



7 February 2023

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, 15 February 2023 at 6.30pm, for the purposes of transacting the undermentioned business.

**AGENDA:**

PAGE NO.

- (1) **ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS**
- (2) **OPENING PRAYER – presented by Pastor Aaron Donohue**
- (3) **RECEIPT OF APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE**
- (4) **CONFIRMATION OF MINUTES OF PREVIOUS MEETING**  
Minutes of the Ordinary Meeting of Council held on 14 December 2022 .....6
- (5) **DISCLOSURES OF INTEREST**  
‡ D11/2023 Disclosures of Interest .....59
- (6) **PETITIONS**
- (7) **PUBLIC ADDRESS**
- (8) **CONSIDERATION AND ADOPTION OF ALL REPORTS BY ENGLOBO**
- (9) **NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL SESSION**  
NI1/2023 Notice of Intention to Deal with matters in Confidential Session.  
  
Report WI3/2023 - Old Maitland Road, Sawyers Gully – Land Acquisition. ....60
- (10) **MAYORAL MINUTES**
- (11) **MOTIONS OF URGENCY**  
MOU1/2023 Motions of Urgency.....61

**(12) PLANNING AND ENVIRONMENT**

PE1/2023	Development Application No. 8/2021/21939/1 Proposing a 327 lot subdivision and residue lot to occur in 3 phases 35, 0 and 31 Government Road, Cessnock .....	62
PE2/2023	Post Exhibition Community Participation Plan .....	95
PE3/2023	Draft Climate Change Resilience Plan – Public Exhibition .....	98
PE4/2023	Planning Proposal - Lovedale Integrated Tourist Development .....	103
PE5/2023	Comprehensive Local Environmental Plan and Development Control Plan Review – Temporary Uses (including Temporary Events) .....	108

**(13) CORPORATE AND COMMUNITY**

CC1/2023	Minutes of the Community Engagement, Awards and Grants Committee Meeting held 14 December 2022 .....	115
CC2/2023	December 2022 Review of the 2022-26 Delivery Program.....	116
CC3/2023	Quarterly Budget Review Statement – Q2 December 2022 .....	121
‡ CC4/2023	Notes of the Inqorate Aboriginal and Torres Strait Islander Committee Meeting held 2 December 2022 .....	125
‡ CC5/2023	Council Recess Period - Decisions Made Under Delegated Authority .....	129
‡ CC6/2023	Bi-Annual Complaint Handling Report – July-December 2022 .....	131
‡ CC7/2023	Investment Report - December 2022.....	135
‡ CC8/2023	Investment Report - January 2023.....	143
‡ CC9/2023	Resolutions Tracking Report .....	150

**(14) WORKS AND INFRASTRUCTURE**

WI1/2023	Kurri Kurri Nostalgia Festival - March 2023 .....	151
WI2/2023	Public Spaces Legacy Program - Bridges Hill Park to Nulkaba Shared Path .....	154

**(15) BUSINESS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN**

BN1/2023	Councillor Attendance via Zoom for Briefings .....	160
BN2/2023	Responses to Councillor Requests.....	164
BN3/2023	Memorial on Footbridge in Manning Park .....	168

**(16) CORRESPONDENCE**

‡ CO1/2023	OLG Response - Code of Conduct Complaints Referred 31 October 2022.....	170
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**(17) COUNCILLORS' REPORTS**

**(18) REPORT OF THE CONFIDENTIAL SESSION OF THE ORDINARY COUNCIL MEETING ON 15 FEB 2023**

‡ - Denotes that Report is for notation only.



## ***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 Code of Conduct***

Council adopted its current Code of Conduct on 1 November 2022. This Code provides details of statutory requirements and gives guidance in respect of the way in which pecuniary and conflict of interest issues must be disclosed. Councillors took an oath or affirmation at the commencement of their term of office under section 233A of the *Local Government Act 1993* (NSW) and are therefore obligated under Council's Code of Conduct to disclose and appropriately manage their conflicts of interest.

Generally, the Code outlines the following issues:

1. Councillors are under an obligation at law to disclose any interest they may have in any matter before the Council as soon as practicable and to refrain from being involved in any consideration or to vote on any such matter where required and out outlined in the Code of Conduct.
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 disclosure.
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 disclosures of interest shall be recorded in the minutes of the meeting.
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.



## ***Notice of Copyright and Disclaimer***

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**MINUTES OF ORDINARY COUNCIL MEETING OF THE CESSNOCK CITY COUNCIL  
HELD IN COUNCIL CHAMBERS ON WEDNESDAY, 14 DECEMBER 2022, COMMENCING  
AT 6.30PM**

**PRESENT:** His Worship the Mayor, Councillor J Suvaal (in the Chair) and Councillors Dunn, Jurd, Hawkins, Olsen, Burke, Moores, Watton, Sander, Grine, Hill, Paynter.

**IN ATTENDANCE:** General Manager  
Director Planning and Environment  
Director Corporate and Community Services  
Acting Director Works and Infrastructure (Infrastructure Manager)  
Human Resource Manager  
Development Services Manager  
Strategic Planning Manager  
Economic Development & Tourism Manager  
Acting Infrastructure Manager (Principal Development Engineer)  
Help Desk Support Officer  
Media & Communication Coordinator  
Corporate Governance Officer  
Senior Business Support Officer

**LEAVE OF ABSENCE:** That the Leave of Absence granted to Councillor Jackson, be noted.

**MINUTES:** **MOTION** *Moved:* Councillor Sander  
*Seconded:* Councillor Moores  
354  
**RESOLVED** that the Minutes of the Ordinary Meeting of Council held on 16 November 2022, as circulated, be taken as read and confirmed as a correct record.

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**DISCLOSURES OF INTEREST**

**DISCLOSURES OF INTEREST NO. DI11/2022**

**SUBJECT: DISCLOSURES OF INTEREST**

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NIL

**PETITIONS**

NIL

## **ADDRESS BY INVITED SPEAKERS**

The following people addressed the meeting of Council:

<b>Speakers</b>	<b>For/Against Recommendation</b>	<b>Report</b>	<b>Page No.</b>	<b>Duration</b>
Mr Heath Bonnefin, Land Specialists Pty Ltd – representing applicant.	Against	PE70/2022 - Development Application 8/2021/21939/1 Proposing a 327 lot subdivision to occur in 3 phases - 33 Government Road, Cessnock	92	3 mins

**EXTENSION OF TIME**

**Moved:**

Councillor Hawkins

**Seconded:**

Councillor Sander

355

**RESOLVED**

**That an extension of 1 minute be given to the speaker to complete his presentation.**

**FOR**

Councillor Moores  
Councillor Dunn  
Councillor Burke  
Councillor Grine  
Councillor Sander  
Councillor Hill  
Councillor Hawkins  
Councillor Paynter  
Councillor Watton  
Councillor Jurd  
Councillor Suvaal

**Total (11)**

**AGAINST**

Councillor Olsen

**Total (1)**

**CARRIED**



**EXTENSION OF TIME**

**Moved:**  
**Seconded:**

Councillor Hawkins  
Councillor Sander

356

**RESOLVED**

**That a further extension of 1 minute be given to the speaker to complete his presentation.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	Councillor Olsen
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Jurd	
Councillor Suvaal	
<b>Total (11)</b>	<b>Total (1)</b>

**CARRIED**

**PLANNING AND ENVIRONMENT NO. PE70/2022**

**SUBJECT: DEVELOPMENT APPLICATION 8/2021/21939/1 PROPOSING A 327 LOT SUBDIVISION TO OCCUR IN 3 PHASES**

**33 GOVERNMENT ROAD, CESSNOCK**

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**MOTION**      **Moved:** Councillor Burke  
**Seconded:** Councillor Sander

1. That:

- (i) Development Application No. 8/2021/21939/1 proposing a 327 lot subdivision to occur in 3 phases at Lot 33, DP 1004648, 33 Government Road Cessnock, be refused pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, for the reasons contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
- Insufficient information has been submitted in order to undertake a full assessment of the development;
  - The proposal does not comply with the provisions of Clause 6.1 of the *Cessnock Local Environmental Plan 2011*. Accordingly, Council has no ability to grant consent to the proposal;
  - Council is unable to lawfully consent to the proposed access through community land under the provisions of the *Local Government Act 1993*. In the absence of these access points, the subdivision has no legal and physical access; and
  - The proposal is inconsistent with the provisions of Chapter E.12 Government Road Precinct of the Cessnock Development Control Plan 2010.
- (iii) In considering community views, the following is relevant:
- The application was publicly exhibited in accordance with Council's Community Participation Plan resulting in one (1) submission being received.
  - The issues raised in the submission may be relevant to the proposal, however, insufficient information has been submitted to enable a comprehensive assessment of the application. Accordingly, it has not been possible to draw informed conclusions as to the relevance of the issues identified by the objector.
- (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.

**MOTION**            **Moved:**    Councillor Olsen            **Seconded:**    Councillor Jurd  
357

**RESOLVED**

**That the report be deferred to the February 2023 Council meeting**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	Councillor Burke
Councillor Dunn	Councillor Grine
Councillor Hawkins	Councillor Sander
Councillor Paynter	Councillor Hill
Councillor Watton	Councillor Suvaal
Councillor Olsen	
Councillor Jurd	
<b>Total (7)</b>	<b>Total (5)</b>

**CARRIED**

Speakers	For/Against Recommendation	Report	Page No.	Duration
Paul and Jodie Chandler	Against	PE71/2022 - Section 8.2 Review of Determination in respect of Council's decision to refuse Development Application No. 8/2022/372/1, proposing a two (2) lot Torrens Title subdivision - 39 Congewai Street, Kearsley	125	3 mins

**EXTENSION OF TIME**

358

**Moved:**  
**Seconded:**

Councillor Hill  
Councillor Hawkins

**RESOLVED**

**That an extension of 1 minute be given to the speaker to complete their presentation.**

**FOR**

Councillor Moores  
Councillor Dunn  
Councillor Burke  
Councillor Grine  
Councillor Sander  
Councillor Hill  
Councillor Hawkins  
Councillor Paynter  
Councillor Watton  
Councillor Jurd  
Councillor Suvaal

**Total (11)**

**AGAINST**

Councillor Olsen

**Total (1)**

**CARRIED**

Mr Martin Ball – representing applicant/owners	For	PE71/2022 - Section 8.2 Review of Determination in respect of Council's decision to refuse Development Application No. 8/2022/372/1, proposing a two (2) lot Torrens Title subdivision - 39 Congewai Street, Kearsley	125	3 mins
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**PLANNING AND ENVIRONMENT NO. PE71/2022**

**SUBJECT: SECTION 8.2 REVIEW OF DETERMINATION IN RESPECT OF COUNCIL'S DECISION TO REFUSE DEVELOPMENT APPLICATION NO. 8/2022/372/1, PROPOSING A TWO (2) LOT TORRENS TITLE SUBDIVISION**

**39 CONGEWAI STREET, KEARSLEY**

**MOTION**  
359  
**RESOLVED**

**Moved:** Councillor Hill

**Seconded:** Councillor Dunn

1. That:

- (i) The Section 8.2 Review of Determination in respect of Council's decision to refuse Development Application No. 8/2022/372/1 proposing a two (2) lot Torrens Title subdivision at 39 Congewai Street, Kearsley, be approved pursuant to Sections 8.2, 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, subject to the conditions contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
  - The application can be lawfully determined within the review period which concludes on 24 February 2023.
  - The proposed amendments to the application are such that the development is considered substantially the same development as that which was originally considered and determined by Council.
  - The amended proposal, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instrument, being the *Cessnock Local Environmental Plan 2011*.
  - The amended proposal, subject to the recommended conditions, is consistent with the objectives of the *Cessnock Development Control Plan 2010*.
  - Subject to the recommended conditions, the amended proposal will be provided with adequate essential services, as required under the *Cessnock Local Environmental Plan 2011*.

- The amended proposal is considered to be of an appropriate scale and form for the site, and is consistent with the character of the locality.
- The amended proposal, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The amended proposal is a suitable and planned use of the site, and its approval is consistent with the public interest.

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

All matters raised in the submissions have been taken into consideration including drainage, infrastructure, suitability and general amenity issues associated with the application. These matters have been assessed in conjunction with the development proposed, and subject to the terms and conditions of the consent, the development is deemed suitable for approval.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Section 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.

FOR	AGAINST
Councillor Dunn	Councillor Moores
Councillor Burke	Councillor Olsen
Councillor Grine	Councillor Jurd
Councillor Sander	Councillor Suvaal
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
<b>Total (8)</b>	<b>Total (4)</b>

**CARRIED**

## CONDITIONS OF CONSENT

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### 1. General Terms of Approval

All General Terms of Approval issued by the NSW Rural Fire Service dated 19 November 2022 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. 8/2022/372/2 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 Ref No. 23280-2 DET	Marshall Scott Pty Ltd	29.08.2022

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

## 3. SWC, PC & Notice Required

In accordance with the provisions of Section 6.6 and 6.7 (cf previous Section 81A) of the *EP&A Act 1979* construction works approved by this consent must not commence until:

- a) A *SWC* has been issued by a Certifier (being Council or a registered 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.

## PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

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

## 4. Cessnock City Wide Development 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 any *SWC*:

Cessnock District Catchment		
Fee Code	Contribution Type	Amount Payable
800	Open Space and recreation facilities	\$8,147.96
801	Community Facilities	\$1,262.94
802	Cycleway Facilities	\$7,788.60
803	Roads and Traffic	\$1,449.42
804	Plan Administration	\$322.87
	<b>Total</b>	<b>\$18,971.80</b>

A copy of the *Cessnock City Wide Infrastructure 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.

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

## **5. Amended Plans Required**

The plans submitted in association of the SWC application must incorporate the following amendments:

- a) Necessary pits and pipes are required to be shown on the plan to demonstrate collection and discharge of surface runoff from Lot 22 to the legal point of discharge.

The plans must be submitted to and approved by the Certifier as satisfying these required amendments prior to the issue of the SWC.

## **6. Car Parking - Residential**

The design of the vehicular access for both Lots and off street parking facilities for the existing dwelling must comply with *AS 2890.1:2004 Parking Facilities – Off-Street Car Parking*. Details demonstrating compliance with this Standard are to be included on the plans submitted in association with a SWC application.

A design certificate satisfying these requirements is to be issued by a suitably qualified professional engineer and submitted to the Certifier prior to the issue of a SWC.

## **7. 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 are to demonstrate compliance with this requirement and be approved by the Certifier prior to the issue of a SWC.

## **8. Access Construction – Requirements**

The registered proprietor of the land shall construct a 3m wide concrete battle axe handle with upright kerb from the front site boundary to the usable portion of proposed Lot 22.

Necessary drainage pits and pipes to be installed within the concrete driveway to ensure collection and discharge of surface water to Congewai Street in accordance with Council's 'Engineering Requirements for Development' to serve the subdivision.



## **9. Section 50 – Hunter Water 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 Act 1991*.

Such evidence shall be submitted to Council prior to the release of the final plan of survey for the subdivision and the *SWC*.

## **PRIOR TO COMMENCEMENT OF WORKS**

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

### **10. Erection of Signs**

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

- a) the name, address and telephone number of the principal certifier for the work;
- b) the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside of working hours; and
- c) state that unauthorised entry to the work site is prohibited.

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

### **11. 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.

### **12. 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.

### **13. 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. In the event that existing services are required to be relocated the proprietor shall make application to obtain any necessary approval from the relevant service authority prior to commencement of any works.

## **DURING WORKS**

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

### **14. 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.

### **15. 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 Protection Authority document *Noise Guide for Local Government*.

### **16. 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 PC 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.

### **17. 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.

**18. 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.

**19. 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.

**20. 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.

**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.**

**21. Requirement for a Subdivision Certificate**

Prior to the issue of a SC, the applicant shall submit an original plan of subdivision in an electronic format 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) All surveyor's or engineer's certification required by the Development Consent;
- d) Lot numbers to correspond with street numbering;
- e) Evidence that the battle axe driveway has been completed in accordance with this consent;
- f) Evidence that the car parking area within proposed Lot 21 has been completed in accordance with this consent.
- g) Evidence that an external clothes line is provided within the rear yard of the dwelling within proposed Lot 21.

**22. All Services Provided Within Lots**

A registered surveyor shall provide certification that all services (eg drainage, stormwater, water supply, 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 *PC*, prior to the issue of a *SC*.

**23. Access Road – Completion**

The access battle axe driveway shall be completed prior to issue of a *SC*.

**24. Car Parking – Completion**

Car parking area within proposed Lot 21 shall be completed prior to the issue of a *SC*.

**25. Bitumen Crossing**

The registered proprietors shall construct and maintain two (2) bitumen sealed access crossings, of a minimum width of 3m, from the edge of the road formation in Congewai Street to the boundaries of proposed Lots 21 & 22, 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 *SC*.

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 (\$200.00 per inspection).

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

**26. Fencing**

Prior to the issue of a *SC*, a 1.8-metre-high solid sheet metal or lapped timber paling fence must be installed between the proposed Lots to ensure privacy (along the battle-axe driveway and at the rear of proposed Lot 21).

Any other side or rear boundary fencing is to be erected in accordance with the *Dividing Fencing Act 1991* and where possible to a height of 1.8 metres.

## **ONGOING USE**

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

### **27. Stormwater – Impact on Adjoining Land**

Any works shall not be undertaken in such a manner that obstructs natural drainage from adjoining land.

Any works shall not be undertaken in such a manner that surface water will be diverted to adjoining land.

### **28. Driveways to be Maintained**

All access crossings and driveways shall be maintained in good order for the life of the development.

## **ADVISORY NOTES**

### **A. “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)

### **B. 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.

### **C. 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*.

## **CARRIED UNANIMOUSLY**

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

**MOTION**                      **Moved:**    Councillor Burke                      **Seconded:**    Councillor Grine  
360

### **RESOLVED**

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

N17/2022	Notice of Intention to Deal with matters in Confidential Session. Report CC96/2022 - Black Creek Channel Land Acquisition .....	70
MM17/2022	Minutes of the Organisational and General Managers Performance Review Committee Meeting Held on 9 November 2022.....	<b>Error! Bookmark not defined.</b>
GMU32/2022	Minutes of the Audit and Risk Committee meeting held 8 November 2022 .....	75
‡ GMU33/2022	Audit and Risk Committee Independent Chair .....	82
PE72/2022	Appointment of Council External Alternate Members to the Hunter and Central Coast Regional Planning Panel.....	161
PE74/2022	Comprehensive LEP Review 2022 - Planning Proposal 18/2022/4 Heritage Theme.....	176
CC95/2022	Rent Relief - Cessnock Airport .....	186
CC98/2022	2024 Local Government Election - Engagement of NSW Electoral Commissioner .....	192
CC99/2022	Review of Privacy Management Plan 2022 .....	195
‡ CC100/2022	Misuse of Council Resources - March 2023 State Election, and Notification Relating to Illegally Place Election Signage on Public Land .....	199
CC101/2022	Disclosures of Interests in Written Returns .....	203
‡ CC102/2022	Resolutions Tracking Report .....	206
‡ CC103/2022	Investment Report - November 2022.....	207
WI77/2022	Extra Ordinary Minutes of Cessnock Local Traffic Committee Meeting 8 December 2022.....	238
WI78/2022	Minutes of the Roads Review Committee meeting held on 30 November 2022.....	240
‡ CO23/2022	CC58/2022 - Accounting Treatment - Rural Fire Service Fleet .....	243
‡ CO24/2022	LGNSW 2022 Special Conference - Response to Resolution 85 – Hon. Wendy Tuckerman MP - Stormwater Levy Review Motion 2 June 2021	

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

***CARRIED UNANIMOUSLY***

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

**NOTICE OF INTENTION NO. NI7/2022**

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

**REPORT CC96/2022 - BLACK CREEK CHANNEL LAND  
ACQUISITION**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
361  
**RESOLVED**

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

Report CC96/2022 – Black Creek Channel Land Acquisition as the report 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.

2. That Council requests the Mayor in accordance with Clause 14.22 of Councils Code of Meeting Practice to report on these matters to the meeting in Open Session following completion of the Confidential Session.

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**



## **MAYORAL MINUTES**

### **MAYORAL MINUTES NO. MM17/2022**

**SUBJECT: MINUTES OF THE ORGANISATIONAL AND GENERAL MANAGERS PERFORMANCE REVIEW COMMITTEE MEETING HELD ON 9 NOVEMBER 2022**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
362  
**RESOLVED**

**That the Minutes of the Organisational and General Managers Performance Review Committee of 9 November 2022 be adopted as a resolution of the Ordinary Council.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**MAYORAL MINUTES NO. MM18/2022**

**SUBJECT: MINUTES OF THE ORGANISATIONAL AND GENERAL MANAGERS PERFORMANCE REVIEW COMMITTEE MEETING HELD ON 30 NOVEMBER 2022**

---

**MOTION**      **Moved:**    Councillor Suvaal  
363  
**RESOLVED**

1.      **That the Minutes of the Organisational and General Managers Performance Review Committee of 30 November 2022 be adopted as a resolution of the Ordinary Council.**
2.      **That the Minutes be updated and Councillors Olsen, Burke and Paynter to be moved into the Present Section.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	Councillor Olsen
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Jurd	
Councillor Suvaal	
<b>Total (11)</b>	<b>Total (1)</b>

**CARRIED**

**MAYORAL MINUTES NO. MM19/2022**

**SUBJECT: SECTION 88 WASTE LEVY CHARGES**

---

**MOTION**            **Moved:**    Councillor Suvaal

364

**RESOLVED**

1.     That Council reaffirms its support for the return of 100% of section 88 Domestic Waste Management Service Charge (the "waste levy") funds to be returned to local government for reinvestment in recycling facilities, landfill diversion, community education, technology improvements and circular economy opportunities.
2.     That Council notes that Cessnock City Council is liable for the metropolitan levy rate of \$151.60 per tonne of landfill, compared to the regional levy rate of \$87.30 per tonne, a \$64.30 per tonne difference.
3.     That Council acknowledges analysis undertaken by Council officers that shows an additional \$5.5 million has been paid by Cessnock ratepayers over the past decade due our categorisation by the NSW Government.
4.     That Council notes the waste levy is a large percentage of the cost (over \$64m in the last decade) of waste disposal by Council, with an average of \$5m currently being paid in levy contributions annually. Council received only \$95,000 in the Better Waste & Recycling Fund for the same period [noting this ended at the last financial year with no indication that there will be any further funding (non-contestable) replacing it] to Cessnock City Council to fund its resource recovery projects, which is the actual intention of the levy.
5.     That Council writes to the Premier and Opposition Leader calling on them to commit to the full return of 100% of the waste levy to local councils to fund waste diversion from landfill initiatives such as those outlined in 2020-25 Waste and Resource Recovery Management Strategy.

**FOR**

**AGAINST**

Councillor Moores  
Councillor Dunn  
Councillor Burke  
Councillor Grine  
Councillor Sander  
Councillor Hill  
Councillor Hawkins  
Councillor Paynter  
Councillor Watton  
Councillor Olsen  
Councillor Jurd  
Councillor Suvaal  
**Total (12)**

**Total (0)**

**CARRIED UNANIMOUSLY**

**MAYORAL MINUTES NO. MM20/2022**

**SUBJECT: SUBDIVISION AND DEVELOPMENT IN VILLAGES**

---

**MOTION**      **Moved:**    Councillor Suvaal  
365

**RESOLVED**

1.      **That Council notes the information contained within this report.**
2.      **That the General Manager continues to investigate ways to protect our rural villages and increase the minimum lot size and bring a report back to Council following finalisation of the current Villages Master and Public Domain Plans.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**MOTIONS OF URGENCY**

**MOTIONS OF URGENCY NO. MOU12/2022**

**SUBJECT: MOTIONS OF URGENCY**

---

NIL

## **GENERAL MANAGER'S UNIT**

### **GENERAL MANAGER'S UNIT NO. GMU32/2022**

**SUBJECT: MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD 8 NOVEMBER 2022**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
366  
**RESOLVED**

**That the Minutes of the Audit and Risk Committee Meeting held 8 November 2022 be adopted as a resolution of the Ordinary Council.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**GENERAL MANAGER'S UNIT NO. GMU33/2022**

**SUBJECT:     AUDIT AND RISK COMMITTEE INDEPENDENT CHAIR**

---

**MOTION**       **Moved:**   Councillor Burke       **Seconded:**   Councillor Grine

367

**RESOLVED**

**That Council notes the re-appointment of the Independent Chair of the Audit and Risk Committee.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**GENERAL MANAGER'S UNIT NO. GMU34/2022**

**SUBJECT: ANNUAL CODE OF CONDUCT COMPLAINTS REPORT**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Hill

368

**RESOLVED**

**That Council notes the Annual Code of Conduct Complaints Report for the period 1 September 2021 to 31 August 2022.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**



**GENERAL MANAGER'S UNIT NO. GMU35/2022**

**SUBJECT: RE-DETERMINATION OF COUNCIL'S ORGANISATION STRUCTURE**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Hill

369

**RESOLVED**

1. That following review and consultation with the General Manager, Council has determined that the existing three (3) directorate organisational structure under the General Manager will remain.
2. That the senior staff positions within Council remain unchanged being the General Manager, Director of Corporate and Community Services, Director of Planning and Environment and the Director of Works and Infrastructure.

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	Councillor Olsen
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Jurd	
Councillor Suvaal	
<b>Total (11)</b>	<b>Total (1)</b>

**CARRIED**

## **PLANNING AND ENVIRONMENT**

### **PLANNING AND ENVIRONMENT NO. PE72/2022**

**SUBJECT: APPOINTMENT OF COUNCIL EXTERNAL ALTERNATE MEMBERS TO THE HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
370  
**RESOLVED**

1. That Council endorses two external alternate members to represent Council and participate in any briefings and meetings scheduled for the Regional Planning Panel in respect of any Development Application, S4.55 Application, and Planning Proposal in circumstances where a member has declared a conflict of interest, for a period of three years, and advise the RPP Panel Secretariat of these appointments.
2. That the General Manager determine which external alternate member will represent Council in circumstances where a member has declared a conflict of interest, taking into account their area/s of expertise.

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**PLANNING AND ENVIRONMENT NO. PE73/2022**

**SUBJECT: OUTCOME OF PUBLIC EXHIBITION OF PLANNING PROPOSAL 18/2022/2/1 TO AMEND CESSNOCK LOCAL ENVIRONMENTAL PLAN 2011 RURAL ZONES RU2 AND RU5.**

---

**MOTION**            **Moved:**    Councillor Hill            **Seconded:**    Councillor Burke  
371  
**RESOLVED**

1. That Council endorses the Planning Proposal as an amendment to the Cessnock Local Environmental Plan 2011.
2. That the Council notify those persons who made submissions of Council's decision.
3. That Council add a Clause 1.8A Savings Provision into the Draft Cessnock Local Environmental Plan amendments of Planning Proposal 18/2022/2/1, to preserve development applications lodged but not determined before the finalisation of this plan.

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**PLANNING AND ENVIRONMENT NO. PE74/2022**

**SUBJECT: COMPREHENSIVE LEP REVIEW 2022 - PLANNING PROPOSAL  
18/2022/4 HERITAGE THEME**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
372  
**RESOLVED**

**That Council endorse the Planning Proposal 18/2022/4 - Administrative Amendments to Schedule 5 Environmental Heritage and Associated Maps and request an expedited amendment from the Department of Planning and Environment pursuant to Section 3.22 of the *Environmental Planning and Assessment Act 1979*.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**PLANNING AND ENVIRONMENT NO. PE75/2022**

**SUBJECT: DEVELOPMENT APPLICATION PERFORMANCE MONITORING REPORT - SEPTEMBER 2022**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Sander  
373  
**RESOLVED**

**That Council receives and notes the Development Performance Monitoring Report for the September quarter 2022/23.**

*Councillor Hill left the meeting, the time being 7.51 pm*

*Councillor Hill returned to the meeting, the time being 7.53 pm*

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

## **CORPORATE AND COMMUNITY**

### **CORPORATE AND COMMUNITY NO. CC95/2022**

**SUBJECT: RENT RELIEF - CESSNOCK AIRPORT**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
374  
**RESOLVED**

**That Council approve rent relief to existing Airport licence and lease holders for a total of one month, for a total of \$25,560.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**CORPORATE AND COMMUNITY NO. CC97/2022**

**SUBJECT: COUNCIL RECESS PERIOD - DELEGATION TO MAYOR AND GENERAL MANAGER**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Hill

1. That Council be in recess from 15 December 2022 to 31 January 2023.
2. That Council pursuant to Section 377 of the *Local Government Act 1993*, delegate authority to the Mayor and the General Manager jointly to exercise any function of Council during the recess period.
3. That a list of matters considered, if any, under such delegated authority be submitted for Council's information to the February 2023 meeting.

