

**MINUTES OF ORDINARY COUNCIL MEETING OF THE CESSNOCK CITY COUNCIL  
HELD IN COUNCIL CHAMBERS ON WEDNESDAY, 19 MAY 2021, COMMENCING AT  
6.30PM**

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

**IN ATTENDANCE:** General Manager  
Director Planning and Environment  
Director Corporate and Community Services  
Director Works and Infrastructure  
Information Technology Manager  
Development Services Manager  
Strategic Planning Manager  
Economic Development & Tourism Manager  
Finance Operations and Administration Coordinator  
Principal Property Specialist  
Financial Accountant  
Media & Communication Officer  
Corporate Governance Officer

*The Mayor acknowledged the passing of Mrs Joy Brown, wife to former Mayor, Mr Bob Brown*

**APOLOGY/LEAVE  
OF ABSENCE:**

**MOTION**

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

1670

**RESOLVED** that the apology tendered on behalf of Councillor Lyons for unavoidable absence, be accepted.

That Councillor Sander's Leave of Absence be noted.

**FOR**

**AGAINST**

Councillor Olsen  
Councillor Doherty  
Councillor Dunn  
Councillor Fagg  
Councillor Stapleford  
Councillor Suvaal  
Councillor Fitzgibbon  
Councillor Gray  
Councillor Burke  
Councillor Pynsent

**Total (10)**

**Total (0)**

**CARRIED UNANIMOUSLY**

**MINUTES:**

**MOTION**

**Moved:** Councillor Doherty  
**Seconded:** Councillor Suvaal

1671

**RESOLVED** that the Minutes of the Ordinary Meeting of Council held on 21 April 2021, as circulated, be taken as read and confirmed as a correct record.

**FOR**

**AGAINST**

Councillor Olsen  
Councillor Doherty  
Councillor Dunn  
Councillor Fagg  
Councillor Stapleford  
Councillor Suvaal  
Councillor Fitzgibbon  
Councillor Gray  
Councillor Burke  
Councillor Pynsent  
**Total (10)**

**Total (0)**

**CARRIED UNANIMOUSLY**

## **DISCLOSURES OF INTEREST**

### **DISCLOSURES OF INTEREST NO. DI4/2021**

**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.**

**PE26/2021 - Local Environmental Plan Optional Clause 5.5 - Controls Relating to Secondary Dwellings on Land in a Rural Zone** – Councillor Stapleford declared a Pecuniary Interest for the reason that he is a part owner of land in Millfield. Councillor Stapleford advised that he would leave the Chamber and take no part in discussion and voting.

**PE16/2021 - Draft Cessnock Housing Strategy** – Councillor Fitzgibbon declared a Pecuniary Interest for the reason that she has an indirect interest in an area which could be impacted by this plan. Councillor Fitzgibbon advised that she would leave the Chamber and take no part in discussion and voting.

**PE30/2021 - Development Application No. 8/2020/20441/1 proposing alterations and additions to the 'Australia Hotel' comprising internal changes to the kitchen and dining areas, along with the addition of a beer garden and associated fencing - 136 Wollombi Road, Cessnock** – Councillor Dunn declared a Pecuniary Interest for the reason that he does business with family members of the proponent. Councillor Dunn advised that he would leave the Chamber and take no part in discussion and voting.

**PE26/2021 - Local Environmental Plan Optional Clause 5.5 - Controls Relating to Secondary Dwellings on Land in a Rural Zone** – The Mayor declared a Pecuniary Interest for the reason that he owns land which is zone RU2. The Mayor advised that he would leave the Chamber and take no part in discussion and voting.

**PE26/2021 - Local Environmental Plan Optional Clause 5.5 - Controls Relating to Secondary Dwellings on Land in a Rural Zone** – Councillor Fagg declared a Pecuniary Interest for the reason that he is an owner of land in Lovedale. Councillor Fagg advised that he would leave the Chamber and take no part in discussion and voting.

## ***PETITIONS***

nil

## ***ADDRESS BY INVITED SPEAKERS***

NIL

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

**MOTION**            **Moved:**    Councillor Doherty            **Seconded:**    Councillor Burke  
1672

### **RESOLVED**

**that having read and considered the reports in the agenda related to items**

NI4/2021	Notice of Intention to Deal with matters in Confidential Session.  Report No. PE31/2021 – Class 1 Appeal (2021/32316) in the NSW Land and Environment Court against the deemed refusal of Development Application No. 8/2020/20870 proposing the extension of trading hours of an existing Service Station and Food and Drink premises to 24 hours, 7 days per week.  247 Wine Country Drive (Lot 1 DP531161), Nulkaba  Report No. CC38/2021 - Minutes of the Strategic Property and Community Facilities Committee of 5 May 2021 .....	57
PE27/2021	18 2020 2 _ Administrative Planning Proposal to Amend Various Aspects of the Cessnock Local Environmental Plan 2011 .....	126
‡ CC36/2021	Investment Report - April 2021 .....	265
‡ CC37/2021	Resolutions Tracking Report .....	273
‡ CO10/2021	Enterprise Risk Management Framework - Funding for the Independent Commission Against Corruption .....	374

**Council adopt the recommendations as printed for those items.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

## **NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL SESSION**

### **NOTICE OF INTENTION NO. NI4/2021**

**SUBJECT: NOTICE OF INTENTION TO DEAL WITH MATTERS IN  
CONFIDENTIAL SESSION.**

**REPORT NO. PE31/2021 – CLASS 1 APPEAL (2021/32316) IN THE  
NSW LAND AND ENVIRONMENT COURT AGAINST THE DEEMED  
REFUSAL OF DEVELOPMENT APPLICATION NO. 8/2020/20870  
PROPOSING THE EXTENSION OF TRADING HOURS OF AN  
EXISTING SERVICE STATION AND FOOD AND DRINK PREMISES  
TO 24 HOURS, 7 DAYS PER WEEK.**

**247 WINE COUNTRY DRIVE (LOT 1 DP531161), NULKABA**

**REPORT NO. CC38/2021 - MINUTES OF THE STRATEGIC  
PROPERTY AND COMMUNITY FACILITIES COMMITTEE OF 5 MAY  
2021**

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**MOTION**            **Moved:**    Councillor Doherty            **Seconded:**    Councillor Burke  
1673  
**RESOLVED**

1. That Council considers in Confidential Session the following matters in accordance with Sections 10A (2) (c), (di) and (g) of the *Local Government Act 1993*:

Report No. PE31/2021 – Class 1 Appeal (2021/32316) in the NSW Land and Environment Court against the deemed refusal of Development Application No. 8/2020/20870 proposing the extension of trading hours of an existing Service Station and Food and Drink premises to 24 hours, 7 days per week - 247 Wine Country Drive (Lot 1 DP531161), Nulkaba as it deals with advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Report No. CC38/2021 - Minutes of the Strategic Property and Community Facilities Committee of 5 May 2021 for the reason that it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

2. That Council requests the Mayor in accordance with Clause 14.21 of Councils Code of Meeting Practice to report on these matters to the meeting in Open Session following completion of the Confidential Session.

