



27 May 2016

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, 1 June 2016 at 6.30 pm, for the purposes of transacting the undermentioned business.

AGENDA:

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(15) COUNCILLORS' REPORTS



Council's Charter

- To provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively.
- To exercise community leadership.
- To exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism.
- To promote and to provide and plan for the needs of children.
- To properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development.
- To have regard to the long term and cumulative effects of its decisions.
- To bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible.
- To engage in long-term strategic planning on behalf of the local community.
- To exercise its functions in a manner that is consistent with and promotes social justice principles of equity, access, participation and rights.
- To facilitate the involvement of Councillors, members of the public, users of facilities and services and Council staff in the development, improvement and co-ordination of Local Government.
- To raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants.
- To keep the local community and State Government (and through it, the wider community) informed about its activities.
- To ensure that, in the exercise of its regulatory functions, its acts consistently and without bias, particularly where an activity of the Council is affected.
- To be a responsible employer.

Council's Values

- | | | |
|-------------|--------------|--------------|
| • Respect | • Innovation | • Teamwork |
| • Integrity | • Fairness | • Commitment |

Our Community's Vision

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

Cessnock – thriving, attractive and welcoming.

Our Community's Desired Outcomes

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



Council Model Code of Conduct

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

Generally, the policies refer to the following issues:

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

**MINUTES OF ORDINARY COUNCIL MEETING OF THE CESSNOCK CITY COUNCIL
HELD IN COUNCIL CHAMBERS ON WEDNESDAY, 18 MAY 2016, COMMENCING AT
6.30 PM**

PRESENT: His Worship the Mayor, Councillor R Pynsent (in the Chair) and Councillors Doherty, Wrightson, Olsen, Ryan, Stapleford, Hawkins, Smith and Campbell.

IN ATTENDANCE: General Manager
Director Planning and Environment
Director Corporate and Community Services
Director Works and Infrastructure
Manager Governance and Business Services
Corporate Administration Officer

APOLOGIES:

MOTION **Moved:** Councillor Wrightson
Seconded: Councillor Stapleford

1675

RESOLVED that the apologies tendered on behalf of Councillors Parsons, Gibson and Troy for unavoidable absence, be accepted and leave of absence granted.

FOR	AGAINST
Councillor Doherty	
Councillor Wrightson	
Councillor Olsen	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Pynsent	
Total (9)	Total (0)

CARRIED UNANIMOUSLY

MINUTES:**MOTION**

Moved: Councillor Doherty
Seconded: Councillor Campbell

1676

RESOLVED that the Minutes of the Ordinary Meeting of Council held on 4 May 2016, as circulated, be taken as read and confirmed as a correct record.

FOR

Councillor Doherty
Councillor Ryan
Councillor Hawkins
Councillor Smith
Councillor Campbell
Councillor Pynsent

Total (6)

AGAINST

Councillor Wrightson
Councillor Olsen
Councillor Stapleford

Total (3)

CARRIED

DISCLOSURES OF INTEREST

DISCLOSURES OF INTEREST NO. DI8/2016

SUBJECT: DISCLOSURES OF INTEREST

NIL

PETITIONS

Nil

ADDRESS BY INVITED SPEAKERS

Nil

MOTIONS OF URGENCY

MOTIONS OF URGENCY NO. MOU8/2016

SUBJECT: MOTIONS OF URGENCY

Nil

DEFERRED BUSINESS

DEFERRED BUSINESS NO. WI24/2016

SUBJECT: CLOSURE OF PART OF PUBLIC ROAD ADJACENT TO 1200 OLD MAITLAND ROAD SAWYERS GULLY

MOTION **Moved:** Councillor Smith **Seconded:** Councillor Campbell
1677
RESOLVED

That Council not approve the application for road closure or give consent for the Applicant to lodge an application for road closure with Crown Lands for that portion of Old Maitland Road Sawyers Gully adjacent to the north east boundary of Lot 11 DP 755231 and west of the constructed Old Maitland Road.

FOR	AGAINST
Councillor Doherty	
Councillor Wrightson	
Councillor Olsen	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Pynsent	
Total (9)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT

PLANNING AND ENVIRONMENT NO. PE33/2016

SUBJECT: MINUTES OF ENVIRONMENTAL STRATEGY AND MANAGEMENT COMMITTEE 21 APRIL 2016

MOTION **Moved:** Councillor Smith **Seconded:** Councillor Wrightson
1678
RESOLVED

1. That the Minutes of the Environmental Strategy and Management Committee held 21 April 2016 be adopted as a resolution of the Ordinary Council with the exception of recommendations relating to quarterly community collaboration planning sessions (ENVCGB2/2016) and the Draft Cycling Strategy the (ENVCGB3/2016).
2. That Council consider the Environmental Strategy and Management Committee recommendation relating to ENVCGB2/2016 and determine whether Council should investigate the hosting of quarterly community collaboration planning sessions for cross fertilisation of activities and to improve grant access and opportunities.

FOR	AGAINST
Councillor Doherty	
Councillor Wrightson	
Councillor Olsen	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Pynsent	
Total (9)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT NO. PE34/2016

**SUBJECT: MARCH 2016 QUARTER REVIEW OF 2013-17 DELIVERY PROGRAM
AND FIT FOR THE FUTURE IMPROVEMENT PROPOSAL**

MOTION **Moved:** Councillor Smith **Seconded:** Councillor Campbell
1679
RESOLVED

1. That Council note the progress in implementing the 2013-17 Delivery Program as at 31 March 2016.
2. That Council endorse the following change to the 2015-16 Capital Works Program:
 - a. Remove: CFR-2015-001 Bridges Hill Park Cessnock Playground Replacement
3. That Council note the inclusion of individual projects in the Capital Works Miscellaneous Minor Drainage program.
4. That Council note the progress in the implementation of Council's Improvement Proposal and the updated forecasts against the Fit for the Future benchmarks.

FOR	AGAINST
Councillor Doherty	
Councillor Wrightson	
Councillor Olsen	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Pynsent	
Total (9)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY

CORPORATE AND COMMUNITY NO. CC25/2016

SUBJECT: QUARTERLY BUDGET REVIEW STATEMENTS - MARCH 2016

MOTION **Moved:** Councillor Smith **Seconded:** Councillor Campbell
1680
RESOLVED

1. That Council endorse the March 2016 Quarterly Budget Review Statements were presented to and endorsed by the Audit Committee on 3 May 2016.
2. That Council approve the variations to the income, expenditure and capital budgets as detailed in the March 2016 Quarterly Budget Review Statements.

FOR	AGAINST
Councillor Doherty	
Councillor Wrightson	
Councillor Olsen	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Pynsent	
Total (9)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC26/2016

SUBJECT: INVESTMENT REPORT - APRIL 2016

MOTION **Moved:** Councillor Wrightson **Seconded:** Councillor Smith
1681
RESOLVED

That Council receive the report and note the information on investments held.

FOR	AGAINST
Councillor Doherty	
Councillor Wrightson	
Councillor Olsen	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Pynsent	
Total (9)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC27/2016

SUBJECT: RESOLUTIONS TRACKING REPORT

MOTION **Moved:** Councillor Smith **Seconded:** Councillor Wrightson
1682
RESOLVED

That Council receive the report and note the information.

FOR	AGAINST
Councillor Doherty	
Councillor Wrightson	
Councillor Olsen	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Pynsent	
Total (9)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC28/2016

SUBJECT: MEETING NOTES OF THE INQUORATE CESSNOCK CITY YOUTH COUNCIL COMMITTEE MEETING HELD 3 MAY 2016

MOTION **Moved:** Councillor Campbell **Seconded:** Councillor Smith
1683
RESOLVED

That Council notes the summaries of the topics discussed at the inquorate Cessnock City Youth Council Committee meeting held on 3 May 2016.

FOR	AGAINST
Councillor Doherty	
Councillor Wrightson	
Councillor Olsen	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Pynsent	
Total (9)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC29/2016

SUBJECT: USE OF FACILITY FOR 2016 LOCAL GOVERNMENT ELECTION PRE-POLL

MOTION **Moved:** Councillor Campbell **Seconded:** Councillor Smith
1684
RESOLVED

That Council does not offer the Community Meeting Room for the purposes of Pre-Poll

FOR	AGAINST
Councillor Wrightson	Councillor Doherty
Councillor Olsen	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Pynsent	
Total (8)	Total (1)

CARRIED

WORKS AND INFRASTRUCTURE

WORKS AND INFRASTRUCTURE NO. WI27/2016

SUBJECT: LOMAS LANE BRIDGE REINSTATEMENT (T1516/03)

MOTION **Moved:** Councillor Stapleford **Seconded:** Councillor Smith
1685
RESOLVED

That Council accept the tender from Kenpass Pty Ltd in the amount of \$349,600 (including GST) to replace Lomas Lane Bridge at Nulkaba.

FOR	AGAINST
Councillor Doherty	
Councillor Wrightson	
Councillor Olsen	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Pynsent	
Total (9)	Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI28/2016

SUBJECT: TIMBER BRIDGE RENEWAL PROGRAM - PRIORITY CHANGES

MOTION **Moved:** Councillor Stapleford **Seconded:** Councillor Wrightson
1686
RESOLVED

1. That further investigation and prioritisation be undertaken for Abbotsford Bridge and a further report be provided to Council.
2. That the following additional bridges and major culverts be included in the Draft 2016/2017 Bridge Construction Program:
 - Milsons Arm Bridge, Milson Arm Road, Laguna
 - Anvil Creek Bridge, Nelson Street, Greta
 - Gillies Bridge
 - Dixon Street Bridge
 - McFarlane Street Bridge
 - Stockyard Creek Bridge
 - Neath Road Culvert
 - Watagan Creek #1 Bridge
 - Duffie Drive Culvert
 - Galloway Street Culvert
 - Burgesses Bridge
3. That \$800,000 of Council's 2016/2017 Roads to Recovery funding be allocated to the 2016/17 Bridge Construction Program to fund the additional projects listed.
4. That the balance of the 2016/2017 Roads to Recovery funding be allocated to the 2016/17 Local Road Renewal Program.

FOR	AGAINST
Councillor Doherty	Councillor Ryan
Councillor Wrightson	
Councillor Olsen	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Pynsent	
Total (8)	Total (1)

CARRIED

ANSWERS TO QUESTIONS FOR NEXT MEETING

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ36/2016

SUBJECT: HEDDON GRETA TRAFFIC ISSUES

The answer was noted.

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ37/2016

SUBJECT: POND AT PEACE PARK

The answer was noted.

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ38/2016

SUBJECT: ROUGH SURFACE IN BOUNDARY STREET, KURRI KURRI

The answer was noted.

QUESTIONS FOR NEXT MEETING

Councillor Morgan Campbell

MOTION - FLYING FOXES AT EAST CESSNOCK

Councillor Campbell referred to a previous resolution for Council to contact the Department of Lands for financial assistance in regard to a Camp Management Plan for the Flying Foxes and asked that Councillors receive a copy of the letter.

Councillor Rod Doherty

INVITATION TO FUNCTIONS AND EVENTS

Councillor Doherty referred to an invitation to the 50th Anniversary celebrations at Tamburlaine Winery and asked whether other invitations are being received and not extended to Councillors.

COUNCILLORS REPORTS

Councillor Doherty

Bloomfield Group meeting

Councillor Doherty advised of his attendance at the Bloomfield Group meeting and advised that he has copies of the Annual Environmental Management Report 2015 and Independent Environmental Audit November 2015 which he will pass onto Council Officers.

Mayor

Association of Mine Related Councils

The Mayor advised of his attendance at the above meeting and advised that a draft VPA will be circulated to members and a generic report will be distributed to each member Council for each council to vote on the MOU in the VPA.

The Meeting Was Declared Closed at 6.40pm

CONFIRMED AND SIGNED at the meeting held on 1 June 2016

.....**CHAIRPERSON**

.....**GENERAL MANAGER**

Disclosures Of Interest

Report No. DI9/2016

Corporate and Community Services



SUBJECT: *DISCLOSURES OF INTEREST*

RESPONSIBLE OFFICER: *Manager Governance and Business Services - Kim Appleby*

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.

Motions of Urgency

Report No. MOU9/2016

Corporate and Community Services



SUBJECT: MOTIONS OF URGENCY

RESPONSIBLE OFFICER: Manager Governance and Business Services - Kim Appleby

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. PE35/2016
Planning and Environment



SUBJECT: *SECTION 96(2) APPLICATION PROPOSING TO MODIFY DEVELOPMENT CONSENT 8/2010/527/1*

CESSNOCK ROAD, NEATH

RESPONSIBLE OFFICER: *Development Services Manager - Janine McCarthy*

APPLICATION NUMBER:	8/2010/527/2
PROPOSAL:	Section 96(2) Application proposing to modify Development Consent 8/2010/527/1, which granted approval to construct a pigeon loft. The Application seeks to increase the size; and alter the layout and design of the approved pigeon loft
PROPERTY DESCRIPTION:	Lot 85, DP 755259
PROPERTY ADDRESS:	Cessnock Road, Neath
ZONE:	RU2 Rural Landscape under Cessnock Local Environmental Plan 2011
OWNER:	Mr B & Mrs R Bigg
APPLICANT:	Mr B & Mrs R Bigg

RECOMMENDATION

That Council determine the Section 96(2) Application (8/2010/527/2) proposing to modify Development Consent 8/2010/527/1 seeking to increase the size; and alter the layout and design of the approved pigeon loft, at Lot 85 DP 755259 Cessnock Road Neath, pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979, by the granting of consent subject to the conditions contained in this report.

