



Vincent Street  
CESSNOCK

10 November 2017

# ORDINARY MEETING OF COUNCIL

## WEDNESDAY, 15 NOVEMBER 2017

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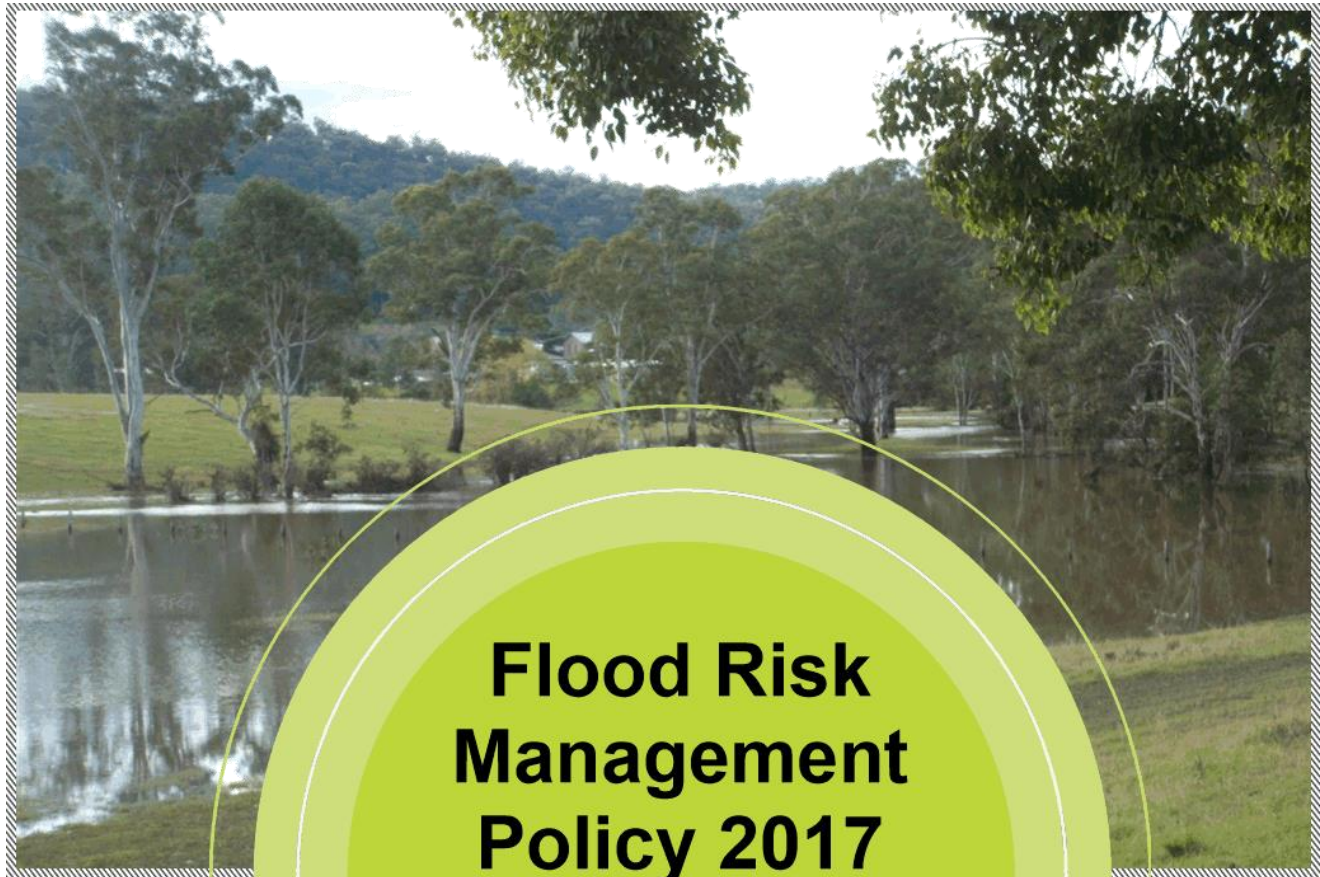
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# **Flood Risk Management Policy 2017**

PLANNING FOR OUR PEOPLE  
OUR PLACE OUR FUTURE

# Policy Overview

<b>Policy Owner:</b>	Manager Strategic Land Use Planning	
<b>Relevant Legislation:</b>	<ul style="list-style-type: none"> <li>• <i>Environmental Planning and Assessment Act 1979</i></li> <li>• <i>Local Government Act 1993</i></li> </ul>	
<b>Related Policy:</b>	<p><i>Cessnock Development Control Plan 2010 Draft Chapter C9 Development on Flood Prone Land</i></p> <p><i>Cessnock Local Environmental Plan 2011</i></p> <p><i>NSW Floodplain Development Manual</i></p> <p><i>The following fact sheets should be read in conjunction with this Policy:</i></p> <ul style="list-style-type: none"> <li>- <i>Draft Fact Sheet 1: Flood Planning Concepts</i></li> <li>- <i>Draft Fact Sheet 2: Flood Compatible Building Guidelines</i></li> </ul> <p>This Policy, once adopted by Council will repeal the following policies that were applicable at the time of publication of this document.</p> <ul style="list-style-type: none"> <li>• <b><i>Policy No. B30.6 Determination of Building Construction on Flood Prone Lands – East Branxton</i></b></li> <li>• Policy No. B25.2 Building in Relation to Drainage Easements</li> </ul>	
<b>Policy Adoption/Amended Date:</b>		
<b>Policy Reviewed/History:</b>	Nil	
<b>Policy Review Date:</b>	<b>Policy Number:</b>	<b>Document Number:</b>
2019		DOC2015/018541



## **1. Applications of the Policy**

This Policy applies to all Councillors, Cessnock City Council Staff and consultants engaged by Council.