**FOR****AGAINST**

Councillor Olsen

Councillor Doherty

Councillor Dunn

Councillor Fagg

Councillor Stapleford

Councillor Suvaal

Councillor Fitzgibbon

Councillor Gray

Councillor Burke

Councillor Pynsent

**Total (10)****Total (0)*****CARRIED UNANIMOUSLY***

**6.36PM**

**Confidential reports (closed session)**

**MOTION**            **Moved:**    Councillor Suvaal            **Seconded:**    Councillor Burke  
1674

**RESOLVED**

**That the meeting moved into closed session in order to consider confidential items.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**7.00PM**

**Open Session**

The meeting moved back into open session and the General Manager reported on the outcomes.



**PLANNING AND ENVIRONMENT NO. PE31/2021**

**SUBJECT: CLASS 1 APPEAL (2021/32316) IN THE NSW LAND AND ENVIRONMENT COURT RELATING TO THE REFUSAL OF DEVELOPMENT APPLICATION NO. 8/2020/20870 PROPOSING THE EXTENSION OF TRADING HOURS OF AN EXISTING SERVICE STATION AND FOOD AND DRINK PREMISES TO 24 HOURS, 7 DAYS PER WEEK.**

**247 WINE COUNTRY DRIVE (LOT 1 DP531161), NULKABA**

*This matter is considered to be confidential under Section 10A(2) (g) of the Local Government Act, as it deals with advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*

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**MOTION**            **Moved:**    Councillor Suvaal            **Seconded:**    Councillor Dunn  
1675  
**RESOLVED**

1. That Council endorses the 'without prejudice' draft conditions of consent provided in Schedule 1 of this report in respect of the appeal (Reference No. 2021/32316), in the NSW Land and Environment Court relating to the refusal of Development Application No. 8/2020/20870/1.
2. Council acknowledges the likelihood that, during the course of the proceedings in respect of the appeal (Reference No. 2021/32316), in the NSW Land and Environment Court relating to the refusal of Development Application No. 8/2020/20870/1, the endorsed 'without prejudice' draft conditions of consent may be amended at the advice of Council's legal representatives and/or at the Court's discretion.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**CORPORATE AND COMMUNITY NO. CC38/2021**

**SUBJECT: MINUTES OF THE STRATEGIC PROPERTY & COMMUNITY FACILITIES COMMITTEE MEETING HELD 5 MAY 2021**

*This matter is considered to be confidential under Section 10A(2) (c) (di) of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business; AND commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it.*

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**MOTION**            **Moved:**    Councillor Burke            **Seconded:**    Councillor Dunn  
1676

**RESOLVED** that the report be deferred.

<b>FOR</b>	<b>AGAINST</b>
Councillor Doherty	Councillor Olsen
Councillor Dunn	Councillor Stapleford
Councillor Fagg	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (8)</b>	<b>Total (2)</b>

**CARRIED**

## **MAYORAL MINUTES**

NIL

### **MOTIONS OF URGENCY**

#### **MOTIONS OF URGENCY NO. MOU4/2021**

**SUBJECT: MOTIONS OF URGENCY**

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NIL

## **DEFERRED BUSINESS**

### **DEFERRED BUSINESS NO. PE16/2021**

**SUBJECT: DRAFT CESSNOCK HOUSING STRATEGY**

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*Councillor Fitzgibbon declared a Pecuniary Interest for the reason that she has an indirect interest in an area which could be impacted by this plan. Councillor Fitzgibbon left the Chamber and took no part in discussion and voting.*

*Councillor Fitzgibbon left the meeting, the time being 7.02pm*

**MOTION**            **Moved:**    Councillor Suvaal            **Seconded:**    Councillor Dunn  
1677

**RESOLVED**

**That Council adopts the revised Cessnock Housing Strategy with the following amendments:-**

Page 22, "Boarding Houses" section:

Delete and replace the first three paragraphs with:

The State Government sees boarding houses as an important part of the social and community housing mix and provide a form of low cost, rental accommodation for a wide range of tenants including singles, retirees, students and young couples. The State Government, acknowledging the importance of this type of housing, continues to facilitate the approval of boarding houses through mechanisms such as the State Environmental Planning Policy (Affordable Rental Housing) 2009 and to improve regulation through the current review of the Boarding Houses Act 2012.

Council has a role in the provision of boarding houses through the development assessment and compliance processes and in particular, guiding design outcomes for boarding houses. Once approved, a registered boarding house must then comply with the Boarding Houses Act 2012 which includes compliance with occupancy agreements and principles.

Boarding houses are burdened by a poor reputation because of traditional built forms and historic poor management. However, this could be improved with the inclusion of additional development controls for Council to consider when assessing the development of boarding houses including the availability of local jobs and public transport, the increased onsite parking requirements in regional communities and the strengthening of provisions to protect the character of the local area.

Page 23, "What we want to achieve" section:

Delete dot point 4.

Page 23, "What we will do" section:

Include an additional dot point 3 and reorder accordingly.

3. Lobby the NSW State Government to amend the development controls for 'boarding houses', 'new generation boarding houses' and 'co-living housing' to better reflect the impacts on these developments in regional communities including:

- a. Consideration of the local unemployment rate and access to available jobs;
- b. Consideration of access to adequate public transport to attend work or daily activities including shopping and medical appointments; and
- c. An increase to the onsite parking requirements to be a minimum of one car park per unit.

Page 26, “What we want to achieve” section:

Delete dot point 2.

Page 27, “Seniors’ housing and seniors’ living” section

Amend the second sentence of the second paragraph to read:

There are two existing developments and one currently in development that provide alternative housing models aimed at the over 55s market which, according to the local real estate agents, sold well.

Page 30, “What we want to achieve” section:

Delete dot point 4.

Page 41, “Market rental” section:

Delete the first sentence of the second paragraph and replace it with:

Before COVID-19 local agents reported that there was enough rental stock of sufficient diversity to meet the market needs. However, the pandemic has fundamentally changed housing across Australia and there is anecdotal evidence that there are fewer rental properties available across Cessnock. This should be monitored over the short to medium term.