REASON FOR REPORT

The Section 96(2) Application proposing to modify Development Consent 8/2010/527/1 is being referred to Council for determination as the original development application was determined by Council at its meeting of 6 July 2011.

Planning and Environment

Report No. PE35/2016

Planning and Environment



EXECUTIVE SUMMARY

Council is in receipt of a Section 96(2) Application (8/2010/527/2) proposing to modify Development Consent 8/2010/527/1, which granted approval for the construction of a pigeon loft on land located at Cessnock Road, Neath. The Application seeks to increase the size; and alter the layout and design of the approved pigeon loft.

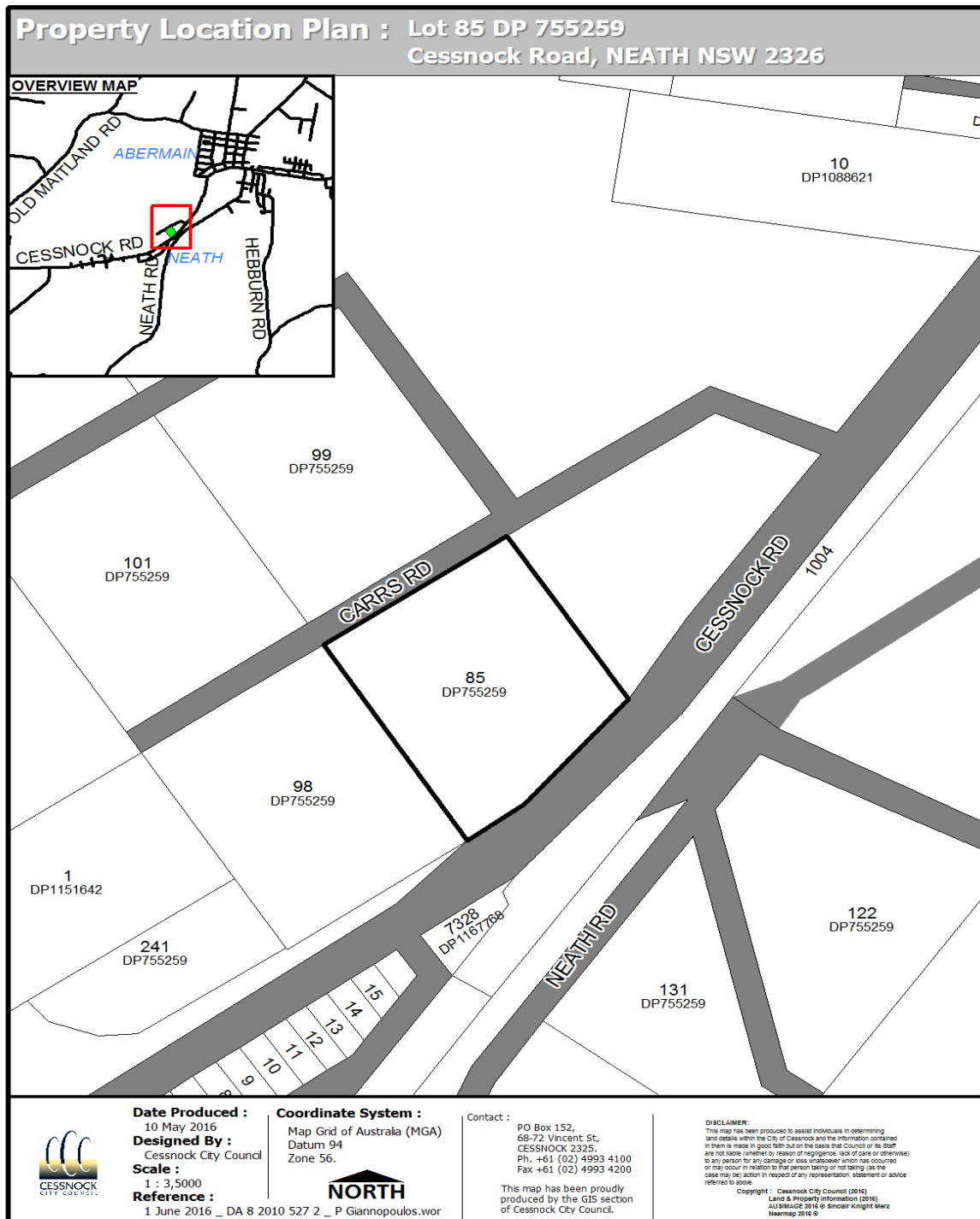
The Section 96(2) Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulations 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Section 96(2) Application was publicly exhibited and no submissions were received.

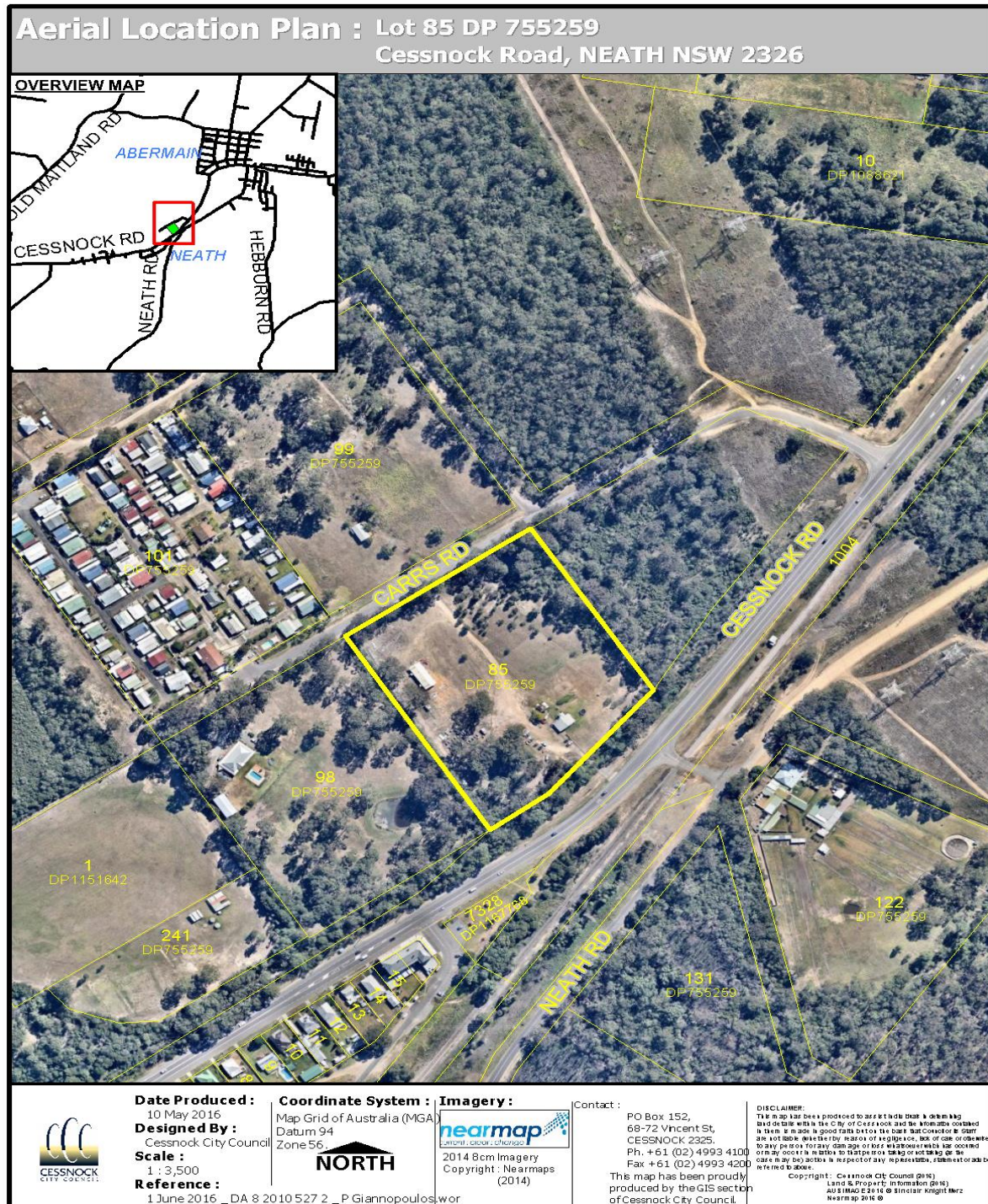
The Section 96(2) Application proposes minor changes to the lot layout approved under the original development consent. The amendments are considered minor in nature, and overall, it is considered that the development will remain substantially the same as that approved initially.

Based on the assessment, it is recommended that the Section 96(2) Application be approved subject to the conditions included in this report.

LOCATION MAP



AERIAL



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as Cessnock Road, Neath, and is legally described as Lot 85 DP 755259.

The site is located approximately 250 metres south-west of the intersection of Cessnock Road and Carrs Road. The allotment is 27,387m² in size and has a frontage of 161m to Cessnock Road with a depth of 187m (western boundary) and 156m (eastern boundary).

The site contains a single weatherboard dwelling which is located towards the front of the site (south eastern boundary), and a metal shed which is located towards the north western corner of the site. Vehicular access to the site is provided from Carrs Road to the north.

The majority of the subject land is cleared with established trees located along the southern, northern and western boundaries.

The subject site is located on the north eastern fringe of the Neath township and the surrounding area is characterised by a mixture of rural residential, residential and rural land uses. To the north the site is bound by rural residential development, to the east the land is bound by undeveloped rural land, to the south the land is bound by Cessnock Road and further south is a railway line. The land is bound to the south-west by Cessnock Road and further south-west is Neath Pub and the township of Neath, to the west the site is bound by a rural residential property, to the north-west the site is bound by the Shell Village and Resort.

DETAILS OF THE SECTION 96(2) APPLICATION

Development Application No 8/2010/527/1 proposing the construction of a pigeon loft was approved by Council at its meeting of 6 July 2011.

The Section 96(2) Application proposes changes to the approved pigeon loft by increasing the height and length of the proposed building, and slightly reducing the width of the building. The table below compares the current proposal to the approved development:

<i>Aspect</i>	<i>Approved loft</i>	<i>Proposed loft</i>
Height of building	3.6 metres (approx.)	4.8 metres (approx.)
Length of building	30.375 metres	34.56 metres
Width of building	3.6 metres	3.5 metres
Setback from western boundary	23 metres	23 metres
Setback from northern boundary	66.5 metres	67.5 metres

The enclosures contain a copy of the plan submitted in conjunction with the Application. In the event the Application is approved, Condition 2 will require amendment to reference the new plans. In this regard, the following is noted in respect of Condition 2:

Planning and Environment

Report No. PE35/2016

Planning and Environment

**Condition 2 currently reads as follows:**

2. The proposed development shall be carried out strictly in accordance with the details set out on the application form, the submitted Plans, Elevations and written submission in support of the application, except as modified by the conditions of this consent.

Note: Any proposal to modify the terms or conditions of this consent, whilst still maintaining substantially the same development to that approved, will require the submission of a formal application under Section 96 of the Environmental Planning and Assessment Act 1979 for Council's consideration. If amendments to the design result in the development not remaining substantially the same as that approved by this consent, a new development Application will have to be submitted to Council.

Reason

To confirm and clarify the terms of Council's approval.

Condition 2 is proposed to be amended to read as follows:

2. The proposed development shall be carried out strictly in accordance with the details set out on the application form, the Plans prepared by Thomas and Associates Consulting Project No 160079 A01 1/1 dated 21/3/2016 and written submission in support of the application, except as modified by the conditions of this consent.

Note: Any proposal to modify the terms or conditions of this consent, whilst still maintaining substantially the same development to that approved, will require the submission of a formal application under Section 96 of the Environmental Planning and Assessment Act 1979 for Council's consideration. If amendments to the design result in the development not remaining substantially the same as that approved by this consent, a new development Application will have to be submitted to Council.

Reason

To confirm and clarify the terms of Council's approval.

HISTORY

The history of the original Development Application and Section 96(2) Application is summarised in the following table:

Date	Action
6 July 2011	Development Application No. 8/2010/527/1 approved by Council
7 October 2015	Section 96(2) Application submitted
14 October 2015	Application notified until the 28 October 2015, no submissions received
11 November 2015	Applicant requested to submit further information comprising of more detailed plans and elevations
16 November 2015	Consultant on behalf of applicant requests information from case officer
17 November 2015	Case officer provides advice to consultant acting on behalf of the applicant

Planning and Environment

Report No. PE35/2016

Planning and Environment



30 November 2015	Case officer provides consultant representing applicant with information in respect to development
16 February 2016	Letter sent to applicant requesting withdrawal of application as no response received to Council's request for information
19 February 2016	Applicant phoned Council requesting extension of time to provide information
17 March 2016	Consultant on behalf of applicant provides draft plans to case officer for feedback. Case officer responds by phoning and emailing consultant, requesting formalisation of submission
31 March 2016	Additional information submitted
10 May 2016	Assessment of application completed

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 96

Section 96(2) Other Modifications

Section 96(2) of the EP&A Act states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Planning and Environment

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Planning and Environment



Comment:

The following is noted in respect of the above:

- (a) The modifications sought do not alter the character of the development or the use proposed. The development is proposed in a relatively similar location with the only change being the size and layout of the proposed building. On this basis, it is considered that the proposed development will be substantially the same as the original approved development.
- (b) The conditions to be varied by the modification have not been imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister.
- (c) The Section 96(2) Application was notified in accordance with exhibition requirements in the Cessnock Development Control Plan (DCP) 2010, and no submissions were received.
- (d) As outlined above, no submissions were received in response to public exhibition of the Section 96(2) Application.