**AMENDMENT**      **Moved:** Councillor Olsen      **Seconded:** Councillor Jurd

1. That Council be in recess from 15 December 2022 to 9 January 2023.
2. That Council pursuant to Section 377 of the *Local Government Act 1993*, delegate authority to the Mayor and the General Manager jointly to exercise any function of Council during the recess period.
3. That a list of matters considered, if any, under such delegated authority be submitted for Council's information to the February 2023 meeting.
4. That any other issues needing approval an extra ordinary meeting be called of the full Council.

<b>FOR</b>	<b>AGAINST</b>
Councillor Paynter	Councillor Moores
Councillor Watton	Councillor Dunn
Councillor Olsen	Councillor Burke
Councillor Jurd	Councillor Grine
	Councillor Sander
	Councillor Hill
	Councillor Hawkins
	Councillor Suvaal
<b>Total (4)</b>	<b>Total (8)</b>

The Amendment was PUT and LOST.

The Motion was then PUT and CARRIED.

**MOTION**

**Moved:** Councillor Burke

**Seconded:** Councillor Hill

375

**RESOLVED**

1. That Council be in recess from 15 December 2022 to 31 January 2023.
2. That Council pursuant to Section 377 of the *Local Government Act 1993*, delegate authority to the Mayor and the General Manager jointly to exercise any function of Council during the recess period.
3. That a list of matters considered, if any, under such delegated authority be submitted for Council's information to the February 2023 meeting.

**FOR**

Councillor Moores  
Councillor Dunn  
Councillor Burke  
Councillor Grine  
Councillor Sander  
Councillor Hill  
Councillor Hawkins  
Councillor Suvaal  
**Total (8)**

**AGAINST**

Councillor Paynter  
Councillor Watton  
Councillor Olsen  
Councillor Jurd  
  
**Total (4)**

**CARRIED**



**CORPORATE AND COMMUNITY NO. CC98/2022**

**SUBJECT: 2024 LOCAL GOVERNMENT ELECTION - ENGAGEMENT OF NSW ELECTORAL COMMISSIONER**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
376  
**RESOLVED**

**That Council resolves:**

1. pursuant to s. 296(2) and (3) of the Local Government Act 1993 that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
2. pursuant to s. 296(2) and (3) of the Local Government Act 1993, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
3. pursuant to s. 296(2) and (3) of the Local Government Act 1993, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**CORPORATE AND COMMUNITY NO. CC99/2022**

**SUBJECT: REVIEW OF PRIVACY MANAGEMENT PLAN 2022**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
377  
**RESOLVED**

1. That Council place the draft Privacy Management Plan 2022 on public exhibition for a period of 28 calendar days.
2. That a further report be presented at a Council meeting following the public exhibition period for consideration of any relevant submissions.
3. That Council adopt the draft Privacy Management Plan 2022 the day after the public exhibition period concludes if no relevant submissions are received.
4. That Council revokes the Privacy Management Plan 2020 from the date the revised draft is adopted.

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**CORPORATE AND COMMUNITY NO. CC100/2022**

**SUBJECT: MISUSE OF COUNCIL RESOURCES - MARCH 2023 STATE ELECTION, AND NOTIFICATION RELATING TO ILLEGALLY PLACE ELECTION SIGNAGE ON PUBLIC LAND**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
378  
**RESOLVED**

1. That Council notes the obligations of Councillors, staff and other Council officials in relation to the use of Council resources and electoral material in the lead up to the March 2023 State elections.
2. That the community, election candidates and electoral parties in the 2023 State election are aware that Council intends to use any and all avenues available under relevant legislation, including the issuing of penalty notices, for illegally placed election signage on public land.

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**CORPORATE AND COMMUNITY NO. CC101/2022**

**SUBJECT: DISCLOSURES OF INTERESTS IN WRITTEN RETURNS**

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**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
379  
**RESOLVED**

That Council notes the tabling of the disclosures of interests written returns for the period 1 August 2022 – 31 October 2022 in accordance with Council’s Code of Conduct.

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**CORPORATE AND COMMUNITY NO. CC102/2022**

**SUBJECT: RESOLUTIONS TRACKING REPORT**

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**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
380  
**RESOLVED**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**CORPORATE AND COMMUNITY NO. CC103/2022**

**SUBJECT: INVESTMENT REPORT - NOVEMBER 2022**

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**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
381  
**RESOLVED**

**That Council receives the Investment Report for November 2022 and notes that:**

- **Investments are held in accordance with Council’s Investment Policy, which is in accordance with the Ministerial Investment Order.**
- **Council’s month end cash and investments balance was \$80,627,703.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

## **WORKS AND INFRASTRUCTURE**

### **WORKS AND INFRASTRUCTURE NO. WI74/2022**

**SUBJECT: 2021/22 KURRI KURRI AQUATIC AND FITNESS CENTRE  
PERFORMANCE REVIEW**

---

**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine

382

**RESOLVED**

**That Council notes the performance of Belgravia Health & Leisure Group Pty Ltd in respect to Year 3 of the contract for the management of the Kurri Kurri Aquatic & Fitness Centre.**

<b>FOR</b>	<b>AGAINST</b>
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Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	

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

**WORKS AND INFRASTRUCTURE NO. WI75/2022**

**SUBJECT: CESSNOCK LGA HALL BOOKING/MANAGEMENT**

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**MOTION**      **Moved:** Councillor Watton      **Seconded:** Councillor Burke

383

**RESOLVED**

1. That Council notes the information contained within the report with regard to the implications and resourcing requirements required to overhaul the current practices has adopted relating to hall bookings, maintenance and potential promotions;
2. That Council completes a hall booking trial using the Bookeasy system at four community halls; and
3. That if the hall booking trial is successful, that Council implements the Bookeasy system at all community halls in consultation with the s355 volunteer management committees as resources allow.

*Councillor Hawkins left the meeting, the time being 8.04 pm*

*Councillor Hawkins returned to the meeting, the time being 8.05 pm*

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**



**WORKS AND INFRASTRUCTURE NO. WI76/2022**

**SUBJECT: MINUTES OF LOCAL TRAFFIC COMMITTEE MEETING HELD 21 NOVEMBER 2022.**

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**MOTION**            **Moved:**    Councillor Burke            **Seconded:**    Councillor Sander  
384  
**RESOLVED**

That the Minutes of the Cessnock Local Traffic Committee Meeting of 21 November 2022 be adopted as a resolution of the Ordinary Council.

- **TC43/2022 – That Council note the advice of the Local Traffic Committee regarding the Technical Review of proposed temporary regulation of traffic on Dalwood and McMullins Roads in East Branxton, in accordance with the Dalwood Road East Branxton \_ The Bike Traffic Control Plans.**
- **TC44/2022 - That Council authorises installation of regulatory parking and intersection controls on various roads within Huntlee, in accordance with Various Roads North Rothbury Stages 1 to 4 \_ Signage & Line Marking Diagrams.**
- **TC45/2022 – That Council authorises installation of regulatory parking and intersection controls on various roads within Huntlee, in accordance with Various Roads North Rothbury Stages 35 to 38 & 41 \_ Signage & Line Marking Diagrams.**
- **TC46/2022 - That Council authorises installation of intersection controls at Kesterton Rise, North Rothbury in accordance with the Kesterton Rise North Rothbury \_ Signage & Line Marking Diagram.**
- **TC47/2022 - That Council authorises installation of regulatory parking and intersection controls on various roads within Huntlee, in accordance with Various Roads Rothbury ARIA Stage 1 \_ Signage & Line Marking Diagram.**
- **TC48/2022 - That Council authorises the installation of a children’s crossing, regulatory parking controls and associated signage and line marking on Branxton Street, Nulkaba in accordance with the Branxton Street Nulkaba \_ Signage & Line Marking Diagram.**
- **TC49/2022 - That Council authorises the installation of regulatory signage and line marking on Roads MC04 & MC09, Bellbird in accordance with the Various Roads Bellbird \_ Signage & Line Marking Diagram.**
- **TC50/2022 – That Council authorises the installation of a pedestrian refuge and associated signage and line marking on Ferguson Street, Cessnock in accordance with the Ferguson Street Cessnock \_ Signage & Line Marking Diagram.**
- **TC51/2022 - That Council authorises the installation of line making on Mount View Road, Cessnock in accordance with the Mount View Road Cessnock \_ Line Marking Diagram.**

- **TC52/2022 - That Council authorises the installation of shared path signage and line marking on various streets, in the Cessnock LGA in accordance with the Shared Path Projects \_ Signage & Line Marking Diagram.**
- **TC53/2022 - That Council authorises the installation of intersection controls including associated signage and line marking on Station Street and Scott Street, Weston in accordance with the Station & Scott Streets Weston \_ Signage & Line Marking Diagram.**
- **TC54/2022 - That Council resolves that, in accordance with the Cessnock Local Traffic Committee Terms of Reference, the 2023 meeting dates for the Cessnock Local Traffic Committee are:**
  - **20 February 2023**
  - **20 March 2023**
  - **17 April 2023**
  - **15 May 2023**
  - **19 June 2023**
  - **17 July 2023**
  - **21 August 2023**
  - **18 September 2023**
  - **16 October 2023**
  - **20 November 2023**
  - **18 December 2023**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

***CARRIED UNANIMOUSLY***

**WORKS AND INFRASTRUCTURE NO. WI77/2022**

**SUBJECT: EXTRA ORDINARY MINUTES OF CESSNOCK LOCAL TRAFFIC COMMITTEE MEETING 8 DECEMBER 2022**

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**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine

385

**RESOLVED**

That the Minutes of the Cessnock Local Traffic Committee Meeting of 8 December 2022 be adopted as a resolution of the Ordinary Council.

- **TC55/2022 - That Council authorises the temporary regulation of traffic on Paynes Crossing Road, Wollombi for the Wollombi Public Holiday Markets events in accordance with the Paynes Crossing Road Wollombi \_ Traffic Control Plan.**

**FOR**

**AGAINST**

Councillor Moores  
Councillor Dunn  
Councillor Burke  
Councillor Grine  
Councillor Sander  
Councillor Hill  
Councillor Hawkins  
Councillor Paynter  
Councillor Watton  
Councillor Olsen  
Councillor Jurd  
Councillor Suvaal  
**Total (12)**

**Total (0)**

**CARRIED UNANIMOUSLY**

**WORKS AND INFRASTRUCTURE NO. WI78/2022**

**SUBJECT: MINUTES OF THE ROADS REVIEW COMMITTEE MEETING HELD ON 30 NOVEMBER 2022**

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**MOTION**            **Moved:** Councillor Burke            **Seconded:** Councillor Grine

386

**RESOLVED**

**That the Minutes of the Roads Review Committee Meeting held on 30 November 2022 be adopted as a resolution of the Ordinary Council.**

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**WORKS AND INFRASTRUCTURE NO. WI79/2022**

**SUBJECT: BRANXTON TO GRETA SHARED PATHWAY**

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**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Hill

387

**RESOLVED**

1. That Council notes that TfNSW have given approval to utilise traffic lanes on the New England Highway for the Branxton to Greta Cycleway.
2. That Council resolves to use the alignment as agreed with TfNSW.
3. That Council will be provided additional information via Councillor Memo after the meeting with TfNSW of 12 December 2022.

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	Councillor Jurd
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Suvaal	
<b>Total (11)</b>	<b>Total (1)</b>

**CARRIED**

## CORRESPONDENCE

### CORRESPONDENCE NO. CO23/2022

**SUBJECT:** CC58/2022 - ACCOUNTING TREATMENT - RURAL FIRE SERVICE FLEET

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**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
388  
**RESOLVED**

That Council notes the correspondence received from the State Member for Cessnock Clayton Barr MP and the Member for Balmain Jamie Parker MP in response to the accounting treatment of RFS fleet assets.

FOR	AGAINST
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

**CORRESPONDENCE NO. CO24/2022**

**SUBJECT: LGNSW 2022 SPECIAL CONFERENCE - RESPONSE TO  
RESOLUTION 85 - HON. WENDY TUCKERMAN MP - STORMWATER  
LEVY REVIEW MOTION 2 JUNE 2021 REPORT FLOCLM11/2021**

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**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Grine  
389  
**RESOLVED**

That Council notes the correspondence to Darriea Turley AM, President LGNSW received from the Hon. Wendy Tuckerman MP, Minister for Local Government in response to Resolutions raised at the LGNSW Special Conference 2022, and in particular Resolution 85– Review of the Stormwater Management Services Charge submitted by Council.

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

## **COUNILLORS REPORTS**

Councillor Moores

### **Austar Mine Meeting**

Councillor Moores reported on his attendance at the Austrar Mine meeting and advised that they have donated their annual fees to the community, those being:-

Aberdare Pre-School \$2,645  
Bellbird Pre-School \$5,000  
Cessnock Public School \$13,200  
Cessnock District Netball Association \$500  
Kitchener Public School \$5,840  
Cessnock Community Leo Club \$1,000

Austar advised that they would still be donating to the community going forward.

Councillor Hill

### **Blackhill and Buttai Quarry Committees**

Councillor Hill advised that the Buttai quarry discussed the more active quarry in our LGA area which is run by Daracon and as we can all understand with Councils huge focus on repairing roads around the LGA, that quarry is seeing a huge demand in resources to be shipped out. Earlier in the year, with the assistance of Councillor Grine and myself we pursued some more information for the operator of that quarry to look at increasing their allowance of truck movements to and from the quarry as they have had such a large increase in the demand for material. In regards to rehabilitation of the quarry they are seeing successful regrowth.

In regards to the Blackhill quarry it is slightly less operational as they have tapped their most useful material from that quarry and they are also undergoing extensive rehabilitation works. There are a number of active residents from the Blackhill and Buttai community that are involved with the Committees and they are always ensuring that the quarries are operating within their guidelines.



8.28pm

**Confidential reports (closed session)**

**MOTION**            **Moved:**    Councillor Burke            **Seconded:**    Councillor Grine  
390

**RESOLVED**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**

*Councillor Grine left the meeting, the time being 8.29 pm*

*Councillor Grine returned to the meeting, the time being 8.30 pm*

8.44pm

**Open Session**

That the meeting move back into open session and the Mayor reported on the outcome.

**CORPORATE AND COMMUNITY NO. CC96/2022**

**SUBJECT: BLACK CREEK CHANNEL LAND ACQUISITION**

*This matter is considered to be confidential under Section 10A(2) (c) 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.*

**MOTION**            **Moved:**    Councillor Burke            **Seconded:**    Councillor Grine  
391  
**RESOLVED**

1.     That Council authorise purchase of the following land required for the Cessnock Commercial Precinct Public Domain Plan:
  - Wollombi Road Cessnock - Lot E DP 384895;
  - 47- 49 Vincent Street Cessnock - Lot F DP 354733;
  - 47- 49 Vincent Street Cessnock - Lot G DP 347929;
  - 47- 49 Vincent Street Cessnock - Lot H DP 384894.
  
2.     That Council delegates authority to the General Manager to extend a Letter of Offer to the landowner and negotiate voluntary agreement to purchase the land in accordance with independent valuation; and
  
3.     That Council delegates authority to the General Manager to execute all relevant documentation to affect the transaction.

<b>FOR</b>	<b>AGAINST</b>
Councillor Moores	Councillor Olsen
Councillor Dunn	Councillor Jurd
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Suvaal	
<b>Total (10)</b>	<b>Total (2)</b>

**CARRIED**

*The Meeting Was Declared Closed at 8.45pm*

**CONFIRMED AND SIGNED** at the meeting held on 15 February 2023

.....CHAIRPERSON

.....GENERAL MANAGER

Disclosures Of Interest

Report No. DI1/2023

Corporate and Community Services



**SUBJECT:** *DISCLOSURES OF INTEREST*

**RESPONSIBLE OFFICER:** *Chief Financial Officer - Matthew Plumridge*

**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.

Notice of Intention to Deal With Matters in Confidential Session

Report No. NI1/2023

Corporate and Community Services



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

*REPORT WI3/2023 - OLD MAITLAND ROAD, SAWYERS GULLY - LAND ACQUISITION.*

**RESPONSIBLE OFFICER:** *Chief Financial Officer - Matthew Plumridge*

**RECOMMENDATION**

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

Report WI3/2023 – Old Maitland Road, Sawyers Gully – Land Acquisition as the report 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.

2. That Council requests the Mayor in accordance with Clause 14.22 of Councils Code of Meeting Practice to report on these matters to the meeting in Open Session following completion of the Confidential Session.

**SUMMARY**

It is necessary for the Council to adopt a resolution to formalise its intention to deal with certain matters in Confidential Session. The reports are incorporated in the “Confidential” business paper which has been circulated to Councillors.

Section 10A of the *Local Government Act 1993* requires the General Manager to identify those matters listed on the business paper which may be categorised as confidential as per the Act.

**ENCLOSURES** There are no enclosures for this report.

Motions of Urgency

Report No. MOU1/2023

Corporate and Community Services



**SUBJECT:** *MOTIONS OF URGENCY*

**RESPONSIBLE OFFICER:** *Chief Financial Officer - Matthew Plumridge*

**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. PE1/2023

Planning and Environment



**SUBJECT:** *DEVELOPMENT APPLICATION NO. 8/2021/21939/1  
PROPOSING A 327 LOT SUBDIVISION AND RESIDUE LOT  
TO OCCUR IN 3 PHASES*

*35, 0 AND 31 GOVERNMENT ROAD, CESSNOCK*

**RESPONSIBLE OFFICER:** *Development Services Manager - Janine Maher*

<b>APPLICATION NUMBER:</b>	8/2021/21939/1
<b>PROPOSAL:</b>	327 lot subdivision and residue lot to occur in 3 phases
<b>PROPERTY DESCRIPTION:</b>	Lot 35 DP 1288491, Lot 34 DP 1004648 and Lot 2 DP 1067096
<b>PROPERTY ADDRESS:</b>	35, 0 and 31 Government Road, Cessnock
<b>ZONE:</b>	RU2 Rural Landscape
<b>OWNERS:</b>	Mr R M Davies, Mr R S Goonewardene and Mr T J Lowe
<b>APPLICANT:</b>	Land Specialists Pty Ltd

## RECOMMENDATION

1. That:

- (i) Development Application No. 8/2021/21939/1 proposing a 327 lot subdivision and residue lot to occur in 3 phases at Lot 35 DP 1288491, Lot 34 DP 1004648 and Lot 2 DP 1067096, 35, 0 and 31 Government Road Cessnock, be refused pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, for the reasons contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
  - Landowners' consent has not been submitted for all affected parcels of land. Council has no ability to grant consent to the proposal in the absence of landowners' consent;
  - The proposal does not comply with the provisions of Clause 6.1 of the *Cessnock Local Environmental Plan 2011*. Council has no ability

to grant consent to the proposal in the absence of compliance with Clause 6.1;

- Insufficient information has been submitted in order to undertake a full assessment of the development; and
- The proposal is inconsistent with the provisions of Chapter E.12 Government Road Precinct of the Cessnock Development Control Plan 2010.

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

- The application was publicly exhibited in accordance with Council's Community Participation Plan resulting in one (1) submission being received.
- The issues raised in the submission may be relevant to the proposal, however, insufficient information has been submitted to enable a comprehensive assessment of the application. Accordingly, it has not been possible to draw informed conclusions as to the relevance of the issues identified by the objector.

(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.

## REASON FOR REPORT

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Development Application No. 8/2021/21939/1 is being referred to Council for determination as the application was previously called-up by three (3) Councillors and subsequently considered by Council at their meeting of 20 April 2022.

Planning and Environment

Report No. PE1/2023

Planning and Environment



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## PREVIOUS CONSIDERATION BY COUNCIL

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Council has considered Development Application No. 8/2021/21939/1 on two (2) previous occasions, as follows:

### 20 APRIL 2022

At its meeting of 20 April 2022, Council considered a report relating to Development Application No. 8/2021/21939/1 (Report PE22/2022), proposing a 336 lot subdivision (at the time of referral to Council), at 33 Government Road, Cessnock.

At its meeting, Council resolved as follows:

***'That the report be deferred to the next available meeting to allow for further discussion between the applicant and Council staff.'***

Following this meeting, additional information was submitted which resolved the following points of contention:

- 'Development adjacent to the National Parks and Wildlife Service Lands: Guidelines for consent and planning authorities' (NPWS 2020),
- Potential encroachment of the development on the National Park and means of restricting access,
- Koala assessment undertaken in accordance with State Environmental Planning Policy (Koala Habitat Protection) 2021,
- Inclusion of native species in the landscape plan,
- A dewatering procedure for the existing farm dams,
- Detailed Site Investigation to address potential contamination, and
- Revised subdivision layout in accordance with Chapter D.1 of the Cessnock Development Control Plan.

### 14 DECEMBER 2022

The matter was referred back to Council on 14 December 2022 (Report PE70/2022), at which time the DA proposed a 327 lot subdivision (lot yield reduced since initial consideration by Council).

At its meeting, Council resolved as follows:

***'That the report be deferred to the February 2023 Council meeting.'***



**Planning and Environment**

**Report No. PE1/2023**

**Planning and Environment**



Following Council's consideration of the application, Council officers issued correspondence to the applicant in relation to outstanding items. The applicant was advised that the following matters were required to be addressed via the submission of additional information:

- Amended plans showing inter-allotment drainage easement illustrating compliance with Council's requirements,
- Amended plans in relation to stormwater,
- Confirmation from Biodiversity Conservation Division (BCD) confirming a Clause 34A agreement has been issued to set aside the requirements of the *Biodiversity Conservation Act*,
- Confirmation in relation to access and landowners' consent,
- Confirmation from the Department of Planning confirming satisfactory arrangements, and compliance with Clause 6.1 of the *Cessnock Local Environmental Plan 2011*, and
- Resolution of outstanding matters raised by Transport for NSW.

In addition to the above, Council acknowledged submission of a Flood Assessment Report lodged by the applicant on 14 December 2022, and confirmed that such report had been referred to Council's engineers for assessment.

Due to agenda deadlines associated with preparation of the report, the following timeframes were given to the applicant for the submission of any additional information:

- Lodgement of any additional information in respect of the DA by close of business Friday, 6 January 2023, and
- Submission of information which does not require assessment including satisfactory arrangement by close of business Friday, 13 January 2023.

Since the matter was last considered by Council at their meeting of 14 December 2022, the application has been amended to propose a 327 lot subdivision and residue lot, to be carried out in 3 phases. It is also noted that the site description has been changed as a result of a recently registered subdivision. Furthermore, additional lots have been incorporated into the DA by the applicant. As a result of this, the site description is now identified as:

- Lot 35 DP 1288491, being 35 Government Road, Cessnock (new description of the site the subject of the initial DA)
- Lot 34 DP 1004648, being 0 Government Road, Cessnock (additional site)
- Lot 2 DP 1067096, being 31 Government Road, Cessnock (additional site)

At the time of writing this report, landowner's consent for the following properties has not been lodged with Council in support of the DA, even though the DA proposes work across these sites and the sites have been included in the DA:

- Lot 34 DP 1004648, being 0 Government Road, Cessnock
- Lot 2 DP 1067096, being 31 Government Road, Cessnock

Planning and Environment

Report No. PE1/2023

Planning and Environment



It is further noted that the majority of reports submitted in conjunction with the application have not been amended to address the inclusion of these additional sites in the application, and it is therefore not possible to determine whether the amendment of the proposal will result in additional impacts not assessed initially.

The following table outlines the matters required to be addressed and provides a discussion of the additional information submitted by the applicant, including a statement as to whether the issue has been addressed to Council’s satisfaction.

Matters Raised	Consideration of additional information	Satisfactorily addressed?
<b>Ecology</b>		
Confirmation of Biodiversity Offset Agreement	A s34A agreement has not been received by Council. It is understood that the Voluntary Planning Agreement has not yet been exhibited by BCD.  This matter remains unresolved.	<b>No</b>
Updated ecological assessment relevant to this specific development	The development is acceptable from an ecology perspective provided a Clause 34A agreement is in place.  Refer to above – a s34A agreement has not been received by Council. It is understood that the Voluntary Planning Agreement has not yet been exhibited by BCD.  This matter remains unresolved.	<b>Partly, however a Clause 34A agreement is not in place</b>
<b>Engineering</b>		
Site specific flood assessment	A Flood Assessment Report was submitted. The report has compared the pre vs post development 1% AEP flood conditions and demonstrates that there is no significant difference in flood behaviour and levels. In the post development condition, the perimeter road has been filled to limit flooding.  However, the below items are not addressed in the report:  <ul style="list-style-type: none"> <li>It is noted that the roads are designed to be above the 1% AEP flood level, however it is unclear whether it will be at the Flood Planning Level (FPL). The report should indicate the Flood Planning</li> </ul>	<b>No</b>

Planning and Environment

Report No. PE1/2023

Planning and Environment



	<p>Level for the properties along the northern and eastern boundaries.</p> <ul style="list-style-type: none"> <li>• The flood report does not provide 1% AEP Storm Post-Development Conditions – Flood Velocity map for eastern catchment.</li> <li>• The report does not demonstrate a flood safe access via Government Road (which is affected by flooding in 1% AEP storm event).</li> </ul>	
Access	<p>An amended plan of subdivision has been submitted demonstrating alternate access via Government Road. The proposed access point is located across lots/sites that were not included under the original DA.</p> <p>Preliminary review by Council's Development Engineer identifies that the subdivision layout and road design connecting the proposed subdivision to Government Road is not supported, as the design presents a road safety concern, with vehicles having to navigate a tight corner in order to exit the site.</p> <p>It is also noted that the NSW RFS have not reviewed the amended plan, nor has the amended plan been placed on public exhibition. This is largely due to the fact that landowners' consent has not been submitted for two (2) of the lots in question.</p>	<b>No</b>
Drainage	This has been adequality resolved.	<b>Yes</b>
<b>Traffic</b>		
Revised Traffic Impact Assessment	<p>A formal response has not been received from TfNSW. Accordingly, this matter remains unresolved.</p> <p>Further, initial review of the amended plans demonstrating access via Government Road has identified that the access arrangement via a tight corner, is considered unsafe and is therefore not supported by Council officers.</p>	<b>No</b>

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Report No. PE1/2023

Planning and Environment



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Landowners' consent for works over Council owned land	The amended plan of subdivision removes access through RE1 community land. However, preliminary review by Council's Development Engineer raises road safety concerns as identified above. While works over Council-owned land have been removed from the application, landowners' consent for adjoining land over which works are proposed, has not been submitted.	<b>Partly, however landowners' consent not submitted for additional land included in the application.</b>
Satisfactory Arrangement for State Infrastructure Contributions	Confirmation has not been received.  This matter remains unresolved.	<b>No</b>

There are critical matters associated with this application, some of which preclude Council from granting consent to the proposal. Importantly, Council has no power to approve the application in the absence of landowner's consent from all affected properties; and in the absence of compliance with Clause 6.1 of the *Cessnock Local Environmental Plan 2011*.

On the basis of the above, the application is referred to Council for further consideration/determination, with a recommendation that the application be refused.

## EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2021/21939/1 seeking approval for a subdivision creating 327 lots and residue lot to occur in 3 phases, at 35, 0 and 31 Government Road Cessnock.

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

The Development Application was publicly exhibited, and one (1) submission in objection to the proposed development was lodged with Council in response to the public exhibition period. The issues and concerns raised in the submission are addressed in the following report.

The application does not provide sufficient information to properly assess the impacts of the development. Specifically, insufficient information has been provided in relation to ecology, traffic and engineering. As such, a full assessment of the application cannot be undertaken and the extent of the potential impact of the development on these matters cannot be determined.

**Planning and Environment**

**Report No. PE1/2023**

**Planning and Environment**

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In accordance with Clause 6.1 Arrangements for designated State public infrastructure of the *Cessnock Local Environmental Plan 2011*, *'development consent must not be granted for the subdivision of land in an urban release area...unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated state public infrastructure'*. In this instance, Council cannot grant consent to the application as correspondence has not been received confirming that the requirements contained within Clause 6.1 have been complied with.

It is also noted that works are proposed over adjoining land, for which landowners' consent has not been submitted. Council has no power to approve the application in the absence of landowner's consent from all affected properties.

