centre**

Asked by Councillor Sander at the Ordinary Meeting of Council held on 2 May 2018.

*“If Council is going out to open tender for the management and operation of the Kurri Kurri Aquatic Centre this year”.*

The term of the Licence Agreement with the current management contractor, Belgravia Leisure, commenced on 18 July 2015 and expires on 30 June 2018. There is an option in the Agreement for Council to extend the contract on a one year plus one year basis. This means that Council could opt to extend the Agreement for one year until 30 June 2019 and then again for another year until 30 June 2020.

In accordance with the details contained within the current Licence Agreement, officers recently extended the agreement until 30 June 2019.

**ENCLOSURES**

There are no enclosures for this report

Answers To Questions For Next Meeting

Report No. AQ46/2018

Planning and Environment



**SUBJECT:** *NEIGHBOUR NOTIFICATION - GRANNY FLATS*

**RESPONSIBLE OFFICER:** *Building Services Team Leader - Grant Hamilton*

**Q45/2018 - Neighbour Notification – Granny Flats**

Asked by Councillor Sander at the Ordinary Meeting of Council held on 2 May 2018.

*“If Council can inform residents/neighbours of Development Applications that are lodged for Granny Flats?”*

The requirement to notify neighbours for Development Applications proposing a Secondary Dwelling (Granny Flat) is determined by Council's Development Control Plan Chapter B.2 Public Notification and Advertising.

According to DCP Part B.2 Table 4, a DA for a secondary dwelling is to be notified when proposed in the following zones:

- RU2 – Rural Landscape
- RU4 – Primary Production Small Lots
- R3 – Medium Density Residential
- R5 – Large Lot Residential
- B1 – Neighbourhood Centre
- E2 – Environmental Conservation

Second storey development incorporating a secondary dwelling will also require neighbour notification.

Council does not notify neighbours in other circumstances.

It is also important to note, secondary dwellings considered as a Complying Development Certificate (CDC) in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009 do not require neighbour notification as part of the development assessment process.

**ENCLOSURES**

There are no enclosures for this report

Answers To Questions For Next Meeting

Report No. AQ47/2018

Corporate and Community Services

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**SUBJECT:** *ACCESS TO NEARMAPS*

**RESPONSIBLE OFFICER:** *Information Technology Manager - Steven Hepple*

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**Q46/2018 – Access to Nearmaps**

Asked by Councillor Doherty at the Ordinary Meeting of Council held on 2 May 2018.

*“Could Councillors have access to Nearmaps?”*

A memo was sent to all Councillors advising of access details on 4 May 2018. User accounts will be created for Councillors on Monday, 14 May 2018 and Nearmaps will send an invitation email to all Councillors “Council email addresses” for confirmation of the account.

**ENCLOSURES**

There are no enclosures for this report

Correspondence

Report No. CO15/2018

Corporate and Community Services



**SUBJECT:** *POTENTIAL RETURN OF GREYHOUND RACING AT CESSNOCK SHOWGROUNDS*

**RESPONSIBLE OFFICER:** *Governance Coordinator - Teresa Chadwick*

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**RECOMMENDATION:**

**That Council note the correspondence received.**

At its Ordinary Meeting of 15 November 2017, Council considered a report, regarding the support for Greyhound racing to return to Cessnock and resolved as follows:

*That the General Manager write to the Hon. Paul Toole MP, Minister for Gaming, the Hon. Clayton Barr MP, State Member for Cessnock and Mr Morris Iemma, Chairman of Greyhound Racing NSW indicating Council's position and seeking their support.*

Following the Council resolution, correspondence was sent to Minister for Racing indicating Council's position and seeking their support.

A response from the Hon. Paul Toole MP, Minister for Racing, has been received and is provided for Council's information.

**ENCLOSURES**

[1](#) ⇨ Minister's Response