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

Section 96(3) of the Environmental Planning and Assessment Act 1979 specifies that *‘in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application’*.

The following matters are relevant to the assessment of the Section 96(2) Application:

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

The Environmental Planning Instrument that relates to the Section 96(2) Application is:

1. Cessnock Local Environmental Plan 2011

An assessment of the Section 96(2) Application under the Environmental Planning Instrument is provided below:

1. Cessnock Local Environmental Plan 2011

1.1 Permissibility

The subject site is zoned RU2 Rural Landscape under the provisions of Cessnock Local Environmental Plan 2011 (CLEP). The matter of permissibility of the development is not relevant to consideration of this Section 96(2) Application, as the approved land use remains the same.

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1.2 Objectives

The matter of zoning objectives is not relevant to consideration of this Section 96(2) Application, as the approved land use remains the same and the overall development will therefore continue to be consistent with the objectives of the zone.

1.3 Relevant Clauses

The Section 96(2) Application was assessed against the following relevant clauses of CLEP 2011:

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

No Draft Environmental Planning Instruments are relevant to the Section 96(2) Application.

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

Cessnock Development Control Plan 2010

There are no provisions of Cessnock Development Control Plan 2010 that are relevant to consideration of the Section 96(2) Application. The original application did not propose any variations to any adopted policies of Council, and the Section 96(2) amendment does not alter the extent of compliance.

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

No such agreement has been proposed as part of this Section 96(2) Application.

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

There are no matters prescribed by the Regulations that apply to this Section 96(2) Application.

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

As demonstrated by the above assessment, the proposed development is unlikely to have a significant impact on both the natural and built environments, and the social and economic conditions of the locality.

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

As demonstrated by the above assessment, the site is considered to be suitable for the proposed development.

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

The Section 96(2) Application was publicly exhibited between the 14 October 2015 and the 28 October 2015. No submissions were received during the exhibition period.

(e) The public interest

The public interest is served through the detailed assessment of this Section 96(2) Application under the Environmental Planning and Assessment Act, 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, the Section 96(2) Application is consistent with the public interest.

SECTION 94 CONTRIBUTIONS

Section 94 Contributions are not relevant as a Contribution Plan does not apply for this type of development.

INTERNAL REFERRALS

The Section 96(2) Application was not required to be referred to any Council officer for comment.

EXTERNAL REFERRALS

The Section 96(2) Application was not required to be referred to any external agency for comment.

CONCLUSION

The Section 96(2) Application has been assessed in accordance with Section 96(2) and Section 79C(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The Section 96(2) Application proposes minor changes to the approved building under the original development consent. The amendments are considered minor in nature, and overall, it is considered that the development will remain substantially the same as that approved initially.

Based on the assessment, it is recommended that the Section 96(2) Application be approved subject to the conditions included in this report.

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ENCLOSURES

[1](#) Architectural Plans

CONDITIONS OF CONSENT

SCHEDULE 1

TERMS OF CONSENT

1. The erection of a building in accordance with this development consent shall **not** be commenced until:-
 - (a) detailed plans and specifications of the building verifying compliance with the Building Code of Australia have been endorsed with a **construction certificate** by:-
 - (i) the Cessnock City Council; or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:-
 - (i) has **appointed a principal certifying authority**, (being Cessnock City Council or an accredited certifier) and
 - (ii) has notified Council of the appointment, and
 - (c) the person having the benefit of the development consent has given at least 2 days notice to the Council of their intention to commence erection of the building.

Reason

To clarify and advise the applicant that a Construction Certificate must be issued prior to works commencing as required by the Environmental Planning and Assessment Act 1979 (as amended).

Amend Condition 2 to read:

2. The proposed development shall be carried out strictly in accordance with the details set out on the application form, the Plans prepared by Thomas and Associates Consulting Project No 160079 A01 1/1 dated 21/3/2016 and written submission in support of the application, except as modified by the conditions of this consent.

Note: Any proposal to modify the terms or conditions of this consent, whilst still maintaining substantially the same development to that approved, will require the submission of a formal application under Section 96 of the Environmental Planning and Assessment Act 1979 for Council's consideration. If amendments to the design result in the development not remaining substantially the same as that approved by this consent, a new development Application will have to be submitted to Council.

Reason

To confirm and clarify the terms of Council's approval.

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3. All building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

Reason

This is a prescribed condition under Section 80A(11) of the Environmental Planning and Assessment Act, 1979.

4. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates:-
 - a) in the case of work for which a principal contractor has been appointed:
 - (i) has been informed in writing of the name and licence number of the principal contractor, and
 - (ii) where required has submitted an insurance certificate with the name of the insurer by which the work is insured under Part 6 of that Act,
 - b) in the case of work to be done by an owner-builder:
 - (i) has been informed in writing of the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, has submitted a copy of the owner builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause 1 of this condition becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development has been given written notice of the updated information.

Reason

This is a prescribed condition under Section 80A(11) of the Environmental Planning and Assessment Act, 1979.

5. There being no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise", vibration or offensive odour as a result of the proposed development.

Reason

To prevent environmental pollution, to ensure observance of appropriate public health standards and to protect the existing amenity of the neighbourhood.

6. All bird feed is to be stored under cover in sealed containers.

Reason

To prevent pests and rodents from accessing the feed and proliferating.

7. All faecal waste, feed waste and carcasses are to be cleaned from the loft daily and stored in sealed containers until such time as it can be disposed of at a recognised waste facility.

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Reason

To minimise odour from accumulated waste, to prevent odour from manure which may get wet due to rain or cleaning and to prevent the proliferation of pests and diseases.

8. Under no circumstance are birds to be permitted to roost on adjoining neighbouring buildings.

Reason

To prevent contamination of water, the spread of disease and prevent damage to neighbouring buildings.

9. A documented pest control program is to be implemented with records to be made readily available to Authorised Officers of Council.

Reason

To prevent proliferation of rodents and insects.

10. A maximum of 150 birds are to be kept within the pigeon loft.

Reason

To appropriately limit the number of birds kept on the premises.

11. The entry and exit of the birds from the loft must be fully controlled. Provisions shall be made for all released birds to return through a one way entrance that will not permit uncontrolled exit. A 'free' or 'open' loft arrangement is not permitted.

Reason

To prevent spread of disease and to prevent damage to neighbouring buildings.

12. All feeding of pigeons must be within lofts after exercise.

Reason

To encourage birds to return to the loft following exercise.

13. The release of pigeons for training/exercise shall be restricted from dawn to 8.00am and 3.30pm to sunset. Training/exercise must not be performed more than twice daily.

Reason

To control the movement of the birds and minimise nuisance.

DURING CONSTRUCTION

General

14. If the soil conditions require it:-
 - a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and

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- b) adequate provision must be made for drainage.

Reason

To ensure that the development, when constructed, will comply with the Environmental Planning and Assessment Act, 1979.

15. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, however must be removed when the work has been completed.

Reason

This is a prescribed condition under Section 80A(11) of the Environmental Planning and Assessment Act, 1979.

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

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

Reasons

To ensure that suitable and environmentally sustainable toilet facilities are provided for all persons employed or visiting the site. To ensure that the development, when constructed, will comply with the Environmental Planning and Assessment Act, 1979.

17. Construction, demolition and associated work shall be carried out only between the times stated as follows:-

Mondays to Fridays	7.00a.m. to 6.00p.m.
Saturdays	8.00a.m. to 1.00p.m.
Sundays & Public Holidays	No construction work to take place.

Reason

To ensure that the environmental quality of adjoining land is not adversely affected, such as by the generation of excessive noise levels.

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18. A container of at least one (1) cubic metre capacity shall be provided and maintained from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste.

Reason

To ensure that waste generated by the building works is contained and does not pollute the surrounding environment.

19. All building materials, plant and equipment is 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.

Reason

To ensure pedestrian and vehicular access is not restricted in public places.

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

Reason

To ensure that any required alterations to utility infrastructure are undertaken to acceptable standards at the developer's cost.

Building Construction

21. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards.

Reason

To ensure that all excavations on the site are maintained in a safe condition.

22. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

Reason

To ensure that all excavations on the site are maintained in a safe condition.

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Site Works

23. 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.

Reason

To ensure protection of the environment by minimising water pollution, erosion and sedimentation.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

General

24. Occupation or use of premises for the purposes approved by this consent shall not commence until all conditions of this consent have been complied with and the Occupation Certificate has been issued.

Reason

To ensure compliance with the provisions of the Environmental Planning and Assessment Act, 1979, and Council's terms of consent.

SUBJECT: *PLANNING PROPOSAL - REMOVAL OF MINIMUM LOT SIZE, HEDDON GRETA*

RESPONSIBLE OFFICER: *Coordinator Strategic Land Use Planning - Bo Moshage*

APPLICATION NUMBER:	18/2015/8
PROPOSAL:	Removal of Minimum Lot Size
PROPERTY DESCRIPTION:	Lot 112 DP 1205440
PROPERTY ADDRESS:	141 Main Road, Heddon Greta
ZONE: (CURRENT)	RU2 – Rural Landscape
ZONE (PROPOSED)	Not Applicable
OWNER:	Puma Energy (Australia) Asset Holdings
PROPONENT:	Stevens Group Pty Ltd

SUMMARY

The purpose of this report is to provide an overview of the Planning Proposal which seeks to amend the Minimum Lot Size Map associated with Cessnock Local Environmental Plan 2011 (LEP 2011) in respect of Lot 112 DP 1205440 at Heddon Greta. The subject land is zoned RU2 - Rural Landscape under the provisions of the LEP and has a 40ha minimum lot size.

This report also seeks Council's approval to submit this Planning Proposal to the Department Planning and Environment for a 'Gateway' determination.

RECOMMENDATION

1. That Council request a Gateway determination for the Planning Proposal from the Department of Planning and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.
2. That Council request the use of delegations in respect of the Minister for Planning plan making functions under section 59 of the EPA Act 1979 for the Planning Proposal.
3. That Council consult and exhibit the Planning Proposal in accordance with the Gateway determination.
4. That Council receive a report back on the Planning Proposal if unresolved written objections are received during the consultation with the Community; otherwise forward the Planning Proposal to the Department of Planning and Environment requesting that the plan be made.

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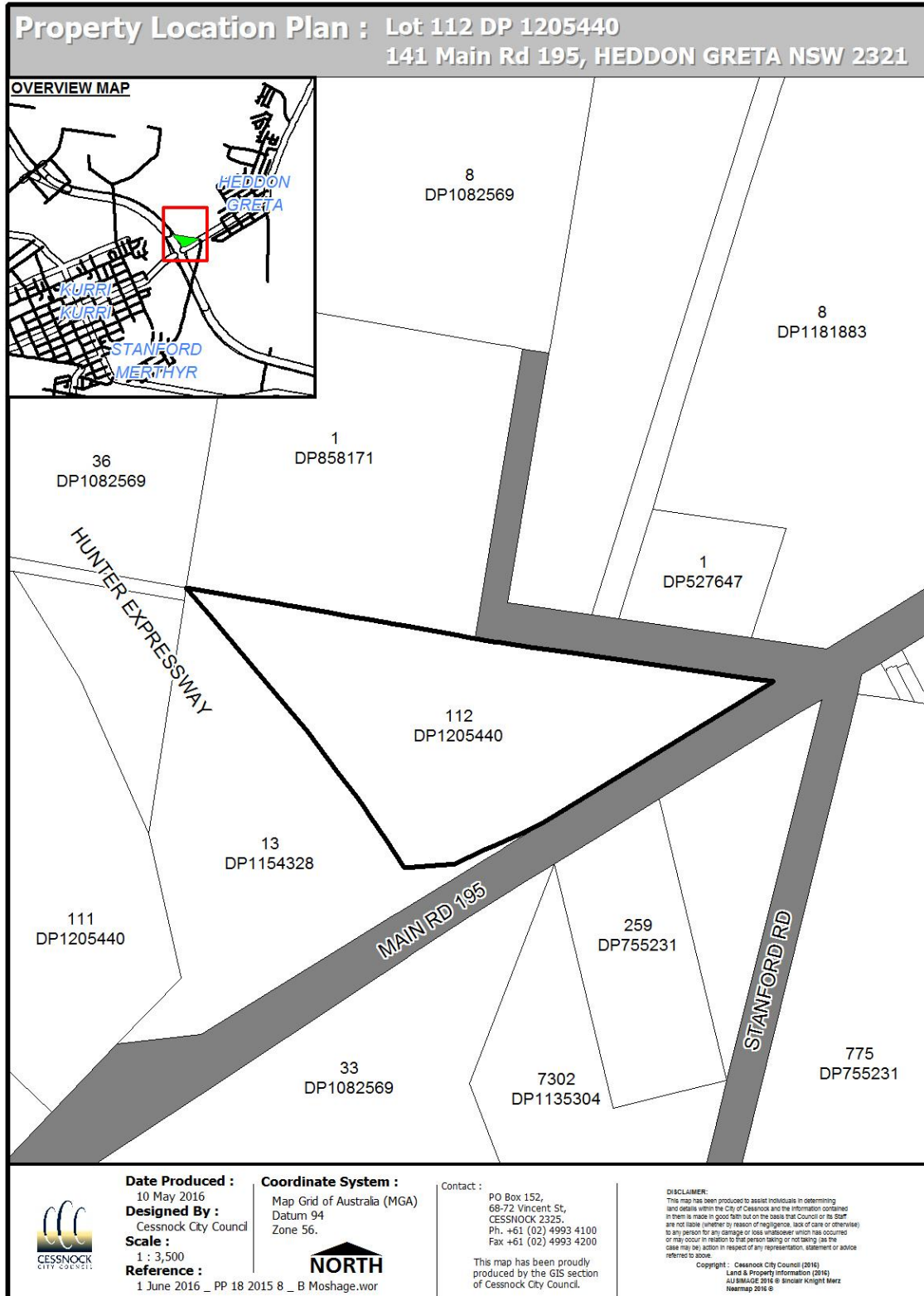
Chronology