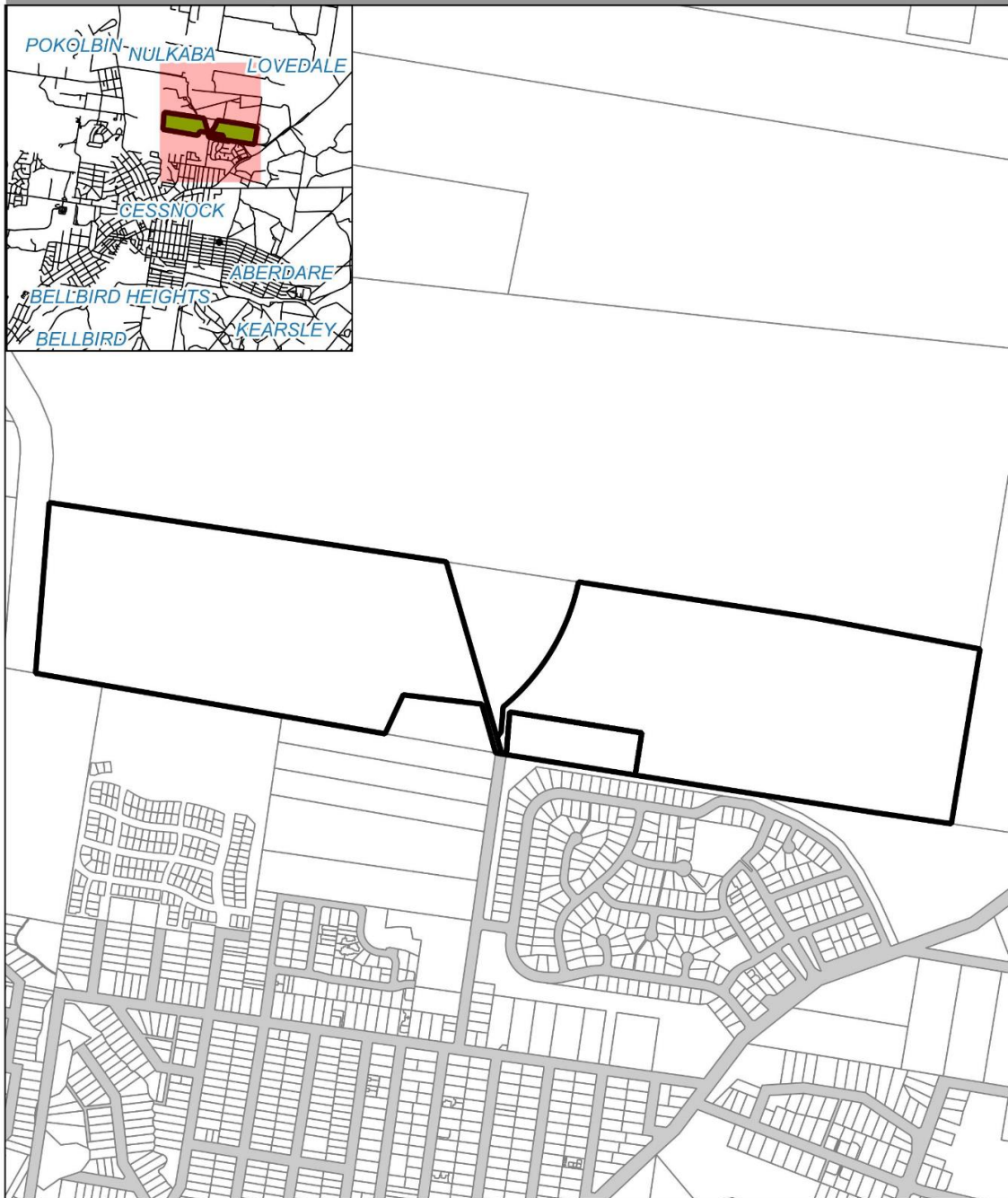
Finally, a Clause 34A agreement is not in place to address offset/biodiversity requirements, pursuant to the *Biodiversity Conservation Regulation 2017*.

In summary, there are critical matters associated with this application, some of which preclude Council from granting consent to the proposal, as outlined above. Therefore, it is recommended that the Development Application be refused subject to the reasons for refusal included in this report.



## LOCATION MAP

Property Location: Lot 2 DP 1067096, Lot 34 DP 1004648 & Lot 35 DP 1288491  
31, 0 & 35 Government Road, CESSNOCK NSW 2325



Date Produced:  
2023-1-23 at 16:42

Scale:  
1:10,000

Reference:  
23 January 2023 \_ DA 8 2021 21939 1 \_ S Hyatt \_ CRM 1514 2023

Coordinate System:  
Map Grid of Australia (MGA)  
Datum GDA2020  
Zone 56



Contact:  
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(PO Box 152)  
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council@cessnock.nsw.gov.au

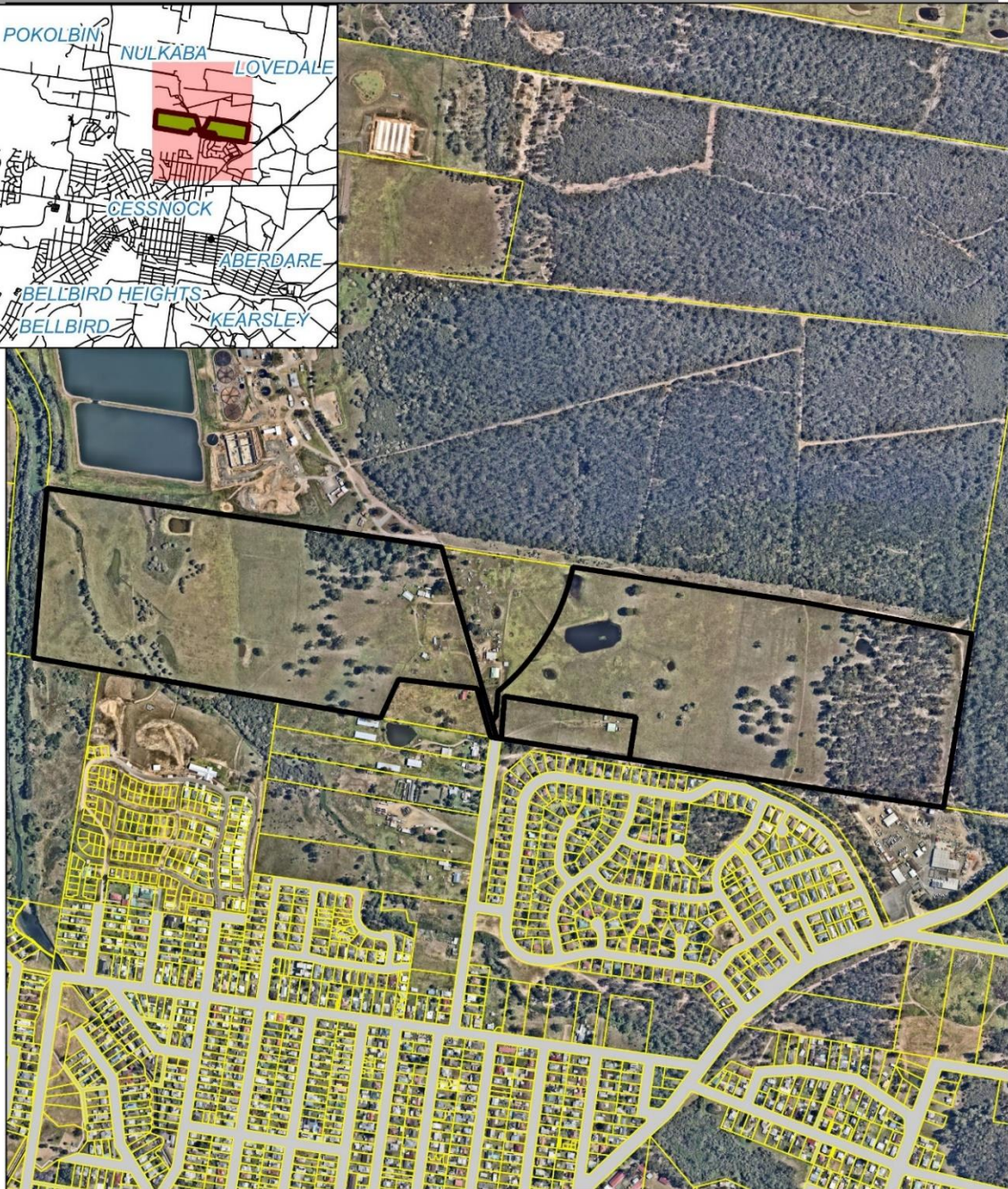
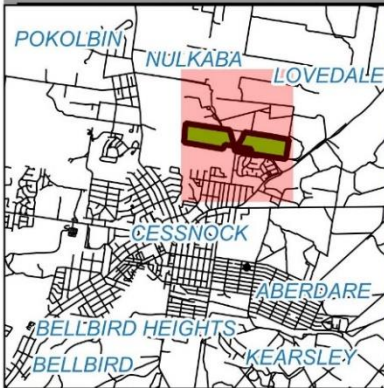
Disclaimer:  
This map has been produced to assist individuals in determining land details within the City of Cessnock. The information contained herein is supplied in good faith, on the basis that Council and its Staff are not liable (whether by reason of negligence, lack of care or otherwise) to any person for any damage or loss what so ever which has occurred, or may occur, in relation to that person taking or not taking (as the case may be) action in respect of any representation, statement or advice referred to above.

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**AERIAL**

Aerial Location: Lot 2 DP 1067096, Lot 34 DP 1004648 & Lot 35 DP 1288491  
 31, 0 & 35 Government Road, CESSNOCK NSW 2325



Date Produced:

2023-1-23 at 16:42

Scale:

1:10,000

Reference:

23 January 2023 \_ DA 8 2021 21939 1 \_ S Hyatt \_ CRM 1514 2023

Coordinate System:

Map Grid of Australia (MGA)  
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## SITE DESCRIPTION AND LOCALITY

The subject site is located at the northern end of Government Road, and the lots making up the application comprise the following areas:

Site Description	Area
Lot 35 DP 1288491, being 35 Government Road, Cessnock	25.91 ha
Lot 34 DP 1004648, being 0 Government Road, Cessnock	2 ha
Lot 2 DP 1067096, being 31 Government Road, Cessnock	25.73 ha

It is noted that the DA proposes to utilise the Right of Access associated with Lot 2 DP 1067096 (being 31 Government Road), to provide vehicular ingress/egress to both Lot 34 DP 1004648 (being 0 Government Road), and Lot 35 DP 1288491 (being 35 Government Road).

The locality generally consists of residential lots containing single dwellings. Of note within the surrounding area include the following:

- Hunter Water sewerage treatment works to the north,
- Werakata National Park to the east, and rural land to the west,
- Council’s works depot to the south-east, and
- Public reserve which runs along the eastern side of Government road and forms part of the southern boundary to the site prior to connecting to Old Maitland Road to the south-east.

The following map identifies the zonings relevant to the locality:



**Figure 1: CLEP 2011 Zoning Map**



## HISTORY

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

Date	Action
19 October 2021	Development Application 8/2021/21939/1 formally lodged with Council for assessment.
18 November 2021	Application publicly exhibited for a period of 14 days.
2 December 2021	Notification concludes with one (1) submission received, objecting to the proposed development.
6 December 2021	Request for additional information (RFI) sent to applicant recommending that the application be withdrawn until such time as the items raised in the RFI could be resolved.
14 December 2021	Initial response to RFI provided by applicant. No additional information was submitted to address the matters raised in the RFI.
17 December 2021	Clarification was provided to the applicant to matters raised in the response back to Council dated 14 December. The applicant was again requested to withdraw the application with an additional 7 days provided.
18 January 2022	Correspondence received from the applicant, with additional information still not provided. The applicant was advised that the application would be reported to the Development Assessment Unit for determination based on the information submitted to date.
14 February	Application called to Council for determination in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications.
20 April 2022	Application referred to Council for consideration/determination, with a recommendation that the application be refused. Council resolved as follows:  <i>'That the report be deferred to the next available meeting to allow for further discussion between the applicant and Council staff'.</i>
26 April 2022	Correspondence issued to the applicant outlining the outstanding matters and offering to arrange a meeting to discuss the issues.
17 May 2022	Meeting held with applicant to discuss outstanding matters. Applicant given until 3 June 2022 to provide amended information.
26 May 2022	Meeting held between Council, TfNSW and the Applicant.
5 June 2022	Additional information submitted and referred internally and externally for comment.
2 August 2022	Referral response received from TfNSW requiring additional information.
9 August 2022	Request send to applicant to withdraw application, with matters still unresolved.
13 September 2022	Meeting held between Council's Director Planning and Environment, Development Services Manager, Principal Development Planner, and the applicant and their representative. Additional time was extended for the applicant to submit further information.
16 September 2022	Additional information received including legal opinion on the use of 'community' land.

**Planning and Environment**

**Report No. PE1/2023**

**Planning and Environment**



27 October 2022	Council received own legal opinion in relation to use of community land for the purposes of a road. Advice confirms that pursuant to the <i>Local Government Act 1993</i> , Council cannot lawfully consent to the use of the land for this purpose.
3 November 2022	Final request to withdraw application following receipt of legal advice, and allowing an additional seven (7) days for the application to be withdrawn.
11 November 2022	Application is not withdrawn, assessment finalised.
14 December 2022	Application referred to Council for consideration/determination, with a recommendation that the application be refused. Council resolved as follows:  <i>‘That the report be deferred to the February 2023 Council meeting.’</i>
14 December 2022	Correspondence received from applicant addressing outstanding matters.
20 December 2022	Response provided with timeframes given to submitted any information which required assessment by 6 January 2023 and any information which did not require assessment by 13 January 2023.
6 January 2023	The following additional information was submitted: <ul style="list-style-type: none"> <li>• Revised Statement of Environmental Effects,</li> <li>• Proposed plan of subdivision (Revision G),</li> <li>• Phasing plan.</li> </ul>
	Comments requested from Development Engineering.
10 January 2023	The following additional information was received after the deadlines specified in Council’s correspondence of 20 December 2022: <ul style="list-style-type: none"> <li>• Civil engineering plans, and</li> <li>• Proposed plan of subdivision (Revision H).</li> </ul>
13 January 2023	No further information submitted.
19 January 2023	Comments received from Development Engineering.
19 January 2023	Assessment finalised.

**DETAILS OF THE PROPOSED DEVELOPMENT**

Development Application No. 8/2021/21939/1 seeks approval for the subdivision of Lot 35 DP 1288491, Lot 34 DP 1004648 and Lot 2 DP 1067096 into 327 lots and one (1) residue lot in 3 phases.

The development is proposed in the following phases:

- Phase 1 containing 167 lots plus detention basin and residue lot,
- Phase 2 containing 104 lots plus detention basin, and
- Phase 3 containing 56 lots.

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## ASSESSMENT

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### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

#### **Section 1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994**

Section 1.7 of the *Environmental Planning and Assessment Act 1979*, prescribes as follows:

*'This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act) and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment'.*

#### **Biodiversity Conservation Act 2016**

The Flora and Fauna Report submitted as part of the development application was prepared in 2007 to guide the development of the site-specific chapter for the Cessnock Development Control Plan. The report did not contain specific details of the current development application. Furthermore, it provided ecological data for the site that was over 13 years old, which is not considered representative of the site in its current ecological conditions. Accordingly, the applicant was requested to submit an addendum to the Ecological Assessment Report (EAR). The addendum to the EAR states that the proposed development will result in the following impacts; removal of 8.99 ha of native vegetation, nine (9) hollow bearing trees and dewatering and infill of six (6) dams.

Agreement was received from the Department of Planning Industry and Environment (DPIE) on the 22 February 2022, supporting the use of Clause 34A under the *Biodiversity Conservation Regulation 2017*, which sets aside the provisions of the *Biodiversity Conservation Act 2016* in place of providing agreed offsets under the previous offset scheme. However, it has been confirmed that the Clause 34A agreement is not in place and a Voluntary Planning Agreement (VPA) is required in order to set aside the offset land. Prior to the Biodiversity Conservation Division (BCD) confirming the 34A agreement is in place, the VPA is required to be executed. Confirmation from BCD is required confirming the Clause 34A agreement is in place prior to determining the application to ensure that the provisions of the BC Act have been legally set aside. Council is not in receipt of any such confirmation/agreement.

As previously outlined in this report, the application has been amended to comprise two (2) additional lots that were not the subject of the initial development application. The Flora and Fauna report has not been amended since these additional lots were incorporated into the application. Therefore, it is unknown whether there are any additional impacts associated with the amended proposal, or whether the Clause 34A agreement (if issued), will require amendment to address the additional lots.

### **Section 4.15 Evaluation**

In determining a Development Application, the consent authority is to take into consideration the following matters prescribed within s4.15 of the *Environmental Planning and Assessment Act 1979*, as are of relevance to the development the subject of the development application:

#### **(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 (Koala Habitat Protection) 2021*
2. *State Environmental Planning Policy (Resilience and Hazards) 2021*,
3. *State Environmental Planning Policy (Transport and Infrastructure) 2021*
4. *Cessnock Local Environmental Plan 2011*

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

#### **1. State Environmental Planning Policy (Koala Habitat Protection) 2021**

The aim of the State Environmental Planning Policy (Koala Habitat Protection) 2021 (Koala SEPP) is to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. This policy is applicable to the Cessnock LGA.

An assessment has been undertaken against the requirements of the SEPP. The land does not constitute core koala habitat. Accordingly, no further provisions of the SEPP apply.

#### **2. State Environmental Planning Policy (Resilience and Hazards) 2021 (previously State Environmental Planning Policy No. 55 – Remediation of Land)**

The aim of State Environmental Planning (Resilience and Hazards) (SEPP) is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Section 4.6 of the SEPP is relevant to the assessment of this development application. Section 4.6 requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

Additional information in the form of a Detailed Site Investigation (DSI) was submitted confirming that the site is suitable for the proposed development following recommended remediation works.

As previously outlined in this report, the application has been amended to comprise two (2) additional lots that were not the subject of the initial development application. The DSI has not been amended since these additional lots were incorporated into the application. Therefore, it is unknown whether there are any additional impacts associated with the amended proposal.

**3. State Environmental Planning Policy (Transport and Infrastructure) 2021 (previously State Environmental Planning Policy (Infrastructure) 2007)**

Section 2.122 - Traffic generating development applies to the proposed development being a subdivision of land with more than 200 allotments.

The application was referred to Transport for NSW (TfNSW) for comment. An additional information request was received requiring the applicant to provide traffic modelling of key intersections. TfNSW have responded requiring an amended Traffic Impact Assessment including sensitivity testing of the traffic analysis and concept design for any required intersection upgrade. Accordingly, it is still unclear as to the full impact of the proposed development and extent of intersection upgrades required.

As previously outlined in this report, the application has been amended to comprise two (2) additional lots that were not the subject of the initial development application. The TIA has not been amended since these additional lots were incorporated into the application. Therefore, it is unknown whether there are any additional impacts associated with the amended proposal.

**4. Cessnock Local Environmental Plan 2011**

**4.1 Permissibility**

The subject site is zoned R2 Low Density Residential and RU2 Rural Landscape under the provisions of *Cessnock Local Environmental Plan (CLEP) 2011*. The application proposes subdivision which is permitted by virtue of Clause 2.6 Subdivision – consent requirements.

**4.2 Objectives**

The application proposes the subdivision of the R2 zoned land only. Development Consent has been granted to a two (2) lot subdivision under Development Consent No. 8/2021/21623/1, proposing the subdivision of the RU2 land from the R2 land. As such, the objectives of the R2 zone are relevant to this application and are considered below:

- *To provide for the housing needs of the community within a low density residential environment.*

The proposed development will provide additional land availability in close proximity to the CBD of Cessnock. Proposed lots range from 450m<sup>2</sup> to 2,400m<sup>2</sup>; however, the majority of the lots are 450m<sup>2</sup> with frontages of around 15m. The subdivision provides for additional housing incorporating a range of lots which would provide for the varied needs of community. Accordingly, the proposed development is considered to be consistent with this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The development provides for land which can be used to provide facilities or services for the residents. Accordingly, the proposed development is consistent with this objective and provides for suitable variation in lot sizes and shapes which would encourage facilities or services into the area.

#### 4.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 4.1 Minimum subdivision lot sizes

The subject land is identified on the minimum lot size map as having a minimum lot size of 450m<sup>2</sup>. The application proposes lots ranging from 450m<sup>2</sup> to 2,400m<sup>2</sup>.

Accordingly, the application is consistent with the requirements of clause 4.1.

- Clause 5.21 Flood planning

The subject site is identified as being flood prone land, and is partly affected by the 1% Annual Exceedance Probability (AEP), as identified in the below figure:



**Figure 2: 1% AEP Flood Extent**

A flood assessment was submitted. The report has compared the pre vs post development 1% AEP flood conditions and demonstrates that there is no significant difference in flood behaviour and levels. In the post development condition, the perimeter road has been filled to limit the flooding.

However, the below items are not addressed in the report:

- It is noted that the roads are designed to be above the 1% AEP flood level, however it is unclear whether it will be at the Flood Planning Level (FPL). The report should indicate the Flood Planning Level for the properties along the Northern & Eastern boundary.

- The flood report does not provide 1% AEP Storm Post-Development Conditions – Flood Velocity map for eastern catchment.

Planning and Environment

Report No. PE1/2023

Planning and Environment



- The report does not demonstrate a flood safe access via Government Road (which is affected by flooding in 1% AEP storm event).

Accordingly, there are still deficiencies in relation to flooding and Council cannot be satisfied in relation to the matters identified above.

- *Clause 6.1 Arrangements for designated State Public Infrastructure*

The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure prior to the subdivision of land in an urban release area in order to satisfy needs that arise from the development.

In accordance with this clause, ***'development consent must not be granted for the subdivision of land... unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made'***.

Correspondence has not been received from the Department of Planning and Environment to this effect. As such, Council cannot consent to the application in its current form.

As previously outlined in this report, the application has been amended to comprise two (2) additional lots that were not the subject of the initial development application. Therefore, it is unknown as to whether the Director-General will issue confirmation as to 'satisfactory arrangements' in the absence of these lots being incorporated into the Planning Agreement which is required to be entered into between the developer and the Department of Planning.

- *Clause 6.2 Public Utility Infrastructure*

Prior to granting development consent, Council must be satisfied that essential infrastructure is available or that arrangements have been made to provide the infrastructure. The subject land is located adjacent to established residential development to the south, with services available for connection. The applicant is required to consult with the relevant agencies to ensure that arrangements are made to connect services to any further development on the land.

In this regard, Council is satisfied that satisfactory arrangement can be achieved in accordance with clause 6.2.

- *Clause 6.3 Development control plan*

The subject land is located within an urban release area. In accordance with this clause, a development control plan is required to guide the further development of the site. Chapter E.12 Government Road Precinct of the Cessnock Development Control Plan 2010 specifically applies to the site and contains guidelines in respect to the further intensification of development. The details of the DCP are further considered below.

The application is consistent overall with clause 6.3.

Planning and Environment

Report No. PE1/2023

Planning and Environment



- *Clause 7.2 Earthworks*

Clause 7.2 seeks to ensure that any earthworks do not result in an adverse impact on the environment, neighbouring properties or heritage items. Earthworks proposed are considered to be minor/reasonable and will not result in any detrimental impact upon the surrounding environment.

The application is consistent overall with clause 7.2.

- *Clause 7.4 Airspace operations*

The subject site is identified on the Obstacle Limitation Surface map as having an Obstacle Limitation Height of 140m AHD to 109m AHD. The final levels of the site will range from 75m AHD to 85m AHD, with future development on the lots able to fall under the Obstacle Limitation Surface.

The application is consistent with the requirements of clause 7.4.

- *Clause 7.5 Groundwater vulnerability*

This clause aims to ensure that development on land zoned RU2 does not impact upon the groundwater system by means of depletion or contamination. In accordance with the requirements of this clause, the proposed development will not result in the contamination of the ground water system with all development proposed by this application being contained within the R2 zoned portion of the land.

Overall, the proposed development is consistent with clause 7.5.

***(a)(ii) The Provisions of any proposed 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 Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).***

*Environmental Planning and Assessment Regulation 2021*

It is noted that the *Environmental Planning and Assessment Regulation 2021* came into force on 1 March 2022.

Notwithstanding the commencement of the *Environmental Planning and Assessment Regulation 2021*, Schedule 6 prescribes relevant savings, transitional and other provisions. In particular, the following savings provision is relevant to consideration of this application:

***3 Development applications and applications for complying development certificates***

*The 2000 Regulation continues to apply instead of this Regulation to a development application and an application for a complying development made but not finally determined before 1 March 2022.*



It is noted that the subject application was lodged prior to 1 March 2022. Therefore, the provisions of the *Environmental Planning and Assessment Regulation 2000* continue to apply, and the application has been assessed with consideration given to these provisions.

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

**Cessnock Development Control Plan 2010**

The following is an assessment of the proposal's compliance with the relevant numerical standards in Cessnock Development Control Plan 2010 (DCP).

**Part C: General Guidelines**

***Chapter C.3 – Contaminated Land***

The requirements of this development in respect to contamination have been discussed previously in this report (refer to consideration of SEPP Resilience and Hazards). The contaminated land chapter in the DCP has been prepared in accordance with the requirements of SEPP Resilience and Hazards.

Sufficient information has been submitted to demonstrate the site is suitable for the proposed development subject to remediation works, however information has not been submitted in respect of the two (2) additional lots added to the application as a result of the most recent amendment made by the applicant.

***Chapter C.4 – Land use conflict and buffer zones***

The proposed development is listed as a Category A. It is noted that the Cessnock Waste Management Facility, Council Depot and Hunter Water Sewage Treatment Plant are located within close proximity to the site. Suitable separation distances are proposed with lots set back from the boundary to the depot, and the detention basin located in the north eastern corner of the site, thereby providing further separation of land uses.

Accordingly, the proposed development is consistent with the requirements of Chapter C.4

***Chapter C.5 Waste management and minimisation***

Waste generated during construction will consist of greenwaste and stockpiled soil.

Where possible this will be reused on site or alternatively taken to a facility approved for disposal.

***Chapter C.9 Development on flood prone land***

The purpose of this chapter is to provide information and development controls needed to prepare and assess development applications on land identified as flood prone. To give effect to the controls, the chapter identifies hazard classifications (H1-H6) and hydraulic categories based on the NSW Floodplain Development Manual 2005.

**Planning and Environment**

**Report No. PE1/2023**

**Planning and Environment**



A flood assessment was submitted. Preliminary review by Council’s Development Engineer. The report has compared the pre vs post development 1% AEP flood conditions and demonstrates that there is no significant difference in flood behaviour and levels. In the post development condition, the perimeter road has been filled to limit the flooding.

However, the below items are not addressed in the report:

- It is noted that the roads are designed to be above the 1% AEP flood level, however it is unclear whether it will be at the Flood Planning Level (FPL). The report should indicate the Flood Planning Level for the properties along the Northern & Eastern boundary.
- The flood report does not provide 1% AEP Storm Post-Development Conditions – Flood Velocity map for eastern catchment.
- The report does not demonstrate a flood safe access via Government Road (which is affected by flooding in 1% AEP storm event).

Accordingly, Council cannot be satisfied as to these matters raised above.