The Council is to consider and give effect to the Policy when it:

- Prepares a Community Strategic Plan, Delivery Program and Operational Plan
- Prepares a Flood Study, Floodplain Risk Management Study or Floodplain Risk Management Plan
- Implements the recommendations of a Floodplain Risk Management Plan
- Prepares amendments to Cessnock Development Control Plan 2010
- Prepares a Planning Proposal and/or draft Local Environmental Plan that relates to flood prone land
- Adopts a Plan of Management for Community land that relates to flood prone land
- Determines a development application that relates to flood prone land
- Issues a Complying Development Certificate that relates to flood prone land
- Issues a Construction Certificate that relates to flood prone land
- Proposes to undertake works on flood prone land
- Issues flood information to the public, such as by way of mapping information, flood information certificates s149 planning certificates or pre-development application meetings
- Prepares community education and awareness programs regarding flooding
- Contributes to emergency management planning and implementation relating to flooding
- Undertakes or contributes to other measures to manage flood risks

## **2. Policy Objective**

The objectives of the Policy are to:

- Ensure that flood risk is considered as early as possible in the planning and development process
- Ensure that planning and development decisions affecting flood prone land take into account the most up to date and accurate flood information
- Ensure that the Council exercises its functions relating to flood risk management with reasonable care and diligence
- Facilitate the ongoing collection of flood information, and the timely provision of such information to the community
- Ensure that a framework and relevant procedures are developed for Council's management of all flood related activities and decisions
- Ensure that the use and development of flood prone land:
  - has risk consequences that are acceptable to the community
  - takes into account the full spectrum of flood risks across all risk dimensions
  - recognises the social, economic and environmental values of flood prone land
  - is consistent with the principles contained in the *NSW Floodplain Development Manual*
- Reduce the organisational risk to Cessnock City Council for the management of flood prone land. These risks can include:
  - Reputation
  - Financial
  - Environmental

## **3. Policy Statement**

**3.1** Cessnock City Council's decisions regarding flood risk management will be underpinned by the provisions, principles, directions and recommendations contained in:

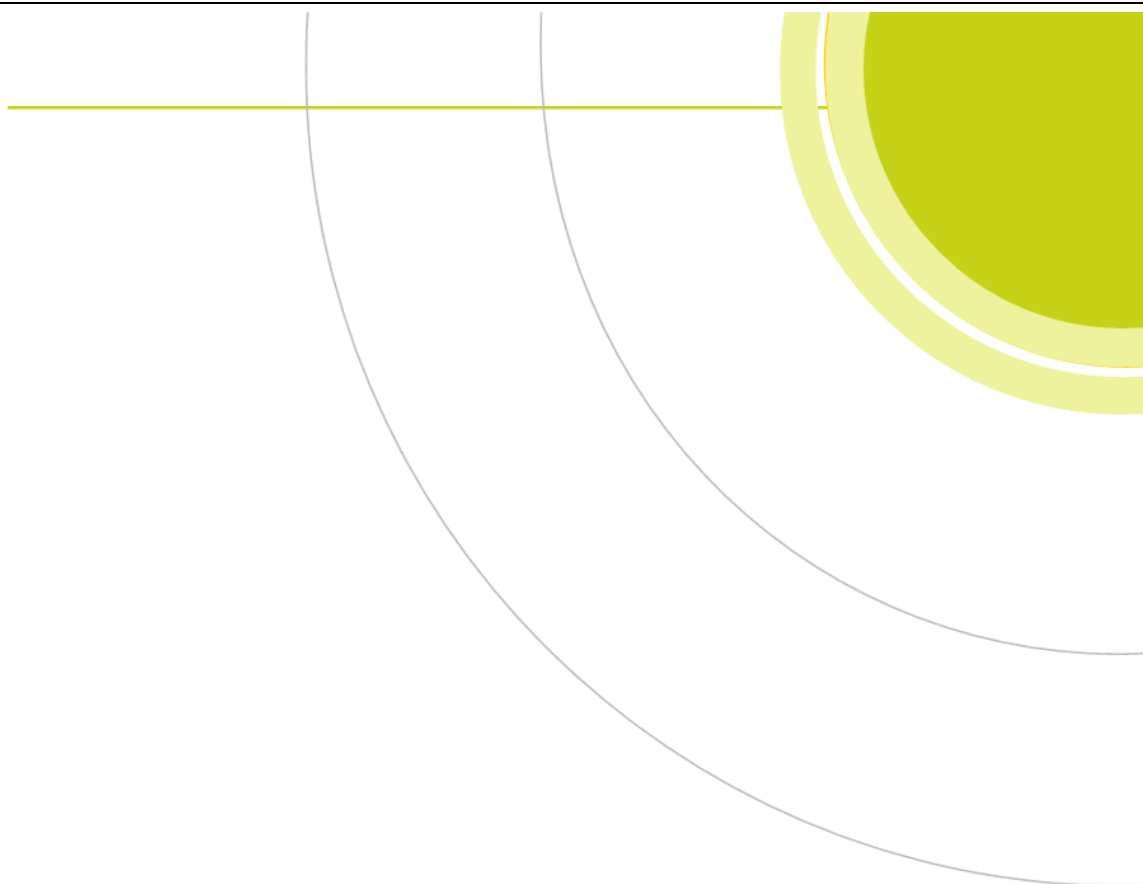
- *NSW Flood Prone Lands Policy*
- *NSW Floodplain Development Manual 2005*
- Section 733 of the *Local Government Act 1993*

- 
- Flood Studies, Floodplain Risk Management Studies and Floodplain Risk Management Plans prepared under the *NSW Floodplain Development Manual 2005*
  - *Cessnock Local Environmental Plan 2011*
  - *Cessnock Development Control Plan 2010 Draft Chapter C9 Development on Flood Prone Land*

**3.2** Cessnock City Council will reduce the impact of flooding and flood risk, using a merit approach and taking into account flood risk management, social, economic and environmental considerations by:

- Providing a framework and procedures for managing flood risk based on current flood information and understanding, which can be updated progressively to reflect:
  - improvements in flood information and understanding
  - the adoption of Flood Risk Management Plans
- Using the framework and procedures above to guide Council when exercising its functions relating to:
  - corporate planning
  - environmental planning, including development assessment and strategic planning
  - public land management
  - provision of works and services
  - provision of flood information;
- Providing the community with timely information regarding the likely extent and degree of flood risk within the Cessnock LGA;
- Providing a more detailed explanation of the general flood risk management principles outlined in the *NSW Flood Prone Land Policy*, having regard to local circumstances and conditions.
- Locating Greenfield Urban Release Areas above the Flood Planning Level
- Locating sensitive land uses above the Flood Planning Level

**3.3** Notwithstanding changes to Government Policy Cessnock City Council does not support the intensification of land uses on flood prone land.