Date	Brief Description
19/12/2015	Planning Proposal lodged with Council
5/1/2016	Additional information requested
6/4/2016	Meeting to discuss additional information requirements

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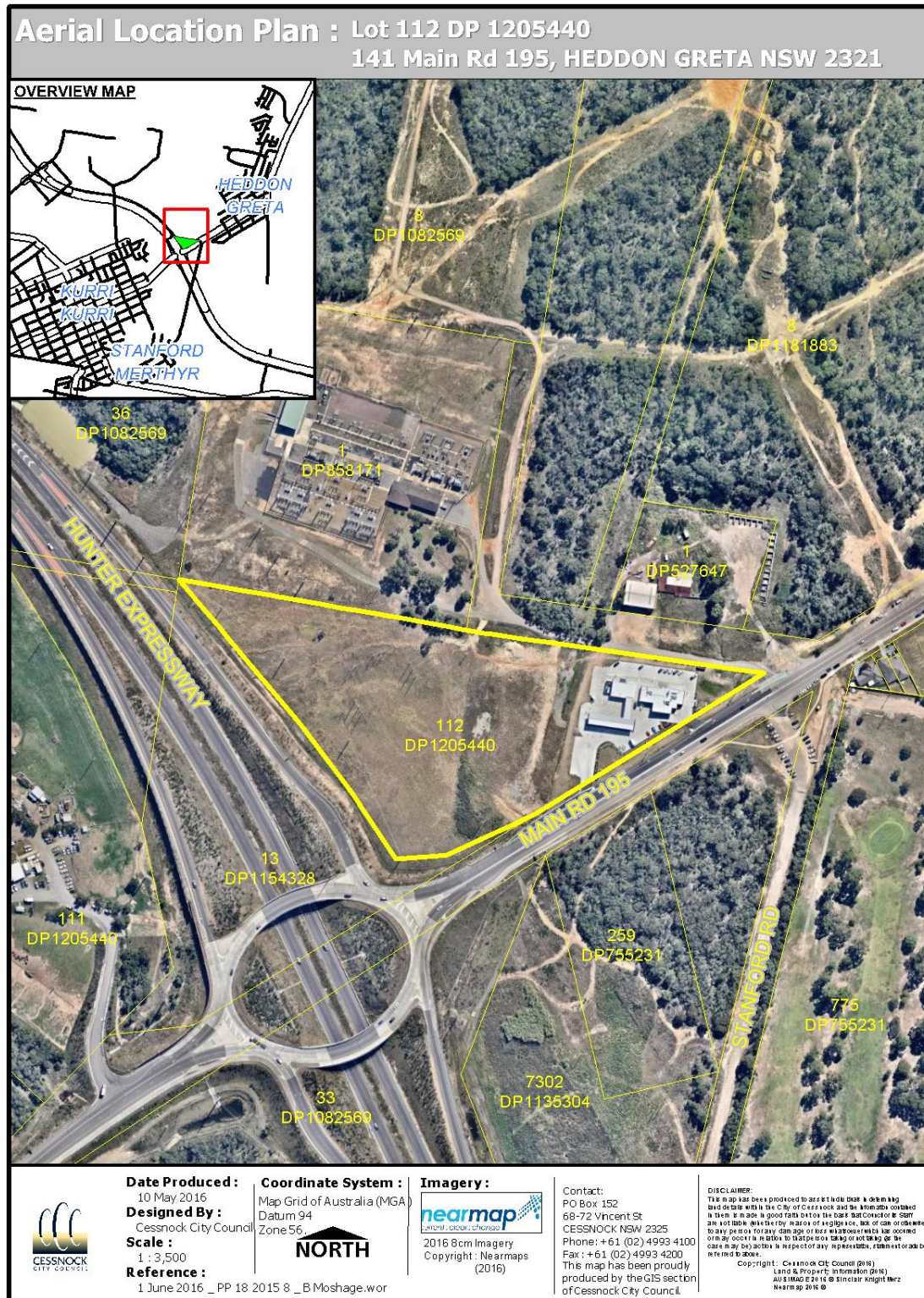
Location Map:



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Aerial View:



BACKGROUND

On 16 July 2014, Council approved under DA 8/2014/51/1 the construction of a service station and two (2) ancillary food and drink premises, signage and associated carparking over part of the subject land.

'Service station' are a permitted land use in the RU2 - Rural Landscape zone. However, 'commercial premises' which includes 'food & drink premises', which also includes 'takeaway food & drink premises', are prohibited but were approved as an 'ancillary' development to the service station.

An additional food and drink premises is proposed to be constructed on the land in the future. A Development Application for this purpose is currently being prepared.

The subject land has an area of 4.165 ha. The proponent has requested an amendment to the Minimum Lot Size Map to allow the various development components, both existing and proposed, over this site to be able to be subdivided and held in separate ownership.

REPORT/PROPOSAL

The objective of the Planning Proposal is to allow the subdivision of the subject land, specifically to enable uses currently existing on the land (service station and food outlets) and those proposed (additional food and drink premises) to be subdivided and held in separate ownerships.

The range of uses within the existing RU2 - Rural Landscape zone are not proposed to be altered by the Planning Proposal. The proposed amendment to the Minimum Lot Size Map will not alter the environmental impacts associated with the development.

The proposed rezoning of this site is seen as an interim step and would precede a comprehensive review of the Cessnock City Planning Strategy currently underway. This review will consider the rural and urban strategic land studies currently being prepared which will investigate, amongst other things, the commercial and retail outcomes and trends and outcomes in this area of the Cessnock LGA.

The findings and recommendations of these studies will inform the review of the City Wide Settlement Strategy 2010 and future amendments to the Cessnock Local Environmental Plan 2011.

OPTIONS

Council has the following options:

1. Support the recommendations of this Report and submit a Planning Proposal to the Department of Planning and Environment for 'Gateway' determination.
2. Request changes to the planning proposal. This option will delay the proposed amendments.

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3. Not proceed with the Planning Proposal for the following reasons:

(To be provided by Council).

CONSULTATION

Formal consultation with selected statutory agencies, including with the wider community, will be undertaken as directed by the Gateway determination.

Should the Planning Proposal progress through the Gateway, Council will seek to consult with the Roads and Maritime Services (RMS) and any others statutory authorities and agencies specified in the Gateway determination.

STRATEGIC LINKS

a. Delivery Program

A Sustainable and Healthy Environment: Objective 3.1 Protecting and Enhancing the Natural Environment and the Rural Character of the Area.

b. Other Plans

Nil.

IMPLICATIONS

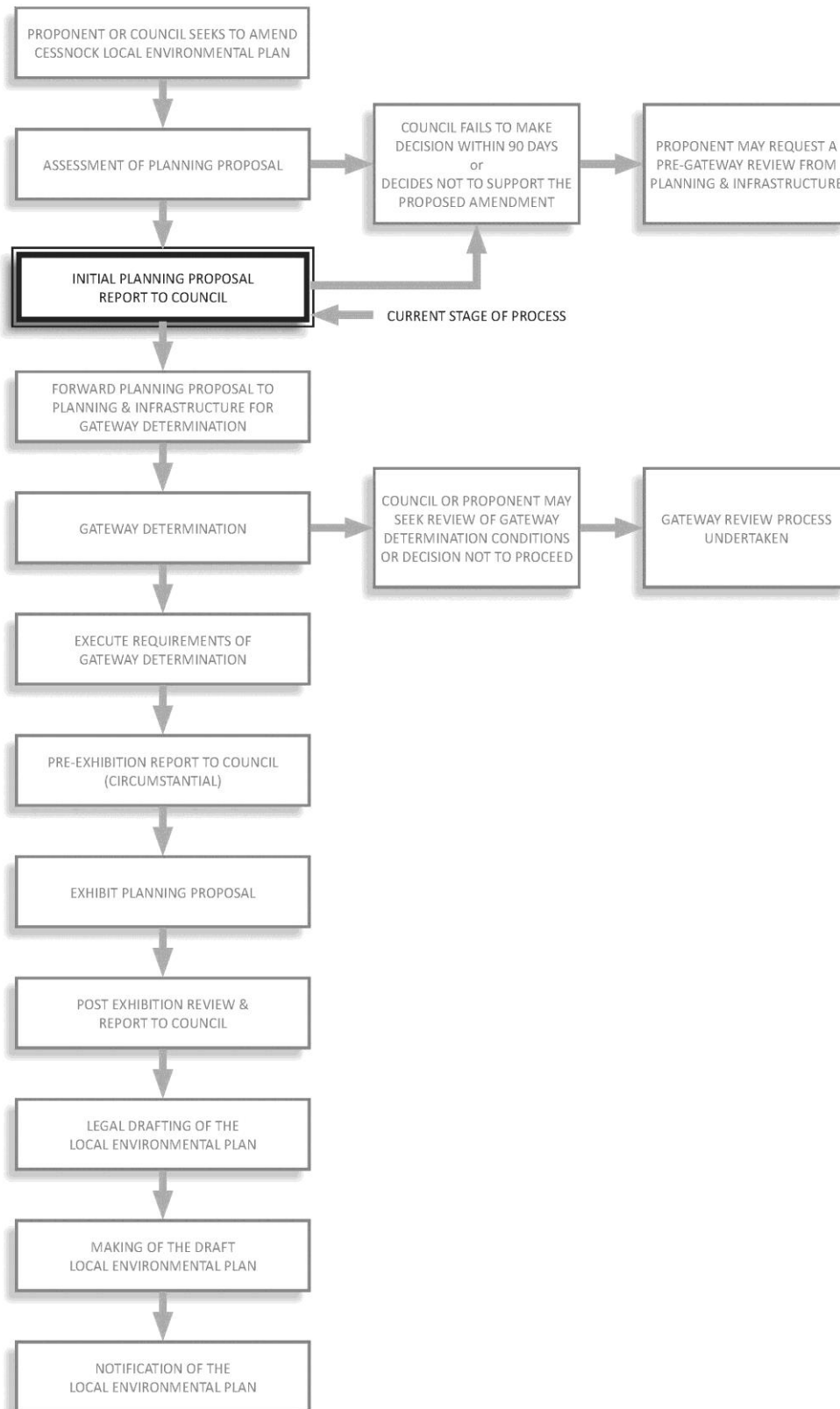
a. Policy and Procedural Implications

The current status of the planning proposal is identified in the following process.

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PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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b. Financial Implications

The cost of the Planning Proposal will be met through rezoning fees. This Planning Proposal is considered to be a Category 'A' rezoning proposal and attracts a phase 1 fee of \$3,580.00.

c. Legislative Implications

The process underway to develop the Planning Proposal is consistent with Council's statutory responsibilities under the Environmental Planning and Assessment Act 1979.

d. Risk Implications

The DoP&E may defer the Planning Proposal until after the comprehensive review of the Cessnock City Planning Strategy project which is currently underway. This review will follow the rural and urban strategic land studies currently being prepared which will investigate, amongst other things, the commercial and retail outcomes and trends and outcomes in this area of the Cessnock LGA.

The finding and recommendations of these studies will inform the review of the City Wide Settlement Strategy and future amendments to the Cessnock LEP in and around this area.

e. Other Implications

Nil.

CONCLUSION

The site has been previously impacted by the construction of the Hunter Expressway and the Kurri Kurri Interchange. The land was once land used for grazing in association with the neighbouring abattoir however the Hunter Expressway has resulted in severance of the land.

In addition to the above, the new interchange places the site directly adjacent to the Hunter Expressway and Main Road, less than 500 metres from the residential areas of Kurri Kurri and Heddon Greta. The existing and future development will service both local residents and the travelling public, reducing distances travelled.

Removing the site from the Minimum Lot Size Map will allow subdivision of the commercial development approved and proposed on the site. Subdivision will allow various tenancies to be held in separate ownerships.