**Part D: Specific Guidelines**

**Chapter C.1 Subdivision guidelines**

The relevant provisions of this chapter of the DCP are considered in the table below:

<b>Part D: Specific Development</b>			
<b>Chapter 1: Subdivision Guidelines – 1.7 Specific requirements for R2 and R3 Residential Subdivision</b>			
<b>Provision</b>	<b>Required</b>	<b>Provided</b>	<b>Complies?</b>
<b>1.7.1 Element 1: Lot Size and Shape</b>	Each lot must comply with the minimum area shown on the lot size map of CLEP 2011. In this case, the minimum area is 450m <sup>2</sup>	450m <sup>2</sup> to 2,400m <sup>2</sup>	Yes
	Minimum width of 18m at the building line	It is noted that 82.5% of lots proposed do not meet the minimum width requirements of 18m. In this instance, the extent of the proposed variation is considered to be reasonable given a variety of lots widths ranging from battle axe lots to lots which exceed the minimum width requirement	<b>No</b>



		proposed. In this instance the variation is reasonable given a variety of lot sizes and shapes are proposed catering for a variety of housing options.	
	Minimum depth of 20m	All lots are able to meet the depth requirement of the DCP.	Yes
<b>1.7.4 Element 4 – Local Street Design</b>	<p>Street designs require the following road reserve and carriageway widths based on the number of lots :</p> <p>10-200 lots – road reserve of 18m and carriageway width of 8m</p> <p>200-400 lots - road reserve of 20m and carriageway width of 11m</p>	<p>The civil plans demonstrate a ring road and a series of connecting roads running north to south. Dimensions of each road are not shown however a typical section demonstrates 3 variations, as follows:</p> <ul style="list-style-type: none"> <li>• 20m road reserve, 11m pavement, 4.5m footpath reserve, shared path on one side</li> <li>• 18m road reserve, 8m pavement, 5m footpath reserve, 2m shared path on one side</li> <li>• 18m road reserve, 8m pavement, 5m footpath reserve, 2m shared path on one side, swale drainage.</li> </ul> <p>It is noted that owner’s consent for additional land added to the application has not been provided. Further, Council does not support the access arrangement via Government Road, resulting in a tight corner turn which is considered to be unsafe.</p>	<b>In part; however, access via a tight turn is considered to be unsafe</b>
<b>1.7.5 Element 5: Pedestrians and cyclists</b>	Footpaths shall be provided on one side of streets with traffic	Suitable footpaths have been accommodated	Yes

Planning and Environment

Report No. PE1/2023

Planning and Environment



	volumes between 300 vehicles per day	throughout the subdivision.	
<b>1.7.6 Element 6: Solar Access and Lot Orientation</b>	<p>Lot sizes reflect reasonable consideration of the impact of topography and aspect to maximise solar access.</p> <p>Lots are of a suitable shape to permit the location of a dwelling-house with suitable solar access and private open space</p>	<p>Majority of the proposed lots face either east or west with a northern aspect available along the side boundary.</p> <p>At least 80% of lots are able to achieve a direct northern aspect to private open space areas.</p>	Yes
<b>7.7.7 Element 7 – Stormwater</b>	Stormwater shall drain by gravity to Council's system which may require interallotment drainage.	The applicant has submitted a stormwater management concept plan that demonstrates 2 bio detention basins to collect flows via pits and pipes constructed in the roadways. Easements are shown through necessary proposed lots and drains modelling submitted with water quality targets achieved.	Yes

**Part E: Specific Areas**

**Chapter E.12 Government Road Precinct**

The Government Road Precinct is one of 11 rezonings considered as part of the development of the comprehensive Local Environmental Plan.

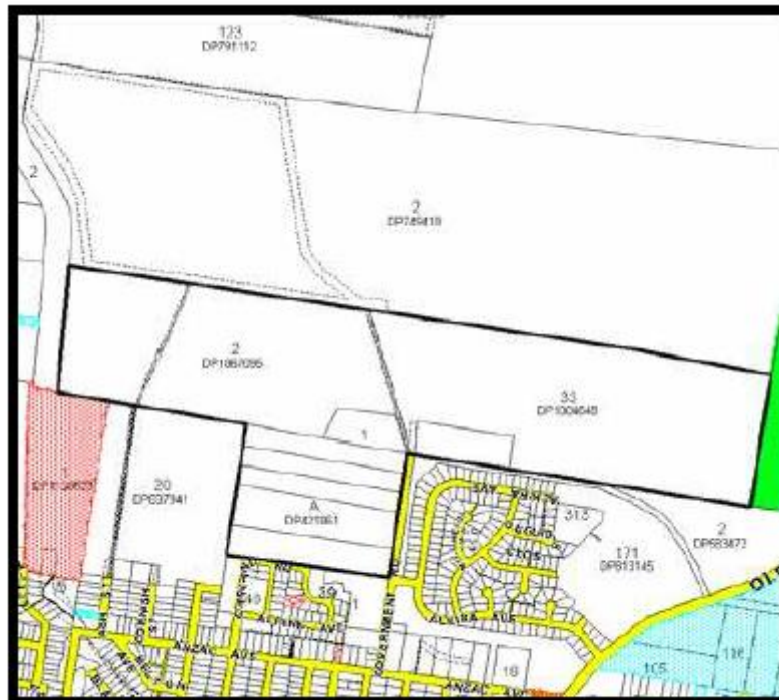


FIGURE 1: LOCALITY PLAN

The chapter highlights the following matters required to be further considered in developing the land:

- Soil management, geotechnical and contamination issues,
- Stormwater and flood management,
- Flora and fauna management,
- Bushfire management, and
- Land use constraints.

These matters are considered further in the table below:

<b>Part E: Specific Areas</b>			
<b>Chapter E.12 Government Road Precinct</b>			
<b>Provision</b>	<b>Required</b>	<b>Provided</b>	<b>Complies?</b>
<b>12.3.1 Site Contamination and other geotechnical constraints</b>	Carry out any additional testing recommended in the Remediation Options for Potential Contamination prepared by Douglas Partners prior to residential subdivision of the Government Road Precinct	Council's Environmental Health Officer has reviewed the Detailed Site Investigation Report submitted. Following remediation works, the subject land is suitable to accommodate the proposed development. Accordingly, Council can	<b>Yes</b>



		<p>be satisfied that the land is suitable for the intended residential subdivision, however information has not been submitted in respect of the two (2) additional lots added to the application as a result of the most recent amendment made by the applicant.</p>	
<p><b>12.3.2 Stormwater and Flood Management</b></p>	<p>Residential development should not occur below the 1% AEP flood line.</p> <p>Habitable floor levels should be designed a minimum of 500mm above peak 1% AEP flood levels on site.</p>	<p>A flood assessment was submitted. The report has compared the pre vs post development 1% AEP flood conditions and demonstrates that there is no significant difference in flood behaviour and levels. In the post development condition, the perimeter road has been filled to limit the flooding.</p> <p>However, the below items are not addressed in the report:</p> <ul style="list-style-type: none"> <li>- It is noted that the roads are designed to be above the 1% AEP flood level, however it is unclear whether it will be at the Flood Planning Level (FPL). The report should indicate the Flood Planning Level for the properties along the Northern &amp; Eastern boundary.</li> <li>- The flood report does not provide 1% AEP Storm Post-Development Conditions – Flood Velocity map for eastern catchment.</li> <li>- The report does not demonstrate a flood safe access via Government Road (which is affected by</li> </ul>	<p><b>In part, with information still required road levels, information related to the eastern catchment and flood safe access</b></p>

Planning and Environment

Report No. PE1/2023

Planning and Environment



	Stormwater management for the development will comply with the requirements of Cessnock Development Control Plan 2010.	flooding in 1% AEP storm event). Stormwater can be suitably managed onsite.	
<b>12.3.3 Flora and Fauna Management</b>	Development consent for a principal development application which proposes the removal of native vegetation from within the Precinct shall not be granted until transfer of the proposed offset site and other associated actions, as detailed in the Biodiversity Offset Assessment Report (BOAR) (RPS Harper Somers O'Sullivan, June 2008), has been effected.	Council's Ecologist has reviewed the application. While the Department of Planning and Environment (DPE) have supported the use of Clause 34A under the <i>Biodiversity Conservation Regulation 2017</i> , arrangements are not in place to offset land.  As previously outlined in this report, the application has been amended to comprise two (2) additional lots that were not the subject of the initial development application. The Flora and Fauna report has not been amended since these additional lots were incorporated into the application. Therefore, it is unknown whether there are any additional impacts associated with the amended proposal, or whether the Clause 34A agreement (if issued), will require amendment to address the additional lots.	<b>No</b>
<b>12.3.4 Bushfire Management</b>	Specific assessment shall be undertaken at appropriate times	A Bushfire Assessment Report was submitted with the application. As	<b>Yes</b>

Planning and Environment

Report No. PE1/2023

Planning and Environment



	<p>throughout the development process as development of the site progresses in accordance with the current standards of the Rural Fire Service (RFS).</p>	<p>the application related to development classified as a special fire protection purpose (i.e., subdivision of land), the application was referred to the NSW RFS for General Terms of Approval (GTA's). A request for additional information from RFS was received on 2 February 2022, with elements of the vegetation classification not supported. Following submission of additional information, GTA's have been issued.</p> <p>Notwithstanding the above, as previously outlined in this report, the application has been amended to comprise two (2) additional lots that were not the subject of the initial development application. The Bushfire Assessment report has not been amended since these additional lots were incorporated into the application. Therefore, it is unknown whether there are any additional impacts associated with the amended proposal, or whether the RFS will permit the use of the issued GTA's in the absence of the GTA's addressing all lots the subject of the application.</p>	
<p><b>12.3.6 Subdivision of Land</b></p>	<p>All development applications for land subdivision are to satisfy the provisions of</p>	<p>Consideration has been given to the provisions of</p>	<p>Yes</p>



Planning and Environment

Report No. PE1/2023

Planning and Environment



	Cessnock Development Control Plan 2010, Part D – Chapter 1 Subdivision Guidelines.	Chapter D.1 in this report.	
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**(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4**

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

**(a)(iv) The provisions of the regulations**

There are no matters prescribed by the Regulations that apply to this development.

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

As demonstrated by the above assessment, given insufficient information has been submitted in order to undertake a complete assessment, the full extent of any potential impacts of the development on the natural and built environments are unknown.

The proposed development is considered to be suitable from a social and economic perspective. However, in the absence of confirmation from Biodiversity Conservation Division that the provisions of the *Biodiversity Conservation Act 2016* have been set aside, Council cannot be satisfied that appropriate arrangements are in place to resolve impacts relating to the natural environment. In addition to this, concerns in relation to flooding remain partly unresolved.

Furthermore, the application has been amended to comprise two (2) additional lots that were not the subject of the initial development application. The majority of reports submitted in support of the proposal have not been amended since these additional lots were incorporated into the application. Therefore, it is unknown whether there are any additional impacts associated with the amended proposal.

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

As demonstrated by the above assessment; the subject land is not considered suitable to accommodate the proposed development. Furthermore, the application has been amended to comprise two (2) additional lots that were not the subject of the initial development application. The majority of reports submitted in support of the proposal have not been amended since these additional lots were incorporated into the application. Therefore, it is unknown whether there are any additional impacts associated with the amended proposal, or whether the closely related issue of site suitability has been resolved.



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

The Development Application was publicly exhibited between 18 November 2021 and 2 December 2021. One (1) submission was received in objection to the proposal during the exhibition period, representing 1.7% of the households notified.

The following table outlines the issues raised in the submission lodged with Council, along with a response to each matter:

Issue/s	Comment/s
<b>Roadworks</b>	
<ul style="list-style-type: none"> <li>No consultation on road works impacting surrounding property</li> </ul>	Roadworks proposed by the application are primarily internal to the site. Until such time as Council and TfNSW are able to finalise comments in relation to the proposal, the extent of offsite roadworks are currently unknown.
<b>Access</b>	
<ul style="list-style-type: none"> <li>Access being restricted during construction and during use</li> </ul>	Traffic delays may be experienced during construction; however, these impacts are considered to be short term.
<b>Environmental Impacts</b>	
<ul style="list-style-type: none"> <li>Noise and pollution</li> <li>Ability to utilise property</li> </ul>	During construction, noise and dust associated with works may occur. In the event the application could be approved, Council would ensure that adequate conditions would be imposed on any approval requiring the adoption of appropriate mitigation measures. While these may impact upon use of surrounding property; the impacts are considered to be short term.

As outlined previously in this report, the application has been amended to comprise two (2) additional lots that were not the subject of the initial development application.

As a result of this amendment, the application is required to be re-exhibited to allow further public comment on the amended proposal, and to ensure the legalities associated with the public exhibition process have been met/complied with.

**(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.

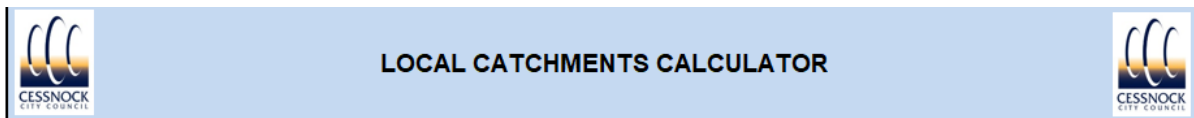
Based on the above assessment, it is considered that the proposed development is not in the public interest.



## SECTION 7.11 CONTRIBUTIONS

Section 7.11 Contributions are payable for the proposal.

In the event the application could be approved, Section 7.11 Contributions totalling \$6,520,000.00 would be payable, in accordance with the following:



**DO NOT USE THIS CALCULATOR FOR DISTRICT CATCHMENTS, SECONDARY DWELLINGS AND SENIORS LIVING**

DA number:	8/2021/21939/1
Property address:	35,0 and 34 Governmnet Road, Cessnock
DA Planner:	S Hyatt
Date	19/01/2023

Local Area Catchment:	Government Road		
How many existing lots/dwellings?	2		
How many lots/dwellings proposed?	328		
Net increase in lots/dwellings	326		
<b>Contributions:</b>	<b>per lot</b>	<b>Total</b>	<b>fee code</b>
Open space and recreation facilities	\$10,626.00	\$3,464,076.00	830
Community Facilities	\$1,050.15	\$342,348.90	831
Cycleway Facilities	\$4,985.00	\$1,625,110.00	832
Roads and Traffic	\$3,052.19	\$995,013.94	833
Plan Administration	\$286.66	\$93,451.16	834
Total contributions	\$20,000.00	\$6,520,000.00	

## INTERNAL REFERRALS

The Development Application was referred to the following Council officer/s for comment:

Officer	Comment
Principal Development Engineer	Council's Principal Development Engineer has confirmed that stormwater drainage has been resolved. However, flooding, access and traffic are yet to be resolved.
Waste Officer	No objection raised.
Traffic Engineer	Council's Traffic Engineer has not been able to undertake a full assessment of the application due to insufficient information being provided.
Ecologist	Council's Ecologist has undertaken a full assessment of the application; however, it is noted that a Clause 34A agreement is not in place.

Planning and Environment

Report No. PE1/2023

Planning and Environment



Senior Environmental Health Officer	Sufficient information has been submitted in relation to contamination. No objections are raised.
Open Space and Community Facilities	Suitable street tree species have been selected. No objections are raised.

**EXTERNAL REFERRALS**

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

Agency	Comment
NSW Rural Fire Service	General Terms of Approval have been issued.  It is noted that the amended subdivision plan has not been forwarded back to RFS for comment.
Transport for NSW	The application was referred to TfNSW for comment, pursuant to Section 2.122 Traffic generating development of <i>State Environmental Planning Policy (Transport and Infrastructure) 20021</i> .  TfNSW have requested additional information on multiple occasions. Additional information has been provided; however, TfNSW's concerns remain unresolved.

**CONCLUSION**

The Development Application has been assessed in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, and all relevant instruments and policies.

There are critical matters associated with this application, some of which preclude Council from granting consent to the proposal. Importantly, Council has no power to approve the application in the absence of compliance with Clause 6.1 of the *Cessnock Local Environmental Plan 2011* and provision of landowners consent for all land subject of the application.

On the basis of the above, the application is referred to Council for further consideration/determination, with a recommendation that the application be refused, subject to the reasons contained in this report.

**ENCLOSURES**

- 1 ➡ Subdivision Plan
- 2 ➡ Phasing Plan

## REASONS FOR REFUSAL

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An assessment of the application has been carried out in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. The proposal is considered to be inconsistent with the matters for consideration under the Act. Accordingly, the application is recommended for refusal based on the reasons outlined below:

1. Insufficient information has been submitted to allow a full assessment of the application including:
  - a. Clause 34A Agreement is not in place to offset the requirements of the *Biodiversity Conservation Regulation 2017*,
  - b. The flood assessment does not state if roads will be constructed at the Flood Planning Level (FPL), 1% AEP Storm Post-Development Conditions – Flood Velocity map for eastern catchment,
  - c. A suitable Traffic Impact Assessment including an assessment of the access and impact of the development on existing intersections, and
  - d. Landowners' consent to lodge the application over all land where works are proposed.
2. The proposed development fails to provide evidence that satisfactory arrangements are in place for the provision of State public infrastructure in accordance with Clause 6.1 Arrangements for Designated State Public Infrastructure of the *Cessnock Local Environmental Plan 2011* (Section 4.15(1)(a)(i) *Environmental Planning and Assessment Act 1979*).
3. The proposed development in its current form is inconsistent with the requirements of Chapter D.1 Subdivision Guidelines of the Cessnock Development Control Plan 2010 for the following reason:
  - a. Access via a tight corner is considered to be unsafe (Section 1.7.4 Local street design).
4. The proposed development in its current form is inconsistent with the requirements of Chapter E.12 Government Road Precinct of the Cessnock Development Control Plan 2010 for the following reasons:
  - a. The proposed development fails to demonstrate roads above the FPL and a velocity map for the eastern catchment (Section 12.3.2 Stormwater and flood management),
  - b. The application has not adequately addressed impacts on biodiversity as a result of the proposed development, or that suitable offset arrangements are in place (Section 12.3.3 Flora and Fauna Management),

**Planning and Environment**

**Report No. PE1/2023**

**Planning and Environment**

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5. The subject site is not considered suitable for the following reasons:
  - a. Insufficient information has been submitted in order to determine the full impact of flood waters and flood safe access,
  - b. Access to the proposed subdivision is not considered to be appropriate and presents a road safety concern, and
  - c. Arrangements are not in place to offset the impact of the development on biodiversity, resulting in an unacceptable impact on biodiversity present on the site (Section 4.15(1)(c) *Environmental Planning and Assessment Act 1979*).
  
6. The proposed development is not considered to be in the public interest (Section 4.15(1)(e) *Environmental Planning and Assessment Act 1979*).

Planning and Environment

Report No. PE2/2023

Planning and Environment



**SUBJECT:** *POST EXHIBITION COMMUNITY PARTICIPATION PLAN*

**RESPONSIBLE OFFICER:** *Acting Strategic Planning Manager - Jenny Mewing*

### **SUMMARY**

The purpose of this report is to outline the outcomes of the public exhibition of the revised draft Community Participation Plan and seek Council's adoption of the plan.

### **RECOMMENDATION**

**That Council adopt the revised Community Participation Plan.**

### **BACKGROUND**

At its meeting of 19 October 2022, Council resolved to publicly exhibit a revised Community Participation Plan (CPP).

The CPP had been revised to reflect changes in legislation, new engagement techniques and communication platforms. Additionally, revisions make it clearer for the public to read and participate in planning matters.

This report outlines the outcomes of the exhibition of the revised CPP and seeks Council's adoption of the plan.

### **REPORT/PROPOSAL**

The revised CPP proposed for adoption is provided at **Enclosure 1**.

The revised draft CPP was publicly exhibited between 16 November and 13 December 2022. No submissions were received and no amendments to the plan have been made post-exhibition, exclusive of formatting and document control references.

### **CONSULTATION**

The revisions to the CPP were informed by consultation with staff from:

- Strategic Planning;
- Development Services;
- Building Services;
- Community Engagement; and
- Community Planning.

The revised draft CPP was publicly exhibited for a period of 28 days, between 16 November and 13 December 2022 as per the current CPP requirements for this type of planning document.

**Planning and Environment**

**Report No. PE2/2023**

**Planning and Environment**



Notification of the exhibition was undertaken via Council's Facebook post and an advert in the Cessnock Advertiser. The revised CPP, supported by additional information, was available for viewing on Council's "Have your say" webpage.

Sixty-seven people viewed the CPP webpage, however no submissions were received.

**STRATEGIC LINKS**

**a. Delivery Program**

The revised CPP reflects key themes of the Delivery Programs and aligns with objectives and actions:

1.1 Promoting social connections and wellbeing

1.1.3 Continue implementation of the Disability Inclusion Action Plan

5.3 Ensuring Council is accountable and responsive to the community:

5.3.3 Efficiently and effectively process development applications and respond to planning enquiries

5.3.6 Undertake Service Delivery reviews and implement recommendations to improve productivity throughout Council

5.3.7 Continue to manage Council governance functions and statutory requirements

**b. Other Plans**

The draft CPP has a direct link to future strategic plans, masterplans or amendments to existing strategic plans as it defines how Council will engage with the community on planning related matters, where Council acts as Planning Authority under the *Environmental Planning and Assessment (EP&A) Act, 1979*.

The revised draft CPP is consistent with Council's Community Engagement Strategy.

**IMPLICATIONS**

**a. Policy and Procedural Implications**

The draft CPP specifically relates to the processes utilised to undertake public exhibition and receiving submissions/objections across the range of planning matters managed by Council.

The changes to development proposed to be exempted from notification will have the most significant impact to Development and Building Services. It will reduce approval waiting times and reduce administrative processing.

**b. Financial Implications**

There will be a reduced cost for public exhibition as Council will less frequently pay for advertisement in local newspapers.



Planning and Environment

Report No. PE2/2023

Planning and Environment



**c. Legislative Implications**

The revised draft CPP was developed in line with the relevant provisions of the *EP&A Act, 1979*, the *Environmental Planning and Assessment Regulation, 2021*, and the *Local Government Act, 1993* (in relation to reclassification of public land).

**d. Risk Implications**

Nil

**e. Environmental Implications**

Nil

**f. Other Implications**

Nil

**CONCLUSION**

The revised draft CPP reflects changes in legislation, new communication and engagement opportunities and presents a simplified explanation of how and when Council will consult and engage with the community in relation to planning matters.

The revised draft CPP has been publicly exhibited, with no submissions received. It is recommended Council adopt the revised CPP.

**ENCLOSURES**

- [1](#) Revised Community Participation Plan for Adoption

Planning and Environment

Report No. PE3/2023

Planning and Environment



**SUBJECT:** ***DRAFT CLIMATE CHANGE RESILIENCE PLAN - PUBLIC EXHIBITION***

**RESPONSIBLE OFFICER:** ***Acting Strategic Planning Manager - Jenny Mewing***

### **SUMMARY**

Council adopted the Climate Change Policy in 2020 with a commitment to develop a Climate Change Strategy/Plan that would outline actions for reducing greenhouse gas emissions, mitigating the impacts of climate change and building climate resilience.

Council Officers have worked with the community and internal stakeholders to develop a draft Climate Change Resilience Plan that provides meaningful actions to progress sustainability within Council operations and build climate change resilience capacity within the Local Government Area.

The draft Climate Change Resilience Plan provides an initial plan to commence the journey to the long-term commitments made within the adopted Climate Change Policy. It is recommended that the Plan be placed on public exhibition for comment from the local community prior to adoption by Council.

### **RECOMMENDATION**

- 1. That Council place the draft Climate Change Resilience Plan on public exhibition for a minimum period of 28 days.**
- 2. That Council receive a further report following public exhibition of the draft Climate Change Resilience Plan.**

### **BACKGROUND**

In May 2020 Council adopted its first Climate Change Policy. This policy builds upon the international agreement on climate change by the United Nations (Paris Agreement) and commitments by both the Federal and NSW State Governments. The Climate Change Policy outlines Council's commitment to addressing climate change impacts within the region and assisting the transition to net zero emissions within the community. A key commitment of the Climate Change Policy is:

- Development of a Climate Change Strategy/Plan which identifies actions for reducing greenhouse gas emissions, mitigating the impacts of climate change and building climate resilience.

**Planning and Environment**

**Report No. PE3/2023**

**Planning and Environment**



The Climate Change Policy outlines a series of commitments for inclusion within the Climate Change Strategy/Plan including:

- Providing a pathway for Council operational activities to meet net zero greenhouse gas emissions by 2050;
- Identification of internal governance systems for Council's corporate climate change risks and disaster response and recovery activities;
- Governance systems for monitoring and reporting on climate change impacts including greenhouse gas mitigation and adaptation projects;
- Collaboration with the community on sustainable options to reduce greenhouse gas emissions and build adaptation and resilience capacity; and
- Identification of adaptation capacity within Council to reduce risk for Council assets and community infrastructure.

Council Officers within the Strategic Planning department have undertaken community consultation in early 2022 and worked with the internal Climate Change Working Group to develop a draft Strategy/Plan. The resultant Climate Change Resilience Plan addresses the commitments of the Climate Change Policy and provides an initial suite of actions for the following four years to commence Council's sustainability journey. This initial suite of actions is designed to facilitate change in organisational thinking regarding Council's operational impacts and embed processes within the Council to both mitigate and adapt to climate change. These foundational actions will assist environmental management within Council operations and progress the transition towards a goal of net zero emissions by 2050.

**REPORT/PROPOSAL**

The draft Climate Change Resilience Plan (the draft Plan) is provided at **Enclosure 1**.

The actions within the draft Plan have been divided into separate sections for Council operational activities (Section 5) and community actions (Section 6) where Council can assist the community to build climate change resilience.

Six themes to target areas for increasing sustainability within Council operations and demonstrating leadership in climate change resilience have been devised. These theme areas include:

- Waste
- Fleet and Plant
- Infrastructure and Facilities
- Electricity
- Corporate Planning and Procurement
- Development Planning

Further, 17 actions where Council can assist the community to become more sustainable and progress the transition to renewable energy sources are proposed.

The draft Plan provides a set of actions over the next four years to commence the sustainability journey for both Council and the community towards the targets outlined in the adopted Climate Change Policy. It is proposed that the Council place the draft Plan on exhibition for comment from the local community.

## **CONSULTATION**

Council conducted community consultation regarding climate change action in January 2022. Community consultation included an on-line community survey which received 84 responses and two on-line engagement workshops that had 11 attendees.

Consultation with internal stakeholders was undertaken through the Climate Change Working Group in late 2021 and early 2022. Members of the Climate Change Working Group were also provided the draft Plan for comments in August/September 2022. Additional consultation was also undertaken with internal technical experts to inform the Plan such as Environment and Waste and Infrastructure.

The draft Plan is proposed to be exhibited for community consultation purposes for a minimum period of 28 days.

## **STRATEGIC LINKS**

### **a. Delivery Program**

3.1.6 Manage the risk and improve resilience to extreme weather events, flooding, bushfires, mine subsidence and land contamination.

### **b. Other Plans**

The draft Plan is relevant to the following sections of the Cessnock Local Strategic Planning Statement 2036:

- Planning Priority 20: Our community adapts to climate change and builds climate resilience.
- Planning Principle 61: Prepare a Climate Change Policy and Strategy

Community Consultation will be undertaken in accordance with Council's Community Participation Plan (CPP).

## **IMPLICATIONS**

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

The adoption of the Plan will meet the commitments of Section 5 of the Climate Change Policy.

The adoption and implementation of actions contained within the Plan will result in procedural changes for various existing Council procedures. For example, actions under the Corporate Planning and Procurement theme will result in changes to the Procurement Procedure including assessment processes for selection of preferred suppliers.

### **b. Financial Implications**

Implementation of actions contained within the Plan will be considered through Council's annual budgeting process (Operational Plan) and allocated operational/staff funding or capital funding. Some actions, such as the implementation of food organics and garden organics processing (Action W2), have already been forecasted in the Delivery Program 2022-2026.

**Planning and Environment**

**Report No. PE3/2023**

**Planning and Environment**



Other actions will require additional financial or business case assessment and have the potential to attract external grant funding. This is currently relevant for actions in relation to electric vehicle charging infrastructure and renewable energy uptake as Federal and NSW State Government Policy have accelerated grant funding recently. These grant funding streams are focused on infrastructure where community benefits or partnerships can be established or demonstrated and actions within the Plan aim to facilitate and enhance Council's prospects of gaining grant funding.

Ironbark Consulting prepared a Greenhouse Gas Emission Inventory for Council operations and provided potential options for transition to net zero emissions by 2050.

The transition to net zero emissions by 2050 for Council operations modelling forecasts an additional expenditure of over \$15M over the next 25 years. The modelling also predicts the transition will result in over \$6M of savings, above the additional expenditure, and result in a positive cost-benefit to Council operations. These figures are predicted over a 25-year period and are likely to change, but with advancement of technology in renewable energy systems savings to Council are likely to increase.

Estimated cost figures have been provided within the Plan where available. However, economic modelling by Deloitte Access Economics and industry bodies such as the Australian Business Roundtable have shown the impacts from climate change are likely to cost Australia up to \$73bn a year by 2060 if emissions continue. The cost of implementation of the strategy is likely to be a more cost-effective approach for Council to mitigate potential impacts and contribute to the transition to net zero emissions.

The adoption of the Plan will also enhance Council's ability to attract grant funding for climate change resilience projects. The Plan will significantly assist Council's competitiveness in the rapidly evolving climate change policy landscape and grant funding streams attached to these policy changes.

**c. Legislative Implications**

The adoption of the Plan will enhance Council's capacity to demonstrate the principles of ecologically sustainable development as required by the *Local Government Act 1993*. The plan will assist Council in meeting the objectives of the Community Strategic Plan (CSP) under the *LG Act 1993*.