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Contact:  
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tel:0249934100



Online help:  
[council@cessnock.nsw.gov.au](mailto:council@cessnock.nsw.gov.au)  
<http://www.cessnock.nsw.gov>

**CESSNOCK  
DEVELOPMENT CONTROL PLAN 2010**

***PART C – GENERAL GUIDELINES***

**CHAPTER 9:  
DEVELOPMENT ON FLOOD PRONE LAND**

### **Amendment History**

<b>Version No.</b>	<b>Nature of Amendment</b>	<b>Date in Force</b>
0	Draft endorsed by Council for public exhibition on 19 July 2017	Exhibited from 26 July 2017 - 25 August 2017
1	Endorsed by Council for adoption on XXXX	XXXX

### **Acknowledgements**

This DCP Chapter was prepared by Cessnock City Council with reference to publications of other NSW Councils:

- Shoalhaven Development Control Plan 2014 - Chapter G9: Development on Flood Prone Land
- Liverpool Development Control Plan 2008 (Amendment 2014) Part 1 Chapter 9 Flooding Risk
- Newcastle Flood Policy 2004
- Pittwater Council, 2014: Flooding in Pittwater – key terms and definitions
- Maitland Development Control Plan 2011 Part B3
- Port Stephens Development Control Plan 2014
- Pittwater Development Control Plan 2004

The assistance of floodplain management specialists within the NSW Office of Environment and Heritage is also acknowledged.



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## **1 Introduction**

### **1.1 PURPOSE OF THIS CHAPTER**

The purpose of this Chapter of Cessnock Development Control Plan 2010 (DCP 2010) is to provide information and development controls needed to prepare and assess development applications on Flood Prone Land.

### **1.2 APPLICATION**

This Chapter applies to all land within the Cessnock Local Government Area (LGA) that is Flood Prone Land as identified on the Probably Maximum Flood map.

### **1.3 RELATIONSHIP WITH OTHER PLANS**

Where there is any inconsistency between this Plan and any environmental planning instrument, the provisions of the environmental planning instrument prevail.

Where there is any inconsistency relating to floodplain management between this Chapter and any other Chapter of the DCP, the provisions of this Chapter prevail.

### **1.4 OBJECTIVES**

The objectives of this Chapter are to:

1. Reduce risk to life and property resulting from floods by controlling development on flood prone land; and
2. Ensure that the impacts of the full range of flood sizes up to and including the Probable Maximum Flood (PMF) are considered when assessing development on flood prone land; and
3. Ensure that developers and the community are conscious of the potential flood hazard and consequent risk associated with the use and development of land within the floodplain; and
4. Ensure that all land uses and essential services are appropriately sited and designed in recognition of all potential floods; and
5. Ensure that sensitive uses and facilities and critical infrastructure are not impacted by flood events; and
6. Ensure the future use of flood prone land does not cause undue stress to individuals or unduly increases potential flood liability to individuals or the community; and
7. Ensure that development on flood prone land does not place an unacceptable financial burden on landowners or the community; and
8. Ensure that development does not have a significant impact on flood behaviour, people's safety, surrounding properties and structures, and the natural environment; and
9. Protect the integrity of the flood plain, including riparian vegetation, fluvial geomorphologic environmental processes and water quality; and
10. Ensure that the impact of climate change is considered when assessing development on flood prone land; and
11. Ensure that development on flood prone land is consistent with the NSW Flood Prone Land Policy and NSW Floodplain Development Manual 2005.

## **1.5 SAVING PROVISIONS**

Any application lodged but not determined prior to this Chapter coming into effect will be determined as though the provisions of this Chapter apply.

## **1.6 FLOOD HAZARDS AND RISKS**

The management of flood prone land is primarily the responsibility of local governments. Local governments are required to implement the provisions of the NSW Flood Prone Land Policy and the NSW Floodplain Development Manual 2005. This Chapter also uses the 2016 Australian Rainfall and Runoff hazard classification categories as a basis for assessing development risk.

The following *hazard classifications* apply to this Chapter (based on the Australian Rainfall and Runoff Guidelines 2016); with H1 being the lowest and H6 the highest:

- H1
- H2
- H3
- H4
- H5
- H6

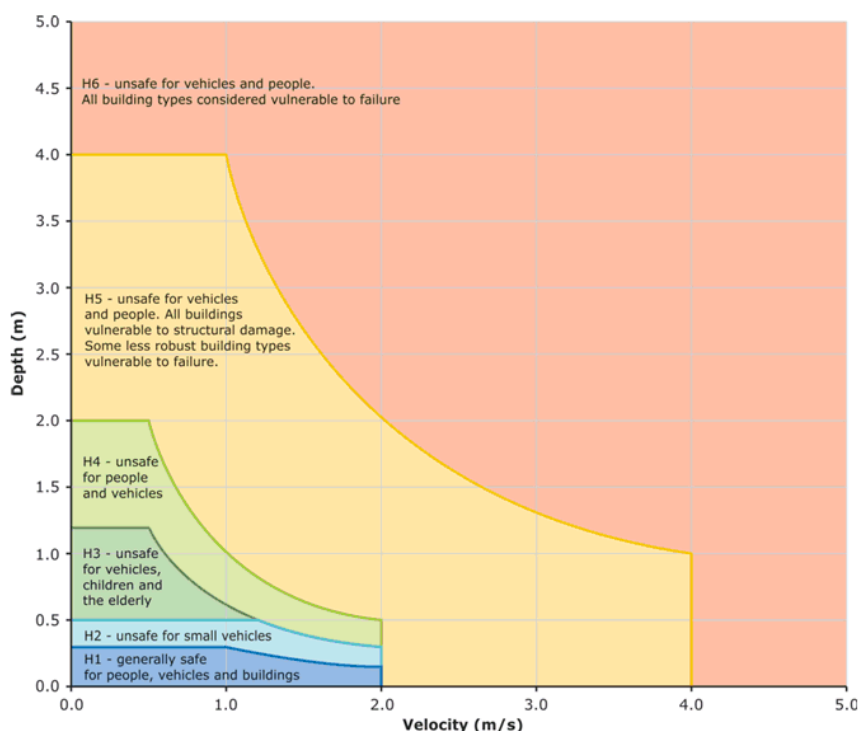
Hazard classifications provide guidance on the impact a flood event may have on people, vehicles and buildings. The classifications are based on thresholds that compare the velocity and depth of a flood peak. Additional flood hazards may include, but are not limited to, poor visibility, uneven surfaces, slippery surfaces, debris and contaminated water. These types of hazards are not included in the hazard classifications. Hazards may still be unacceptable in the H1 Classification for development targeting usage by vulnerable individuals such as the elderly and young children or sensitive uses and facilities.

For this Chapter the hazard classifications relate to the 1% AEP event except for critical infrastructure which is related to the PMF. Hazard classifications are a general classification and other factors should be taken into consideration when locating and designing development including:

- Isolation – are there safe evacuation routes to flood free land?
- Effective warning time – lack of effective warning times can increase the exposure of people to hazardous flood situations
- Rate of rise – a rapid rise in flood waters can lead to people evacuating being cut off from safe refuge or being overwhelmed.
- Time of day – flood peaks can occur at any time of the day or night. The consequence of a night flood peak might be the inability to receive or respond to a flood warning increasing the potential risk of people being exposed to hazardous flood situations. Time of day hazard is particularly important for residential development. For example commercial uses are often vacant at night however the occupants of a residential development are likely to be on site at night time, when there may be a reduced ability to receive or respond to flood warnings.