ENCLOSURES

- 1** Planning Proposal - Kurri Kurri Removal of Minimum Lot Size (MLS)

Corporate and Community

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Corporate and Community Services



SUBJECT: *MINUTES OF THE ACCESS ADVISORY COMMITTEE
MEETING HELD ON 4 MAY 2016*

RESPONSIBLE OFFICER: *Community & Cultural Engagement Manager - Simon Eade*

RECOMMENDATIONS

1. That Council adopt the minutes of the meeting of the Access Advisory Committee Meeting held on 4 May 2016.
2. That the General Manager be requested to liaise with Mai-Wel and other interested local disability service providers regarding International Day of Disability and report back to the next Access Advisory Committee Meeting.
3. That Council note that an extraordinary meeting of the Access Advisory Committee was scheduled for Wednesday 25 May 2016 to examine the Draft PAMP and prepare a submission from the Access Advisory Committee.

A meeting of the Cessnock City Council Access Advisory Committee was held on 4 May 2016 and reports as follows.

***MINUTES OF THE ACCESS ADVISORY COMMITTEE MEETING OF
CESSNOCK CITY COUNCIL HELD ON 4 MAY 2016,
COMMENCING AT 4.00PM***

PRESENT: The Mayor Councillor Bob Pynsent
Ms Cherie Pauling (Ability Links – St Vincent de Paul)
Mr Richard Gibson (Community Representative)
Ms Dianne Scanlon (Community Representative)
Mr Stephen Day (Community Representative)
Councillor Morgan Campbell
Councillor Catherine Parsons
Ms Julie Selkrig (Community Representative)

IN ATTENDANCE: Mr Simon Eade (Community and Cultural Engagement Manager)
Ms Natalie Drage (Principal Community Planner)
Ms Lezette Garry (Senior Building Surveyor)
Ms Jo Miller (Community and Cultural Engagement Officer)
Mr Stephen Long (Strategic Asset Planning Manager)
Ms Justine Cogan (Octopod)

APOLOGIES: Nil

MINUTES: **RESOLVED** that the Minutes of the Access Advisory Committee Meeting held on 3 February 2016, as circulated, be taken as read and confirmed as a correct record.

Moved: Ms D Scanlon **Seconded:** Mr R Gibson

Ms Cherie Pauling was welcomed to the Committee in her capacity as a Community Representative.

DISCLOSURE OF INTEREST

Nil

BUSINESS ARISING FROM PREVIOUS MINUTES

01-2015 Access to Kurri Kurri Senior Citizens Hall

There have been no further updates on this issue. The Community and Cultural Engagement Manager will report back to the next meeting.

Councillor Morgan Campbell arrived at the meeting, the time being 4:06pm.

06-2015 Street parking in front of residences at 14 King Street, Cessnock

The Community and Cultural Engagement Manager reported the following preliminary traffic engineering assessment: There is access mobility parking provided on-site at 14 King St Cessnock. If this requires review, this is a matter for the property owner / manager. If on-street parking were to be provided, there is no restriction on mobility scheme permit holders, who may not be associated with 14 King Street, to park there. This may cause inconvenience to permit holders associated with 14 King Street.

Furthermore it was noted during the original development application (DA 8/2006/465) process there were a number of objections citing demand by the development where a known lack of adequate on-street parking occurs, particularly events associated with the nearby church.

08-2015 Request for a pedestrian crossing to the south side of the roundabout intersection of Cooper and Cumberland Streets, Cessnock, crossing Cumberland Street

The Community and Cultural Engagement Manager reported the following preliminary traffic engineering assessment: The provision of a marked pedestrian crossing on Cumberland Street south of the roundabout with Cooper Street is constrained and would likely involve significant capital works which are currently unfunded. The reasons are:

- Austroads "Guide to Road Design Part 4B: Roundabouts" requires adequate separation to high demand pedestrian crossing facilities at the exit of the roundabout (e.g. two to four car lengths, 12 to 24m preferred). This may affect egress to nearby Cumberland Street Carpark and would reduce on-street parking by 6 spaces in an area of high demand.
- For pedestrian safety the inclusion of a staggered crossing would be desirable, as are the marked pedestrian crossings on Lang St in Kurri Kurri. This would involve provision of a pedestrian refuge island, kerb extensions, pedestrian

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fencing and / or landscaping to channel pedestrian movement, signage and line marking.

12-2015 International Day of Disability, 3 December 2016

The Community and Cultural Engagement Manager reported that an email has been received from Mai-Wel regarding holding a collaborative event for International Day of People with Disability involving local disability service providers.

MOTION:

That Council liaise with Mai-Wel and other interested local disability service providers regarding International Day of Disability and report back to the next Access Advisory Committee Meeting.

Moved: Councillor Campbell

Seconded: Councillor Parsons

01-2016 Octopod

Ms Justine Cogan from Octopod gave a presentation of Octopod's **Creative Access Program**, supporting the development of inclusive arts programs, career development for artists with disability and the Arts and Disability Programming. Ms Cogan also discussed the Arts and Disability Forum being held in Maitland on 9 May 2016, which will consider access and inclusion in the arts within the context of the National Disability Insurance Scheme (NDIS).

A Council staff member will attend the forum and report back to the Committee.

10-2015 Disability Inclusion Action Plan

The Principal Community Planner gave an update on the Disability Inclusion Action Plan, and gave a demonstration of the survey monkey and social pinpoint tools which will be part of the engagement and consultation for the plan. The Principal Community Planner advised that as well as the on-line tools there will also be targeted face to face consultations and the opportunity for telephone interviews.

The engagement process is underway, and will run until 28 July 2016.

DEFERRED BUSINESS

Nil

LISTED MATTERS

Nil

CORRESPONDENCE

- 05-2016** A letter of resignation was received from Ms Felicia Fitzgerald, as she is leaving her position with Ability Links and will no longer be working in the Cessnock LGA.

MOTION:

That a letter be sent on behalf of the Committee to Ms Fitzgerald, thanking her for her contribution to the Committee.

Moved: Ms J Selkrig

Seconded: Councillor Campbell

GENERAL BUSINESS

- 06-2016** Council's Strategic Asset Planning Manager reported to the Committee that the Draft Pedestrian Access and Mobility Plan (PAMP) will be on exhibition from 11 May 2016 for 28 days.

MOTION:

That an extraordinary meeting of the Access Advisory Committee be held on Wednesday 25 May 2016 to examine the Draft PAMP and prepare a submission from the Committee. Copies of the Draft PAMP will be forwarded to all Committee members before the meeting.

Moved: Mayor Pynsent

Seconded: Councillor Campbell

NEXT MEETING DATE

The next meeting will be held on Wednesday 25 May 2016 at 3.00pm.

The Meeting was declared closed at 4.55pm.

ENCLOSURES

There are no enclosures for this report.

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Corporate and Community Services



SUBJECT: *MINUTES OF THE ABORIGINAL AND TORRES STRAIT ISLANDER ADVISORY COMMITTEE MEETING OF CESSNOCK CITY COUNCIL HELD ON 6 MAY 2016*

RESPONSIBLE OFFICER: *Community & Cultural Engagement Manager - Simon Eade*

RECOMMENDATIONS

That Council adopt the minutes of the meeting of the Aboriginal and Torres Strait Islander Advisory Committee held on 6 May 2016.

A meeting of the Cessnock City Council Aboriginal Advisory Committee was held on 6 May 2016 and reports as follows.

MINUTES OF THE ABORIGINAL AND TORRES STRAIT ISLANDER ADVISORY COMMITTEE MEETING OF CESSNOCK CITY COUNCIL HELD ON 6 MAY 2016, COMMENCING AT 8.35AM

PRESENT: The Mayor Councillor Bob Pynsent
Councillor Rod Doherty
Mr Craig Layer (Community Representative)
Ms Susan Mulyk (Community Representative)
Ms Michelle Earl (Community Representative)
Ms Sonia Sharpe (Community Representative)

IN ATTENDANCE: Mr Simon Eade (Community and Cultural Engagement Manager)
Ms Natalie Drage (Principal Community Planner)
Ms Jo Miller (Community and Cultural Engagement Officer)

APOLOGIES: Councillor James Ryan
Mr Les Atkinson (Community Representative)
Mr Mick Chenery (Community Representative)

MINUTES: **RESOLVED** that the Minutes of the Aboriginal and Torres Strait Islander Advisory Committee Meeting held on 1 April 2016 as circulated, be taken as read and confirmed as a correct record.

Moved: Councillor Doherty **Seconded:** Mr C Layer

The meeting was chaired by Ms Michelle Earl.

An Acknowledgement of Country was delivered by Ms Susan Mulyk.

DISCLOSURE OF INTEREST

Nil

BUSINESS ARISING FROM PREVIOUS MINUTES

12-2015 Seniors Week 2016 (1-10 April 2016)

The Community and Cultural Engagement Manager reported that the Seniors Week evaluation meeting has been held, and that the week had been very successful. More than 1,500 people attended 45 events during the week and over 30 organisations were involved. The Elders morning tea held by Black Creek Aboriginal Corporation was also very successful, with over 40 people attending and positive feedback received from the participants. Black Creek Aboriginal Corporation is keen to participate in Seniors Week again next year.

04-2016 Millfield scar tree

The Community and Cultural Engagement Manager reported that the recommendation in the minutes of the previous meeting was adopted by Council on 6 April 2016. A progress update will be given at the next meeting.

05-2016 Third Flag Pole at the carpark entrance to Council Administration Building

The Community and Cultural Engagement Manager reported that Council resolved to research the protocols and potential locations for the installation of at least one additional flagpole. A report on the outcomes will be submitted back to Council for its consideration.

DEFERRED BUSINESS

Nil

LISTED MATTERS

03-2015 Consideration of signage indicating entry to Wonnarua Country

The Community and Cultural Engagement Manager reported that there was no further progress to report on this item at this time.

04-2014 Reconciliation Action Plan (RAP) – Progress Report

The first meeting of the RAP Staff 'Working Group' was held on 1 April 2016. There has been strong interest from staff, with 13 now in the Working Group.

The Community and Cultural Engagement Manager reported that staff have continued to work on actions outlined in the RAP, as summarised below:-

- A directory of Aboriginal organisations, business, and services in the LGA is currently being compiled. The Committee was asked to review the directory and email any additional contacts to be included. The Directory will serve two purposes, to support Council in building relationships and working with the ATSI Community, and to inform the compilation of an invitation list for the Community Forum to be held (RAP Action Plan).

Corporate and Community

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Corporate and Community Services



- The Procurement and Contracts Manager attended the Supply Nation Trade Exhibition in May, and will provide a report to the Committee at the next meeting on 3 June 2016.
- NAIDOC Week activity – see 01-2016
- National Reconciliation Week activity – see 02-2016
- Human Resources Strategies - see 03-2016
- Community Forum – see 06-2016

Mayor Pynsent arrived at the meeting, the time being 8.55am

07-2016 Convent Hill, Bridges Park and East End Oval Masterplan.

Council's Strategic Recreation and Facilities Planner gave an overview of the Convent Hill, Bridges Park and East End Oval Masterplan.

The Committee expressed strong interest in the plan and there was agreement that the area was of significance to local Aboriginal people.

Councillor Doherty left the meeting, the time being 9.17am

The Committee requested that any updates to the plan as a result of the exhibition be brought to the Committee.

Councillor Doherty returned to the meeting, the time being 9.25am

It was noted that Black Creek Aboriginal Corporation has made a submission.

Mayor Pynsent left the meeting, the time being 9.30am

06-2016 Community Forum (RAP Action)

The Community and Cultural Engagement Manager reported that a Community Forum to inform the development of the next stage of the RAP program is an action in the current RAP.

The Committee discussed the focus and intent of the Forum as well as a potential list of community representatives to be invited.

**01-2016 NAIDOC WEEK July 3-10
2016 Theme: Songlines: The living narrative of our nation**

The Community and Cultural Engagement Manager reported that NAIDOC Week planning continues. The calendar of activities is currently being compiled, and promotion of the hand printing project 'Put Your Hands Up' has begun.

The Community and Cultural Engagement Manager reported that as part of the delivery of the RAP, Council will host a Flag Raising and BBQ for staff and invited guests to launch the start of NAIDOC Week on Friday 1 July.

02-2016 National Reconciliation Week 2016 May 27 – June 3

The Community and Cultural Engagement Manager reported that as part of the delivery of the Reconciliation Action Plan, Council will host an Elders morning tea on Friday 27 May. Local Elders, Councillors, Aboriginal and Torres Strait Islander Advisory Committee members and members of the local Chambers of Commerce will be invited to attend. The hand printing project, 'Put Your Hands Up' be launched at the morning tea, and the hands displayed in the Council Administration Building windows.

03-2016 Agenda Item requested - HR Policy for Aboriginal Employment

The Human Resources Adviser, Recruitment and Selection, Blair Loughnan attended the meeting and provided an update on the Human Resources Strategies that relate to actions in the RAP:-

- A business plan for Cultural Awareness Training for staff is currently being developed. Expressions of Interest (EOI) have been requested from five local organisations, and to date two have been received. The closing date for EOI's is 12 May 2016.
- Council's Employee Induction Program is currently being reviewed, and will include information regarding the RAP.
- Statistical data is currently being collected to allow the Human Resources Section to assess and monitor the percentage of ATSI staff.
- The Elsa Dixon Traineeship program has not yet opened; Council will continue to monitor the site for details of the program.