The Council operational actions of the Plan are likely to have implications on various legislative Acts that are relevant to the six themes. For example, actions under the Development Planning theme are likely to have implications on development assessment under the *Environmental Planning and Assessment (EP&A) Act, 1979* while waste theme actions may have implications under the *Protection of the Environment Operations (POEO) Act, 1997* or *Waste Avoidance and Resource Recovery Act 2001*.

**d. Risk Implications**

The adoption of the Plan is low risk and meets the commitments of the adopted Climate Change Policy. The actions contained within the Plan may be managed by the existing Council risk framework.

**e. Environmental Implications**

The adoption of the actions contained within the Plan are likely to result in positive environmental outcomes for both Council operations and the wider Cessnock community.

**f. Other Implications**

The adoption of the Plan will result in a positive social or reputational outcome for Council by demonstrating a commitment to act upon the Climate Change Policy and commit to the challenge of addressing climate change within Council's realm of influence.

The Plan signals to other government departments and the wider community Council's intent to contribute to addressing the impacts of climate change and enhances the ability to attract grant funding for Council operations and community-driven programs.

Non-action on Council's commitments within the Climate Change Policy may result in negative implications from a social and reputation standpoint within the community. If the Plan is not adopted this may significantly hinder Council's abilities to implement climate change mitigation or adaptation actions and result in wider social, economic and environmental impacts.

**CONCLUSION**

Council adopted the Climate Change Policy in 2020 with a commitment to develop a Climate Change Strategy/Plan that would outline actions for reducing greenhouse gas emissions, mitigating the impacts of climate change and building climate resilience.

Council Officers have worked with the community and internal stakeholders to develop a draft Climate Change Resilience Plan that provides meaningful actions to progress sustainability within Council operations and build climate change resilience capacity within the Local Government Area.

The draft Plan provides an initial plan to commence the journey to the long-term commitments made within the adopted Climate Change Policy and it is recommended that the Plan be placed on public exhibition for comment from the local community prior to adoption by Council.

**ENCLOSURES**

- [1](#) Draft Climate Change Resilience Plan

**SUBJECT:** *PLANNING PROPOSAL - LOVEDALE INTEGRATED  
TOURIST DEVELOPMENT*

**RESPONSIBLE OFFICER:** *Acting Strategic Planning Manager - Jenny Mewing*

### **SUMMARY**

The development threshold of the Lovedale Integrated Tourist Development (LITD) (former Golden Bear) is regulated under clause 7.11 of the Cessnock Local Environmental Plan (CLEP). The current clause limits development to 300 tourist accommodation units and 300 permanent residential dwellings. A planning proposal was lodged with Council to amend the clause to increase the number of residential dwellings to 640.

The Planning Proposal was exhibited between 23 November – 21 December 2022. No submissions were received. It is recommended that the planning proposal be made.

### **RECOMMENDATION**

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

### **BACKGROUND**

In 2014 Council amended the Cessnock Local Environmental Plan to introduce the following local clause for the then Golden Bear site:

#### **7.11 Integrated tourist development at Wine Country Drive, Pokolbin**

- (1) *This clause applies to land at Wine Country Drive, Pokolbin, being Lots 2–4, DP 869651 and Lot 11, DP 1187663.*
- (2) *Development consent must not be granted to any development on land to which this clause applies unless—*
  - (a) *the consent authority is satisfied that the development is integrated tourist development, and*
  - (b) *the total number of permanent residential dwellings on that land does not exceed 300, and*
  - (c) *the total number of serviced apartments and hotel or motel accommodation units used for the purposes of tourist and visitor accommodation on that land does not exceed 300, and*
  - (d) *the total number of permanent residential dwellings does not exceed the total number of serviced apartments and hotel or motel accommodation units on that land used for the purposes of tourist and visitor accommodation at any time.*
- (3) *In this clause—*  
*integrated tourist development means development carried out on a single parcel of land for the purposes of major tourist facilities that include an 18-hole golf course.*

Planning and Environment

Report No. PE4/2023

Planning and Environment



The clause permitted an integrated tourist development with 300 accommodation units and 300 residential dwellings and included an 18-hole golf course.

A concept approval (see below) for an integrated tourist, golf and residential development was issued on 4 December 2019.



A Planning Proposal was lodged in April 2022 seeking an increase to the number of residential dwellings on the site from 300 to 640. This will occur within the same footprint as the concept masterplan. It is anticipated that the increased residential yield will be delivered as a variety of dwelling types rather than the originally intended, single, detached dwellings.

As the lodged Planning Proposal was consistent with the Cessnock City Council's Planning Proposal Policy dated 16 February 2022, the proposal was not reported to Council for endorsement before Gateway Determination was sought.

**REPORT/PROPOSAL**

The proposed amendment to clause 7.11 of the Cessnock LEP is as follows:

- (1) *This clause applies to land at Wine Country Drive, Pokolbin, being Lots 2–4, DP 869651, Lot 11, DP1187663 and Lot 1 DP1233030.*
- (2) *Development consent must not be granted to any development on land to which this clause applies unless—*
  - a) *the consent authority is satisfied that the development is integrated tourist development, and*
  - b) *the total number of permanent residential dwellings on that land does not exceed 640, and*



Planning and Environment

Report No. PE4/2023

Planning and Environment



- c) *the total number of tourist and visitor accommodation units on that land does not exceed 300.*
- (3) *Occupation certificates for the first 200 permanent residential dwellings shall not be issued until a construction certificate has been issued for the golf course. The remaining stages will be delivered generally in accordance with the staging plan in the DCP.*
- (4) *In this clause—  
integrated tourist development means a development that contains a mix of both permanent residential dwellings and one or more of the following uses: tourist and visitor accommodation; tourist-oriented land uses such as outdoor recreation facilities (e.g., golf courses); food and drink premises; function centres; any development that is ordinarily incidental or ancillary to such uses.*

The key elements of the change to the clause are:

1. To increase the number of permanent residential dwellings from 300 to 640,
2. To require the golf course to be constructed at the same time or before the first 200 permanent residential dwellings are occupied, and
3. To expand the definition of 'integrated tourist development' to include other related tourism uses that are envisaged on the site.

Some minor amendments to the clause may be made by Parliamentary Counsel during the drafting process but the intent of the clause, in particular the increase in residential dwellings and that the golf course will be constructed before or at the same time as the first 200 residential dwellings, will remain the same.

**CONSULTATION**

Internal consultation with relevant Council departments has been undertaken.

Consultation with the following state agencies was undertaken in accordance with the Gateway Determination:

Rural Fire Service

No response was provided within the timeframe stipulated in the Gateway Determination.

Department of Primary Industries

DPI have no issue with the proposed increase in residential dwellings as there is already a concept development approval over the site and the increased yield will occur within the existing development footprint.

Transport for NSW

A key issue of the LITD is access from Wine Country Drive. Both the Vintage Master Plan and DCP and the former Golden Bear concept approval envisage access to both sites via a shared roundabout.

**Planning and Environment**

**Report No. PE4/2023**

**Planning and Environment**



Council met with TfNSW, the Department of Planning and Environment, representatives of the Vintage and the proponents. It has been agreed that the roundabout will be provided by way of a State Planning Agreement between the Vintage, the proponents and the State Government. Council will not be a party to the agreement.

Hunter Water were also consulted on the proposal and provided updated development requirements. Further consultation will be required as part of any future development application on the site.

The Planning Proposal was publicly exhibited between 23 November and 21 December 2022. No submissions were received.

**STRATEGIC LINKS**

**a. Delivery Program**

Nil

**b. Other Plans**

Local Strategic Planning Statement

The proposal is consistent with the following planning priorities of the LSPS.

Planning Priority 2: Housing is diverse, adaptable and affordable and our urban areas facilitate affordable living.

The proposal will increase the diversity of housing types on the site compared to the originally envisaged single, detached dwellings. The amended proposal is intended to support attached dwellings and apartments. Note that residential flat buildings are not permitted; however, a further planning proposal to allow these in specific areas is envisaged. This is consistent with the Additional Permitted Use that permits residential flat buildings in a discrete area of the Vintage.

Planning Priority 5: Infrastructure and services meet the needs of our community and are appropriately funded.

All infrastructure upgrades including the construction of the roundabout on Wine Country Drive will be funded by the developer.

Urban Growth Management Plan

There is no specific reference to the Lovedale Integrated Tourist Development in the UGMP; however, the intensification of existing residential areas and the provision of greater housing diversity is encouraged. The proposal will increase the number of permanent residential dwellings within the existing approved footprint and the intention is to provide a greater variety of housing types than originally proposed in the concept approval.

Planning and Environment

Report No. PE4/2023

Planning and Environment



### **IMPLICATIONS**

**a. Policy and Procedural Implications**

Nil

**b. Financial Implications**

Nil

**c. Legislative Implications**

The Planning Proposal has been lodged, assessed and progressed in accordance with the Local Environmental Plan Making Guideline (September 2022) and exhibited in accordance with the provisions of Council's Community Participation Plan.

Any subsequent development application will be processed in accordance with the requirement of the *Environmental Planning and Assessment Act, 1979*.

**d. Risk Implications**

Nil

**e. Environmental Implications**

Nil

**f. Other Implications**

Nil

### **CONCLUSION**

The planning proposal seeks to increase the number of permanent residential dwellings from 300 to 640. This may provide a greater variety of housing types within the existing approved area. The proposal has been publicly exhibited and no submissions were received during that period. It is considered appropriate for the amendment to be made.

### **ENCLOSURES**

[1](#) ⇨ Lovedale Integrated Tourist Development - Planning Proposal

Planning and Environment

Report No. PE5/2023

Planning and Environment



**SUBJECT:** *COMPREHENSIVE LOCAL ENVIRONMENTAL PLAN AND DEVELOPMENT CONTROL PLAN REVIEW - TEMPORARY USES (INCLUDING TEMPORARY EVENTS)*

**RESPONSIBLE OFFICER:** *Acting Strategic Planning Manager - Jenny Mewing*

### **SUMMARY**

Council is currently undertaking a staged, comprehensive review of the Cessnock Local Environmental Plan (CLEP) 2011 and Cessnock Development Control Plan (CDCP) 2010. A revised regulatory framework for temporary uses (including temporary events) has been drafted. This includes amendments to the CLEP (via a Planning Proposal) and CDCP.

The Planning Proposal requires authorisation by the Department of Planning and Environment (DPE) to proceed to exhibition. Once authorisation is issued, it is proposed to exhibit the draft regulatory framework in accordance with the Gateway Determination and the requirements of the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000*.

This report seeks the authorisation of Council to request a Gateway Determination from the DPE and to proceed to public exhibition on receipt of the Gateway Determination.

### **RECOMMENDATION**

**That Council**

- 1. Request a gateway determination for the Planning Proposal “Temporary Uses” from the Department of Planning and Environment pursuant to the Environmental Planning and Assessment Act 1979.**
- 2. Request authorisation under s3.31 of the Environmental Planning and Assessment Act 1979 to act as the local plan-making authority.**
- 3. Place the draft Planning Proposal on exhibition as determined by the Department of Planning and Environment Gateway determination.**
- 4. Place the draft Cessnock Development Control Plan Chapter “Temporary Uses” on exhibition concurrently with the planning proposal.**
- 5. Receive a report back on the Planning Proposal and Development Control Plan amendment if unresolved, written objections are received during consultation period; otherwise:**
  - a. endorse the Planning Proposal as an amendment to the Cessnock Local Environmental Plan 2011 pursuant to s3.36(2)(a) of the Environmental Planning and Assessment Act 1979; and**
  - b. endorse the amendment to the Cessnock Development Control Plan pursuant to clause 14(1) of the Environment Planning and Assessment Regulation 2021.**

## **BACKGROUND**

Clause 2.8 Temporary Use of Land of the CLEP allows Council to consider a development application for the temporary use of land, subject to the following conditions:

1. The temporary use does not exceed a maximum of 52 days per year,
2. The temporary use will not:
  - a. Prejudice the subsequent carrying out of development on the land,
  - b. Adversely impact on any adjoining land or the amenity of the neighbourhood,
3. The location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land,
4. At the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

Consent may be granted for any temporary use on land subject to these conditions.

There are currently no development controls that apply to 'temporary uses' generally. The proposed amendments to the CDCP addresses this omission.

'Temporary events' are a type of 'temporary use' but they are not defined as a separate land use in the CLEP. The existing CDCP contains a chapter regulating temporary events. It provides an exemption for events where fewer than 500 people attend. However, this exemption is invalid. This can only be provided in the Statutory instrument (i.e. the CLEP or a state Environmental Planning Instrument).

Temporary events range in size, location and impact and they are an important part of activating public spaces and increasing the diversity of activity in the local area.

The Economic Development unit prepared an Economic Assessment for medium-sized events. The assessment argues that the financial, timing and administrative requirements to submit a development application for a medium-sized event discourages this threshold of event being held in Cessnock.

To respond to this finding and to provide a valid exemption for certain sized events an alternative regulatory framework is proposed.

## **REPORT/PROPOSAL**

There are no development provisions in the CDCP to assess 'temporary uses'. The draft amendment includes development provisions for 'temporary uses'.

Planning and Environment

Report No. PE5/2023

Planning and Environment



'Temporary events' are a type of 'temporary use'. A risk management approach has been applied to the regulatory framework. The amendments to the CLEP provide different approval pathways for different thresholds of events. The amendments exempt small events, allow medium-sized events to be processed as complying development and only require a development application for large events or smaller events that cannot satisfy the exempt or complying development criteria.

Small events (<1000 persons in attendance at any one time)

The current regulatory framework *exempts* small events where fewer than 500 people are expected to attend. This exemption is invalid. However, there is a clear signal that Council wishes to provide an exempt development pathway for low-impact events.

This will be accommodated in an exempt development pathway under clause 3.1 and schedule 2 of the CLEP subject to the following conditions:

- *A maximum of 1,000 attendees at any one time.*
- *The event may take place only during the following times—*
  - *7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday,*
  - *7.30 am to midnight on Friday or Saturday,*
  - *8.00 am to 8.00 pm on Sunday.*
- *Must be on land that has:*
  - *On-site toilets or approved temporary human waste management facilities under the Local Government Act 1993 and are provided at a rate of one unisex toilet plus one wash basin per 250 persons plus at least one unisex accessible toilet plus one wash basin.*
  - *Potable water or potable water is provided in accordance with NSW Public Health Act and NSW Private Water Supply Guideline.*
  - *Rubbish receptacles are to be provided at a rate of 1-litre per person expected to attend the event. (Note: Standard Wheelie-bin is 240-litres).*
- *All waste and recyclable materials generated by the event must be removed from the site and disposed of at a waste management facility capable of taking the waste.*
- *All event-associated structures (excluding the provision of temporary signage) must not be erected earlier than 2 days before the event and must be dismantled and removed from the land within 2 days of the end of the event.*
- *At the end of the temporary event, the land is as far as is practicable restored to the condition in which it was before the commencement of the use within 7-days of the end of the event.*

Planning and Environment

Report No. PE5/2023

Planning and Environment



- *The organiser must have public liability cover to the value of \$20 million.*
- *Notification must be given to the NSW Police, the NSW Rural Fire Service and the Ambulance Service of NSW at least 7 days before the event starts.*
- *Notification must be given to adjoining properties at least 7 days before the event starts.*

*Note—*

*Other approvals may be required, and must be obtained, under other Acts, including the Local Government Act 1993, the Roads Act 1993 and the Crown Land Management Act 2016.*

Medium-sized events (1000<5000 persons in attendance at any one time) and events on publicly owned and managed land

Medium-sized events have higher infrastructure needs and moderate potential impacts from noise, traffic etc. so, some level of oversight is necessary. Therefore, it is proposed to introduce a Complying Development pathway for medium-sized events on sites where infrastructure to accommodate higher numbers of people already exists (e.g. parking, accessibility measures, amenities, rubbish collection, public transport options). These include schools, places of public worship, shopping centres, some tourist-nodes, sportsgrounds and public parks.

Events on publicly-owned land (i.e. Council-land) are also provided for under the Complying Development pathway. Events on publicly-owned land require Council's consent (as landowners) so, there is a level of oversight over this use. Therefore, all events on Council-land can be processed as complying development where they meet the following criteria:

- *A maximum of 5,000 attendees at any one time unless held on publicly-owned or managed land.*
- *Must be on land that:*
  - *can accommodate a minimum of 80 on-site car parking spaces.*
  - *has a minimum of two accessible car parking spaces.*
  - *has on-site permanent toilets.*
  - *has on-site permanent accessible toilets.*
  - *has a bus/taxi drop off area.*
- *Access to the land must be directly from an all-weather, Council or State Government road.*
- *Access and egress to the land must be adequate to allow the safe circulation of vehicles entering and exiting the site.*

Planning and Environment

Report No. PE5/2023

Planning and Environment



- *The event may take place only during the following times—*
  - *7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday,*
  - *7.30 am to midnight on Friday or Saturday,*
  - *8.00 am to 8.00 pm on Sunday.*

*Note—*

*Other approvals may be required, and must be obtained, under other Acts, including the Local Government Act 1993, the Roads Act 1993 and the Crown Land Management Act 2016.*

If the event satisfies these criteria, it may be processed as complying development. A complying development certificate will be issued with a list of conditions relating to the use of the site (For these conditions, see **Enclosure 2**).

Large events (>5000 persons in attendance at any one time) and non-complying small and medium events

Large events and those smaller events that cannot satisfy the conditions under schedule 2 or 3 of the CLEP require a development application. The amendment to the CDCP (see **Enclosure 2**) includes revised development provisions to assess these events.

**CONSULTATION**

The proposed revised regulatory framework for temporary uses (including temporary events) has been developed internally with participation from:

- Strategic Planning
- Development Services
- Building Certifiers
- Economic and Tourist Development
- Open Space and Community Facilities

The draft framework and development controls were circulated more widely within the organisation. Comments from those areas has been incorporated in these draft documents.

Public exhibition of the proposed amendments to the CLEP will occur in accordance with the Gateway Determination and Council's Community Participation Plan (CPP).

Public exhibition of the proposed amendments to the CDCP will occur concurrently in accordance with the requirements of the *Environmental Planning and Assessment Regulation, 2000* and Council's CPP.



**Planning and Environment**

**Report No. PE5/2023**

**Planning and Environment**



**STRATEGIC LINKS**

**a. Delivery Program**

The proposal is consistent with the following objectives of the Cessnock Community Strategic Plan 2036:

Objective 1.1 Promoting social connections and wellbeing

Objective 1.2 Strengthening community culture

Objective 2.1 Diversifying and growing our economy

Objective 2.3 Increasing tourism opportunities and visitation in the area

**b. Other Plans**

The proposal is consistent with the following planning priorities of the Cessnock Local Strategic Planning Statement 2036:

Planning Priority 3: The character and vitality of our town centres and villages is protected and enhanced.

Planning Priority 10: Our City encourages a variety of niche tourism opportunities.

**IMPLICATIONS**

**a. Policy and Procedural Implications**

NIL

**b. Financial Implications**

NIL

**c. Legislative Implications**

The planning proposal and the amendment to the CDCP will be undertaken in accordance with the *Environmental Planning and Assessment Act, 1979* and its regulation, in addition to the DPE Local Environmental Plan Making Guideline (September 2022) and Council's CPP.

**d. Risk Implications**

The proposed regulatory framework for events applies a risk management approach by providing different approval pathways for different levels of risk.

**e. Environmental Implications**

All approval pathways contain development provisions to manage potential environmental impacts from temporary uses.



**f. Other Implications**

Providing expediated approval pathways for small and medium-sized events and events on public land may support a more diverse and denser event timetable across the Local Government Area.

**CONCLUSION**

The proposed amendments will introduce development provisions to regulate 'temporary uses' generally that will assist Council to assess and regulate these uses.

Temporary events are an important part of Cessnock's tourist, cultural and community offer. The proposed amendments to the CLEP and CDCP provide three approval pathways based on the size of the event and the risk it poses. Small events that meet the criteria listed will be exempt development; medium-sized events and those that are held on public land may be assessed via a complying development pathway and only those large events and those that do not comply with the exempt and complying criteria will require a development application.

**ENCLOSURES**

- [1](#) ⇨ Planning Proposal \_ Temporary Uses (Temporary Events)
- [2](#) ⇨ Temporary Uses Temporary Events - Discussion Paper
- [3](#) ⇨ Temporary Uses - Draft DCP Controls

Corporate and Community

Report No. CC1/2023

Corporate and Community Services



**SUBJECT:** *MINUTES OF THE COMMUNITY ENGAGEMENT, AWARDS AND GRANTS COMMITTEE MEETING HELD 14 DECEMBER 2022*

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

### **RECOMMENDATION**

**That Council endorse the recommendations of the Community Engagement, Awards and Grant Committee to offer opportunities for induction into the City of Cessnock Hall of Fame in recognition of achievement and contribution to fields of endeavour.**

The Community Engagement, Awards and Grant Committee (The Committee) met on 14 December 2022 to consider the nominations for the City of Cessnock Hall of Fame. The Hall of Fame celebrates individuals and families who have a strong association with the City of Cessnock and have attained significant prominence in their field of endeavour.

The call for nominations opened September 2022 and closed 11 November 2022. The Committee assessed the nominations in accordance with the Hall of Fame Guidelines.

The Committee's recommendations for induction into the Cessnock City Hall of Fame are detailed in the enclosed confidential meeting minutes at **Enclosure 1** and the City of Cessnock Hall of Fame Nominations are provided as confidential **Enclosure 2**.

### **ENCLOSURES**

- 1** Minutes of the Community Engagement, Awards and Grant Committee Meeting held 14 December 2022 - *This matter is considered to be confidential under Section 10A(2) (j) of the Local Government Act, as it deals with Council Policy. (The enclosed minutes list the names of individuals for acceptance and non-acceptance into the City of Cessnock Hall of Fame. This information has been submitted by third parties. )*
- 2** 2023 Hall of Fame Nominations and Supporting Documents - *This matter is considered to be confidential under Section 10A(2) (j) of the Local Government Act, as it deals with Council Policy. (The enclosure contains addresses of people nominated for the Cessnock City Hall of Fame Program and other personal information submitted by third parties. )*

Corporate and Community

Report No. CC2/2023

Corporate and Community Services



**SUBJECT:** *DECEMBER 2022 REVIEW OF THE 2022-26 DELIVERY PROGRAM*

**RESPONSIBLE OFFICER:** *Chief Financial Officer - Matthew Plumridge*

### **SUMMARY**

The purpose of this report is for Council to note the Quarterly update on the progress against Council's 2022-26 Delivery Program and the Operational Plan 2022-23 (incorporated into the 2022-26 Delivery Program).

### **RECOMMENDATION**

- 1. That Council notes the progress in implementing the 2022-26 Delivery Program as at 31 December 2022.**
- 2. That Council approves changes to the Operational Plan actions and targets as outlined in the report.**

### **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 to be provided at least every six months.

The Quarterly Budget Review Statement required under clause 203 of the *Local Government (General) Regulation 2021*, provides financial information in regards to estimates of income and expenditure and is separately reported to Council.

Council adopted the 2022-26 Delivery Program and incorporated Operational Plan 2022-23 in June 2022. 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 a report is prepared to assess Council's progress against 2022-26 Delivery Program actions and the Capital Works Program.

## **REPORT/PROPOSAL**

The 2022-23 Operational Plan is a one-year plan and was developed to implement the adopted actions from the 2022-26 Delivery Program.

Some of the highlights for the December quarter are provided below:

- Carols in the Park was held 2 December, and was well attended by the community.
- A diverse range of activities including Christmas films, take home art packs, excursions, art workshops, and coding and robotics workshop were held at various locations including Performance, Arts, Culture, Cessnock; Cessnock City Library and Cessnock Youth Centre and Outreach Service throughout the month of December.
- Tables and chairs have been installed, two gardens have been planted out and dripline irrigation has been installed in Col Brown Rotary Park Kurri Kurri. Solar lighting installation is also completed, at all western end gardens.
- Stabilisation works are complete for the Miller Park tennis courts and works have now commenced at the new netball courts.
- The new sporting facilities at Carmichael Park have commenced for the multipurpose court/hit up wall & cricket nets.
- The Maybury Peace Park play space upgrade is complete. Inclusive play equipment has been installed with the exception of trampolines (which are still in transit). All landscaping works and safety fencing is now complete.
- The leash-free dog area at Manning Park is complete with formal opening held in December 2022.
- The playspace upgrade is near completion at McFarlane Street with only minor landscaping works to be completed.
- Work on the Anvil Creek Bridge, Nelson Street Greta is now complete.
- The Cessnock CBD to Bridges Hill Park via Aberdare shared path works are completed at Aberdare Road, Bridge Street, Mayfield Street and Bridges Hill section.
- The Cessnock Airport runway re-opened for day flights on 18 October 2022.

## **2022-26 Delivery Program**

At the conclusion of the First Quarter 20 (11%) of the 173 Actions from the 2022-23 Operational Plan) were Completed with 138 (80%) currently In Progress. The 'In Progress' Actions will continue to be monitored and reported as part of the quarterly review process. There were no Actions at Risk, 3 (2%) Not Progressing and 12 (7%) which are Not Due to Start at the time of reporting.

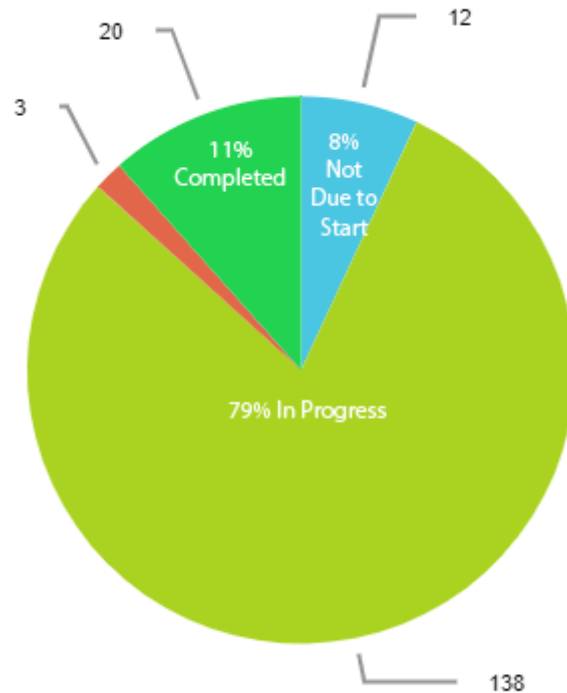


Table 1 shows the overall status of actions at 31 December 2022.

**Table 1**

	A connected, safe, and creative community	A sustainable and prosperous economy	A sustainable and healthy environment	Accessible infrastructure, services and facilities	Civic leadership and effective governance	Total	%
Not Due to Start	1	0	5	2	4	12	7
In Progress	39	19	34	14	32	138	80
Not Progressing	2	0	1	0	0	3	2
Complete	4	5	6	2	3	20	11
At Risk	0	0	0	0	0	0	0
	<b>46</b>	<b>24</b>	<b>46</b>	<b>18</b>	<b>39</b>	<b>173</b>	<b>100</b>

**2022-26 Delivery Program**



Details of the projects have been included in **Enclosure 1**.

**2022-23 Capital Works Program**

At 31 December 2022, 24 of the 264 projects from the 2022-23 Capital Works Program were Completed, 19 were Not Progressing, 129 were On Track and 92 projects are Not Due to Start.

Corporate and Community

Report No. CC2/2023

Corporate and Community Services



Table 2 shows a summary the overall status of projects at 31 December 2022.

**Table 2**

Program	Complete	On track	Carry forward/Not Progressing	Not due to Start	Total
Community Buildings Construction (CBC/WDC)	-	1	1	1	3
Bridge Construction Program (CBS)	1	1	1	4	7
Drainage Construction Program (CDR)	3	11	1	6	21
Cemeteries Facilities Construction (CFC)	-	1	-	3	4
Recreation Facilities Construction (CFR)	4	10	-	8	22
Traffic Facilities Program (CFT)	1	14	2	1	18
Waste Facilities Construction (CFW)	-	3	-	1	4
Library Books (CL)	-	1	-	-	1
Pathway Construction (CPW)	-	4	3	11	18
Local Road Construction (CRL)	-	3	-	2	5
Safer Roads (CRR/CLS)	1	2	3	1	7
Signage/Vineyard Roads (CRV)	-	1	-	-	1
Kurri Kurri Town Centre (CTK)	-	3	-	-	3
Pre-Construction Design (DCP)	-	2	1	-	3
Other Fixed Assets (OFA)	-	1	-	1	2
Airport Construction (PCA)	3	4	1	3	11
Plant and Fleet Acquisition (PFA)	-	2	-	-	2
Floodplain Management (PMF)	-	8	-	4	12
Airport Renewal (PRA)	2	-	-	-	2
Cultural and Community Buildings (RBC)	1	12	-	8	21
Recreation Buildings Renewal (RBR)	-	1	-	12	13
Cessnock Civic Revitalisation (RCC)	-	1	-	-	1
Pools Facilities Renewal (RFP)	2	-	-	-	2
Recreation Facilities Renewal (RFR)	2	4	-	7	13
Recreation Pre-Construction Design (RPC)	-	1	-	-	1
Gravel Rehab & Re-sheeting (RRG)	-	1	-	-	1
Local Road Renewal (RRL)	3	12	4	14	33
Regional Road Renewal (RRR)	1	5	-	4	10
Recreation Services Administration (RSA)	-	-	-	1	1
Waste Plant Management (WPM)	-	2	-	-	2
<b>Total</b>	<b>24</b>	<b>129</b>	<b>19</b>	<b>92</b>	<b>264</b>

Detailed information on the Capital Works Program is included in **Enclosure 2**.