Figure 1 and Tables 1 and 2 outline the six hazard categories.

**Figure 1:** Combined Flood Hazard curves (Smith et al 2014) in AAR 2016



**Table 1:** Combined hazard curves - Vulnerability thresholds (Smith et al, 2014) in AAR 2016

Hazard Vulnerability Classification	Description
H1	Generally safe for vehicles, people and buildings.
H2	Unsafe for small vehicles.
H3	Unsafe for vehicles, children and the elderly.
H4	Unsafe for vehicles and people.
H5	Unsafe for vehicles and people. All buildings vulnerable to structural damage. Some less robust buildings subject to failure.
H6	Unsafe for vehicles and people. All building types considered vulnerable to failure.

**Table 2:** Combined Hazard Curves - Vulnerability Threshold Classification Limits (Smith et al, 2014) in AAR 2016

Hazard Vulnerability Classification	Classification Limit (D and V in combination)	Limiting Still Water Depth (D)	Limiting Velocity (V)
H1	$D \times V \leq 0.3$	0.3	2.0
H2	$D \times V \leq 0.6$	0.5	2.0
H3	$D \times V \leq 0.6$	1.2	2.0
H4	$D \times V \leq 1.0$	2.0	2.0
H5	$D \times V \leq 4.0$	4.0	4.0
H6	$D \times V > 4.0$	-	-

The following *hydraulic* categories apply (based on the NSW Floodplain Development Manual 2005):

- *Flood fringe*
- *Flood storage*
- *Floodway*

Hydraulic categories are used to consider the impact of development on the behaviour of the flood.

The **Floodway** is an area where a significant volume of water flows during floods and is often aligned with a natural water course. It relates to areas that, even if only partially blocked, would cause a significant increase in flood levels and/or significant redistribution of flood flow, which may in turn have a detrimental impact on neighbouring properties.

The **Flood storage** area is a part of the floodplain and is important for the temporary storage of floodwaters. Development which substantially reduces the flood storage area through filling or levees can have an adverse impact on nearby areas increasing peak flood levels or peak flow rates.

The **Flood Fringe** is the remaining area affected by flooding after the floodway and flood storage areas are taken up. Development in the flood fringe area would not normally have any significant effect on flood levels or the pattern of flood flows.

The maps provided at Council's webpage and a Flood Information Certificate (purchased from Council) can be used to determine which *hazard classification* and which *hydraulic category* applies to your development.

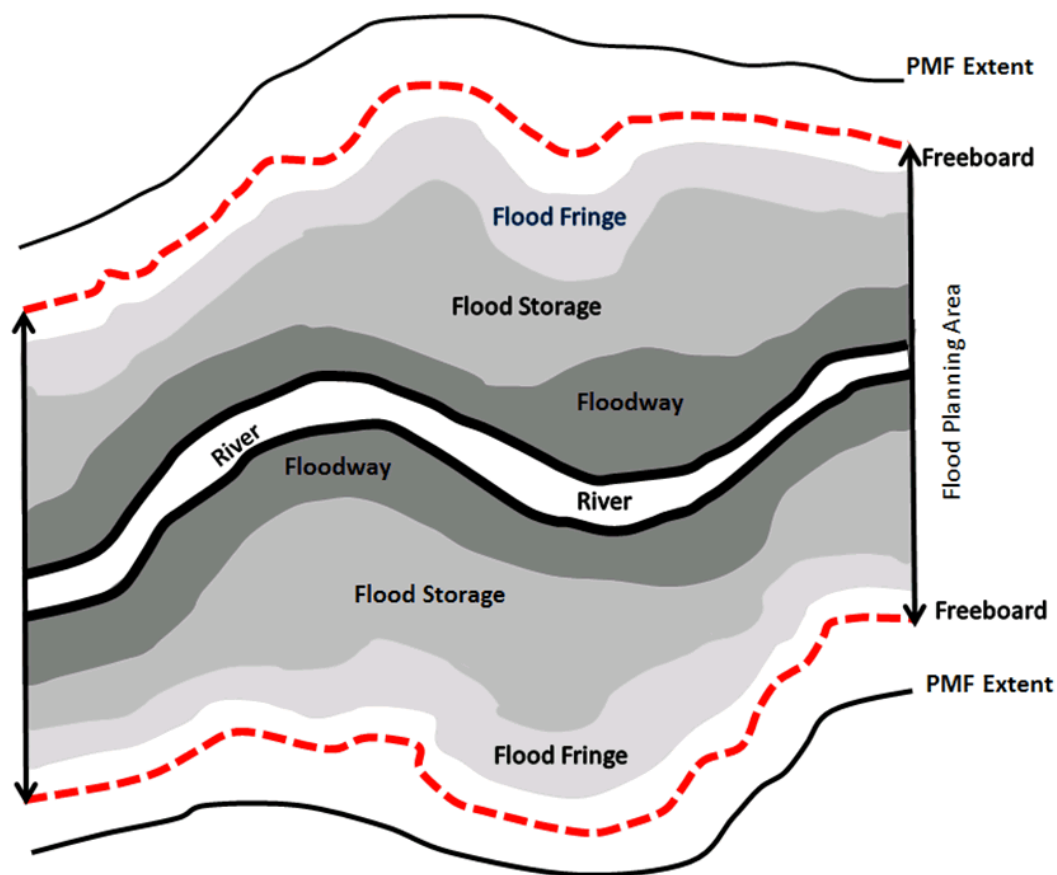
## 1.7 DEFINITIONS AND FLOOD PLANNING CONCEPTS

All terms used in this DCP Chapter have the same meaning as defined in the *Cessnock Local Environmental Plan 2011* and the NSW Floodplain Development Manual, unless otherwise specified.