CORRESPONDENCE

Nil

GENERAL BUSINESS

08-2016 Expressions of Interest (EOI) are currently being sought for membership of the Cessnock Commercial Precinct Working Group (CCPWG)

The Community and Cultural Engagement Manager reported that Expressions of Interest (EOI) are currently being sought for membership of the Cessnock Commercial Precinct Working Group (CCPWG). Application forms were distributed to interested Committee members.

09-2016 Council's Draft Cultural Heritage Policy

The Community and Cultural Engagement Manager reported that Council's Draft Cultural Heritage Policy is currently on exhibition until Thursday 12 May 2016. A copy of the Policy was distributed to Committee members.

Corporate and Community

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Corporate and Community Services



**10-2016 28th NSW Local Government Aboriginal Network Conference.
Tweed Heads 24-26 August 2016**

The Community and Cultural Engagement Manager reported that the 28th NSW Local Government Aboriginal Network Conference will be held in Tweed Heads 24-26 August 2016.

NEXT MEETING DATE

The next meeting of the Committee will be held on 3 June 2016 at 8.30am.

The Meeting Was Declared Closed at 10.25am.

ENCLOSURES

There are no enclosures for this report.

SUBJECT: *2016 KURRI KURRI COMMUNITY FESTIVAL SPONSORSHIP*

RESPONSIBLE OFFICER: *Director Works and Infrastructure - Justin Fitzpatrick-Barr*

SUMMARY

Council has been approached by the Sub Committee of the Kurri Kurri District Business Chamber (the Chamber) seeking support for the upcoming 2016 Kurri Kurri Community Festival, which is to be held on Saturday, 22 October 2016.

The purpose of this report is to detail the extent and estimated cost of the assistance being requested and to seek Council's approval to provide support to the event.

RECOMMENDATION

1. That Council supports the 'Kurri Kurri Community Festival' on 22 October 2016 by providing the following in-kind support:
 - Waiving of fees for the use of Rotary Park
 - Waiving of fees for each stall holder;
 - Assistance with waste services and cleaning of toilets.
2. That Council considers the provision of \$3,000 in support funding for the event as part of the 2016/17 Operational Budget process, with funding currently provided in the draft budget.

BACKGROUND

The Sub Committee of the Kurri Kurri District Business Chamber (the Chamber) are planning to hold the 'Kurri Kurri Community Festival' (the Festival) on Saturday, 22 October 2016.

The Chamber has approached Council seeking various forms of support for the event.

The purpose of this report is to detail the extent and estimated cost of the assistance being requested and to seek Council's approval to provide support to the event.

REPORT/PROPOSAL

The Festival is now in its sixth year and it has had Council financial support since 2013.

The Festival was established to become an annual community event following the construction of the Hunter Expressway. Its aim is to bring together the community to celebrate local talent.

The Chamber is seeking to hold the Festival at Rotary Park in Lang Street, Kurri Kurri. Last year the Festival was held on a Saturday only which proved successful. The 'Movie in the Park' was tremendous success and the Chamber is hoping to hold it again this year.

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The Festival will also include a concert showcasing local Pre-Schools, Primary and High Schools, Dance Groups and Community Groups with various talented artists.

The Chamber is requesting the following in-kind support for the Festival:

1. Council give consideration to providing continued financial support of \$3,000 in the 2016 Budget;
2. Waive the fees for the use of Rotary Park;
3. Waive the fees required by Council for each stall holder;
4. Assistance with garbage collection and cleaning of toilets;
5. Staff support to ensure this year's Festival is a success.

The estimated cost to supply the above is as follows:

- Financial support \$3,000 (currently allocated in the draft 2016/17 budget);
- Waiving of fees estimated to be in the order of \$600 excluding a standard \$500 security bond for such events;
- Garbage Waste Services delivered and collected by Council approximately \$2,500;
- Cleaning of Toilets (additional to normal service) approximately \$500.

In reviewing the requests, Council officers have determined that in-kind support for three of the four above items listed above can be provided within existing recurrent operating budgets. The financial support of \$3,000 can be considered as part of Council's annual Operational Budget process.

It must be noted that at this stage no request has been made in relation to traffic control or VMS signage. It is estimated that an additional \$2,000 to \$3,000 would be needed if traffic control and signage was required.

OPTIONS

1. Council provides in-kind support for three of the requests at a total estimated cost of \$3,600 and further consideration be given to a financial allocation of \$3,000 in the draft 2016/17 budget. This is the preferred option;
2. Council provides partial support for the requests;
3. Council provides no support.

CONSULTATION

In writing this report the following have been consulted:

1. Works Delivery Manager
2. Environmental and Waste Services Manager
3. Design Delivery Manager
4. Director Corporate and Community Services

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STRATEGIC LINKS

a. Delivery Program

The proposed in-kind sponsorship for this event supports:

Objective 1.1 – Promoting Social Connections

Objective 2.3 – Increasing Tourism Opportunities and Visitation in the Area

b. Other Plans

Nil

IMPLICATIONS

a. Policy and Procedural Implications

Nil

b. Financial Implications

The total cost of providing in-kind assistance for the requests being made by the Chamber is estimated to be \$3,600. The in-kind support for the above can be provided within existing recurrent operating budgets.

Further support in the form of a further \$3,000 financial allocation can be considered by Council as part of its 2016/17 budget process, with funding currently provided in the draft budget to be considered by Council in June 2016.

c. Legislative Implications

Nil

d. Risk Implications

Nil

e. Other Implications

Nil

CONCLUSION

On the basis of supporting events promoting social connections and visitation across the Cessnock LGA, it is recommended that Council provides in-kind sponsorship to the upcoming 'Kurri Kurri Community Festival' as detailed in the report.

ENCLOSURES

There are no enclosures for this report.

SUBJECT: *LAWN CEMETERY GATES*

RESPONSIBLE OFFICER: *Recreation Services Manager - Nicole Benson*

SUMMARY

The purpose of this report is to advise Council of a proposed operational change to the Gordon Williams Memorial Lawn Cemetery (GWMLC) at Aberdare and the Kurri Kurri Cemetery (KKC) at Weston.

RECOMMENDATION

That Council endorses the proposal of the gates at the Gordon Williams Memorial Lawn Cemetery and the Kurri Kurri Cemetery being locked at dusk and opened at dawn each day of the year.

BACKGROUND

Council manages 10 general (monumental) cemeteries and two lawn cemeteries across the Local Government Area. Each cemetery is fully fenced but not all are secured by lockable gates. This report focusses on the two lawn cemeteries as there have been some instances of undesirable activity at both the GWMLC and KKC in the past.

REPORT/PROPOSAL

The pillars and gates at the GWMLC have been recently renewed and lockable gates have been installed at both lawn cemeteries as part of this year's adopted Cemeteries Facilities Construction Program, within the 2015-2016 Operational Plan.

The lawn sections of each cemetery are exposed to vehicle and pedestrian traffic, with little or no barrier between the lawn and the roadway. Permanent barriers cannot be installed due to the nature of the operation; specifically excavation and backfill of graves, which requires trucks, loaders and excavators to operate on the gravesites.

The rationale for installing the lockable gates is to improve safety and security at each site.

Both cemeteries contain lawn sections where Council carries out gravesite preparations and as such there are storage sheds containing minor plant and equipment at each site. There has been four (4) break-ins at the GWMLC and two (4) at the KKC on average per year over the past few years. Each episode costs between \$1,000 and \$1,200 to repair along with the replacement of equipment that is damaged or stolen.

In addition to the break-ins, fences and sections of lawn have sustained minor damage as a result of vandalism, particularly on the open space area in the eastern section of the GWMLC.

Officers considered the risks associated with this behaviour as well as the recurrent damage to the storage sheds when developing the operational change.

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Anecdotally, not a lot of people visit Council managed cemeteries at night and it is expected that the impact on the community will be minimal as the majority of visits occur during daylight hours. It is proposed that the gates at the GWMLC and the KKC be locked at dusk and opened at dawn each day of the year.

It is important to note that pedestrian access will be maintained at each site at all times and that car parking is available outside the cemetery perimeter at both sites for people visiting the cemetery during the night. Signage will be installed at each vehicle entry point advising of the procedure and how to contact Council regarding the matter. For example, in the unlikely event that a vehicle is locked in the cemetery at night and must be removed, a call-out fee will be charged to cover the costs associated with Council on-call staff unlocking the gates.

Installation of the gates will improve security and also assist Council with the management of contractors working in cemeteries who are licensed to do so between the hours of 6.30am and 4.00pm.

There are no proposals at this stage to lock the gates at other Council managed cemeteries as they do not contain lawn sections and vehicle damage to monuments is unlikely to occur.

OPTIONS

Option 1: That Council endorses the proposal of the gates at the GWMLC and the KKC being locked at dusk and opened at dawn each day of the year. This is the preferred option

Option 2: That Council does not endorse the proposal.

CONSULTATION

- Recreation Services section;
- Works Delivery section;
- Media & Communication section;
- Customer Service section.

Other Cemetery operators including Orange, Lake Macquarie and Lismore Councils.

STRATEGIC LINKS

a. Delivery Program

This matter relates broadly with Objective 1.3 of the Operational Plan which is about providing safe communities, specifically that our residents and visitors feel safe in the Local Government Area.

b. Other Plans

NIL

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IMPLICATIONS

a. Policy and Procedural Implications

The objective of the Cessnock City Council Cemetery Policy (C10.12) is to provide a dignified and responsive cemetery and memorialisation service to the community and to provide places for the quiet and safe remembrance of the deceased. Furthermore, that we provide conditions in cemeteries which minimise any risk of harm to persons working in or entering our cemeteries.

The procedure for the gates will be that they are locked each evening at dusk by a security company and unlocked at dawn each day by Council staff. Signage will be installed at each cemetery advising of the procedure and Council contact details.

b. Financial Implications

Costs associated with the locking and unlocking of the gates have been included in draft 2016/2017 operational budgets. A fee of \$200 has been included in the draft 2016-2017 Fees and Charges to cover the costs associated with unlocking the gates out of hours.

c. Legislative Implications

N/A

d. Risk Implications

Not securing the lawn cemeteries at night leaves them exposed to potential vandalism. This potentially exposes Council to significant financial burden to cover repairs. Notwithstanding this, managing the community expectations around restoration of damaged gravesites would be extremely delicate and difficult to manage in a dignified manner.

e. Other Implications

Cemeteries are important pieces of community infrastructure and provide places for remembrance and reflection. They can also provide valuable open park-like spaces containing rich sources of cultural and environmental heritage. Failure to protect these areas could have a detrimental effect on the community, on the environment and on Council.

CONCLUSION

Lockable gates have been installed as part of an adopted program with the view that the safety and security of Council managed cemeteries will be improved. The proposal is thought to have a minimal impact on the community; however, informing of the change and giving people the opportunity to provide feedback will allow their involvement in the process that is scheduled to commence on 1 July 2016.

ENCLOSURES

There are no enclosures for this report

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SUBJECT: *CESSNOCK CYCLING STRATEGY*

RESPONSIBLE OFFICER: *Strategic Recreation & Community Facilities Planner - Paul Burton*

SUMMARY

The purpose of this report is to seek Council's support to adopt the draft Cessnock Cycling Strategy as amended (the draft Strategy). A copy of the draft Strategy is included under separate cover.

RECOMMENDATION

1. That Council adopt the draft Cessnock Cycling Strategy as amended.
2. That Council notify persons who made a submission during the draft Cessnock Cycling Strategy exhibition period of Council's decision.
3. That Council makes provision for the implementation of the draft Cessnock Cycling Strategy in consideration of priority and available resources.

BACKGROUND

At its 17 February 2016 meeting Council resolved:

1. That Council place the draft Cessnock Cycling Strategy on exhibition for 28 days.
2. That a report on the outcomes of the exhibition be provided to Council prior to adopting the final Cessnock Cycling Strategy.

In response to this resolution, the draft Strategy was placed on public exhibition from 22 February to 25 March 2016 and six (6) submissions were received. This report provides a summary of submissions received and how they have been addressed.

REPORT/PROPOSAL

The draft Strategy is provided under separate cover as per **Enclosure 1**. Notable amendments within the draft Strategy have been highlighted for comparative purposes.

Enclosure 2 provides a summary of the submissions received during public exhibition and Council's response to these submissions.

OPTIONS

1. Adopt the draft Cessnock Cycling Strategy as amended. This is the preferred option.

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2. Refuse to adopt the draft Cessnock Cycling Strategy as amended. This option is not recommended as the draft Strategy provides an important strategic framework that will be used to inform and guide the future provision of cycling infrastructure within the Cessnock Local Government Area.

CONSULTATION

Internal

The following internal stakeholders were consulted in the preparation of this report:

- Director Works & Infrastructure
- Recreation Services Manager
- Road Safety Officer
- Senior Strategic Land Use Planner
- Strategic Traffic and Transport Engineer
- Strategic Assets Planning Manager
- Traffic Engineer

External

The community was invited to comment on the draft Strategy during public exhibition from 22 February to 25 March 2016. Six (6) submissions were received.