## **OPTIONS**

N/A

## **CONSULTATION**

The General Manager, Directors, Managers and Coordinators provided the information for 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 quarterly budget review forecasts are reported separately to Council.

### **c. Legislative Implications**

This report satisfies the requirements of Section 404 of the *Local Government Act 1993*.

### **d. Risk Implications**

N/A

### **e. Other Implications**

N/A

## **CONCLUSION**

The review of the 2022-26 Delivery Program against the Operational Plan 2022-23, for the Quarter ended 31 December 2022, is submitted for Council's consideration.

## **ENCLOSURES**

- [1](#) Q2\_2022-23 Quarterly Review Report\_Objectives
- [2](#) Q2\_2022-23 Quarterly Review Report\_Capital Works Program



Corporate and Community

Report No. CC3/2023

Corporate and Community Services



**SUBJECT:** *QUARTERLY BUDGET REVIEW STATEMENT - Q2  
DECEMBER 2022*

**RESPONSIBLE OFFICER:** *Chief Financial Officer - Matthew Plumridge*

### **SUMMARY**

The purpose of this report is to present the Quarterly Budget Review Statements (QBRs) for Q2 December 2022 for Council's consideration and approval.

### **RECOMMENDATION**

1. That Council receives the Quarterly Budget Review Statement Q2 December 2022 in accordance with Clause 203 of the Local Government (General) Regulation 2021.
2. That Council notes that the Quarterly Budget Review Statement Q2 December 2022 reflects a forecast operating surplus for the year of \$28.5m or a deficit of \$5.2m excluding capital income.
3. That Council notes that the Quarterly Budget Review Statement Q2 December 2022 reflects a forecast capital expenditure budget of \$56.7m.
4. That Council approves proposed changes to the 2022-23 operating and capital budgets as presented in the Quarterly Budget Review Statement Q2 December 2022.
5. That Council notes that the Quarterly Budget Review Statement forecasts five of the six key performance indicators will exceed Office of Local Government benchmarks.

### **BACKGROUND**

Clause 203 of the *Local Government (General) Regulation 2021* requires the Quarterly Budget Review Statement (QBRs) to be prepared and submitted to Council. A separate report to Council contains information in regard to Council's Delivery Program and reporting under Integrated Planning and Reporting requirements.

The QBRs for Q2 December 2022 is presented to Council for consideration and contains all necessary disclosures.

### **REPORT/PROPOSAL**

The budget review process involved responsible budget 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.

### **General Budget Commentary**

Corporate and Community

Report No. CC3/2023

Corporate and Community Services



The QBRS Q2 December 2022 is provided to the Council at **Enclosure 1** and shows a projected operating surplus of \$28.5m for the year ending 30 June 2023, or a forecast net operating deficit of \$5.2m excluding capital grants and contributions income.

The QBRS also shows a revised capital works program forecasting changes that decrease the current program by \$16.7m, from \$73.5m to \$56.7m.

For details on all proposed budget changes please refer to the notes in the QBRS.

#### *Key Performance Indicators*

Council's QBRS forecasts that five out of six key performance indicators will exceed Office of Local Government (OLG) benchmarks. Due to the revised net operating position now forecasting a deficit, the Operating Performance Ratio is no longer meeting the benchmark to break even. A listing of the key performance indicators (ratios) is included in the QBRS suite of reports.

#### **Responsible Accounting Officer Statement**

Section 203 (2) of the *Local Government (General) Regulation 2021* 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.

In the QBRS Q2 December 2022, the RAO has further noted that the latest forecast deficit is primarily caused by timing differences of expenditure incurred in the current financial year, as opposed to the income being recognised prior to 30 June 2022, in addition to increasing depreciation costs. Council's cash position remains strong at this point in time though further investigation will be needed as part of the upcoming budget process to determine future requirements around ongoing financial sustainability.

#### **CONSULTATION**

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

- General Manager
- Directors
- Managers
- Senior finance staff

The QBRS was presented to the Audit and Risk Committee on 7 February 2023 and due to timing associated with finalisation of this report and the Audit and Risk Committee schedule of the meeting, any recommendation from the committee was unable to be included in this report.

## **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.*"

### **b. Other Plans**

N/A

## **IMPLICATIONS**

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

N/A

### **b. Financial Implications**

The QBRS is presented in accordance with the adopted budget strategy. The detailed review of all operational and capital budgets is a continuous process. The objective is to improve Council's current and future financial position while continuing to deliver programs and infrastructure to meet community needs.

### **c. Legislative Implications**

Clause 203 of the *Local Government (General) Regulation 2021* requires the Responsible Accounting Officer to prepare and submit to Council a QBRS that shows revised estimates of income and expenditure for the year within two months of the end of each quarter.

### **d. Risk Implications**

The following are some of the risks that may impact the projected full year operating statement result:

- Losses on disposal of asset values as a result of assets being upgraded or renewed prior to the end of their effective lives;
- Unrealised losses associated with the managed fund held with TCorp;
- Changes in estimates for future remediation of landfill sites;
- Increased operational employee costs due to lower capitalisation of labour; and
- Increased costs associated with electricity and fuel.

Furthermore, the achievement of the planned operating result will most likely be impacted by changes to the early prepayment of the Financial Assistance Grant. Over recent years, approximately 50% of the Financial Assistance Grant has been prepaid early in the year prior to which it relates and this consistent process has resulted in a smoothing of the payments each financial year.

**Corporate and Community**

**Report No. CC3/2023**

**Corporate and Community Services**



Council's budget assumptions are consistent with this trend however 75% was prepaid in 2021-22. Should these prepayments cease or return to a 50% prepayment arrangement, then the gap year will suffer a reduction to income.

Additionally, there is an ongoing review of the system for distribution of parts of the grants, and Cessnock has been advised that this is likely to reduce the total amount of the grant to be received, but is not expected to impact until the 2023-24 financial year.

**e. Environmental Implications**

N/A

**f. Other Implications**

N/A

**CONCLUSION**

The Quarterly Budget Review Statement for Q2 December 2022 is submitted for council's approval. It is highlighted that the forecast deficit is primarily caused by timing differences of expenditure incurred in the current financial year, as opposed to the income being recognised prior to 30 June 2022, in addition to increasing depreciation costs. Council's cash position remains strong at this point in time.

**ENCLOSURES**

- [1](#) Quarterly Budget Review Statement Q2 December 2022

Corporate and Community

Report No. CC4/2023

Corporate and Community Services



**SUBJECT:** *NOTES OF THE INQUORATE ABORIGINAL AND TORRES STRAIT ISLANDER COMMITTEE MEETING HELD 2 DECEMBER 2022*

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

**RECOMMENDATION**

That the notes of the inquorate meeting of the Aboriginal and Torres Strait Islander Committee held on 2 December 2022 be noted.

As the meeting was inquorate the discussions on the items in the agenda are presented to Council as information only.

**NOTES OF THE INQUORATE ABORIGINAL AND TORRES STRAIT ISLANDER COMMITTEE MEETING OF THE CESSNOCK CITY COUNCIL HELD AT CESSNOCK YOUTH CENTRE AND OUTREACH SERVICE ON FRIDAY, 2 DECEMBER 2022, COMMENCING AT 9.15AM**

**PRESENT:** The Mayor, Councillor Suvaal  
Councillor Grine  
Councillor Burke  
Ms Tara Dever (Community Representative)  
Ms Sonia Sharpe (Community Representative) (left at 10:45am)

**ABSENT:** Ms Lucy Reed (Community Representative)  
Ms Cheryl Kitchener (Community Representative)  
Ms Tracey Skene (Community Representative)

**IN ATTENDANCE:** Mr Cameron Clark – Acting Director Works and Infrastructure  
Ms Natalie Drage – Community & Cultural Development Manager  
Mr Martin Johnson – Strategic Planning Manager  
Ms Janine Maher – Development Services Manager  
Ms Jenny Mewing – Senior Strategic Planner  
Mr Mark Manning – Senior Environmental Planner  
Ms Ellen Murphy – Minute Taker

**INVITEES:** Ms Deanne Nelson-Pritchard - Maitland City Council

**APOLOGIES**

Uncle Richard Edwards (Community Representative)  
Mr Ken Liddell - General Manager  
Councillor Watton

**ACKNOWLEDGEMENT OF COUNTRY**

The meeting was chaired by Councillor Burke.

## ***PREVIOUS MEETING MINUTES***

**MINUTES:** The Minutes of the Aboriginal and Torres Strait Islander Committee held on 23 September 2022, as circulated, were made available to Committee members.

## ***DISCLOSURES OF INTEREST***

Nil

## ***BUSINESS ARISING FROM THE MINUTES***

**SUBJECT:** ***ABORIGINAL CULTURAL AND SPIRITUAL PRINCIPALS  
RELATING TO ABORIGINAL INTERNMENT REQUIREMENTS  
NO. AACLM4/2022***

### ***MEETING NOTES***

Discussion occurred for further conversations to be held outside of the meeting with community representatives and Council staff regarding internment requirements.

## ***LISTED MATTERS***

### ***LISTED MATTERS - COMMITTEE NO. AACLM7/2022***

**SUBJECT:** ***SAWYERS GULLY URBAN INVESTIGATION AREA STRUCTURE  
PLAN***

### ***MEETING NOTES***

- 1. The Committee noted that the preparation of the Sawyers Gully Urban Investigation Area (SGUIA) Structure Plan has commenced.**
- 2. The Committee noted an engagement strategy will be prepared for the Sawyers Gully Urban Investigation Area (SGUIA) Structure Plan that will provide opportunities for future consultation with the Committee.**

***LISTED MATTERS - COMMITTEE NO. AACLM8/2022***

***SUBJECT: CONSULTATION FOR THE DEVELOPMENT OF THE ABORIGINAL  
COMMUNITY ACTION PLAN***

***MEETING NOTES***

The Committee considered a list of people and organisations to be included in the consultation for preparing the Aboriginal Community Action Plan.

***LISTED MATTERS - COMMITTEE NO. AACLM9/2022***

***SUBJECT: CONSULTATION PROTOCOL FOR THE REFERRAL OF MATTERS  
TO THE ABORIGINAL AND TORRES STRAIT ISLANDER  
COMMITTEE***

***MEETING NOTES***

1. The Committee discussed the Consultation Protocol for the Referral of Matters to the Cessnock City Council Aboriginal and Torres Strait Islander Advisory Committee and adding an additional item for land use strategic planning projects.
2. The Committee discussed cultural heritage assessments for development applications.

***LISTED MATTERS - COMMITTEE NO. AACLM10/2022***

***SUBJECT: HUNTER RIVER ESTUARY COASTAL MANAGEMENT PROGRAM***

***MEETING NOTES***

1. The Committee discussed that the Hunter River Estuary CMP is currently being prepared by Maitland City Council in collaboration with Cessnock City Council, Newcastle City Council, Port Stephens Council and Dugong Shire Council along with other NSW State Government departments.
2. The Committee noted an engagement strategy will be prepared for the Hunter River Estuary CMP that will provide opportunities for future consultation with the Committee.

Corporate and Community

Report No. CC4/2023

Corporate and Community Services



**LISTED MATTERS - COMMITTEE NO. AACLM11/2022**

**SUBJECT: ABORIGINAL CULTURAL HERITAGE MANAGEMENT PLAN -  
MEMORANDUM OF AGREEMENT WITH LOCAL ABORIGINAL LAND  
COUNCILS**

**MEETING NOTES**

The Committee discussed the draft Memorandum of Agreement for consultation and agreement with Local Aboriginal Land Councils for the Aboriginal Cultural Heritage Management Plan project.

**CORRESPONDENCE**

Nil

*The Meeting Was Declared Closed at 11am.*

**ENCLOSURES**

There are no enclosures for this report



Corporate and Community

Report No. CC5/2023

Corporate and Community Services



**SUBJECT:** *COUNCIL RECESS PERIOD - DECISIONS MADE UNDER DELEGATED AUTHORITY*

**RESPONSIBLE OFFICER:** *Director Corporate & Community Services - Robert Maginnity*

### **SUMMARY**

This report provides notification to Council of matters considered under delegated authority pursuant to Section 377 of the *Local Government Act 1993* (the Act), by the Mayor and the General Manager jointly exercising the function of Council during the recess period.

### **RECOMMENDATION**

**That Council notes that during the recess period of Council, the Mayor and General Manager did not determine any matters under the delegated authority.**

### **BACKGROUND**

Council at the meeting of 14 December 2022 resolved that Council be in recess from 15 December 2022 until 31 January 2023 and that delegations be made to the Mayor and General Manager to jointly exercise any functions of Council during the recess period.

This report provides information on matters determined during the recess period.

### **REPORT/PROPOSAL**

Council at the meeting of 14 December 2022 resolved:

- 1. That Council be in recess from 15 December 2022 to 31 January 2023.**
- 2. That Council pursuant to Section 377 of the Local Government Act 1993, delegate authority to the Mayor and the General Manager jointly to exercise any function of Council during the recess period.**
- 3. That a list of matters considered, if any, under such delegated authority be submitted for Council's information to the February 2023 meeting.**

At the date of preparing this report, there were no matters considered under this delegation during the recess period.

### **OPTIONS**

N/A

### **CONSULTATION**

General Manager

Corporate and Community

Report No. CC5/2023

Corporate and Community Services



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**STRATEGIC LINKS**

**a. Delivery Program**

This report is linked to the Community Strategic Plan Cessnock 2027, specifically, the key objective of *Civic Leadership and Effective Governance*.

**b. Other Plans**

N/A

**IMPLICATIONS**

**a. Policy and Procedural Implications**

N/A

**b. Financial Implications**

N/A

**c. Legislative Implications**

Section 377 of the *Local Government Act 1993* provides for delegations to the General Manager and Council endorsed delegations to the Mayor and General Manager to jointly exercise any functions of Council during the period of recess.

**d. Risk Implications**

N/A

**e. Other Implications**

N/A

**CONCLUSION**

This report provides information for Council and the community on matters considered under delegation during the recess period of Council.

**ENCLOSURES**

There are no enclosures for this report.

Corporate and Community

Report No. CC6/2023

Corporate and Community Services



**SUBJECT:** ***BI-ANNUAL COMPLAINT HANDLING REPORT - JULY-DECEMBER 2022***

**RESPONSIBLE OFFICER:** ***Chief Financial Officer - Matthew Plumridge***

### **SUMMARY**

This report presents the Complaint Handling Report for Q4 of 2022 outlining what the community is not satisfied with, complaints that have been substantiated, learnings and proposed improvement actions.

### **RECOMMENDATION**

**That Council notes the Bi-annual Complaint Handling Report for the period 1 July to 31 December 2022 and that of the 18 complaints received 5 were substantiated, and that in the same reporting period there were 56 registered compliments received in relation to Councils operations and interactions with the public.**

### **BACKGROUND**

The Policy was adopted on 11 December 2019 and the Complaints Handling Procedure was noted at the same time.

Clause 9.1 of the Procedure provides that:

*Biannual reports will be provided to the elected Council on the following statistics:*

- i. *the number of Complaints received,*
- ii. *the number of Complaints resolved and time taken to do so,*
- iii. *the number of Complaints outstanding,*
- iv. *the categories of Complaints made.*

A complaint is an expression of dissatisfaction made to or about Council, Council services, Council staff or the handling of a complaint where a response or resolution is explicitly or implicitly expected or legally required.

### **REPORT/PROPOSAL**

Complaints provide Council with valuable information and learnings enabling operational process and service improvements. The impact a complaint has upon Council is largely determined by how Council handles the complaint, as a poorly handled complaint can have a negative effect on Council's reputation.

For the reporting period 1 July 2022 to 31 December 2022, the Complaint Handling Register showed 18 complaints were received, with 5 being substantiated. A dashboard overview of the complaints received is provided at **Enclosure 1**.

Corporate and Community

Report No. CC6/2023

Corporate and Community Services



The Policy outlines a hierarchy for managing complaints:

- Tier 1 are complaints that have been made for the first time and that can be addressed by frontline staff. There were 16 Tier 1 complaints received during the period.
- Tier 2 are requests for an internal review of Tier 1 complaints in which case the Public Officer or their delegate handles the request for review. There was one (1) received during the period.
- Tier 3 complaints are requests for review from external agencies, such as the NSW Ombudsman and Office of Local Government, and as with Tier 2 complaints, the Public Officer or their delegate handles the request for review. There was one (1) Tier 3 complaint received during the period.

Category of Complaint	Number	Substantiated
Dissatisfaction with service received	10	3
Alleged non-adherence to Council's standards of behaviour	2	1
Alleged non-adherence to Council Policy/Process	3	1
Alleged Council failed in its duty/responsibilities	2	0
Alleged breach of WH&S obligations	0	0
Dissatisfaction with a Council Decision	1	0
<b>Total</b>	<b>18</b>	<b>5</b>

**Learnings from the data**

The complaints received have provided valuable information in relation to:

- the importance of regular and timely communication with complainants,
- the manner in which information is provided to the complainants, and
- the importance of working effectively across business units to meet response timeframes.

The number of complaints received in this 6-month period has dropped by 77.77% compared to the same period last year (July 2021 - Dec 2021 with 32 complaints received).

Of the complaints received:

- One complaint was completed outside the Policy timeframes, and the customer was notified of an extension as this complaint required more time to resolve due to the nature.
- Five complaints were substantiated and have all resulted in Council addressing the individual issues concerned. Three of these were due to the customer not being satisfied with the service they received, 1 was alleged non-adherence to Council Policy/Process and 1 was alleged non-adherence to Council's standards of behaviour.

In considering the number of complaints received and in particular those found to be substantiated, it is important to consider the total number of interactions that Council received over the course of the reporting period. These interactions are at all levels, and is not confined to contact with the customer relations contact.

<b>Interaction Type</b>	<b>Number</b>
Registered Compliments	56
Customer Service Centre – Counter Enquiries	4,724
Customer Service Centre – Incoming Phone calls	22,215
Customer Service Centre – CRM	14,587
Customer Service Centre – Web Chat	670
<b>Sub Total Customer Service Centre</b>	<b>42,252</b>
Emails to Council Inbox	13,670
CYCOS – E-Engagement	1,246
CYCOS – Face to Face	3,141
<b>Sub Total CYCOS</b>	<b>4,387</b>
Performing Arts Centre – Box office tickets sold	2,055
Performing Arts Centre – E-mail enquiries	163
<b>Sub Total CPAC</b>	<b>2,218</b>
<b>Cessnock Pool – Visitation</b>	<b>21,458</b>
<b>Branxton Pool – Visitation</b>	<b>8,798</b>
<b>Kurri Kurri Pool – Visitation</b>	<b>52,992</b>
<b>Visitor Information Centre – Visitation</b>	<b>34,888</b>
Waste Management Centre - Visitation	21,349
Waste Management Centre - CRM	23
<b>Sub Total Waste Management Centre</b>	<b>21,372</b>
<b>Cessnock &amp; Kurri Kurri Library – Enquiries</b>	<b>18,261</b>
<b>Cessnock &amp; Kurri Kurri Library Visitation</b>	<b>47,860</b>
<b>Bi-Annual Interactions*</b>	<b>268,156</b>

\* This information is a selective representation of interactions from readily available data, it does not include all Council operations or facilities.

Additionally, during this six-month reporting period, Council published 70 Paper Advertisements (Maitland Mercury, Port Stephens Examiner, Newcastle Herald, Advertiser, Sydney Morning Herald, Singleton Argus and Hunter Valley News).

### **OPTIONS**

N/A

### **CONSULTATION**

Executive Leadership Team  
Governance Team

Corporate and Community

Report No. CC6/2023

Corporate and Community Services



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**STRATEGIC LINKS**

**a. Delivery Program**

Council's Complaints Handling process is consistent with the community's desired outcome of *Civic Leadership and Effective Governance* and in particular Objective 5.3 *Making Council more responsive to the community*.

**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**

This report provides a high-level analysis of all complaints received for the last six months of the calendar year 2022 for noting by the elected Council.

**ENCLOSURES**

[1](#) Bi-Annual Complaints Dashboard July - December 2022

Corporate and Community

Report No. CC7/2023

Corporate and Community Services



**SUBJECT:** *INVESTMENT REPORT - DECEMBER 2022*

**RESPONSIBLE OFFICER:** *Chief Financial Officer - Matthew Plumridge*

### **SUMMARY**

Section 625 of the *Local Government Act 1993*, Clause 212 of the *Local Government (General) Regulation 2021* and Council's Investment Policy requires a monthly report to Council detailing all money invested.

### **RECOMMENDATION**

That Council receives the Investment Report for December 2022 and notes that:

- Investments are held in accordance with Council's Investment Policy, which is in accordance with the Ministerial Investment Order.
- Council's month end cash and investments balance was \$76,967,901.

### **BACKGROUND**

The *Local Government Act 1993*, the *Local Government (General) Regulation 2021* and Council's Investment Policy requires a monthly report to Council detailing all money invested.

### **REPORT**

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

The Responsible Accounting Officer has certified that this report is produced in accordance with Clause 212 of the *Local Government (General) Regulation 2021* and that all investments have been made in accordance with the *Local Government Act 1993*, *Local Government (General) Regulation 2021* and Council's Investment Policy.

#### **General Investment Commentary**

Council monitors and manages its cash and investment portfolio by taking into consideration credit ratings of financial institutions, interest rates offered for periods of investment, counterparty exposures and cash flow requirements.

Following assessment of projected cash flow requirements, surplus funds are invested in accordance with Council's Investment Policy. Investment returns of the portfolio to the end of December 2022 are exceeding original budgets already and closing the gap towards the benchmark rate. As older term deposits mature and new term deposits are invested, yields are increasing compared to the last few years as demonstrated on Table 1 below.

Interest rates have been increasing compared to previous unprecedented low levels in recent years. The official cash rate of the Reserve Bank of Australia (RBA) was increased to 3.10% during a scheduled RBA Board meeting held on 7 December 2022.

**Corporate and Community**

**Report No. CC7/2023**

**Corporate and Community Services**



This is an increase of 0.25% from earlier rate of 2.85% in November 2022, the eighth increase in as many months. Returns will continue to be monitored and any adjustment to budgeted income will be reported in future quarterly budget reviews.

Council recently engaged Prudential Investment Services Corp for investment advice. In the December 2022 Economic and Investment Portfolio Commentary for Cessnock City Council, Prudential note *“The market’s peak cash rate expectation increased by 25bps over the past month, with projections going from a 3.75%pa peak rate to 4%pa over the coming cycle”*.

Domestic issues noted within Prudential’s report include:

- Latest GDP figures showed Australia’s economy grew by 5.9%pa, slightly lower than expectations, the fourth consecutive quarterly increase
- Growth is being powered by household spending, which jumped by 11.8% in the year
- Consumer spending is expected to slow down in early 2023 as interest rate increases take hold after the holidays
- Latest jobs data figures showed a dramatic jump in employment.

In summary of Council’s investments Prudential also advise, *“Council has a well-diversified portfolio invested predominantly among a range of term deposits and senior ranked floating rate notes from highly rated government and Australian bank issuers. Council also has exposure to a wide range of asset classes, including international and domestic shares via the NSW TCorp Medium Term Growth Fund. It is expected that Council’s portfolio will achieve above benchmark returns over the medium/long term with prudent investment selection.”*



**Investment Portfolio Information**

**Table 1** Total cash and investments held by Council as at 31 December 2022

Invest No	Financial Institution Investment Held With	Invest Type	Interest Coupon Term	Maturity	Current Coupon Rate	Par Value \$'000
	Commonwealth Bank	CASH			2.75%	8,640
	Commonwealth Bank	At Call			2.85%	41
	Westpac Bank	At Call			0.00%	42
1243	AMP Bank	At Call			0.50%	502
1472	AMP Bank	TD	735	14-Sep-23	0.75%	1,000
1474	Westpac Bank	TD	448	12-Jan-23	0.42%	4,000
1475	Westpac Bank	TD	462	09-Feb-23	0.50%	4,000
1476	Westpac Bank	TD	476	16-Mar-23	0.56%	4,000
1477	National Australia Bank	TD	490	13-Apr-23	0.80%	4,000
1478	Suncorp Bank	TD	518	15-Jun-23	0.90%	3,000
1480	Commonwealth Bank	TD	441	11-May-23	1.05%	3,000
1481	AMP Bank	TD	490	13-Jul-23	1.35%	4,000
1483	Commonwealth Bank	TD	533	12-Oct-23	2.81%	4,000
1484	Suncorp Bank	TD	504	21-Sep-23	2.85%	4,000
1485	Bank Of Queensland	TD	236	31-Jan-23	3.15%	5,000
1486	Commonwealth Bank	TD	365	08-Aug-23	3.98%	5,000
1487	Commonwealth Bank	TD	323	27-Jun-23	3.86%	5,000
1488	Commonwealth Bank	TD	158	23-Jan-23	3.28%	2,000
1489	Westpac Bank	TD	365	27-Sep-23	4.66%	4,000
1490	Westpac Bank	TD	729	25-Sep-24	4.91%	4,000
1493	Suncorp Bank	TD	532	18-Apr-24	4.61%	2,000
1494	Commonwealth Bank	TD	111	05-Apr-23	4.00%	2,000
1463	Treasury Corporation	Growth Fund				3,742
<b>TOTAL</b>						<b>76,967</b>

**Table 2** Level of funds held and the percentage invested with financial institutions

Financial Institution	Credit Rating	Institution Maximum	Amount \$'000	% of Portfolio
Commonwealth Bank	AA-	40%	21,000	31.01%
Westpac Bank	AA-	40%	20,000	29.52%
National Australia Bank	AA-	40%	4,000	5.90%
Suncorp Bank	A+	40%	9,000	13.29%
AMP Bank	BBB	5%	5,000	7.38%
Bank Of Queensland	BBB+	10%	5,000	7.38%
Treasury Corporation	Unrated	10%	3,742	5.52%
<b>TOTAL</b>			<b>67,742</b>	<b>100.00%</b>

In accordance with the current Investment Policy, figures in Table 2 above exclude cash and at call balances in Council's main operating account held with Commonwealth Bank of Australia, Westpac Bank and AMP Bank.

In November 2021, AMP Bank's rating was downrated. In error, Council still was treating these investments at their previous rating. As per our Investment Policy, Council can now only hold 5% of our portfolio in AMP investments nor for any longer than 12 months.

Corporate and Community

Report No. CC7/2023

Corporate and Community Services



The current investments are covered by the grandfathering provisions of the Policy with no more investments able to be made at this level of rating.

As investments mature and/or total quantum of investments rise then Council will return to its agreed investment limits.

**Investment in NSW Treasury Corporation (TCorp)**

During August 2021, Council invested an amount of \$4m in TCorp’s Investment Management (TCorpIM) Medium Term Growth Fund, in line with Council’s Investment Policy. TCorpIM Funds are specifically designed to meet the needs of NSW public sector clients. The fund strategy is to provide a balanced exposure to growth and defensive assets, with medium return potential over the medium term and with moderate risk of negative annual returns. The minimum suggested timeframe for investment in the fund is 3-7 years however Council may redeem its investment at any time.

TCorpIM Funds are unit trusts. Distributions are made annually and are automatically reinvested into the fund to buy additional units. Distributions for the year ended 30 June 2022 were \$90,025 providing an additional 97,919.39 units as at that date.

The balance of Council’s investment as at 30 June 2022 was \$3,666,665 with 3,994,579.95 units. As this investment is held for medium to long-term capital appreciation, gains or losses will only be realised on redemption of the investment. However due to accounting requirements any unrealised gains or losses will be processed between investments and the operating statement. The unrealised loss on this investment for 2021-22 was \$423,360.