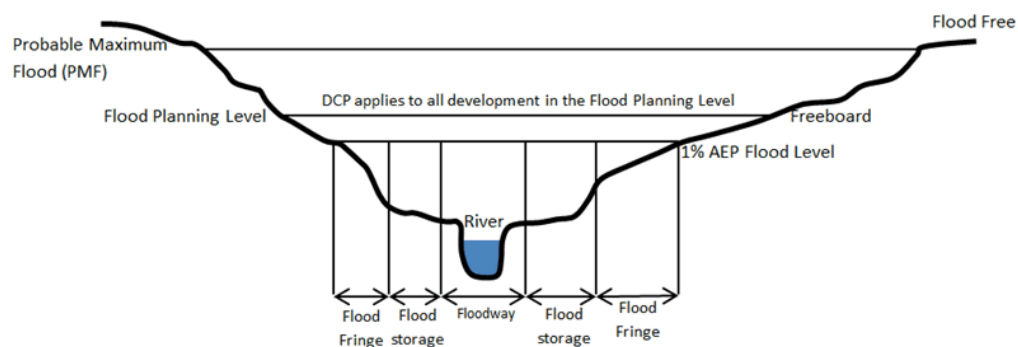
Flood Planning concepts are explained in Flood Fact Sheet No.1 Flood Planning Concepts, available on Council's website. In summary, the following Figures illustrate the flood categories that are referred to in this Chapter.



**Figure 2:** Cross section through floodplain hydraulic categories of Floodway, Flood storage and Flood Fringe.



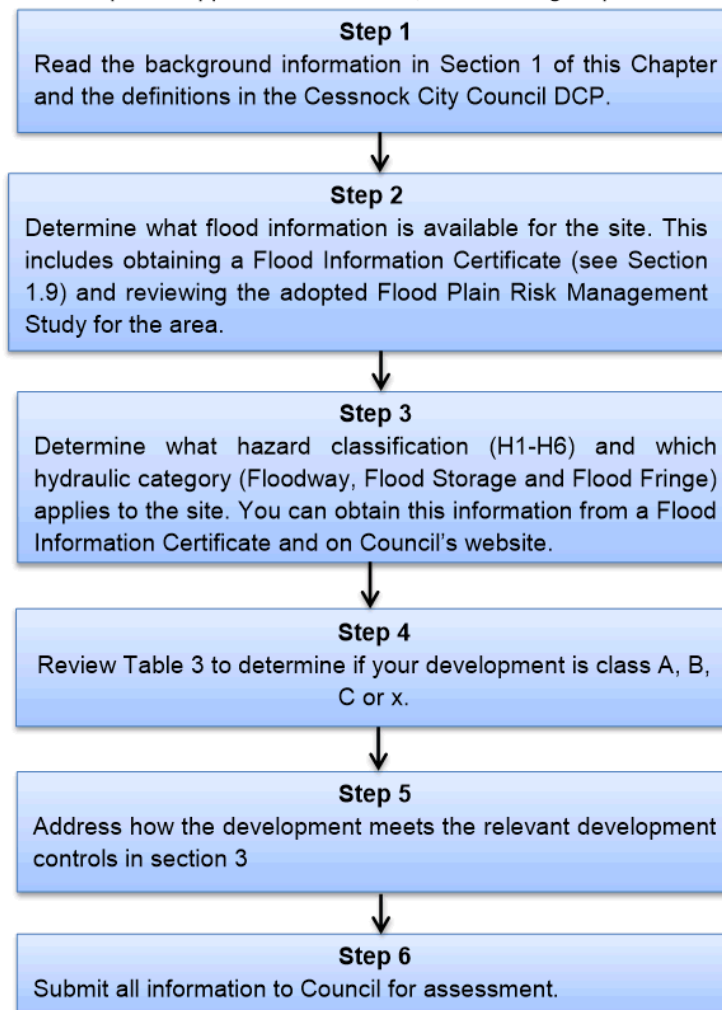
**Figure 3:** Cross section through the Floodplain.



## **1.8 HOW TO ADDRESS THE REQUIREMENTS OF THIS CHAPTER**

The assessment of development under this DCP Chapter is based on the level of flood risk posed by hydraulic categories and hazard categories.

In preparing your development application to Council, the following steps should be taken.



Note: It is recommended you seek a pre-DA meeting with relevant Council officers to discuss Council's requirements for your application.

## **1.9 FLOOD INFORMATION CERTIFICATE**

When preparing a Development Application on flood prone land it is recommended that a Flood Information Certificate is purchased from Council. Where data is available a Flood Information Certificate will provide information on the flood levels on a site and the hazard classification from flooding.

**Part C – General Guidelines**

**Chapter 9: Development on Flood Prone Land**

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## **2 Submitting a Development Application**

### **2.1 REQUIRED DOCUMENTATION**

The extent of the flood-related information that you will be required to submit with your development application depends on a number of factors, including (but not limited to):

- The type of development (land use) proposed;
- The scale of the proposed development;
- The extent to which the site is affected by flooding; and
- The amount of flood-related information already held by Council regarding flood behaviour at that site and within its catchment.

Development applications on flood prone land will require:

- A Major or Minor Flood Assessment Report and, where relevant
- Additional information may also be required, depending on the type, location and scale of development.

This information will be used by Council to determine if the proposed development is suitable to the flood hazard on the site.

### **2.2 FLOOD ASSESSMENT REPORT**

If Cessnock City Council does not have an adopted Flood Study for the site, a Flood Assessment Report (FAR) is to be provided. A FAR is also required if flood data is available but may require interpolation, extrapolation, or refinement to greater detail for the development that is proposed. Development near rural creeks which are not included in an adopted Flood Study will need to submit a FAR.

A FAR provides information on existing flood risk for a catchment and outlines how the proposed development is consistent with the requirements of this DCP. A FAR is to be consistent with the NSW Floodplain Development Manual 2005. Depending on the scale of the development either a Minor or Major FAR is required to be submitted with the application.

A **Minor FAR** will be required where:

1. development is of a minor scale e.g. rural dwelling, rural tourist accommodation, access track to a rural dwelling etc;
2. and where flood data is not available but the site:
  - a. Is within 40 metres of a defined watercourse; or
  - b. Is within 10 metres of a major drainage system, local overland flood path or drainage easement; or
  - c. Has a history of flooding; or
  - d. Is considered to be flood prone land by Council; or
  - e. Is below the 1:100 year flood.

**Part C – General Guidelines**

**Chapter 9: Development on Flood Prone Land**

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OR

3. flood data is available but may require interpolation, extrapolation, or refinement to greater detail.

A **Major FAR** will be required where Council considers the development to be at a scale that exceeds that specified by a minor FAR, will result in intensification of development on flood prone land and or result in an increased risk due to potential affectation by flooding. A Major FAR will be required where:

1. development is not considered to be minor
2. flood data is not available but the site:
  - a. Is within 40 metres of a defined watercourse; or
  - b. Is within 10 metres of a major drainage system, local overland flood path or drainage easement; or
  - c. Has a history of flooding; or
  - d. Is considered to be flood prone land by Council.