Other external stakeholders that were consulted in the preparation of this report included:

- ROSS Planning (consultants)

STRATEGIC LINKS

a. Delivery Program

The draft Cessnock Cycling Strategy report is linked to the following action identified within the revised 2013-2017 Delivery Program:

- Commence implementation of the Cessnock City Bicycle Plan (Item 1.1.4).

b. Other Plans

All relevant plans and strategies are identified within Section 2 of the draft Strategy.

IMPLICATIONS

a. Policy and Procedural Implications

NIL

b. Financial Implications

There are no financial implications associated with the adoption of the draft Strategy.

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Implementation of the draft Strategy will have implications on Council's long term financial plan and each element of the draft Strategy will have to compete against other projects within the four year delivery program and subsequent annual operational plans.

The cost estimate for each element of the Action Plan, specifically those physical infrastructure items identified within Appendix 1 – Works Program, have not been detailed as these costs will be influenced by a range of factors that will be identified at the time the specific project is to be considered for prioritisation within a capital works budget.

The draft Strategy also identifies opportunities to partner with other agencies as a means to maximise funding opportunities. Furthermore, should the draft Strategy be adopted, Council will be in an excellent position when applying for grant funds as it will be able to demonstrate links to an adopted strategy that has had a high level of community involvement which is often one of the key criteria to be met when applying for funds.

c. Legislative Implications

NIL

d. Risk Implications

The draft Strategy has been part funded (75 percent of contract value) by the NSW Roads and Maritime Services (RMS). Should Council resolve to not adopt the draft Strategy, there is a risk that RMS will withdraw their funding due to Council not meeting the requirements of the funding agreement.

e. Other Implications

Cycling is one of the most efficient modes of transport; generating considerable health, economic and social benefits. Cycling has seen a considerable increase in popularity as a mode of transport and recreation and many communities are utilising the desirability of cycling to attract tourists. The Strategy provides a strategic framework to take advantage of the opportunities within the Cessnock local government area (LGA) and maximise the community benefit from investment in cycling infrastructure.

CONCLUSION

The draft Strategy will be used to inform Council policy, planning and strategic direction with regard to the cycling needs of the Cessnock LGA stemming from anticipated new development, increasing development densities and the resulting additional population.

Adopting the document will ensure Council achieves positive outcomes in the provision and management of cycling related infrastructure, programs and facilities.

ENCLOSURES

- 1 Draft Cycling Strategy - Under Separate Cover
- [2](#) Submission Table

SUBJECT: *WORKPLACE CULTURE & SOCIAL CONNECTION*
RESPONSIBLE OFFICER: *Director Works and Infrastructure - Justin Fitzpatrick-Barr*

SUMMARY

This report seeks Council's endorsement to proceed with a high-viz pink work shirt/vest initiative during August – October 2016, in support of breast cancer awareness. The initiative aims to foster social connection and promote Council as an employer that participates in events connecting employees, their families and the community that they work with.

RECOMMENDATION

That Council endorses the high-viz pink work shirt/vest initiative during August – October 2016, in support of breast cancer awareness.

BACKGROUND

Council resolved in August 2013 (PM74/2013) to engage consultant Insync Surveys to conduct a staff engagement survey to measure staff satisfaction and benchmark results with previous staff surveys.

This survey gave staff an opportunity to have a say and help influence the future culture of the organisation.

A subsequent pulse survey was undertaken in December 2014 to determine how the organisation was tracking against previous results. An outcome of this survey was the formation of an Organisational Improvement (OI) Working Group. This group reviewed the pulse survey results and summarised the feedback into five (5) key themes that the organisation should focus on, being:

1. Trust
2. Communication
3. Consultation
4. Keeping Skills Employees
5. Workplace Stress

A series of intensive focus groups were subsequently held with staff to further understand the elements contributing to the above themes.

As part of the OI Groups ongoing commitment to communication, a number of staff suggestion boxes have been placed in the workplace to give staff further opportunity to put forward improvement suggestions.

Recently, a suggestion was put forward by an outdoor staff member regarding an initiative that offers staff the option of wearing high-viz pink shirts and/or vests in support of breast cancer awareness.

The purpose of this report is to seek Council's endorsement to proceed with this initiative during August – October 2016, with a view to expanding this idea to incorporate other high profile community and workplace initiatives at a later date.

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REPORT/PROPOSAL

Preamble

Research shows that supportive healthy workplaces generally create productive and innovative workforces. A number of factors influence the health and wellbeing of a workplace; these can be both internal and external factors.

Issues relating to the physical and mental wellbeing of society can often extend to the workplace. Pressures from home and family can affect employees negatively, particularly during stressful life events.

A recent staff suggestion to host an initiative supporting breast cancer awareness highlights an example of an issue that has broad reaching impact on communities and the workplace. Other issues such as mental health and domestic violence also have significant reacting impacts on communities.

Local government organisations with a strong social responsibility behave ethically and strive to improve the wellbeing of its employees, their families and their local communities that they work with.

There are a variety of methods used by successful organisations to create a supportive and healthy workplace, including the implementation of a range of health and wellbeing programs in the workplace, along with promoting and participating in events that support community wellbeing.

High-Viz Pink Shirt/Vest Initiative

As noted above, an outdoor staff member has suggested an initiative, whereby staff are given the option to wear high-viz pink work shirts and/or vests to support breast cancer awareness. The staff member has pointed out that this issue is hitting close to home for a number of staff throughout Council.

The initiative would allow staff to wear pink work shirts/vests during August – October 2016, rather than receive the regular yellow/orange personal protective equipment (PPE). The style of PPE that is proposed to be on offer during the initiative period is shown in Figures 1 and 2 below.

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Figure 1:



Figure 2:



Staff wishing to participate will be asked to provide a donation, in an amount of personal choice, with all proceeds raised going to the National Breast Cancer Foundation.

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Council's payroll system has the ability to allow staff to make their donation through payroll deduction(s), either as a one off or over a number of weeks during the period of the event.

The initiative is proposed to be run in conjunction with Breast Cancer Awareness month, which generally occurs from 1 October to 30 October each year.

In further support of the initiative, there is opportunity to promote Council's involvement through pink ribbon logos on Council work vehicles, particularly waste collection trucks that traverse the LGA on a daily basis.

OPTIONS

1. Council endorses the high-viz pink work shirt/vest initiative during August – October 2016 in support of breast cancer awareness. This is the preferred option.
2. Council does not support the initiative.

CONSULTATION

- Community & Cultural Services Manager
- Community & Cultural Engagement Officer
- Community Planning Coordinator
- Human Resource Manager
- Human Resource Advisor
- Work, Health & Safety Advisor
- Senior Payroll Officer
- Recreation Services Manager
- Environmental & Waste Services Manager
- Works Delivery Manager
- Outdoor Staff

STRATEGIC LINKS

a. Delivery Program

The proposed initiative supports:

Objective 1.1 – Promoting Social Connections

b. Other Plans

Wellbeing @ Work – HR Initiative
Organisational Improvement (OI) Cessnock

IMPLICATIONS

a. Policy and Procedural Implications

NIL

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b. Financial Implications

Council currently provides high-viz PPE to all operational staff free in order to adhere to Work Health and Safety (WH&S) requirements.

Council is able to purchase pink high-viz PPE for approximately the same price as standard yellow and orange PPE. Additional operational costs associated with the proposed high-viz pink shirt/vest initiative are considered to be negligible.

c. Legislative Implications

The pink high-viz PPE adheres to WH&S requirements and standards.

d. Risk Implications

NIL

e. Other Implications

NIL

CONCLUSION

The pink high-viz work shirt/vest initiative aims to foster social connection and promote Council as an employer willing to participate in events that connect employees, their families and the communities that they work with. This report seeks Council's endorsement of the initiative, which will allow staff to wear pink PPE from August through to the end of October 2016, rather than receive the regular yellow/orange PPE during this period.

ENCLOSURES

There are no enclosures for this report

SUBJECT: *EVALUATION OF TENDERS FOR BIRRALEE PARK - NEW AMENITIES BUILDING (T1516/05)*

RESPONSIBLE OFFICER: *Projects Engineer - Ben Lovell*

SUMMARY

Evaluation and selection of tender for Tender No. T1516/05 – Birralee Park – New Amenities Building.

RECOMMENDATION

1. That Council accepts the tender from RTC Commercial Pty Ltd in the lump sum amount of \$872,520 (including GST) to replace the amenities building at Birralee Park, Kurri Kurri.
2. That Council allocates additional funds, totaling \$62,900 in the 2015/16 Capital Works Budget to cover the cost of the tender for the Birralee project, with these funds being sourced from Council's Miscellaneous & Property Reserve.

BACKGROUND

Birralee Park is a district level sporting facility consisting of an athletics track, soccer field, floodlighting, amenities building and passive recreation areas containing a playground and park furniture. The park is utilised by different user groups throughout summer and winter seasons. As part of the Capital Works Program for 2015/16, the park is to be improved through demolition of the existing amenities building and construction of a new amenities building.

REPORT

Request for Tender

The Request for Tender (RFT) documents were prepared by Council officers, and reviewed by the Tender Audit Panel (TAP) before tenders were called. The form of contract selected was AS 2124 – 1992 General conditions of contract. The RFT called for a lump sum tender to complete the works.

Invitation

Tenders were invited on Thursday 24 March 2016 on Council's e-tender portal, Tenderlink and advertised in the following publications:

Publication:	Day:	Date:
Newcastle Herald	Saturday	26 March 2016
Sydney Morning Herald	Tuesday	29 March 2016
The Advertiser	Wednesday	30 March 2016

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Addenda

The following addenda were issued via the Tenderlink website to all prospective tenderers during the invitation period:

No.	Date:	Description:
1	11 April 2016	Answers to Forum Questions
2	15 April 2016	Change to Tender Meeting and Extended Closing Deadline

Closure

Tenders closed 2pm Tuesday 26 April 2016.

Evaluation of Tenders

Tender Evaluation Team: In accordance with Council's Procurement Procedure, a Tender Evaluation Team (TET) was formed with the following members:

- Projects Engineer, Design Delivery
- Recreation & Community Facilities Coordinator, Recreation Services
- Building Projects Coordinator, Building Services

Evaluation Process: The evaluation was conducted according to the following process:

1. Assessment of receipt
2. Assessment of conformance
3. Shortlisting
4. Detailed weighted evaluation
5. Due diligence checks on preferred tenderers
6. Determine evaluation result
7. Independent review of the tender selection process

The evaluation criteria and their weightings were documented in the Contract Initiation and Development Plan and Tender Evaluation Plan, which were reviewed by the Design Delivery Manager prior to tenders being invited.

1. Assessment of Receipt

Tenders were received and assessed against the first threshold criteria:

Threshold Criteria:	
Criterion 1	Submission on time

The following tenders were received:

Tender:	Tenderer:	Business Address:	Criterion 1:
1	CBC Innovation Pty Ltd	Carlingford	On time
2	RTC Commercial Pty Ltd	Beresfield	On time

2. Assessment of Conformance

The tenders received on time were then assessed for conformance with the remaining threshold criteria:

Threshold Criteria:	
Criterion 2	Conformance with RFT Documents

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Criterion 3	Capacity to manage the works (safety, environment and quality)
Criterion 4	Financial capacity

Tender 2 was considered conforming in all threshold criteria, with satisfactory financial capacity to complete the work, and progressed to the shortlisting stage.

Tenderer 1 was evaluated as being unsatisfactory with regard to Criterion 4, however, the TET carried out scoring on both tenders for the purpose of comparison.

3. Shortlisting

Shortlisting was not considered necessary, however as noted above, for the purpose of comparison, the two tenders were progressed to the next stage of evaluation.

4. Weighted Evaluation

Tenders were evaluated using the following weighted evaluation criteria:

Weighted Criteria:	
Criterion 5	The Lump Sum Tender Amount
Criterion 6	Construction methodology
Criterion 7	Contract program
Criterion 8	Experience, past performance, management and staff resources
Criterion 9	Safety, environmental, and quality management performance

To assess tenders against the evaluation criteria, the TET used information obtained from the tender documents. A Weighted Evaluation Matrix, containing full details of the pricing and weighted evaluation is provided as confidential **Enclosure 1**.

Tenderer 2 was identified as a certified contractor to perform work valued between \$150,000 and \$1 million under the NSW Government's Prequalification Scheme for General Construction Works valued up to \$1 million.

Referee checks returned very positive feedback regarding program and performance.

With the highest score, Tender 2 from RTC Commercial Pty Ltd was identified as the preferred tender.

5. Due Diligence

Referees, provided by the tenderers, were contacted for comment on past performance. Candid referees from other local Councils, government agencies, and the private sector were also obtained.

In addition, the NSW Government's Prequalification Scheme for General Construction Works valued up to \$1 million was referenced to confirm the tenderers ability to manage construction works of this scale and value.

Kingsway Financial Assessments Pty Ltd was engaged to independently assess the tenderers' capacity to complete the work.

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6. Evaluation Result

Following steps 1 to 5 of the evaluation process, the TET recommended acceptance of Tender 2 from RTC Commercial Pty Ltd. The tenderer met the requirements of the RFT.