The December unrealised return was a loss of \$63,354 or -1.66%, bringing the Year to Date (YTD) returns to a net gain of \$75,777 or 2.07%. Rates of return will fluctuate each month and possibly be negative from time to time with the medium-term investment horizon.

The fund performance summary as at 31 December 2022 is provided below. The benchmark used by TCorp is CPI + 2.00% p.a. (over rolling 7 years).

**Table 3 NSW Treasury Corporation Performance Summary**

	10 year (% pa)	7 year (% pa)	3 year (% pa)	1 year %	FYTD %	1 month %
TCorpIM Medium Term Growth Fund	4.36	3.24	0.49	(6.86)	2.08	(1.66)
Benchmark: CPI + 2.0% p.a. (over rolling 7 years)	4.46	4.50	5.60	8.98	4.72	0.77
Return above benchmark p.a.	(0.10)	(1.26)	(5.11)	(15.84)	(2.64)	(2.43)

Corporate and Community

Report No. CC7/2023

Corporate and Community Services



**Table 4** Investment types, risk assessment, amount and percentage invested compared to the total

Investment Type	Risk Assessment		Amount	% of
	Capital	Interest	\$'000	Portfolio
Term Deposits	Low	Low	64,000	83.15%
Cash/At Call Deposits	Low	Low	9,225	11.99%
Capital Growth Fund	Medium	Medium	3,742	4.86%
<b>TOTAL</b>			<b>76,967</b>	<b>100.00%</b>

**Table 5** Comparison of interest rates, earnings and balances this year to last year

Performance Measures	This Year	Last Year
Investment Portfolio Average Interest Rate (year to date)	2.07%	0.38%
BBSW Average Interest Rate (year to date) *	2.33%	0.03%
Actual Investment Interest Earned (for the current month)	\$158,533	\$22,331
Actual Investment Interest Earned (year to date) ^	\$728,722	\$111,708
Revised Budget Investment Interest (year to date)	\$190,061	\$105,000
Original Budget Investment Interest (annual)	\$380,122	\$210,000
Revised Budget Investment Interest (annual)	\$580,122	\$210,000
TCorp unrealised movement (year to date)	2.07%	0.48%

Investment and Cash Balances (Par Value) #	This Year	Last Year
Opening Balance as at 1 July	\$73,415,666	\$54,388,548
Closing Balance as at 31 December	\$76,967,901	\$68,496,849

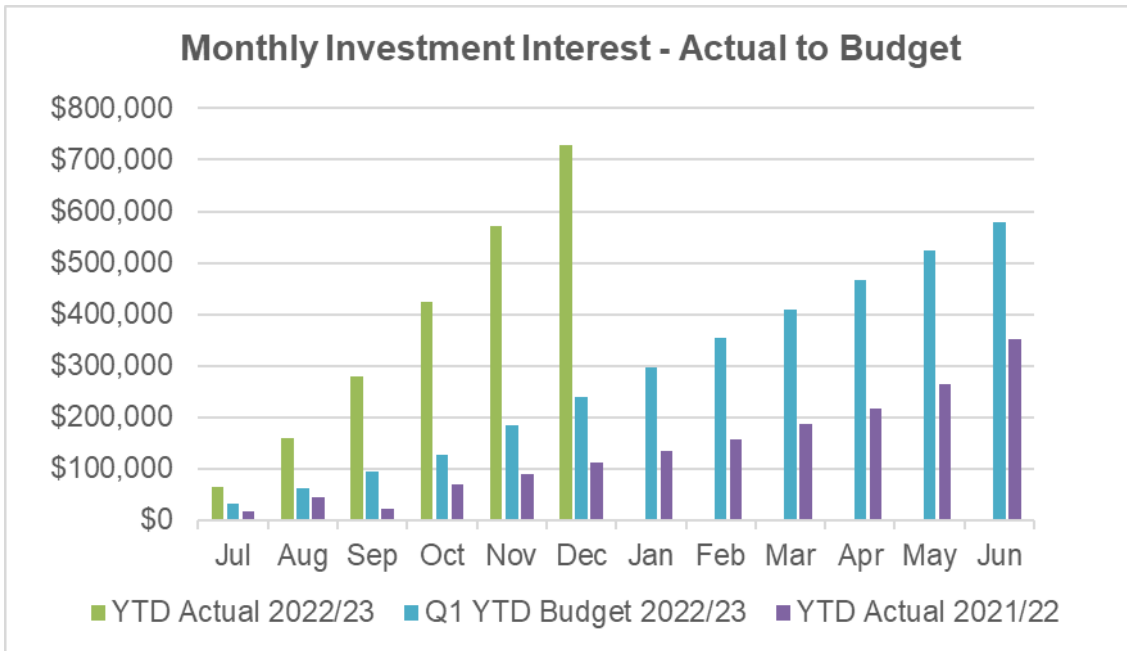
\* BBSW 90 day Bank Bill Reference Rate (performance measure as per Council's Investment Policy)

^ Excludes TCorp unrealised returns

# Excludes Section 355 Committee cash held



**Graph 1** Actual interest earned compared to revised budget and actual interest last year



**Table 6** Internal and external restrictions over cash and investments held

Month End Totals \$'000	December 2022	November 2022	October 2022	September 2022	August 2022	July 2022
Developer contributions	25,017	25,012	24,540	24,493	24,151	20,590
Committed developer contributions	3,443	3,605	3,373	3,296	3,197	2,961
RMS contributions	163	247	332	366	416	634
Specific purpose unexpended grants	5,896	4,940	7,390	7,785	7,311	8,386
Domestic waste management reserve	430	430	430	430	430	430
Stormwater management	966	1,013	915	928	912	824
<b>External Restrictions</b>	<b>35,915</b>	<b>35,247</b>	<b>36,980</b>	<b>37,298</b>	<b>36,417</b>	<b>33,825</b>
<b>Month End Totals \$'000</b>	<b>December 2022</b>	<b>November 2022</b>	<b>October 2022</b>	<b>September 2022</b>	<b>August 2022</b>	<b>July 2022</b>
Plant and vehicle replacement	3,582	3,410	3,471	3,442	3,768	3,768
Employees leave entitlement	2,446	2,446	2,446	2,446	2,446	2,840
Carry over works	1,000	1,028	1,102	1,127	1,519	427
Bridge replacement	456	471	467	467	470	519
Insurance provisions	907	948	1,282	1,282	1,282	1,282
Miscellaneous and property	857	857	805	805	805	425
Grant Fund Leverage	90	90	90	90	91	112
Operations and programs	392	365	428	400	318	343
Property investment fund	3,108	3,122	3,136	3,150	3,164	3,199
Civil Works	963	428	1,409	1,650	1,482	1,736
Waste depot and rehabilitation	9,454	9,454	9,454	9,454	9,454	9,454
Committed projects (SRV)	1,496	1,469	1,831	1,831	1,849	1,872

Corporate and Community

Report No. CC7/2023

Corporate and Community Services



Month End Totals \$'000	December 2022	November 2022	October 2022	September 2022	August 2022	July 2022
Security deposits and bonds	4,203	4,219	4,098	4,020	3,652	3,546
<b>Internal Restrictions</b>	<b>28,954</b>	<b>28,307</b>	<b>30,019</b>	<b>30,164</b>	<b>30,694</b>	<b>29,523</b>
<b>Unrestricted</b>	<b>12,098</b>	<b>17,074</b>	<b>12,593</b>	<b>17,588</b>	<b>12,891</b>	<b>12,298</b>
<b>Total Cash &amp; Investments</b>	<b>76,967</b>	<b>80,628</b>	<b>79,592</b>	<b>85,050</b>	<b>80,002</b>	<b>75,646</b>

External restrictions were relatively stable between November and December with changes in Specific Purpose Unexpended Grants as a result of new Resources for Regions Round 9 funding being received for \$2.4m, partially offset by expenditure for the Local Roads and Community Infrastructure (LRCI) Phase 3 grant.

Internal restricted funds also remained stable with no significant movements during December.

Unrestricted funds have decreased by \$5.0m compared to last month as a result of general operations and a high volume of creditor payments.

Increases to cash balances can be expected during months when rate instalments are due (August, November, February and May). Monthly expenditure is relatively static throughout the year, with the exception where major payments are made for such things as contracts, insurances or other significant items.

Restrictions over cash and investments are subject to change and will only be final once audited and published in the annual financial statements.

**CONSULTATION**

Director Corporate and Community Services  
 Chief Finance Officer  
 Management Accountant  
 Finance staff

**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*” and more specifically links to strategic direction:

5.3.2: Our Council’s processes are efficient and transparent

5.3.3: Our Council is financially sustainable.

## **IMPLICATIONS**

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

Investments are held in accordance with Council's Investment Policy.

### **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 from developer contributions, payments in advance for grant projects, Domestic Waste Management, and stormwater management income to be applied to specific purposes and not available for general operational projects.

### **c. Legislative Implications**

This report meets Council's statutory obligations under the *Local Government (General) Regulation 2021* 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 at month end and meets Council's reporting obligations.

## **ENCLOSURES**

There are no enclosures for this report.

Corporate and Community

Report No. CC8/2023

Corporate and Community Services



**SUBJECT:** *INVESTMENT REPORT - JANUARY 2023*

**RESPONSIBLE OFFICER:** *Chief Financial Officer - Matthew Plumridge*

### **SUMMARY**

Section 625 of the *Local Government Act 1993*, Clause 212 of the *Local Government (General) Regulation 2021* and Council's Investment Policy requires a monthly report to Council detailing all money invested.

### **RECOMMENDATION**

That Council receives the Investment Report for January 2023 and notes that:

- Investments are held in accordance with Council's Investment Policy, which is in accordance with the Ministerial Investment Order.
- Council's month end cash and investments balance was \$74,856,306.

### **BACKGROUND**

The *Local Government Act 1993*, the *Local Government (General) Regulation 2021* and Council's Investment Policy requires a monthly report to Council detailing all money invested.

### **REPORT**

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

The Responsible Accounting Officer has certified that this report is produced in accordance with Clause 212 of the *Local Government (General) Regulation 2021* and that all investments have been made in accordance with the *Local Government Act 1993*, *Local Government (General) Regulation 2021* and Council's Investment Policy.

#### **General Investment Commentary**

Council monitors and manages its cash and investment portfolio by taking into consideration credit ratings of financial institutions, interest rates offered for periods of investment, counterparty exposures and cash flow requirements.

Following assessment of projected cash flow requirements, surplus funds are invested in accordance with Council's Investment Policy. Investment returns of the portfolio to the end of January 2023 are exceeding original budgets and closing the gap towards the benchmark rate. As older term deposits mature and new term deposits are invested, yields are increasing compared to the last few years as demonstrated on Table 1 below.

Corporate and Community

Report No. CC8/2023

Corporate and Community Services



Interest rates have been increasing compared to previous unprecedented low levels in recent years. The official cash rate of the Reserve Bank of Australia (RBA) was held at 3.10% during January 2023 after 8 months of increases. Returns will continue to be monitored and any adjustment to budgeted income will be reported in future quarterly budget reviews.

Council recently engaged Prudential Investment Services Corp for investment advice. In the January 2022 Economic and Investment Portfolio Commentary for Cessnock City Council, regarding interest rates, Prudential note:

- *There was no RBA monetary policy meeting in January. At its December meeting RBA noted that further increases were likely over the period ahead, but the size and timing of future interest rate rises would continue to be determined by the incoming data and the Board's assessment of the outlook for inflation and the labour market.*
- *The market's peak cash rate expectation retreated by 25bps over the past month, with projections going from a 4%pa peak rate to 3.75%pa over the coming cycle.*

Domestic issues noted within Prudential's report include:

- *Latest inflation data showed an increase of 7.8% for the calendar year 2022, a bit higher than economists' projection of 7.5% and the highest annual reading since 1990.*
- *The biggest price rises for households over the last three months of last year were for domestic holiday travel and accommodation (up 13%), electricity (up 8.6%) and international travel (up 7.6%).*
- *Over the course of 2022, housing (+10.7%), food (+9.2%), and recreation and culture (+9%) had the steepest price increases.*
- *Economists expect the increase in inflation will likely keep the RBA on pace to raise rates over the next two months followed by a pause in rate hikes in April.*

In summary of Council's investments Prudential also advise, "Council has a well-diversified portfolio invested predominantly among a range of term deposits and senior ranked floating rate notes from highly rated government and Australian bank issuers. Council also has exposure to a wide range of asset classes, including international and domestic shares via the NSW TCorp Medium Term Growth Fund. It is expected that Council's portfolio will achieve above benchmark returns over the medium/long term with prudent investment selection."

**Investment Portfolio Information**

**Table 1** Total cash and investments held by Council as at 31 January 2023

Invest No	Financial Institution Investment Held With	Invest Type	Interest Coupon Term	Maturity	Current Coupon Rate	Par Value \$'000
	Commonwealth Bank	CASH			2.75%	7,475
	Commonwealth Bank	At Call			3.10%	41
1243	AMP Bank	At Call			0.50%	502
1472	AMP Bank	TD	735	14-Sep-23	0.75%	1,000
1475	Westpac Bank	TD	462	09-Feb-23	0.50%	4,000
1476	Westpac Bank	TD	476	16-Mar-23	0.56%	4,000
1477	National Australia Bank	TD	490	13-Apr-23	0.80%	4,000
1478	Suncorp Bank	TD	518	15-Jun-23	0.90%	3,000
1480	Commonwealth Bank	TD	441	11-May-23	1.05%	3,000
1481	AMP Bank	TD	490	13-Jul-23	1.35%	4,000
1483	Commonwealth Bank	TD	533	12-Oct-23	2.81%	4,000
1484	Suncorp Bank	TD	504	21-Sep-23	2.85%	4,000



Corporate and Community

Report No. CC8/2023

Corporate and Community Services



Invest No	Financial Institution Investment Held With	Invest Type	Interest Coupon Term	Maturity	Current Coupon Rate	Par Value \$'000
1486	Commonwealth Bank	TD	365	08-Aug-23	3.98%	5,000
1487	Commonwealth Bank	TD	323	27-Jun-23	3.86%	5,000
1489	Westpac Bank	TD	365	27-Sep-23	4.66%	4,000
1490	Westpac Bank	TD	729	25-Sep-24	4.91%	4,000
1493	Suncorp Bank	TD	532	18-Apr-24	4.61%	2,000
1494	Commonwealth Bank	TD	111	05-Apr-23	4.00%	2,000
1495	Westpac Bank	TD	365	24-Jan-24	4.46%	5,000
1496	National Australia Bank	TD	363	29-Jan-24	4.62%	5,000
1463	Treasury Corporation	Growth Fund				3,838
<b>TOTAL</b>						<b>74,856</b>

**Table 2** Level of funds held and the percentage invested with financial institutions

Financial Institution	Credit Rating	Institution Maximum	Amount \$'000	% of Portfolio
Commonwealth Bank	AA-	40%	19,000	28.42%
Westpac Bank	AA-	40%	21,000	31.42%
National Australia Bank	AA-	40%	9,000	13.47%
Suncorp Bank	A+	40%	9,000	13.47%
AMP Bank	BBB	5%	5,000	7.48%
Treasury Corporation	Unrated	10%	3,838	5.74%
<b>TOTAL</b>			<b>66,838</b>	<b>100.00%</b>

In accordance with the current Investment Policy, figures in Table 2 above exclude cash and at call balances in Council's main operating account held with Commonwealth Bank of Australia and AMP Bank.

In November 2021, AMP Bank's rating was downrated. In error, Council still was treating these investments at their previous rating. As per our Investment Policy, Council can now only hold 5% of our portfolio in AMP investments nor for any longer than 12 months. The current investments are covered by the grandfathering provisions of the Policy with no more investments able to be made at this level of rating.

As investments mature and/or total quantum of investments rise then Council will return to its agreed investment limits.

**Investment in NSW Treasury Corporation (TCorp)**

During August 2021, Council invested an amount of \$4m in TCorp's Investment Management (TCorpIM) Medium Term Growth Fund, in line with Council's Investment Policy. TCorpIM Funds are specifically designed to meet the needs of NSW public sector clients. The fund strategy is to provide a balanced exposure to growth and defensive assets, with medium return potential over the medium term and with moderate risk of negative annual returns. The minimum suggested timeframe for investment in the fund is 3-7 years however Council may redeem its investment at any time.

TCorpIM Funds are unit trusts. Distributions are made annually and are automatically reinvested into the fund to buy additional units. As this investment is held for medium to long-term capital appreciation, gains or losses will only be realised on redemption of the investment.

Corporate and Community

Report No. CC8/2023

Corporate and Community Services



However due to accounting requirements any unrealised gains or losses will be processed between investments and the operating statement.

The final returns for January were not available at the time of preparing this report however the preliminary January unrealised return was a gain of \$96,150 or 2.57%, bringing the Year to Date (YTD) returns to a preliminary net gain of \$171,927 or 4.69%. Rates of return will fluctuate each month and possibly be negative from time to time with the medium-term investment horizon.

The fund performance summary as at 31 January 2023 is provided below. The benchmark used by TCorp is CPI + 2.00% p.a. (over rolling 7 years).

**Table 3 NSW Treasury Corporation Performance Summary**

	10 year (% pa)	7 year (% pa)	3 year (% pa)	1 year %	FYTD %	1 month %
TCorpIM Medium Term Growth Fund	4.47	3.77	0.76	(3.34)	4.70	2.57
Benchmark: CPI + 2.0% p.a. (over rolling 7 years)	4.50	4.56	5.73	9.01	5.33	0.71
Return above benchmark p.a.	(0.03)	(0.79)	(4.97)	(12.35)	(0.63)	1.86

**Table 4** Investment types, risk assessment, amount and percentage invested compared to the total

Investment Type	Risk Assessment		Amount	% of
	Capital	Interest	\$'000	Portfolio
Term Deposits	Low	Low	63,000	84.16%
Cash/At Call Deposits	Low	Low	8,018	10.71%
Capital Growth Fund	Medium	Medium	3,838	5.74%
<b>TOTAL</b>			<b>66,838</b>	<b>100.00%</b>

**Table 5** Comparison of interest rates, earnings and balances this year to last year

Performance Measures	This Year	Last Year
Investment Portfolio Average Interest Rate (year to date)	2.38%	0.39%
Annualised Bank Bill Index (last 3 months) *	3.08%	0.04%
Actual Investment Interest Earned (for the current month)	\$231,955	\$23,312
Actual Investment Interest Earned (year to date) ^	\$960,727	\$135,020
Revised Budget Investment Interest (year to date)	\$221,738	\$122,500
Original Budget Investment Interest (annual)	\$380,122	\$210,000
Revised Budget Investment Interest (annual)	\$580,122	\$210,000
TCorp unrealised movement (year to date)	4.69%	-0.66%

Investment and Cash Balances (Par Value) #	This Year	Last Year
Opening Balance as at 1 July	\$73,415,666	\$54,388,548
Closing Balance as at 31 January	\$74,856,306	\$67,482,922

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

^ Excludes TCorp unrealised returns

# Excludes Section 355 Committee cash held

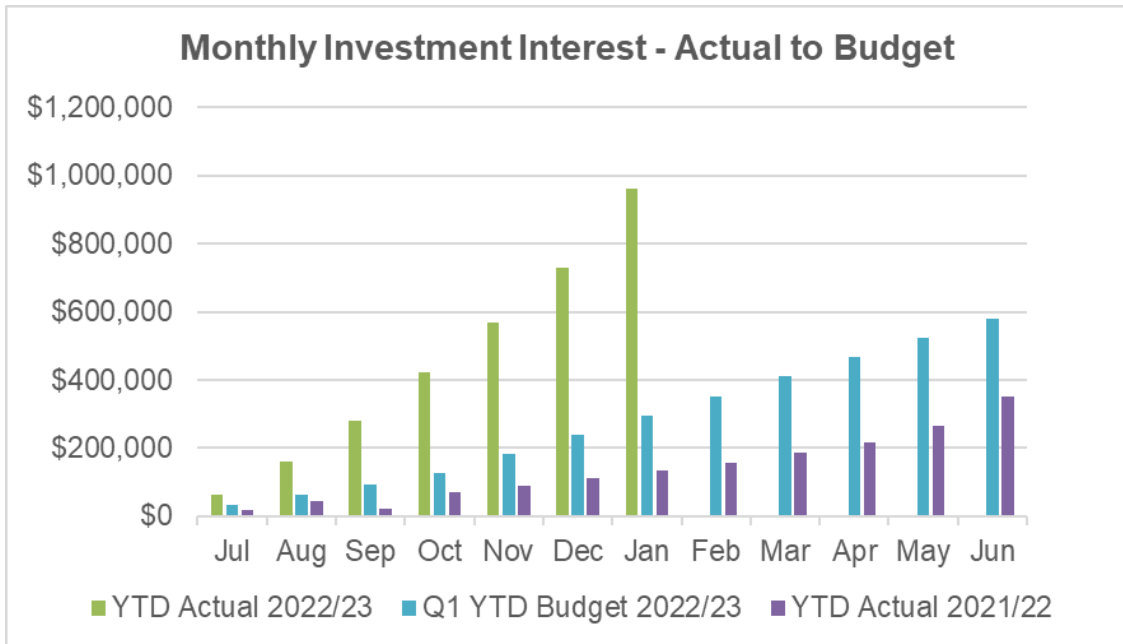
Corporate and Community

Report No. CC8/2023

Corporate and Community Services



**Graph 1** Actual interest earned compared to revised budget and actual interest last year



**Table 6** Internal and external restrictions over cash and investments held

Month End Totals \$'000	January 2023	December 2022	November 2022	October 2022	September 2022	August 2022
Developer contributions	25,252	25,017	25,012	24,540	24,493	24,151
Committed developer contributions	3,499	3,443	3,605	3,373	3,296	3,197
RMS contributions	182	163	247	332	366	416
Specific purpose unexpended grants	7,007	5,896	4,940	7,390	7,785	7,311
Domestic waste management reserve	430	430	430	430	430	430
Stormwater management	962	966	1,013	915	928	912
<b>External Restrictions</b>	<b>37,332</b>	<b>35,915</b>	<b>35,247</b>	<b>36,980</b>	<b>37,298</b>	<b>36,417</b>
<b>Month End Totals \$'000</b>	<b>January 2023</b>	<b>December 2022</b>	<b>November 2022</b>	<b>October 2022</b>	<b>September 2022</b>	<b>August 2022</b>
Plant and vehicle replacement	3,336	3,582	3,410	3,471	3,442	3,768
Employees leave entitlement	2,446	2,446	2,446	2,446	2,446	2,446
Carry over works	984	1,000	1,028	1,102	1,127	1,519
Bridge replacement	456	456	471	467	467	470
Insurance provisions	896	907	948	1,282	1,282	1,282
Miscellaneous and property	857	857	857	805	805	805
Grant Fund Leverage	90	90	90	90	90	91
Operations and programs	417	392	365	428	400	318

Corporate and Community

Report No. CC8/2023

Corporate and Community Services



Month End Totals \$'000	January 2023	December 2022	November 2022	October 2022	September 2022	August 2022
Property investment fund	3,085	3,108	3,122	3,136	3,150	3,164
Civil Works	882	963	428	1,409	1,650	1,482
Waste depot and rehabilitation	9,454	9,454	9,454	9,454	9,454	9,454
Committed projects (SRV)	1,374	1,496	1,469	1,831	1,831	1,849
Security deposits and bonds	4,158	4,203	4,219	4,098	4,020	3,652
<b>Internal Restrictions</b>	<b>28,435</b>	<b>28,954</b>	<b>28,307</b>	<b>30,019</b>	<b>30,164</b>	<b>30,694</b>
<b>Unrestricted</b>	<b>9,089</b>	<b>12,098</b>	<b>17,074</b>	<b>12,593</b>	<b>17,588</b>	<b>12,891</b>
<b>Total Cash &amp; Investments</b>	<b>74,856</b>	<b>76,967</b>	<b>80,628</b>	<b>79,592</b>	<b>85,050</b>	<b>80,002</b>

External restrictions increased by \$1.4m during January with changes in Specific Purpose Unexpended Grants as a result of receipt of milestone payments on existing grants.

Internal restricted funds remained stable between December and January with no significant movements.

Unrestricted funds have decreased by \$3.0m compared to last month as a result of general operations and a high volume of creditor payments.

Increases to cash balances can be expected during months when rate instalments are due (August, November, February and May). Monthly expenditure is relatively static throughout the year, with the exception where major payments are made for such things as contracts, insurances or other significant items.

Restrictions over cash and investments are subject to change and will only be final once audited and published in the annual financial statements.

**CONSULTATION**

Director Corporate and Community Services  
 Chief Finance Officer  
 Management Accountant  
 Finance staff

## **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*" and more specifically links to strategic direction:

5.3.2: Our Council's processes are efficient and transparent

5.3.3: Our Council is financially sustainable.

## **IMPLICATIONS**

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

Investments are held in accordance with Council's Investment Policy.

### **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 from developer contributions, payments in advance for grant projects, Domestic Waste Management, and stormwater management income to be applied to specific purposes and not available for general operational projects.

### **c. Legislative Implications**

This report meets Council's statutory obligations under the *Local Government (General) Regulation 2021* 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 at month end and meets Councils reporting obligations.

## **ENCLOSURES**

There are no enclosures for this report.

Corporate and Community

Report No. CC9/2023

Corporate and Community Services



**SUBJECT:** *RESOLUTIONS TRACKING REPORT*

**RESPONSIBLE OFFICER:** *Chief Financial Officer - Matthew Plumridge*

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**SUMMARY**

The enclosure contains pending actions from previous meetings as well as completed actions for period 6 December 2022 to 2 February 2023.

**RECOMMENDATION**

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

**ENCLOSURES**

- [1](#) ⇨ Completed Actions
- [2](#) ⇨ Outstanding Actions

Works and Infrastructure

Report No. WI1/2023

Works and Infrastructure



**SUBJECT:** *KURRI KURRI NOSTALGIA FESTIVAL - MARCH 2023*  
**RESPONSIBLE OFFICER:** *Open Space and Community Facilities Manager - Kate Harris*

### **SUMMARY**

Council has been approached by Towns With Heart (TWH) seeking in-kind support for the upcoming Kurri Kurri Nostalgia Festival, which is to be held on the weekend of 24, 25 and 26 March 2023.

The purpose of this report is to detail the extent and estimated cost of the assistance being requested by TWH and to seek Council's approval to provide in-kind support to the event.

### **RECOMMENDATION**

**That Council supports the Kurri Kurri Nostalgia Festival on 24, 25 and 26 March 2023, by providing in-kind support valued at \$11,040, as detailed in the report for the following services: waste management, park management and amenity management.**

### **BACKGROUND**

The 2023 Kurri Kurri Nostalgia Festival (the Festival) will be held over the weekend of 24, 25 and 26 March 2023. Council has in previous years provided in-kind support for the Festival and TWH openly acknowledges that this support has been critical to the event's success.

Towns With Heart has approached Council seeking various forms of in-kind support for the delivery of the Festival. This report details the extent of the support being requested by TWH and seeks Council's endorsement to provide the in-kind support.

### **REPORT/PROPOSAL**

The following in-kind support for the Festival has been requested by TWH:

#### Waste Management

- Provision of bins for the weekend (up to 50 bins);
- Provision of bin liners;
- Delivery and pick up of bins pre and post event;
- Emptying of bins on Saturday and Sunday night;

#### Park Preparation & Traffic Management Equipment

- Preparation of Col Brown Rotary Park prior to the Festival weekend;
- Waiver of all fees and charges for the use of Col Brown Rotary Park and Booth Park, including market stalls, food vendors and park hire for the event;
- 40 waterfilled barriers delivered to site on Friday morning;

**Works and Infrastructure**

**Report No. WI1/2023**

**Works and Infrastructure**



- Delivery to Kurri Kurri Visitor Centre carpark on Friday morning of:
  - 20 bollards and bases
  - 10 star pickets
  - 20 traffic cones
  - Bunting/ safety line
  - 10 barrier boards and 20 stands.

Amenity Management

- Provision and delivery of supplies to public amenities in Col Brown Rotary Park and Booth Park (paper towels and toilet paper);
- Servicing and cleaning of the public amenities block in Col Brown Rotary Park on a regular basis during the Saturday and Sunday of the Festival;
- Access to power and water in Col Brown Rotary Park;
- Access to the public amenities block at Booth Park;
- Access to power at the front of the Kurri Kurri Library on Sunday 26 March 2023.