Page 45, “Planning reform” section:

Add an additional row:

<p>Lobby the NSW State Government to amend the development controls for ‘boarding houses’, ‘new generation boarding houses’ and ‘co-living housing’ to better reflect the impacts on these developments in regional communities including:</p> <ul style="list-style-type: none"> <li>a. Consideration of the local unemployment rate and access to available jobs;</li> <li>b. Consideration of access to adequate public transport to attend work or daily activities including shopping and medical appointments; and</li> <li>c. An increase to the onsite parking requirements to be a minimum of one car park per unit.</li> </ul>	<p>Strategic Planning</p>	<p>Short</p>
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Page 46, “Local Planning Instruments” section:

Amend the timing of the third row Development Industry Consultation to “Short”.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (9)</b>	<b>Total (0)</b>

***CARRIED UNANIMOUSLY***

*Councillor Fitzgibbon returned to the meeting, the time being 7.04pm*

## **GENERAL MANAGER'S UNIT**

### **GENERAL MANAGER'S UNIT NO. GMU8/2021**

**SUBJECT: HUNTER VALLEY VISITOR INFORMATION CENTRE LANDSCAPE PLAN**

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**MOTION**      **Moved:** Councillor Fitzgibbon      **Seconded:** Councillor Burke  
1678

**RESOLVED**

1. That Council notes the Hunter Valley Visitor Information Centre Landscape Plan; and
2. That Council endorses the submission for grant applications for the project for the construction of the Hunter Valley Visitor Information Centre Landscape Plan.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

## **PLANNING AND ENVIRONMENT**

### **PLANNING AND ENVIRONMENT NO. PE24/2021**

**SUBJECT:** **PLANNING PROPOSAL TO REZONE LAND AT 71 BRANXTON STREET, GRETA FROM RU2 RURAL LANDSCAPE TO R2 LOW DENSITY RESIDENTIAL (IN PART) AND TO REDUCE THE MINIMUM LOT SIZE FROM 40HA TO 450M2 (IN PART).**

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**MOTION**      **Moved:**    Councillor Suvaal      **Seconded:**    Councillor Gray  
1679  
**RESOLVED**

**That Council endorses the Planning Proposal as an amendment to the Cessnock Local Environmental Plan 2011.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**



**PLANNING AND ENVIRONMENT NO. PE25/2021**

**SUBJECT: CESSNOCK DEVELOPMENT CONTROL PLAN 2010 - VARIOUS CONTROLS FOR EXHIBITION**

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**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Fitzgibbon  
1680  
**RESOLVED**

1. That Council pursuant to clause 18 of the *Environmental Planning and Assessment Regulation 2000* exhibit the following revised DCP Chapters:
  - Cessnock Airport
  - Development on Flood Prone Land
  - Contaminated Lands
  
2. That Council receives a further report for consideration noting any submissions received during the exhibition period.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**PLANNING AND ENVIRONMENT NO. PE26/2021**

**SUBJECT: LOCAL ENVIRONMENTAL PLAN OPTIONAL CLAUSE 5.5 -  
CONTROLS RELATING TO SECONDARY DWELLINGS ON LAND IN  
A RURAL ZONE**

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*Councillor Stapleford declared a Pecuniary Interest for the reason that he is a part owner of land in Millfield. Councillor Stapleford left the Chamber and took no part in discussion and voting.*

*Councillor Fagg declared a Pecuniary Interest for the reason that he is an owner of land in Lovedale. Councillor Fagg left the Chamber and took no part in discussion and voting.*

*The Mayor declared a Pecuniary Interest for the reason that he owns land which is zone RU2. The Mayor left the Chamber and took no part in discussion and voting.*

*Councillors Stapleford and Fagg left the meeting, the time being 7.07pm  
The Mayor left the meeting and vacated the Chair, the time being 7.07pm.*

*The Deputy Mayor, Councillor Gray assumed the Chair.*

**MOTION**            **Moved:**    Councillor Suvaal            **Seconded:**    Councillor Fitzgibbon  
1681

**RESOLVED**

1.     **That Council advise the Department of Planning, Industry and Environment that it would like to adopt optional clause 5.5 of the Standard Instrument (Local Environmental Plans) Order 2006, as set out below:**

**5.5 Controls relating to secondary dwellings on land in a rural zone**

**If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—**

- (a) **the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—**

- (i)     **60 square metres,**
- (ii)    **50% of the total floor area of the principal dwelling, and**

- (b) **the distance between the secondary dwelling and the principal dwelling must not exceed 20 metres.**

2.     **That Council undertake to review this clause as part of the upcoming comprehensive Cessnock LEP review, to consider its impacts on development in rural zones, and to determine if it should be updated or removed.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
<b>Total (7)</b>	<b>Total (0)</b>

***CARRIED UNANIMOUSLY***

*The Deputy Mayor, Councillor Gray vacated the Chair.*

*Councillors Fagg and Stapleton returned to the meeting the time being 7.10pm*

*The Mayor returned to the meeting and assumed the Chair, the time being 7.10pm*

**PLANNING AND ENVIRONMENT NO. PE27/2021**

**SUBJECT: 18 2020 2 \_ ADMINISTRATIVE PLANNING PROPOSAL TO AMEND VARIOUS ASPECTS OF THE CESSNOCK LOCAL ENVIRONMENTAL PLAN 2011**

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**MOTION**            **Moved:** Councillor Doherty            **Seconded:** Councillor Burke  
1682

**RESOLVED**

1. That Council requests a Gateway determination for the Planning Proposal (Distributed under separate cover) from the NSW Department of Planning, Industry and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.
2. That Council requests authorisation under Section 3.31 of the *Environmental Planning and Assessment Act 1979* to act as the local plan-making authority to make the Local Environmental Plan.
3. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination.
4. That Council receives a report back on the Planning Proposal if unresolved written objections are received during consultation with the community, otherwise, forwards the Planning Proposal to the Department of Planning, Industry and Environment requesting that the Plan be made.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**PLANNING AND ENVIRONMENT NO. PE28/2021**

**SUBJECT: ADOPTION OF URBAN TREE CANOPY POLICY**

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**MOTION**      **Moved:** Councillor Fitzgibbon      **Seconded:** Councillor Gray  
1683

**RESOLVED**

1. That Council adopts the Urban Tree Canopy Policy.
2. That Council notifies the person who made a submission of its decision and thanks them for their input.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**PLANNING AND ENVIRONMENT NO. PE29/2021**

**SUBJECT: DRAFT POLICY - REVOCATION OF DANGEROUS OR MENACING  
DOG DECLARATIONS**

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**MOTION**      **Moved:** Councillor Suvaal      **Seconded:** Councillor Burke  
1684

**RESOLVED**

1. That Council places the draft Revocation of Dangerous or Menacing Dog Declarations Policy on public exhibition for 28 days.
2. That Council receives a further report for consideration noting any submissions received during the exhibition period.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**PLANNING AND ENVIRONMENT NO. PE30/2021**