7. Independent Review

The evaluation process and recommendations were reviewed by the TAP and determined to be in accordance with Council's Procurement Policy, CCC Procurement Procedure and relevant legislation.

TIME FRAME

The contract period is 23 calendar weeks from the date of acceptance of the tender. However, tenderer 2 has proposed a program of 17 weeks, which is 6 weeks shorter than the required contract period.

In order to serve the community, and coordinate with numerous sporting activities, the contract should be awarded and construction commenced as soon as possible.

LOCAL CONTENT

Local preference scoring was not applied to this tender, however, the preferred tenderer, RTC Commercial Pty Ltd is based in Beresfield.

OPTIONS

Option 1: Accept the tender from RTC Commercial Pty Ltd in the lump sum amount of \$872,520 (including GST) and Council allocate an additional \$62,900 towards the project in the 2015/16 Capital Works budget, with the additional funds being sourced from Council's Miscellaneous and Property Reserve. This is the recommended option.

Option 2: Accept the tender from RTC Commercial Pty Ltd in the lump sum amount of \$872,520 (including GST), and subsequently instruct variation deductions to reduce the scope of work and contract sum to match funds currently available.

This option would see alternative procurement of the deducted work aimed at achieving better value for money whilst not adversely impacting the tenderer's work. Additional funds are still likely to be required for this portion of works.

Option 3: Decline to accept any of the tenders, enter into negotiations with a suitable contractor, and authorise the General Manager to award a subsequent contract. This option may also require additional funds to undertake the project.

CONSULTATION

The following officers were consulted in preparation of the report during the tender process:

- Tender Audit Panel (TAP)
- Recreation & Community Facilities Coordinator, Recreation Services
- Manager Recreation Services
- Infrastructure Accountant

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In addition to the consultation that has already occurred with user groups that utilise the park, community consultation is planned to notify local land owners and occupiers.

STRATEGIC LINKS

a. Delivery Program

Acceptance of the tender will contribute to achieving the following objectives of the 2013-2017 Revised Delivery Program:

- Objective 3.2: Better utilisation of existing open space, and
 - Objective 3.2.3: Finalise implementation of the Recreation & Open Space Strategic Plan 2009 – 2014.

b. Other Plans

Acceptance of the tender will facilitate completion of works listed in Council's 2015-2016 Operational Plan:

- Capital Works Program, Recreation Buildings Construction Program.

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

The tender process has been carried out in accordance with:

- Council's Procurement Policy
- CCC Procurement Procedure
- Tendering Guidelines for NSW Local Government 2009
- NSW Government – Code of Practice for Procurement 2005

b. Financial Implications

The original project budget of \$730,300 (excluding GST) is funded from:

- Section 94 contributions - \$600,000
- Community Building Partnership grant funding - \$130,300

Identified enabling works will be funded from Council's 2015/16 Operational budget. These works include the following:

- electrical work to keep the park operational,
- hire of ablution toilet blocks, and
- salvaging material from the existing building to be demolished.

An additional amount of \$62,900 is required to award the tender. It is noted that this amount does not include any contingency to cover latent conditions and unforeseen works.

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c. Legislative Implications

The tender process has followed the legislative provisions referenced in Council's *Procurement Policy* and *CCC Procurement Procedure* which are as follows:

- Local Government Act 1993
- Local Government (General) Regulation 2005

In particular, reference is made to Part 7, Division 4, Clause 178 of the Local Government (General) Regulation 2005 (Acceptance of tenders):

1. After considering the tenders submitted for a proposed contract, the Council must either:
 - (a) accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or
 - (b) decline to accept any of the tenders.
2. A Council must ensure that every contract it enters into as a result of a tender accepted by the Council is with the successful tenderer and in accordance with the tender (modified by any variation under clause 176). However, if the successful tender was made by the Council (as provided for in section 55 (2A) of the Act), the Council is not required to enter into any contract in order to carry out the requirements of the proposed contract.
3. A Council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:
 - (a) postpone or cancel the proposal for the contract,
 - (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,
 - (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,
 - (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,
 - (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,
 - (f) carry out the requirements of the proposed contract itself.
4. If a Council resolves to enter into negotiations as referred to in sub clause (3) (e), the resolution must state the following:
 - (a) the Council's reasons for declining to invite fresh tenders or applications as referred to in sub clause (3) (b)–(d),
 - (b) the Council's reasons for determining to enter into negotiations with the person or persons referred to in sub clause (3) (e).

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Note: Where “tender” referred to above may be substituted with ‘quote’ if required.

d. Risk Implications

To minimise Council’s exposure to business risks, the following information has been assessed with the tender submission:

- Quality management
- Work health & safety management
- Ecologically sustainable development

The authenticity of the contractor’s certificates of currency for the following insurance policies will be verified:

- Workers Compensation
- Public Liability (\$20M or greater)
- Comprehensive Motor Vehicle

Risks identified in relation to safety, environment and quality are mitigated by the preferred tenderers adherence to system standards as follows:

- AS/NZS 4801:2001 - Occupational health and safety management systems
- AS/NZS ISO 14001:2004 - Environment management systems
- AS/NZS ISO 31000:2009 - Risk management, and
- AS/NZS ISO 9001:2016 - Quality management systems

Regarding safety, the Contractor is required to prepare a site specific Safety Management Plan including:

- Traffic Control Plans. Traffic issues will be managed through the construction period in accordance with these plans.
- Requirements for on-site workers to have current general construction induction cards (white card) and licenses/tickets and inducted to the site.
- Safe Work Method Statements, which are kept on site and the subject of tool box talks.

e. Other Implications

Impacts on user groups will be minimised by providing temporary toilet facilities for existing user groups, carrying out preliminary electrical works separate to this tender to ensure floodlighting and the playing field can still be utilised by user groups and offering the use of Kurri Kurri Central Oval for day training and competition matches where change rooms, kiosk and amenities are all available.

CONCLUSION

The best offer received was from RTC Commercial Pty Ltd in the lump sum amount of \$872,520 (including GST) for the demolition of the existing amenities building and the construction of the new amenities building at Birralee Park, Kurri Kurri. Additional funding, totalling \$62,900, is required to award the tender. These funds are available in Council’s

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Miscellaneous and Property Reserve. The allocation of these extra funds will offer the community the full benefit of an up-to-date facility next season and into the future.

ENCLOSURES

- 1** Weighted Evaluation Matrix - T1516/05 - *This matter is considered to be confidential under Section 10A(2) (di) of the Local Government Act, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it.*

Answers To Questions For Next Meeting

Report No. AQ39/2016

General Manager's Unit



SUBJECT: *INVITATION TO FUNCTIONS AND EVENTS*

RESPONSIBLE OFFICER: *General Manager - Stephen Glen*

Q35/2016 – Invitation to Functions and Events

Asked by Councillor Doherty at the Ordinary Meeting of Council held on 18 May 2016.

“Councillor Doherty referred to an invitation to the 50th Anniversary celebrations at Tamburlaine Winery and asked whether other invitations are being received and not extended to Councillors?”

The invitation from Tamburlaine to the Mayor

An email invitation was sent on 26 April 2016 to the Mayor (no email recipients names were displayed in the email) with the subject “RE: You’re invited! Tamburlaine 50th Anniversary soiree”, inviting the Mayor to a Tamburlaine birthday event. There were no words within the body of the email. An invitation was attached to the email.

On the 27 April 2016 the Executive Assistant to the Mayor responded on behalf of the Mayor by email:

“....Thank you for the invitation for the Mayor Bob Pynsent to attend the Tamburlaine 50th Anniversary soirée. Unfortunately, due to a prior commitment the Mayor is unable to attend. On behalf of the Mayor I would like to wish you a successful event.”

Tamburlaine responded shortly after:

“.....Thanks very much for letting us know. If there is anyone else from your office that would like to attend, please let me know. It’s shaping up to be a great event and I know we’d love have a representative of the Mayor there.”

Responding to the offer to “have a representative of the Mayor ...” an email was sent on behalf of the Mayor:

“....Unfortunately, the prior commitment is a Council event and we are unable to have anyone attend on the Mayor’s behalf.”

The invitation from Tamburlaine to the General Manager

An invitation was sent to the General Manager (no email recipients names were displayed in the email) on the 26 April 2016 inviting the General Manager to “Tamburlaine 50th Anniversary soiree”. There were no words within the body of the email. An invitation was attached to the email.

The General Manager responded on the 27 April 2016:

“....Thank you for including me in your invitation list. Unfortunately I will not be able to attend. Congratulations on Tamburlaine’s 50th Anniversary”

Tamburlaine responded:

“Thanks very much for letting us know. If there is anyone else from your office that would like to attend, please let me know. It’s shaping up to be a great event and I know we’d love have a council representative there.”

Answers To Questions For Next Meeting

Report No. AQ39/2016

General Manager's Unit



On the 28 April the General Manager responded to Tamburlaine and included the Directors in the response:

"... – thank you for your generous invitation – I will forward to the Council's Executive Leadership Team. Again – congratulations on Tamburlaine's "Golden Anniversary"

In addition to the email trails above, Councillor Doherty emailed the Mayor and the General Manager on the 8 May 2016:

"Good morning Stephen and Bob. Will there be council staff and elected officials attending the Tamburlaine Vineyard function on Tuesday night. It is the same night as the Mayoral function at the CPAC"

The General Manager responded:

"Hi Rod - I have apologised for reasons that you have mentioned in your email – Tamburlaine in accepting that apology, asked if anyone else [from your office] would like to attend. I forwarded that email onto the directors for their information and any necessary actions, however I am not sure who and how the Directors have responded."

In conclusion all invitations that are received for Councillors are provided to the Councillors for their consideration and response as requested by those offering the invitation.

ENCLOSURES

There are no enclosures for this report

Answers To Questions For Next Meeting

Report No. AQ40/2016

Planning and Environment



SUBJECT: *REQUEST FOR FLYING FOX CORRESPONDENCE*

RESPONSIBLE OFFICER: *Principal Natural Environment Planner - Ian Turnbull*

AQ34/2016 - Request for Flying Fox Correspondence

Asked by Councillor Campbell at the Ordinary Meeting of Council held on 16 May 2016.

“Councillor Campbell referred to a previous resolution for Council to contact the Department of Lands for financial assistance in regard to a Camp Management Plan for the Flying Foxes and asked that Councillors receive a copy of the letter”.

The requested correspondence was provided to Councillors under separate cover prior to the meeting of 1 June 2016.

ENCLOSURES

There are no enclosures for this report

Correspondence

Report No. CO1/2016

Corporate and Community Services



SUBJECT: *LOCAL GOVERNMENT NSW - CONTRIBUTION TO LEGAL ASSISTANCE FOR BATHURST REGIONAL COUNCIL*

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

RECOMMENDATION:

That Council contributes \$1,071.76 in legal assistance for Bathurst Regional Council in accordance with the Local Government NSW request for contribution.

Correspondence has been received from the Chief Executive of Local Government NSW advising that Bathurst Regional Council has successfully made an application for legal assistance under the LG NSW Legal Assistance Policy and Guidelines, with the action related to the ability of Councils to enter into contracts that include fees for service.

The appeal matter *Adrenaline Pty Ltd v Bathurst Regional Council [2015] NSWCA 123*, related to the previous judgement *[2014] NSWSC 690* where the primary judge had found that Council had a general power to contract in connection with the exercise of its functions, not governed by the Local Government Act. The appeal however was confined to a claim for the recovery of fees paid under mistake.

Bathurst Regional Council defended the matter before the NSW Court of Appeal with the proceedings challenging Council's jurisdiction to fix fees for services under long-term contracts. Whilst the Appeal was dismissed based on the defense of good consideration, ie. that the appellant received benefits for which it had bargained; the findings have created an uncertainty in regards to some fees. In essence the decision was based on whether Council could impose fees for service under a contract without the need to give public notice. The Court found that in this instance, the Council was required to adhere to the provisions of Part 10 of Chapter 15 of the Local Government Act 2016.

The NSW Court of Appeal in its decision noted that:

"even when the Local Government Act confers a power in terms upon councils to reach an agreement or arrangement with a landowner, the price it can charge for work performed by it remains subject to Part 10 of Chapter 15. To that extent at least, the general power to contract cannot permit a Council to escape the statutory restrictions upon it".

Chapter 15 of the Local Government Act 1993 relates to how Councils are financed, with Part 10 specifically relating to Fees. Relevant Sections In Part 10 include:

Division 1 – Council fees – general: S607A Interpretation; S608 Council fees for service; S610 Effect of other Acts

Division 2 – Council fees for business activities: S610A Application of Division; S610B Fees to be determined in accordance with pricing methodologies.

Correspondence

Report No. CO1/2016

Corporate and Community Services



Division 3 – Council fees for non-business activities: S610C Application of Division; S610D How does a council determine the amount of a fee for a service; S610E Council may waive or reduce fees; S610F Public Notice of fees

LG NSW is considering the implications of this decision on councils, and will likely seek feedback in the future to enable the issue to be addressed in the next phase of the review of the Local Government Act 1993.

A voluntary contribution is now being sought from the Association and the associated correspondence is provided as **Enclosure 1**. Council is not obligated to provide such assistance; however the amount of \$1,071.76 has been requested.

ENCLOSURES

- 1 Local Government NSW - Legal Assistance Request