OR

3. flood data is available but may require updating, interpolation, extrapolation, or refinement to greater detail.

Information on what to include in a major or minor FAR and who can prepare either document are provided in **Appendix 1**.

**Part C – General Guidelines**

**Chapter 9: Development on Flood Prone Land**

### **3 Development Controls**

#### **3.1 CONTROL MATRIX**

Table 3 categorises land use types into Development Categories according to the sensitivity of each use to flooding. The table uses a combination of development categories and hazard classification to class developments as either class A, B, C or x. To determine which development controls apply to your development review table 3 to determine if your development is Class A, B, C or x. Your development application must demonstrate how the development meets the relevant controls in section 3. Where the footprint of the proposed building and/or access covers more than one hazard classification, the higher classification shall apply.

**A** means the development will be impacted by flooding however the land use is generally suitable to the hazard classification and group A controls apply to the development

**B** means the development will be impacted by flooding and group B controls apply to the development. A merit assessment may need to be undertaken for these developments and additional justification may be needed.

**C** means that the development will be significantly impacted by flooding. If designed appropriately the development may be suitable in the hazard classification. A merit assessment will need to be undertaken for these developments and additional justification may be needed.

**x** means the land use is generally not suitable in the hazard classification

NOTE 1: Other factors need to be taken into consideration when determining the hazard classification, such as access to safe evacuation facilities and the available warning times.

NOTE 2: You must demonstrate how the controls in Section 3 have been satisfied.

**Table 3:** Development classification for the Flood Hazard Classification.

		Based on the 1%AEP					
Development Categories	Land Use Type	H1	H2	H3	H4	H5	H6
Ancillary structures type 1	• Fences (open)	A	A	A	A	C	C
Ancillary structures type 2	• Fence (solid) • Garage • Temporary Structure • Shed • Carport (open) • Farm Building	A	A	B	B	x	x
Carpark	• Carpark	A	A	B	B	x	x
Single Residential	• Dwelling house • Exhibition home • Exhibition villages	A	A	B	B	x	x



**Part C – General Guidelines**

**Chapter 9: Development on Flood Prone Land**

	<ul style="list-style-type: none"> <li>• Home business</li> <li>• Home industry</li> <li>• Home occupation</li> <li>• Home occupation (sex service)</li> <li>• Rural worker's dwelling</li> </ul>						
Multi Residential	<ul style="list-style-type: none"> <li>• Attached dwelling</li> <li>• Dual occupancy (attached)</li> <li>• Dual occupancy (detached)</li> <li>• Multi dwelling housing</li> <li>• Residential flat building</li> <li>• Secondary dwelling, Semi-detached dwelling</li> <li>• Shop top housing</li> </ul>	A	A	B	x	x	x
Tourism Development	<ul style="list-style-type: none"> <li>• Eco-tourist facilities</li> <li>• Backpacker's accommodation</li> <li>• Bed and breakfast accommodation</li> <li>• Farm stay accommodation</li> <li>• Hotel or motel accommodation</li> <li>• Serviced apartments</li> <li>• Camping Grounds</li> </ul>	A	A	B	x	x	x
Commercial Development type 1	<ul style="list-style-type: none"> <li>• Animal boarding or training establishment</li> <li>• Veterinary hospital</li> <li>• Medical Centres</li> <li>• Health consulting rooms</li> </ul>	A	A	B	x	x	x
Commercial Development type 2	<ul style="list-style-type: none"> <li>• Business Premise</li> <li>• Funeral Home</li> <li>• Office premise</li> <li>• Retail premise</li> <li>• Cellar door premises</li> <li>• Food and drink premises</li> <li>• Pubs</li> <li>• Restaurant or café</li> <li>• Takeaway food and drink premises</li> <li>• Small bar</li> <li>• Sex service premises</li> <li>• Industrial retail outlets</li> <li>• Registered clubs</li> <li>• Restricted premises</li> <li>• Wholesale suppliers</li> <li>• Kiosks</li> <li>• Shop</li> <li>• Neighbourhood shop</li> <li>• Timber yard</li> <li>• Vehicle sales or hire premises</li> <li>• Bulky goods premise</li> <li>• Garden Centres</li> <li>• Hardware and building supplies</li> <li>• Landscape material supplies</li> <li>• Markets</li> <li>• Plant nurseries</li> <li>• Roadside stalls</li> <li>• Rural supplies</li> <li>• Function centre</li> <li>• Amusement centres</li> <li>• Entertainment facilities</li> </ul>	A	A	B	B	C	x

**Part C – General Guidelines**

**Chapter 9: Development on Flood Prone Land**

	<ul style="list-style-type: none"> <li>• Self storage units</li> <li>• Warehouse and distribution centre</li> <li>• Place of public worship</li> <li>• Public administration building</li> </ul>						
Industrial Development	<ul style="list-style-type: none"> <li>• Light industry</li> <li>• High technology industries</li> <li>• General industries</li> <li>• Rural industries</li> <li>• Agricultural produce industries</li> <li>• Livestock processing industries</li> <li>• Sawmill or log processing industries</li> <li>• Stock and sale yards</li> <li>• Vehicle body repair workshop</li> <li>• Vehicle repair station</li> <li>• Depots</li> <li>• Transport depot</li> <li>• Truck depot</li> <li>• Freight transport facility</li> </ul>	A	A	B	B	x	x
Agricultural Development	<ul style="list-style-type: none"> <li>• Aquaculture</li> <li>• Extensive agriculture</li> <li>• Bee keeping</li> <li>• Dairy (pasture-based)</li> <li>• Intensive livestock agriculture</li> <li>• Feed lots</li> <li>• Dairies (restricted)</li> <li>• Intensive plant agriculture</li> <li>• Horticulture</li> <li>• Viticulture</li> <li>• Turf farming</li> <li>• Forestry</li> </ul>	A	A	B	B	C	C
Recreation type 1	<ul style="list-style-type: none"> <li>• Recreation Facility (indoor)</li> <li>• Recreation facility (major)</li> </ul>	A	A	B	B	C	x
Recreation type 2	<ul style="list-style-type: none"> <li>• Recreation facilities (outdoor)</li> <li>• Recreation area</li> </ul>	A	A	B	B	C	C
Earth works	<ul style="list-style-type: none"> <li>• Extractive industries</li> <li>• Mining</li> <li>• Roads</li> <li>• Drainage works</li> </ul>	A	A	B	B	C	C
Potentially Polluting activities	<ul style="list-style-type: none"> <li>• Service station</li> <li>• Highway service centers</li> <li>• Heavy Industries</li> <li>• Hazardous industries</li> <li>• Offensive industries</li> <li>• Heavy industrial storage establishments</li> <li>• Hazardous storage establishments</li> <li>• Liquid fuel depots</li> <li>• Offensive storage establishment</li> </ul>	A	A	B	x	x	x
Event	<ul style="list-style-type: none"> <li>• Music or art festival</li> </ul>	A	A	B	B	C	C
Infrastructure	<ul style="list-style-type: none"> <li>• Water reticulation systems</li> <li>• Water storage facilities</li> <li>• Water treatment facilities</li> </ul>	A	A	B	B	C	C