**SUBJECT: DEVELOPMENT APPLICATION NO. 8/2020/20441/1 PROPOSING ALTERATIONS AND ADDITIONS TO THE 'AUSTRALIA HOTEL' COMPRISING INTERNAL CHANGES TO THE KITCHEN AND DINING AREAS, ALONG WITH THE ADDITION OF A BEER GARDEN AND ASSOCIATED FENCING**

**136 WOLLOMBI ROAD, CESSNOCK**

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*Councillor Dunn declared a Pecuniary Interest for the reason that he does business with family members of the proponent. Councillor Dunn left the Chamber and took no part in discussion and voting.*

*Councillor Dunn left the meeting, the time being 7.15pm*

**MOTION**      **Moved:** Councillor Fitzgibbon      **Seconded:** Councillor Stapleford  
1685

**RESOLVED**

1.      **That:**

(i)      **Development Application 8/2020/2044/1 proposing alterations and additions to the 'Australia Hotel' located at 136 Wollombi Road Cessnock, comprising internal changes to the kitchen and dining areas, along with the addition of a beer garden and associated fencing be approved pursuant to Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979* subject to the Schedule 2 Conditions of Consent.**

(ii)      **Reasons for the decision (having regard to any statutory requirements applying to the decision) are as follows:**

:      **The proposed development will provide an additional level of service to the community**

:      **The existing business has operated at this location since 1924 and this small upgrade will address aging onsite infrastructure and an untidy outdoor area.**

:      **Creates an opportunity for employment in the area**

(iii)      **In considering community views, the following is relevant:**

**The issues and concerns raised by the community in relation to neighborhood amenity impacts have been taken into consideration in the Conditions of Consent.**

(iv)      **The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.**

2.      **That Council notify in writing the persons who made a submission with regard to the proposed development of Council's decision.**

## SCHEDULE 2 – CONDITIONS OF CONSENT

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### SCHEDULE 1

#### CONDITIONS OF CONSENT

#### TERMS OF CONSENT

##### 1. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2020/20441 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>
Drawing No. A003 Issue B Site Plan	Fabric	8 July 2020
Drawing No. A201 Issue C Floor Plan - Ground	Fabric	8 October 2020
Drawing No. A202 Issue B Floor Plan - Upper	Fabric	8 July 2020
Drawing No. A300 Issue B Elevations N + S	Fabric	8 July 2020
Drawing No. A301 Issue B Elevations E + W	Fabric	8 July 2020
Drawing No. A302 Issue B Internal Perspectives	Fabric	8 July 2020
Drawing No. A303 Issue B External Perspectives	Fabric	8 July 2020
Drawing No. A304 Issue B Mood Board	Fabric	8 July 2020
Drawing No. A305 Issue B External Finishes	Fabric	8 July 2020



Drawing No. A306 Issue B Internal Finishes	Fabric	8 July 2020
Drawing No. A400 Issue B Sections	Fabric	8 July 2020

Report Reference	Author	Dated
Noise Impact Assessment	Reverb Acoustics	October 2020

## 2. **BCA Compliance**

Pursuant to Section 4.17(11) of the *EP&A Act 1979* all building work must be carried out in accordance with the requirements of the *BCA*.

Any building works required to ensure compliance with the *BCA* or current building and construction standards not specified in the submitted/approved plans, must not result in material affectation to existing heritage fabric and building features.

If such upgrading works are likely to impact existing fabric and features, further approval from Council is required.

## 3. **Disabled Access and Facilities**

The building is to be provided with access and facilities for people with disabilities in accordance with the provisions of the Disability (Access to Premises-Buildings) Standard 2010.

## 4. **Beer Garden - Entertainment**

No external public announcement system or amplified entertainment is permitted in the beer garden, or any outdoor area. Background “incidental” music is only permitted. A limiting SPL of 72dB(A), Lmax is required to be set at a distance of 3 metres from the outdoor speakers. Once this output limit is achieved, corresponding references are to be assigned to the sound system controls and should only be accessed by responsible staff familiar with the system settings.

## 5. **Outdoor Lighting**

All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and road reserve, and must comply with, where relevant, *AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance* and design requirements and *AS 4282:1997 Control of the obtrusive effects of outdoor lighting*.

## 6. **Licensed Premises**

The operation of the licensed premises must be managed in accordance with the following:

- a) A sign is to be displayed in a prominent position at the main entry point to the building, stating the maximum number of persons permitted in the building.

- b) A sign is to be displayed in the beer garden advising patrons to minimise noise.
- c) A copy of the current development consent with the approved hours of operation must be kept in the premises, and must be produced upon demand for inspection by any member of the Police Service, Council Officer, or Special Investigator.
- d) The essential fire safety measures must be maintained in accordance with Clause 182 of the *Environmental Planning and Assessment Regulation 2000*.
- e) Security officers and staff employed by the premises must move on any intoxicated persons, persons drinking alcohol or persons behaving inappropriately in the immediate vicinity of the premises, so as to prevent noise emission, and any negative impact on neighbouring residents. Security officers and staff are to monitor the entries and exit to the hotel at all times, including the beer garden.
- f) The beer garden exit into the carpark is to be well lit, ensuring clear lines of site are maintained. This exit from the beer garden is to be fitted with a security gate that will control unauthorised access.
- g) All patrons waiting outside to enter the premises must queue along the immediate frontage of the building, and security officers are required to ensure patrons do not cause disturbances. The queue must not obstruct any entrance to adjoining premises / fire exits and must be a maximum length of six (6) persons on the footway.
- h) CCTV surveillance cameras must be strategically installed, operated and maintained throughout the premises (including the beer garden), in accordance with the policies and standards adopted by the Office of Liquor, Gaming and Racing with particular coverage to:
  - i) principal entrance/s and exits
  - ii) all areas within the premise occupied by the public (excluding toilets)
  - iii) the external vicinity within a 10m radius to the public entrances / exits to the premises
  - iv) In venue CCTV must meet all Office of Liquor, Gaming and Racing's policies and standards relating to cameras and display; recording; CCTV system and access; maintenance and reporting; CCTV plan.

## **7. Repainting**

Repainting works are strictly limited to those areas/elements/fabric which has previously been painted.

Existing painted surfaces shall be retained to the greatest extent possible and not stripped back to expose the substrate material. Surface preparation works may be undertaken, including the making good of flaking, chipped or chalky painted surfaces.

## **8. Restorative and Conservation Works to be Undertaken by Qualified Professionals**

All works involving restoration/conservation of the heritage item shall be undertaken by appropriately qualified and skilled tradesmen, who have proven experience in heritage conservation work.

Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.