The estimated cost to waive applicable fees (excl. GST) and supply the above is as follows:

• Waste Management	\$3,600
• Park Management	\$4,130
• Amenity Management	\$3,310
<b>TOTAL REQUESTED IN-KIND SUPPORT</b>	<b>\$11,040</b>
<b>TOTAL RECOMMENDED IN-KIND SUPPORT</b>	<b>\$11,040</b>

In reviewing the requests, Council officers have determined that in-kind support for the above can be provided within existing recurrent operating budgets.

**OPTIONS**

N/A

**CONSULTATION**

In writing this report the following stakeholders have been consulted:

- Environmental & Waste Services staff
- Open Space and Community Facilities staff
- Financial Services staff
- Towns With Heart

**STRATEGIC LINKS**

**a. Delivery Program**

The proposed in-kind sponsorship for this event supports:

- Objective 2.3 – Increasing Tourism Opportunities and Visitation in the Area.



**Works and Infrastructure**

**Report No. WI1/2023**

**Works and Infrastructure**



**b. Other Plans**

Nil

**IMPLICATIONS**

**a. Policy and Procedural Implications**

The objectives of the Community Sponsorship and Fee Waiver Policy are:

- To establish a governing framework for the consideration of requests for financial and/or in-kind assistance, by way of sponsorship and/or fee waiving;
- To ensure that the administration of such requests is conducted in a consistent, equitable, transparent and financially sustainable manner to provide maximum benefit to the community of the Cessnock Local Government Area (LGA).

An assessment has been undertaken and the request from TWH is consistent with the criteria set out in the Community Sponsorship and Fee Waiver Policy.

**b. Financial Implications**

The estimated cost of providing the in-kind support for the requests being made by TWH is \$11,040. This estimate is primarily based on staffing cost, Council's adopted fees and charges for waste management, cleaning, park preparation and park usage. The recommended in-kind support for the above can be provided within existing recurrent operating budgets.

**c. Legislative Implications**

Nil

**d. Risk Implications**

Nil

**e. Other Implications**

Nil

**CONCLUSION**

On the basis of supporting events that promote visitation across the Cessnock LGA, it is recommended that Council provides in-kind support to the 2023 Kurri Kurri Nostalgia Festival as detailed in the report.

**ENCLOSURES**

There are no enclosures for this report.

Works and Infrastructure

Report No. WI2/2023

Works and Infrastructure



**SUBJECT:** ***PUBLIC SPACES LEGACY PROGRAM - BRIDGES HILL  
PARK TO NULKABA SHARED PATH***

**RESPONSIBLE OFFICER:** ***Acting Infrastructure Manager - Jules Bosco***

### **SUMMARY**

The purpose of this report is to update Council on the position of Transport for NSW (TfNSW) regarding the alignment of Council's shared path on Wine Country Drive, Nulkaba.

### **RECOMMENDATION**

1. That Council note that Wine Country Drive (MR-220) is a Classified State Road, managed by Transport for NSW (TfNSW), including approvals for the provision of pedestrian infrastructure.
2. That Council note that significant site constraints impede installation of shared path on the western side of Wine Country Drive across the frontage of the BP service station.
3. That Council note that TfNSW preference is for the shared path to transition from the western side of Wine Country Drive to the eastern side, in the vicinity of Fleming Street.
4. That Council note that TfNSW advised that any decision they make with respect to the application from St Philip's Christian College for the future installation of traffic control signals at the intersection of Wine Country Drive and Lomas Lane, will be determined on the basis of relevant intersection analysis/modelling and is completely independent of any consideration relating to Council's proposed shared path project.
5. That Council note the potential requirement for the return of the Public Spaces Legacy Program project funding in the event of failure to deliver critical elements of the project.
6. That Council authorise the resumption of construction of the shared path on the eastern side of Wine Country Drive, from the vicinity of Fleming Street, subject to approval of final design by TfNSW.

### **REPORT/PROPOSAL**

Following the Councillor briefing on this project delivered by the Infrastructure Manager in September 2022, options for safely integrating the proposed shared path with the BP service station, enabling the path to continue on the western side of Wine Country Drive were canvased.

**Works and Infrastructure**

**Report No. WI2/2023**

**Works and Infrastructure**



These options included tunneling under Wine Country Drive and/or tunneling under the BP service station vehicle access crossing (VAC). Both tunneling options were rejected due to site constraints (including potential flooding) and prohibitive costs.

In-principle, agreement with the owners/operators of the BP service station allowed for further consideration of potential pathway treatments including:

- crossing the existing median island at entry/exit of the service station boundary;
- modifying the existing median island at entry/exit of the service station boundary;
- installing the path immediately inside the service station boundary;
- installing the path within the service station facility, traversing the property boundary;
- extending the existing VAC; and
- installing an additional VAC, north of the existing VAC.

As outlined in **Enclosure 1 - Bridges Hill to Lomas Lane Shared Path – BP Service Station Options Summary** these options were considered to be unsuitable due to them being cost prohibitive, impracticable (requiring major utility relocations), contrary to standards and potentially unsafe.

Council officers met with TfNSW Lead Community & Safety Partner, Regional and Outer Metropolitan on 2 December 2022 and discussed the project. Council officers were assured that TfNSW staff are very supportive of the project which is considered to be very worthy and will no doubt provide great benefit to both the Cessnock community and its many visitors.

Options for a safe crossing of Wine Country Drive were discussed, including the option of the pathway continuing on the western side of the road to the intersection of Lomas Lane, where the installation of traffic signals have been requested by St Philip's Christian College.

Council officers were advised that TfNSW do not intend to conflate the pathway project with considerations surrounding the eventual state road intersection treatment at Lomas Lane; the application from St Philip's Christian College for the future installation of traffic control signals at the intersection of Wine Country Drive and Lomas Lane, will be determined on the basis of relevant intersection analysis/modelling and is completely independent of any considerations relating to Council's proposed shared path project.

In summary, the TfNSW position remains consistent with the preliminary advice previously provided to Council, in that TfNSW staff consider the appropriate place for the pathway to cross from the western side to the eastern side of Wine Country Drive is in the vicinity of Fleming Street.

TfNSW support this option on road safety grounds, as this length of the road has a lower speed limit (70 km/h) than points north along the route and the proposed accompanying pedestrian refuge at the intersection to service the pathway will lend itself to incorporation of a suitable enhanced intersection treatment at the location.

In addition, TfNSW consider the location to be amenable to a speed zone review with the potential outcome being a speed limit reduction to 60 km/h – further enhancing pedestrian / cyclist safety.

**Works and Infrastructure**

**Report No. WI2/2023**

**Works and Infrastructure**



**OPTIONS**

N/A

**CONSULTATION**

Consultation on this matter has taken place as follows:

Internal:

Members of Council's Infrastructure Unit;  
Councillors (via previous briefings)

External:

Staff from TfNSW  
Staff from the funding body (DPIE)  
Staff from the Hunter Joint Organisation  
Members of the general community through development and implementation of Council's Cycling Strategy and Pedestrian Access and Mobility Plan and introduction to the project in the course of constructing the already delivered components from Bridges Hill to Nulkaba.

**STRATEGIC LINKS**

**a. Delivery Program**

Delivery Program 2022-26: The recommendation of this report is consistent with the following strategic objectives;

- 1.3: Promoting Safe Communities
  - 1.3.5: Improve safety of the road network;
- 4.1 – Better Transport Links
  - 4.1.2: Continue implementation of the Traffic & Transport Strategy;
  - 4.1.3: Continue implementation of the Pedestrian Access & Mobility Plan;
  - 4.1.4: Continue implementation of the Cycling Strategy;
  - 4.1.7: Continue implementation of the Section 7.11 City Wide Contributions Plans;
- 4.2: Improving the road network;
  - 5.2: Encouraging more community participation in decision making; and
  - 5.3: Ensuring Council is accountable and responsive to the community.

**b. Other Plans**

Community Strategic Plan - Cessnock 2027: The recommendation of this report aligns with the following objectives:

- Objective 1.3 Promoting safe communities - Our roads are safe for motorists and pedestrians.
- Objective 2.3 Our local government area is attractive to visitors
- Objective 4.2 Improving the road network
  - We have a quality road network.
  - We have managed the traffic impact of the Hunter Expressway on local communities.

**Works and Infrastructure**

**Report No. WI2/2023**

**Works and Infrastructure**



Cessnock City Council - Road Safety Strategic Plan 2020-2024: The recommendation of this report is consistent with the following strategic objectives:

- 4.1.2 Ensure Council's road infrastructure works comply with Austroads Design Guidelines, Australian Standards and Transport for NSW Technical Directions
- 5.2.1 Ensure compliant road design that delivers safe and efficient road and transport infrastructure that meets demand;
- 5.2.2 Ensure design and construction of new or upgraded road and transport infrastructure associated with development is processed through Local Traffic Committee and Local Development Committee (Traffic) to facilitate mandatory compliance with Austroads Design Guidelines, Australian Standards and Transport for NSW Technical Directions; and
- 5.3.1 Review, assess and respond to road safety concerns brought to Council's notice from members of the community.

**IMPLICATIONS**

**a. Policy and Procedural Implications**

Council's authority to approve the installation of traffic control devices on public roads is provided by the Delegation to Council for the Regulation of Traffic (TfNSW). This delegation must be exercised through the Local Traffic Committee process, with assent from TfNSW and in accordance with the relevant provisions of the *Roads Act 1993*.

**b. Financial Implications**

Advice from Council's Project Manager is that the 2023 budget allocation for Bridges Hill Park to Wine Country Drive shared path project is \$3,210,742.

The year to date expenditure on the project is \$1,706,339. The estimated cost of remaining works is \$2,081,000.

A breakdown of remaining costs is provided in in **Table 1** below: The funding shortfall is to be considered by Council under the Quarterly Budget Review Statement (QBRs) report.

Works and Infrastructure

Report No. WI2/2023

Works and Infrastructure



**Table 1 - Bridges Hill Park to Wine Country Drive Shared Path Project – Cost Table**

Remaining works to be completed on Bridges Hill Park to Wine Country Drive Shared path project.	Estimated cost (\$)
<ul style="list-style-type: none"> <li>• Footbridges in Henderson Av &amp; Manning Park</li> <li>• Footbridge widening on Wine Country Drive near Austral Street</li> <li>• Pedestrian refuges on Maitland Road and Allandale Road</li> <li>• Stage 2 – Path between Fleming Street and Lomas Lane on Wine Country Drive</li> <li>• Stage 6 – Dowlan Lane between Koree Street and Victoria Street – shared zone</li> <li>• Stage 7 – Path between Allandale Road and Kerlew Street on Wine Country Drive</li> </ul>	<p>\$340,000</p> <p>\$160,000</p> <p>\$75,000</p> <p>\$1,026,000</p> <p>\$75,000</p> <p>\$405,000</p>
total	\$2,081,000

**c. Legislative Implications**

The following legislation is relevant to the matters addressed in this report:

- *Transport Administration Act 1988* – Schedule 1 Functions of TfNSW relating to traffic management and safety;
- *Roads Act 1993* – Section 3 – Objects of Act;
- *Roads Act 1993* – Section 7 – Roads authorities;
- *Roads Act 1993* – Sections 114 to 119 – Regulation of traffic by roads authorities;
- *Road Rules 2014* – Part 14 – Rules for pedestrians;
- *Road Rules 2014* – Part 15 – Additional rules for bicycle riders; and
- *Civil Liability Act 2002* – Part 5 – Liability of Public and Other Authorities.

**d. Risk Implications**

**Reputational Risk:**

Pathway currently being used and enjoyed and Council would likely risk reputational damage if the pathway is not completed.

Failure to deliver the project would likely lead funding bodies to question Councils capacity to deliver major pathway infrastructure projects, potentially jeopardising the prospect of successful future grant funding applications.

**e. Environmental Implications**

Works would necessarily be subject to a Review of Environmental Factors (REF) under Part 5 of the *Environmental Planning and Assessment Act 1979*.

**f. Other Implications**

Nil

**Works and Infrastructure**

**Report No. WI2/2023**

**Works and Infrastructure**



***CONCLUSION***

The subject shared path will be a vital component of the much anticipated “Shiraz to Shore Cycle Trail”, which will include additional pathway links on Wine Country Drive, including pathway on the western side. Council officers are collaborating with staff from the Hunter Joint Organisation in seeking and applying for funding to bring this pathway connection from the Singleton LGA, through Wine County to Newcastle to fruition.

The current project, funded under the Public Spaces Legacy Program is partially completed, including the connection to Nulkaba Public School, on O’Connors Road. The sections which have already been constructed have been well-received by the public and are experiencing increased community usage.

Having carefully and open-mindedly considered the options for safely negotiating the area of the BP service station and finding them to be excessively costly and impractical, it is now necessary to determine whether we are able to achieve completion of this very beneficial pathway infrastructure project.

It is arguable that the community has a legitimate expectation that the project will ultimately be completed, providing safe walking and cycling opportunities between Cessnock CBD and St Philips Christian College and the many points in between.

Construction of the pathway on the eastern side of Wine Country Drive, rather than the western side should not be a barrier to ultimate completion of this transformative project.

***ENCLOSURES***

[1](#) Bridges Hill to Lomas Lane Shared Path - BP Service Station Options Summary

Notices Of Motion

Report No. BN1/2023

General Manager's Unit



***NOTICES OF MOTION No. BN1/2023***

**SUBJECT:** *COUNCILLOR ATTENDANCE VIA ZOOM FOR BRIEFINGS*

**COUNCILLOR:** *Ian Olsen*

***MOTION***

**That Councillors be provided with access to attend briefings via audio visual links such as zoom.**

It is my intention to move the above motion at the next Ordinary Meeting of Council on 15 February 2023.

**RATIONALE**

We allow councillors to attend committee meetings via zoom and it is only fair to allow councillors to attend briefings via zoom.

**SOURCE OF FUNDING:**

Not required

**DELIVERY PROGRAM:**

Our community 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 needs.

Sgd: Ian Olsen

Date: 8 January 2023

***Directors Commentary***

The draft Nom could be viewed as to be seeking to amend the Code of Meeting Practice (COMP) in which case any change would required to be publicly exhibited. However, there is no need for amendment to the COMP to allow this process to occur as the COMP already makes provision for this, which is at the discretion of the General Manager, inclusive of any required limitations as an operational matter.

If any changes to the process are to be considered it makes sense to keep such as close as possible to the provisions that are in place for meetings under the COMP, with a suggested limit up to 4 times per year per Councillor to be implemented.



**Notices Of Motion**

**Report No. BN1/2023**

**General Manager's Unit**



If there is one briefing per month and 10 Council meetings, that is just under half and seems reasonable given that Councillors should be prioritising attendance in person. That number was also the original limit that applied to Council meetings when the temporary exemption was made in 2021 – although there is no limit now this has been incorporated into the Model Meeting COMP.

**Considerations:**

1. Clause 3.38 of the COMP already provides for the possibility of attendance remotely:

*3.38 Pre-meeting briefing sessions **may** be held by audio-visual link [emphasis added].*
2. On the surface the NOM appears to seek to change cl 3.38 of the COMP but with insufficient detail for implementation.
3. Changes to the COMP require public exhibition in accordance with the Local Government Act 1993.
4. Although referencing Council and committees of Council meetings, the Rationale fails to acknowledge that there are restrictions to the manner in which Councillors may attend those meetings via audio-visual means.
5. Pre-meeting briefing sessions are at the discretion of the General Manager. Rather than the proposed NOM, it may be preferable that Council request the General Manager to consider arrangements for Pre-meeting briefing sessions in a similar manner to that provided for Council and committee of Council meetings. That is:
  - a. It is expected that all Councillors attend in person unless there are exceptional circumstances.
  - b. There may be circumstances that prevent a Councillor prevented from attending the briefing sessions in person because of illness, disability, caring responsibilities, or such other reason that is acceptable to the General Manager.
  - c. Requests by Councillors to attend briefing sessions remotely by audio-visual link should generally be made in writing to the General Manager at least 2 business days prior to a Pre-meeting briefing session providing the reason why the Councillor will be prevented from attending the session in person.
  - d. A decision to permit a Councillor to attend a Pre-meeting briefing session by audio-visual link is at the General Manager's discretion, acting reasonably when considering requests.
  - e. The General Manager may permit more than one Councillor but not all Councillors to attend a Pre-meeting briefing session by audio-visual link, and a Councillor should not request to attend more than 4 per year remotely.
  - f. Noting that the technical capacity may not exist to allow Councillors to attend Pre-meeting briefings sessions by these means.

**Notices Of Motion**

**Report No. BN1/2023**

**General Manager's Unit**



- g. The General Manager may refuse a Councillor's request to attend a session remotely by audio-visual link where the Councillor has failed to appropriately declare and manage conflicts of interest, observe confidentiality or comply with the Council's COMP or Code of Conduct.
- h. The General Manager may also refuse attendance remotely due to the sensitive or confidential nature of the sessions.

**Considerations:**

Pre-meeting briefing sessions.

1. The Office of local Government (OLG) "recognises the value of workshops or briefing sessions in developing councillor knowledge and expertise, and in assisting them to discharge their role as public officials." (pg 50, OLG Councillor Handbook 2021).
2. Pre-meeting briefing sessions are a non-mandatory provision of the OLG's Model Meeting Code.
3. Pre-meeting briefing sessions are at the discretion of the General Manager and provide councils with greater agility and flexibility if the requirements are not prescribed by resolution of council through the COMP.

Code of Meeting Practice (COMP)

4. In order to amend the COMP, Council needs to comply with s361 of the Act which requires a council to put a draft COMP on public exhibition prior to adoption.
5. While Councillor attendance at Council and committee of Council meetings via audio-visual link is provided in the COMP, this envisages use in exceptional circumstances only and the COMP sets out the circumstances, process and limitations for audio-visual attendance.
6. However, the OLG recognises that Pre-meeting briefing sessions are not decision-making meetings and do not have to be conducted in accordance with the meeting rules prescribed under the COMP. (pg 50, OLG Councillor Handbook 2021).

Councillor Professional Development

7. Attendance at Pre-meeting briefing sessions may form part of Councillor professional development plan.

Councillor Expenses and Facilities Policy

8. Councils are required to provide expenses and facilities to assist councillors to carry out their duties and all NSW councils are required to provide adequate and reasonable support for costs associated with caring responsibilities.
9. Our Councillor Expenses and Facilities Policy provides for reasonable reimbursement of costs associated with travel and caring responsibilities to support Councillor attendance in person.

**Notices Of Motion**

**Report No. BN1/2023**

**General Manager's Unit**

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**Alternative:**

If Council wishes to proceed, an alternate motion suggested is follows.

1. **That Council note that clause 3.38 of the Code of Meeting Practice provides that Pre-meeting briefing sessions may be held by audio-visual means.**
2. **That the General Manager implement a process to allow Councillors to attend Pre-meeting briefings sessions by audio-visual means in certain circumstances and that the process be communicated to Councillors.**

***ENCLOSURES***

There are no enclosures for this report

Notices Of Motion

Report No. BN2/2023

General Manager's Unit



**NOTICES OF MOTION No. BN2/2023**

**SUBJECT:** *RESPONSES TO COUNCILLOR REQUESTS*

**COUNCILLOR:** *Ian Olsen*

**MOTION**

**That Councillors be provided with written answers to all requests submitted even if they are operational.**

It is my intention to move the above motion at the next Ordinary Meeting of Council on 15 February 2023.

**RATIONALE**

Councillors raise questions for residents and we are not supplied with answers because staff feel that they only need to respond to the resident or they say it's operational and we don't need a response. Unless we get a response in writing we are not sure of the outcome and if issues have been finalised.

Its best practice that all responses are supplied in writing so there is no confusion with he said she said. This will not add to any more work for staff and will allow councillors to continue to represent residents as is our responsibility.

**SOURCE OF FUNDING:**

Not required

**DELIVERY PROGRAM:**

Our community 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 needs)

Sgd: Ian Olsen

Date: 8 January 2023

**Directors Commentary**

We can assist Councillors in managing expectations and responses to constituents by providing information on the best avenues for residents to contact Council for various matters.

**Notices Of Motion**

**Report No. BN2/2023**

**General Manager's Unit**



The current process ensures Councillors are able to maintain a strategic focus balancing this with assisting individual resident without getting involved in day-to-day operations of Council.

However, any responses provided to Councillors are limited by privacy considerations and operational matters, and authority as to the type of response sits with the General Manager. As a general rule Councillors should urge the resident to contact council directly and use the existing available processes and policies to raise any concerns or issues.

**Considerations:**

Current process

1. Council's current Councillor Requests System is designed to assist Councillors to focus on strategic matters and ensure that operational concerns are addressed in a considered, systemic and equitable manner consistent with Council's Operational Plan and allocation of resources, overseen by the General Manager.
2. It is an important principle of equity that all constituent requests be addressed appropriately and the Councillor Requests System does not become an ad-hoc mechanism to be used to by-pass the customer request process or be perceived to confer an unfair advantage on some residents above others.
3. The current process is:
  - a. Councillor emails about a particular matter of concern raised by a member of the public.
  - b. Council staff raise a customer request, this generates a reference number (CRM).
  - c. The resident is advised of the CRM number if appropriate contact details have been provided. The Councillor is provided with a copy of the CRM number to enable them to respond to the resident and close the matter.
  - d. Council staff address matters in accordance with agreed service standards, policies and procedures.

What information can be provided to Councillors and what are the relevant privacy considerations

4. If a Councillor forwards a request on behalf of a constituent, this CRM number can be provided to Councillors to assist them to help residents understand our customer service system.
5. However, provision of the CRM number does not entitle the Councillor to further information in relation to the matter. Nor can Councillors be provided with correspondence sent to individual residents, even if they have raised a matter on behalf of the resident, as this could amount to a breach of privacy.
6. Council must have regard to the [12 Information Protection Principles](#) (IPPs) which are key to the [Privacy and Personal Information Protection Act 1998](#) (PPIP Act), and Council's [Privacy Management Plan](#). These detail how personal information must be collected, stored, used and disclosed.

Customer Service Charter

7. Our Customer Service Charter provides clear standards and expectations on the delivery of quality service to our community.

**Notices Of Motion**

**Report No. BN2/2023**

**General Manager's Unit**



8. In order to foster an environment of excellence in customer service where council staff provide clear and accurate information, Councillors are encouraged to advise members of the public on how best to access Council's customer service processes directly rather than raising matters on their behalf in the first instance. This assists Council in managing priority of matters, privacy obligations, allocation of resources, and adherence to legislation.

Councillor and Staff Interaction Policy

9. It is important that Councillors are able to raise matters on behalf of the community with council staff where those matters may not have already been addressed.
10. To that end, the OLG Model Councillor and Staff Interaction Policy (Model Policy) was prepared to support positive working relationships between Councillors and staff.
11. Our [Councillor and Staff Interaction Policy](#), based on the Model Policy, supports a Councillor Requests System to facilitate Councillors raising matters on behalf of members of the community:
  - 4 *The Councillor Requests System*
    - 4.4 *Councillors can use the councilor requests system to:*
      - 4.4.2 *Bring concerns that have been raised by members of the public to the attention of staff*
12. The process is about Councillors assisting residents without involving themselves in day-to-day operations and does not provide for Councillors to be involved in the outcome of any matters.
13. The acknowledgement process with these requests is similar to that employed by the Public Officer, to ensure an equitable and consistent approach across the organisation.

Complaint Handling Policy

14. Occasionally we may fail to meet customer expectations. Our Complaint Management System is intended to enable Council to respond to issues raised by people making complaints and to deliver quality improvements in Council services.
15. Our [Complaint Handling Policy](#) covers complaints made to Council regarding its operations including failure to achieve specified standards or service or delays in responding.
16. Where members of the public ask Councillors to intervene in matters, Councillors are encouraged to refer residents to the relevant Policy or Council process. This ensures that residents are not left with an implied expectation that the Councillor is able to use their position to escalate a matter on their behalf.

Balancing resources

17. Generally, when requests are received by Council, these are entered into our CRM system and allocated to the relevant team.
18. The relevant team will then assign matters priority consistent with Council's CSP, Delivery Program, budget, Policy, procedures and resources.
19. The Councillor Request System is not a mechanism to supersede this consideration and scrutiny will be given to any requests that may amount to an unreasonable diversion of Council resources.

**Notices Of Motion**

**Report No. BN2/2023**

**General Manager's Unit**

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Monitoring and reporting

20. The Councillor and Staff Interaction Policy provides for monitoring and reporting of Councillor requests:  
*9.9 A report will be provided to Council bi-annually regarding the performance and efficiency of the councilor requests system against established key performance indicators.*
21. The policy was adopted in September 2022 and the reporting process is being implemented as part of this.

***ENCLOSURES***

There are no enclosures for this report

Notices Of Motion

Report No. BN3/2023

General Manager's Unit



**NOTICES OF MOTION No. BN3/2023**

**SUBJECT:** *MEMORIAL ON FOOTBRIDGE IN MANNING PARK*

**COUNCILLOR:** *Ian Olsen*

**MOTION**

**That Council consider naming the shared foot/bike bridge crossing Bellbird Creek at Mannering Park to be Memorial Bridge Chad Kenneth Thomas 14/07/1981 to 27/03/2012.**

It is my intention to move the above motion at the next Ordinary Meeting of Council on 15 February 2023.

**RATIONALE**

Chad was found deceased in the creek at the location of the crossing and the family approached me about naming the bridge in his honour. I am raising the issue in a Notice of Motion for Councillors to consider the options we have and if this can be considered when the bridge is built.

**SOURCE OF FUNDING:**

Not required

**DELIVERY PROGRAM:**

Our community 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 needs.

Sgd: Ian Olsen

Date: 8 January 2023

**Directors Commentary**

Council is committed to recognising citizens by naming Assets in their memory, where the criteria, set out in the policy, is met following assessment by Council Officers as part of the process. Naming of Council Assets Policy is very descriptive in the criteria required to be met, this includes submission of supporting documentation. Once formal submission of the application is made it will be allocated to the appropriate business unit and assessed by a Council Officer in accordance with the policy.



Notices Of Motion

Report No. BN3/2023

General Manager's Unit

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Councils ***Naming of Council Assets Policy*** states;

***4.2 Where a council Asset is to be named after a person, the person must have made a significant contribution to Council or the local community and meet the requirements prescribed in Clause 7 of the GNB Policy for Place Naming.***

This Policy also sets out the assessment process.

**Considerations:**

No supporting information relating to the persons contribution to Council or the Local Community was received with this Notice of Motion.

**Alternative:**

Council direct the General Manager to communicate with the family, by formal letter, to make an application in accordance with the policy to customer enquiries.

***ENCLOSURES***

There are no enclosures for this report.

Correspondence

Report No. CO1/2023

General Manager's Unit



**SUBJECT:** *OLG RESPONSE - CODE OF CONDUCT COMPLAINTS  
REFERRED 31 OCTOBER 2022*

**RESPONSIBLE OFFICER:** *Human Resources Manager - Darrylen Allan*

**RECOMMENDATION:**

That Council notes the confidential letter dated 12 December 2022 received from the Office of Local Government (OLG), in response to the outcome of two Code of Conduct matters referred to the OLG on 31 October 2022 against Councillor Olsen and that the OLG have made the decision in regards to Councillor Olsen's conduct.

At its Ordinary Meeting of 19 October 2022 Council considered reports GMU28/2022 – Consideration of Final Investigation Report – Code of Conduct Complaint and GMU29/2022 Consideration of Final Investigation Report – Code of Conduct Complaint and resolved:

GMU28/2022

- 4. That Councillor Olsen be formally censured in accordance with Clause 440(g) of the Local Government Act for breaching clauses 3.1(a) and (b); clause 3.19; and clause 3.21 of the Cessnock City Council Code of Conduct and that the matter be referred to the Office of Local Government for further action under the misconduct provisions of the Local Government Act.**
- 5. That the Mayor write to the Office of Local Government outlining the reasons for referral.**

GMU29/2022

- 4 That Councillor Olsen be formally censured in accordance with clause 440G of the Local Government Act for breaching clauses 3.1(a), (c), (e) and (g); clause 3.2; clause 3.6; clause 3.8 and clause 8.21 of the Cessnock City Council Code of Conduct and the Cessnock City Council Social media Policy and that the matter be referred to the Office of Local Government for further action under the misconduct provisions of the Local Government Act.**
- 5 That the Deputy Mayor write to the Office of Local Government outlining the reasons for referral.**

Confidential correspondence has been received from the OLG advising that they have made the decision in regards to Councillor Olsen's conduct. A copy of the confidential correspondence has been provided to Councillors under separate cover.

**ENCLOSURES**

There are no enclosures for this report.