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Subdivision	* Additional controls for subdivision are in Section 3.8 * Subdivision must be able to demonstrate that the proposed lots will be able to accommodate the uses permitted in the zone.	A *	A*	B*	B*	C*	C*
Sensitive uses and facilities type 1	<ul style="list-style-type: none"> <li>• Educational establishments</li> <li>• Schools</li> <li>• Community facility (not considered a critical use as below),</li> <li>• Seniors housing</li> <li>• Manufactured home</li> <li>• Caravan park</li> <li>• Home based childcare</li> </ul> <p><b>Sensitive uses and facilities must consider and provide details on the management of floods up to an including the PMF.</b></p>	B	x	x	x	x	x
Development Categories	Land Use Type	Consideration of the PMF					
Sensitive uses and facilities type 2	<p><b>These uses are required to be located outside of the floodplain.</b></p> <ul style="list-style-type: none"> <li>• Childcare centres</li> <li>• Respite day care centers</li> <li>• Group homes (permanent)</li> <li>• Group home (transitional)</li> </ul>	<p><b>x</b></p> <p>Sensitive uses and facilities type 2 are required to be located outside of the floodplain.</p> <p>Sensitive uses and facilities must consider and provide details on the management of floods up to an including the PMF.</p>					
Critical Infrastructure	<p><b>These uses are required to be located outside of the floodplain.</b></p> <ul style="list-style-type: none"> <li>• Community facility which may provide an important contribution to the notification or evacuation of the community during flood events</li> <li>• Hospitals</li> <li>• Emergency services facilities</li> <li>• Utility installations or Public utility undertakings (including generating works) which are essential for evacuation during periods of flood or if affected would unreasonably affect the ability of the community to return to normal activities after flood events, which may include: <ul style="list-style-type: none"> <li>○ Sewerage systems</li> <li>○ Biosolids treatment facilities</li> <li>○ Sewerage reticulation</li> </ul> </li> </ul>	<p><b>x</b></p> <p>Critical infrastructure is required to be located outside of the floodplain.</p> <p>Critical infrastructure must consider and provide details on the management of floods up to an including the PMF.</p>					

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	<ul style="list-style-type: none"> <li>systems</li> <li>○ Sewerage treatment plants</li> <li>○ Water recycling facilities</li> <li>○ Waste or resource management facilities</li> <li>○ Resource recovery facilities</li> <li>○ Waste disposal facilities</li> <li>○ Waste or resource transfer station</li> <li>○ Airport</li> <li>○ Heliport</li> <li>○ Electricity generating works</li> <li>○ Telecommunications facility</li> <li>○ Community facility</li> </ul>	
<p>Note 1: Where development does not fit within the categories outlined above, Council will determine which land use category the proposal fits into based on the documentation provided to Council.</p> <p>Note 2: Land use types are those as defined in Cessnock LEP 2011, unless otherwise specified.</p>		

**3.2 GENERAL REQUIREMENTS (NEW DEVELOPMENT)**

The following controls apply to development in **Group A, B or C**

1. All habitable finished floor levels are to be no lower than the Flood Planning Level.

Note: In circumstances where the habitable floor level is below the Flood Planning Level, flood-free access is to be provided from the development to an appropriate evacuation facility (as identified in the relevant Flood Study).

2. Non-Habitable floor levels are to be no lower than the 1% AEP flood.
3. Parts of the building constructed at or below the Flood Planning Level are to be constructed with materials identified as 'suitable' in the Flood Compatible Building Guidelines.
4. Electrical fixtures such as power points, light fittings and switches are sited above the Flood Planning Level unless they are on a separate circuit (with earth leakage protection) to the rest of the building.
5. Any hazardous material is to be stored above the Flood Planning Level.

**3.3 EVACUATION**

The following controls apply to development in **Group B and C**

1. If intensifying development that incorporates a habitable use on flood prone land it must be demonstrated that users of the development are able to safely self-evacuate to an area outside of the floodplain in the event of a flood without traversing flood waters of a higher hazard classification.

Note: On site flood refugees are not supported by Council or the State Emergency Service. On site flood refugees do not eliminate the risk from a flood event. On site flood refugees do not take into account the unpredictable nature of human behaviour in flood events, for example, there is no guarantee that people will remain in the flood refugee or that other family members will not try to access the site to be reunited. Additionally, buildings isolated

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in a flood event are also subject to fires and medical emergencies, with reduced capacity for emergency services to respond.

2. A structural assessment is required by suitably qualified engineer to demonstrate the structure would be safe to withstand hydraulic loads (including debris) in a 1:100 ARI event.

**3.4 FLOW OF WATER**

The following controls apply to development in **Group C**

1. Any development with a hazard classification of H5 or H6 must have open structures so that the flow of water is not restricted.
2. All fences are to allow passage of 1:100 ARI flood event under or through the fence.

**3.5 CAR PARKS**

The following controls apply to developments involving carpark

1. The floor level of car parks are to be no lower than the 1:20 ARI flood level. Hydraulic controls in section 3.8 must also be considered, particularly in relation to on site fill.
2. Basement or below ground car parks will only be supported where all potential water entry points are at or above the flood planning level. Where it is demonstrated that this cannot be achieved the following requirements are to be met:
  - a. The basement is designed so that the structural integrity of the building is not compromised if the basement is either partially or fully inundated during a flood.
  - b. All exit points below the Flood Planning Level are able to be closed and locked to prevent access during floods.
  - c. Electrical and water fixtures are sited above the Flood Planning Level unless they are on a separate circuit (with earth leakage protection) to the rest of the building.
  - d. At least one stairwell from the basement is to extend to at least the Flood Planning Level. The door for this exist is to be readily openable without a key from the inside (i.e. the side facing egress). The handle is to be a single downwards pushing action such as a lever.
  - e. The owner(s) of the building are to consult with the SES to determine the most appropriate mechanisms for evacuation/management of the basement car park where the projected flood level would result in inundation.