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

**The following conditions are to be complied with prior to the issue of a construction certificate.**

### **9. CC, CA & Notice Required**

In accordance with the provisions of Section 6.6 & 6.7 of the *EP&A Act 1979* construction works approved by this consent must not commence until:

- a) A *CC* has been issued by the consent authority, Council or an accredited certifier; and
- b) A *PC* has been appointed by the person having benefit of the development consent and
- c) If Council is not the *PC*, notify Council no later than two (2) days before building work commences as to who is the appointed *PC*; and
- d) 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.

### **10. Stormwater – Detailed Design Requirements**

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, and connection to the existing drainage system in accordance with Council's 'Engineering Requirements for Development' (available at Council's offices). Such layout shall include existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development.

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

### **11. Stormwater – Discharge (General)**

The applicant shall collect all roof and stormwater runoff from the impervious areas on site, and any other drainage entering the site, and discharge it to Council's satisfaction in accordance with Council's 'Engineering Requirements for Development'.

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

### **12. Plan of Management Licensed Premises**

A Plan of Management is to be lodged and approved by Council prior to the issue of a CC. The Plan of Management is to cover (but is not limited to) the following issues:

#### Security Management

Security patrol, surveillance, and other security and response methods, and security management of the public and private domain within and surrounding the site.

Signage to be controlled to ensure that no signage is visible from the public domain that advertises, directly or indirectly, the gaming machines on site.

#### Patron Management

Patrons must be prevented from removing glass, opened cans, bottles or alcohol from the premises (except from any approved bottle shop).

The placement and maintenance of signs. The signs must include:

- Signs in clearly visible positions within the premises, requesting patrons upon leaving, to do so quickly quietly and having regard to the amenity of the area.
- A sign detailing the maximum number of persons permitted in the premises, in letters not less than 25mm, must be displayed at the main front entrance of the premises.

The control of noise and litter generated by patrons of the premises. The measures to specify the management/licensee is responsible for the control of noise and litter generated by patrons of the premises, and ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council. If so directed by Council, the management/licensee is to employ private security staff to ensure that this condition is complied with.

That no automatic teller machines are permitted to be installed in the same room in single level premises, and on the same floor in multi-level premises containing gaming machines.

#### Noise Management

Measures to ensure noise control, including:

- a. checklist of actions for routine monitoring of noise generated at the premise (includes continual assessment that the sound system *incidental music* does not reach a SPL level of over 72dB(A), Lmax at 3 meters);
- b. a documented complaint process and response procedures;
- c. a register for the documenting of complaints received, details of investigation and corrective actions undertaken;
- d. details of staff responsible for noise control; and
- e. noise management training records of new staff.

### **13. Licensed Premises**

Prior to the issue of a CC, evidence must be submitted to the Certifier that the relevant licence from the NSW Department of Industry – Liquor and Gaming has been obtained.

#### **14. Food Premises**

The construction and operation of the food premises shall comply with all applicable legislation, regulation and standards including:

- a) *Food Act 2003*
- b) *Food Regulation 2015*
- c) *Food Standards Australia and New Zealand – Food Standards Code 2003*
- d) AS 4674-2004 for Design, Construction and Fit out of Food Premises
- e) AS 1668.2-2002 – The use of ventilation and air conditioning in buildings
- f) *BCA*.

Details submitted in association with the CC application are to demonstrate compliance with this requirement, and shall include the following:

- a) a separate floor and sectional plan detailing:
  - i) the kitchen/cafe area floor, wall, and ceiling surface finishes
  - ii) location of the required hand wash basin/s and cleaning sinks/s
  - iii) location of dry and cold storage areas,
  - iv) fit-out details for the kitchen and servery, including proposed refrigeration and cooking equipment
  - v) designated cupboard or locker for the storage of staff clothing and personal belongings
  - vi) location of the bar area.

The details are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

#### **15. Smoke Free Premises**

The construction and fit out of the premises shall comply with the *Smoke-Free Environment Act 2000* and *Smoke-Free Environment Regulation 2016*. Details demonstrating compliance with this condition are to be provided to the Certifier prior to the issue of a CC.

#### **16. Cessnock Section 7.12 Levy Development Contributions Plan**

A total monetary contribution of \$2,260,000 is to be paid to Council, pursuant to Section 7.12 of the *EP&A Act 1979*. This contribution is to be paid prior to the issue of any CC.

- i) This condition is imposed in accordance with the provisions of *Cessnock Section 7.12 Levy Contributions Plan 2017 (as amended)*. A copy of the document is available on Council's website at [www.cessnock.nsw.gov.au](http://www.cessnock.nsw.gov.au) or may be inspected at Councils' Customer Services Section, Administration Building, Vincent Street Cessnock.
- ii) 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 time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

#### **17. Acoustic Fencing / Barrier**

The proposed acoustic fence / barrier located along the Wollombi Road frontage of the site (on the south - eastern boundary) adjacent the children's playground is to comply with the following design criteria:

- That the acoustic fence / barrier is to be a height of 1650mm above the finished floor level (FFL).
- That there are no significant gaps are permitted in this fence / barrier to allow the passage of sound below the recommended height.
- That acceptable forms of construction is adopted include lapped paling, safety glass, stud wall lined with 9mm FC sheeting, or materials of equivalent surface mass.

Details relating to the above, including amended plans, are to be approved by a suitably qualified acoustic consultant prior to issue of the CC.

#### **18. Structural Engineers Report**

A certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads, must be provided to the Certifier prior to the issue of a CC.

#### **19. Smoke Alarms**

The smoke alarm system must be installed on or near the ceiling in accordance with Part 3.7.2.3 of the *BCA*. The smoke alarm system must be connected to the mains electrical power supply and must have a stand-by (battery backup) power supply.

Plans demonstrating compliance with this requirement is to be submitted to, and approved by, the Certifier prior to the issue of a CC.

### **PRIOR TO COMMENCEMENT OF WORKS**

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

## **20. CC, CA & Notice Required**

In accordance with the provisions of Section 6.6 & 6.7 of the *EP&A Act 1979* construction works approved by this consent must not commence until:

- a) A *CC* has been issued by the consent authority, Council or an accredited certifier; and
- b) A *PC* has been appointed by the person having benefit of the development consent and
- c) If Council is not the *PC*, notify Council no later than two (2) days before building work commences as to who is the appointed *PC*; and
- d) 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.

## **21. 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.

## **22. 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.

## **23. 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.

## **24. Section 138 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. Heritage Site Induction ('Toolbox Talks')**

Prior to the commencement of any works, all contractors, tradesmen and the like, shall be given a heritage site induction ('toolbox talk').

The heritage site induction shall be delivered by a suitably qualified Heritage Consultant and shall ensure that all contractors, tradesmen and the like, are made aware that:

- a) The site contains an item of heritage significance;
- b) All conservation works to the heritage item are to be undertaken in accordance with the approved plans and documentation;
- c) There are statutory obligations under the *National Parks and Wildlife Act 1974* and the *Heritage Act 1977* for all works to cease and Heritage NSW and Council to be notified of any unexpected built archaeological or Aboriginal archaeological finds during works.

## **DURING WORKS**

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

### **26. 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.

### **27. Approved Plans Kept On Site**

A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.

### **28. Construction Noise**

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment and Heritage *Noise Guide for Local Government*.

### **29. 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.

### **30. 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.

### **31. 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.

### **32. 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.

### **33. 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.

### **34. 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.

### **35. General Heritage Requirements**

All works are to be undertaken in a manner that:

- a) Are undertaken in accordance with the Articles of the Australia ICOMOS *Burra Charter* (2013).
- b) Adopt the 'cautious approach' of the *Burra Charter*, insofar as 'doing as much as necessary but as little as possible'.

- c) Ensures that all fabric and features to be retained by the approved works are properly protected during the process of demolition, construction and conservation works.
- d) Any new penetrations to masonry fabric associated with the external pergola structure, shall be limited to the mortar joints. No penetrations for anchor points or the like, shall be permitted into the masonry.
- e) Minimises the physical impacts to retained fabric, whereby all new utilities and the like, which are to be installed in the existing retained portions of the dwelling, shall be surface mounted in a discreet manner that involves no more than minimal penetration to existing fabric for connections or affixation.

**36. Uncovering of Concealed Architectural Features or Detailing**

Should any concealed architectural features or detailing, not previously noted in the DA documentation, be discovered during demolition or building works, all works are to immediately cease and the architectural features or detailing to be photographically recorded and Council's Heritage Advisor is to be contacted for advice.

**37. Salvage of architectural elements**

All significant fabric and features of the building which are approved for removal (including windows and doors) shall be salvaged and either used to replace non-sympathetic fabric or appropriately stored at the premises to enable future re-use in the building.

**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):**

**38. Certification of Fire Services**

Prior to issue of an *OC*, documentary evidence in the form of a Final Fire Safety Certificate is required to be submitted to Council and the Fire Commissioner, Fire & Rescue NSW verifying that all essential fire safety measures as required by the Fire Safety Schedule have been installed and are operational to the applicable performance standard.

**39. Food Premises**

Prior to the issue of an *OC*, an inspection of the completed premises is to be conducted by the *PC* certifying that the food premises has been constructed in accordance with the approved plans.

**40. Waste Disposal**

Prior to the issue of an *OC* and/or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. No garbage is to be placed on the public way, e.g. footpaths, roadways, plazas, reserves, at any time.

**41. Trade Waste Disposal**

Prior to the issue of an OC and/or commencement of the use, whichever is earlier, of the building the owner must ensure that there is a contract with a licensed contractor for the removal of all trade waste. No garbage is to be placed on the public way e.g. footpaths, roadways, plazas, and reserves at any time.

**42. Drainage Works**

All drainage works required to be undertaken in accordance with this consent must be completed prior to issue of an OC for the development.

**43. Stormwater – Discharge to Street**

All roof water must be conducted to the street gutter by means of a sealed pipeline having a minimum diameter of 90mm prior to issue of an OC.

**44. Acoustic Report Recommendations Complied With**

Prior to issue of the OC or before the commencement of the use (whichever is earlier), a certificate must be issued by an accredited acoustic consultant, and must certify that the recommendations in the Noise Impact Assessment (NIA) report (prepared by Reverb Acoustics dated October 2020) have been complied with and the desired acoustic performance achieved.

**ONGOING USE**

**45. Hours of Operation**

The beer garden is only to be used in conjunction with the hotel, and in accordance with the following hours of operation:

- Sunday to Wednesday – 10 am to 10 pm
- Thursday to Saturday – 10 am to 12 midnight

**46. Plan of Management**

The Plan of Management is to be a working document, kept onsite and provided to Council Officers for review, upon request.

**47. Noise Complaints**

Where a noise complaint is received by Council from a place of different occupancy and the noise source is proven by a Council Officer to be non-compliant, the Council may employ a consultant to measure noise emanating from the property, and to recommend (if necessary) appropriate actions to ensure compliance.

The consultant must be a member of the Australian Acoustical Society, Engineers Australia, or the Association of Australian Acoustical Consultants. The cost of such appointment and associated work shall be borne by the applicant, who shall also ensure the recommendations of the acoustic consultant are implemented.

**FOR**

Councillor Olsen

**AGAINST**

Councillor Doherty  
Councillor Fagg  
Councillor Stapleford  
Councillor Suvaal  
Councillor Fitzgibbon  
Councillor Gray  
Councillor Burke  
Councillor Pynsent  
**Total (9)**

**Total (0)**

**CARRIED UNANIMOUSLY**

*Councillor Dunn returned to the meeting, the time being 7.18pm*

**CORPORATE AND COMMUNITY**

**CORPORATE AND COMMUNITY NO. CC33/2021**

**SUBJECT: MARCH 2021 REVIEW OF THE 2017-21 DELIVERY PROGRAM**

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**MOTION**      **Moved:** Councillor Stapleford      **Seconded:** Councillor Burke  
1686

**RESOLVED**

1. That Council notes the progress in implementing the 2017-21 Delivery Program as at 31 March 2021.
2. That Council endorses the following changes to the Capital Works Program:
  - a) Drainage Construction Program:  
Add:  
Project ID – CDR-2021-011 Main Road Heddon Greta – Phase 1 Investigation & Design
  - b) Recreational Facilities Renewal Program:  
Defer:  
Project ID – RFR-2021-006 Kurri Kurri Skate Park – Conduct Works from Skate Park Audit
  - c) Safer Roads Program:  
Add:  
Project ID – CRR-2020-002 George Downes Drive Bucketty
  - d) Pathway Construction Program:  
Add:  
Project ID – CPW-2021-017 Cessnock CBD – Aberdare to Bridges
  - e) Recreation Facilities Construction Program:  
Defer:

**Project ID – CFR-2021-001 East Cessnock Oval – Construction of Retaining Wall Stage 1**

**f) Community Buildings Renewal Program:**

**Defer:**

**Project ID – RBC-2021-009 Various Facilities – Asset Renewal**

**g) Local Road Renewal Program:**

**Defer:**

**Project ID – RRL-2018-010 Mount View Road, Cessnock – From Barrett to Links**

**Defer:**

**Project ID – RRL-2020-005 Aberdare Street, Kitchener – Renew Stage 2 from Abermain to Abernethy**

<b>FOR</b>	<b>AGAINST</b>
Councillor Dunn	Councillor Olsen
Councillor Fagg	Councillor Doherty
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (8)</b>	<b>Total (2)</b>

***CARRIED***

**CORPORATE AND COMMUNITY NO. CC34/2021**

**SUBJECT: QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2021**

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**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Stapleford  
1687

**RESOLVED**

1. That Council notes that the March 2021 Quarterly Budget Review Statement was endorsed for presentation to Council by the Audit and Risk Committee on 12 May 2021.
2. That Council notes that the Quarterly Budget Review Statement reflects a cash surplus of \$358,854 and that the Budget Operating Position will reflect a forecast operating surplus of \$271,388.
3. That Council's Quarterly Budget Review Statement forecasts all six key performance indicators (including the key financial sustainability ratios of Operating Performance and Own Source Operating Revenue) will exceed Office of Local Government benchmarks.
4. That Council approves the variations to the income, expenditure and capital budgets as detailed in the March 2021 Quarterly Budget Review Statement.

<b>FOR</b>	<b>AGAINST</b>
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (9)</b>	<b>Total (1)</b>

**CARRIED**

**CORPORATE AND COMMUNITY NO. CC35/2021**

**SUBJECT: MAYORAL & COUNCILLOR FEES 2021-22**

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**MOTION**      **Moved:** Councillor Stapleford      **Seconded:** Councillor Gray  
1688  
**RESOLVED**

1. That Council sets the annual Mayoral Fee for 2021-22 at \$61,280 in accordance with the provisions of Section 249 of the *Local Government Act 1993*.
2. That Council sets the annual Councillor Fee for 2021-22 at \$24,810 in accordance with the provisions of Section 248 of the *Local Government Act 1993*.
3. That Council sets the Deputy Mayor annual allowance for 2021-22 at \$1,200 with the Mayoral fee adjusted accordingly.

<b>FOR</b>	<b>AGAINST</b>
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (9)</b>	<b>Total (1)</b>

**CARRIED**

**CORPORATE AND COMMUNITY NO. CC36/2021**

**SUBJECT: INVESTMENT REPORT - APRIL 2021**

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**MOTION**      **Moved:** Councillor Doherty      **Seconded:** Councillor Burke  
1689  
**RESOLVED**

That Council receives the Investment Report for April 2021 and notes that:

- Investments are held in accordance with Council's Investment Policy, which accords with the Ministerial Investment Order.
- Council's month end balance was \$47,621,694, year to date interest earned to 30 April was \$317,994 and interest earned for April 2021 was \$21,038.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**



**CORPORATE AND COMMUNITY NO. CC37/2021**

**SUBJECT: RESOLUTIONS TRACKING REPORT**

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**MOTION**      **Moved:** Councillor Doherty      **Seconded:** Councillor Burke  
1690  
**RESOLVED**

**That Council receives the report and notes the information in the Resolutions Tracking Report.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

## **WORKS AND INFRASTRUCTURE**

### **WORKS AND INFRASTRUCTURE NO. WI25/2021**

**SUBJECT: HEDDON GRETA SUBURB ENTRY SIGNS**

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**MOTION**      **Moved:** Councillor Gray      **Seconded:** Councillor Doherty

1. That Council notes the options available to prioritise the installation of Suburb Entry Signs at Heddon Greta and Clifftleigh.
2. That Council notes the cost of the installation of Suburb Entry Signs at Heddon Greta and Clifftleigh.
3. That the General Manager monitors grant funding opportunities and applies for all applicable grants.
4. That this report is distributed to the Heddon Greta Action Group.

**AMENDMENT**      **Moved:** Councillor Olsen

That Council receive a list of all the towns in the Cessnock Local Government Area that do not have new signs.

*The Amendment lapsed for want of a Seconder.*

**MOTION**      **Moved:** Councillor Gray      **Seconded:** Councillor Doherty

1691

**RESOLVED**

1. That Council notes the options available to prioritise the installation of Suburb Entry Signs at Heddon Greta and Clifftleigh.
2. That Council notes the cost of the installation of Suburb Entry Signs at Heddon Greta and Clifftleigh.
3. That the General Manager monitors grant funding opportunities and applies for all applicable grants.
4. That this report is distributed to the Heddon Greta Action Group.

<b>FOR</b>	<b>AGAINST</b>
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (9)</b>	<b>Total (1)</b>

***CARRIED***

**WORKS AND INFRASTRUCTURE NO. WI26/2021**

**SUBJECT: CAPITAL WORKS 2020-21 - PROGRAMMING**

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**MOTION**      **Moved:** Councillor Suvaal      **Seconded:** Councillor Burke  
1692  
**RESOLVED**

**That Council notes the progress of the 2020-21 Capital Works Program with respect to Major Projects.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**WORKS AND INFRASTRUCTURE NO. WI27/2021**

**SUBJECT: MINUTES OF THE CESSNOCK LOCAL TRAFFIC COMMITTEE  
MEETING HELD 19 APRIL 2021**

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**MOTION**            **Moved:**    Councillor Gray            **Seconded:**    Councillor Suvaal  
1693  
**RESOLVED**

1.    That the Minutes of the Cessnock Local Traffic Committee Meeting of 19 April 2021 be adopted as a resolution of the Ordinary Council.
  1.    TC16/2021 - That Council authorises the installation of regulatory parking signage and line marking on Melbourne Street, Abermain, in accordance with the Melbourne Street Abermain Signage & Line Marking Diagram.
  2.    TC17/2021 - That Council authorises the installation of a pedestrian refuge and associated signage and line marking on Gallagher Street, Cessnock, in accordance with the Gallagher Street Cessnock Signage & Line Marking Diagram.
  3.    TC18/2021 - That Council authorises installation of intersection controls at the intersection of Wallaby Gully Road and Sandy Creek Road, Ellalong, in accordance with the Wallaby Gully Road Signage & Line Marking Diagram.
  4.    TC19/2021 - That Council authorises the installation of signage and line marking for a new intersection with Abernethy Street, Kitchener, in accordance with the enclosed Abernethy Street Kitchener Signage & Line Marking Diagram.
  5.    TC20/2021 - That Council authorises the installation of a pedestrian refuge, intersection controls, associated signage and line marking on Chablis Drive, Cessnock, in accordance with Chablis Drive Cessnock Signage & Line Marking Diagram.
  6.    TC21/2021 - That Council authorises the installation of signage and line marking for regulatory parking and a new intersection with Frame Drive, Abermain, in accordance with the enclosed Frame Drive Abermain Signage & Line Marking Diagram.
2.    That TC22/2021 - That Council authorises the installation of One Way restrictions, and regulatory parking signage on Maitland Lane, Cessnock in accordance with Maitland Lane Cessnock Signage Diagram be referred back to staff for consultation with residents

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

***CARRIED UNANIMOUSLY***

**WORKS AND INFRASTRUCTURE NO. WI28/2021**

**SUBJECT: CESSNOCK CBD - PLANNING FOR BYPASSES**

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**MOTION**      **Moved:** Councillor Suvaal      **Seconded:** Councillor Dunn  
1694

**RESOLVED**

1. That Council notes the next steps required to progress the Cessnock CBD bypasses as identified in the Cessnock LGA Traffic and Transport Strategy.
2. That Council notes the costs for the concept design for the bypasses (\$925,000) including an update of the Cessnock LGA Traffic and Transport Strategy.
3. That a report be prepared for the July meeting, with potential projects or initiatives for reprioritisation to fund the Concept Plan for the bypasses to be included in the 2021-2022 Operational Plan.
4. That in the review of the Cessnock LGA Traffic and Transport Strategy, options be included to prioritise the Cessnock CBD bypass projects. For example, this should include a staged approach with 2 lane options and the use of the current road network where possible.

<b>FOR</b>	<b>AGAINST</b>
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (9)</b>	<b>Total (1)</b>

**CARRIED**

**WORKS AND INFRASTRUCTURE NO. WI29/2021**

**SUBJECT: GRANTS FOR WESTON BEARS PARK**

---

**MOTION**      **Moved:** Councillor Gray      **Seconded:** Councillor Fitzgibbon  
1695

**RESOLVED**

1. That Council notes the information contained within the report in regard to Northern NSW Football Federation grants.
2. That Council notes the information contained within the report in regard to expediting and implementing the design and construction plans for upgrades to Weston Bears Park.
3. That a copy of this report is forwarded to the Weston Bears Football Club.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**



**WORKS AND INFRASTRUCTURE NO. WI30/2021**

**SUBJECT: MOLLY WORTHINGTON NETBALL COURTS**

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**MOTION**      **Moved:** Councillor Gray      **Seconded:** Councillor Dunn  
1696  
**RESOLVED**

1. That Council notes the information contained within the report in regards to the Councillor workshop and consultation with Kurri Kurri Netball Association on the relocation of Molly Worthington Netball Courts to Booth Park at Kurri Kurri.
2. That Council endorses Booth Park as the alternate location for the relocation of the Kurri Kurri Netball Courts.
3. That Council prepares a planning proposal and request a Gateway determination from the Department of Planning, Industry and Environment pursuant to the provisions of the Environmental Planning and Assessment Act 1979 seeking the reclassification of Lot 5 and Part of Lot 7 DP1140055 – 101 and 107 Maitland St, Kurri Kurri – from Community to Operational Land.
4. That Council requests authorisation under section 3.31 of the Environmental Planning and Assessment Act 1979 to act as the local plan-making authority to make the Local Environmental Plan.
5. That the General Manager investigates the development of a concept plan and associated estimated cost for the establishment of new netball courts at Booth Park Kurri Kurri and a further Report comes back to Council for the July meeting.

**FOR**

Councillor Olsen  
Councillor Doherty  
Councillor Dunn  
Councillor Fagg  
Councillor Stapleford  
Councillor Suvaal  
Councillor Fitzgibbon  
Councillor Gray  
Councillor Burke  
Councillor Pynsent  
**Total (10)**

**AGAINST**

**Total (0)**

**CARRIED UNANIMOUSLY**

**WORKS AND INFRASTRUCTURE NO. WI31/2021**

**SUBJECT: POLICY REVIEW - ADVERTISING ON RECREATION GROUNDS POLICY**

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**MOTION**      **Moved:** Councillor Suvaal      **Seconded:** Councillor Stapleford  
1697

**RESOLVED**

1. That Council place the revised draft Advertising on Recreation Grounds Policy on public exhibition for 28 days.
2. That Council receives a further report for consideration noting any submissions received during the exhibition period.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

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

### **BUSINESS WITH NOTICE NO. BN10/2021**

**SUBJECT: JACOBS PARK PELAW MAIN**

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**MOTION**      **Moved:** Councillor Stapleford      **Seconded:** Councillor Suvaal  
1698

#### **RESOLVED**

1. That Council acknowledges the objections by the community of Pelaw Main and Pelaw Main Public School P&C to Jacobs Park Pelaw Main being considered or reclassification from community to operational land in the Planning Proposal 18/2019/1 – Rezoning and Reclassification.
2. That the General Manager, pursuant to Section 3.35 of the *Environmental Planning and Assessment Act 1979*, vary Planning Proposal 18/2019/1/1 - proposed rezoning and reclassification of Council owned land - by excluding the proposed rezoning and reclassification of 9 Abermain Street Pelaw Main, known as Jacobs Park.
3. That Council requests the General Manager write to the Department of Education and Pelaw Main Public School asking them to enter into discussions with Council about the ongoing use of Jacobs Park by Pelaw Main Public School and the possibility of entering into a lease or maintenance agreement for the site.
4. That the General Manager bring a report back to Council on the outcome of the meetings with the Department of Education and Pelaw Main Public School.

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**BUSINESS WITH NOTICE NO. BN11/2021**

**SUBJECT: PRACTICE CRICKET NET AT MILLFIELD PARK**

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**MOTION**      **Moved:** Councillor Stapleford      **Seconded:** Councillor Burke  
1699

**RESOLVED**

**That the General Manager investigate the cost of building a practice cricket net at Millfield park and bring back to June meeting.**

*Councillor Doherty left the meeting, the time being 9.00pm*

*Councillor Doherty returned to the meeting, the time being 9.03pm*

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**BUSINESS WITH NOTICE NO. BN12/2021**

**SUBJECT: MILLFIELD SKATE PARK**

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**MOTION**      **Moved:** Councillor Stapleford    **Seconded:** Councillor Suvaal  
1700  
**RESOLVED**

**That the General Manager investigate the possibility of placing two plaques in the new skate park at Millfield.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

## **CORRESPONDENCE**

### **CORRESPONDENCE NO. CO10/2021**

**SUBJECT: ENTERPRISE RISK MANAGEMENT FRAMEWORK - FUNDING FOR THE INDEPENDENT COMMISSION AGAINST CORRUPTION**

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**MOTION**      **Moved:** Councillor Doherty      **Seconded:** Councillor Burke  
1701  
**RESOLVED**

**That Council notes the correspondence received from Ray Williams MP, Parliamentary Secretary to the Premier and Western Sydney on behalf of The Premier, The Hon Gladys Berejiklian MP, in relation to funding of the Independent Commission Against Corruption.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Pynsent	
<b>Total (10)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

## **COUNCILLORS REPORTS**

NIL

*The Meeting Was Declared Closed at 9.05pm*

**CONFIRMED AND SIGNED** at the meeting held on 16 June 2021

.....**CHAIRPERSON**

.....**GENERAL MANAGER**