**3.6 ON-SITE WASTE WATER MANAGEMENT**

The following controls apply to on-site waste water management:

1. All components of the on-site was water management system (including vents and inspection opening) are to be located above the 1:100 ARI event.
2. The land application area must be above the 1:20 ARI.



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3. The Australian Height Datum (AHD) levels at the site of the on-site waste water management facility are to be determined by a Registered Surveyor.

**3.7 SUBDIVISION**

1. Subdivision on flood prone land must:
  - a. Consist of a single development application containing:
    - i. The subdivision of land into two or more lots and
    - ii. The erection of an attached dwelling, semi-detached dwelling or a dwelling house on each lot resulting from the subdivision that does not have an existing dwelling on and meets the requirements of this DCP Chapter; or,
  - b. be on land that is in an Urban Release Area identified in the *Cessnock Local Environmental Plan 2011* prior to this DCP Chapter being adopted; or
  - c. demonstrate that the size and design of the proposed lots are able to accommodate the uses permissible in the zone if the subdivision is in a zone other than a residential zone.

**3.8 BRANXTON COMMERCIAL PRECINCT**

The Branxton commercial area is located on flood prone land, a large portion of which is Hazard Category H5 or H6. Typically some types of commercial development are not supported on land with this hazard category; however Branxton has a number of unique factors that mean that flooding needs to be considered on a case by case basis in the Branxton commercial area. Factors specific to Branxton include:

- The flooding that affects Maitland Street in Branxton is typically river flooding that is of a low velocity and has sufficient warning time for occupants to leave or shops to close. The nature of flooding in Branxton is distinctively different to flooding in other areas of the Cessnock LGA that are subject to flash flooding with little warning time for occupants. The low velocity of flood water in Branxton and the longer warning times for significant flood events mean that some forms of development that are normally not supported in the higher flood hazard categories may be suitable in the higher flood hazard in Branxton if suitably justified by the applicant.
- Maitland Street in Branxton contains a number of Heritage Items and is a significant heritage precinct. It is recognised that where suitable, some variances to flooding controls may be necessary to preserve the heritage character of Maitland Street Branxton e.g. it may not always be suitable to raise the floor level above the flood planning level in Branxton without compromising the heritage character of the area.
- The Branxton Subregional Land Use Strategy outlines that the Branxton town centre is to be focused around Maitland Street, between Cessnock Road and Bowen Street. For this to occur commercial developments need to be located along Maitland Road, while still ensuring that the risk to life from flood events has been considered. The Strategy outlines that variations to flood planning levels may be needed in Branxton to preserve

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the Heritage character of the town and allows commercial development to remain focused along Maitland Street.

For these reasons the following control applies to the B2 Local Centre zone in Maitland Street Branxton:

1. Development in the B2 Local Centre zone in Branxton will be assessed on the applications merits. Applicants must demonstrate that the objectives of this Chapter have been met and the risk to life and property has been considered. The following factors will be considered:
  - Flood depth
  - Flood velocity
  - Change on adjoining properties

**3.9 HYDRAULIC CONTROLS**

**3.9.1 FLOOD STORAGE**

1. Up to 20% of the area of any development site in a flood storage area may be filled. The remaining 80% is un-developed allowing for underfloor storage of floodwater by the use of suspended floor techniques such as pier and beam construction.
2. Despite clause 1 if more than 20% of the site is to be filled a flood study must demonstrate that the fill does not have a negative impact on neighbouring properties, overland flow and/or the environment.

**3.9.2 FLOODWAY**

Note: In general, developments other than low level driveways are not practicable in floodways. Floodways are not necessarily indicative of high hazard flow, although the two generally will coincide. It is necessary to separately investigate hazards in order to determine if driveways and the like are suitable within floodways.

1. No building or structure is to be erected on land identified as floodway on the Hydraulic Category Maps.
2. No land fill by way of deposition of any material is to occur within an area identified as a floodway except for minor alterations to ground levels which do not significantly alter the fundamental flow patterns for:
  - a. Roads
  - b. Parking
  - c. Below ground structures
  - d. Landscaping
3. New development is to be designed to avoid fences in floodways. Where dividing fences across floodways are unavoidable, they are to be constructed only of open type fencing that does not restrict the flow of water. The fencing design is to be resistant to blockage or designed to be collapsible under heavy flood loadings.
4. Flood mitigation works are to meet the requirements of the relevant Flood Risk Management Plan.

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**3.10 HOUSE RAISING AND FLOOD PROOFING**

The following controls apply to house raising and/or flood proofing:

1. Development is required to meet the 'general building provisions' in Section 3.2 in the following circumstances:
  - a. Following a flood event where there has been inundation of the dwelling necessitating the removal and replacement of external and/or internal cladding material; or
  - b. Following a flood event where there has been structural compromise to the dwelling which requires remediation; or,
  - c. There is a proposal to increase the enclosed habitable floor area of the building by more than:

Existing building area	Minor addition limit
<250m <sup>2</sup>	50m <sup>2</sup>
250m <sup>2</sup> -750m <sup>2</sup>	75m <sup>2</sup>
>750m <sup>2</sup>	100m <sup>2</sup>

or,

- d. There is a proposal to undertake major renovations to the dwelling; or,
  - e. The proposed works have the potential to impact on flood behaviours.
2. The proposed works must not have a detrimental impact on the streetscape and surrounding land uses.
3. In heritage conservation areas or for development affecting a heritage item, the development must not have a negative impact on the heritage conservation area and/or heritage item.

**3.11 ADDITIONS AND RENOVATIONS**

In deciding whether to support an application for additions and/or renovations of the existing floor area below the Flood Planning Level, Council will consider whether the renovations, alterations or additions are likely to add to the life span of the residential building and its exposure to future flood impacts.

1. Additions and renovations are not supported where the habitable flood level of the addition is below the 20 year ARI.
2. Additions and renovations are to be completed in accordance with the Flood Proofing Guidelines.
3. Any additions and/or renovations are to meet the requirements of this DCP Chapter if the floor areas is increased by more than:

Existing building area	Minor addition limit
<250m <sup>2</sup>	50m <sup>2</sup>
250m <sup>2</sup> -750m <sup>2</sup>	75m <sup>2</sup>
>750m <sup>2</sup>	100m <sup>2</sup>

4. Additions and renovations to critical infrastructure are located outside of the floodplain.

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5. Additions and renovations to sensitive uses and facilities are to be located on land with a hazard classification of H1.
6. A structural assessment is required by suitably qualified engineer to demonstrate the structure would be safe to withstand hydraulic loads (including debris) in a 1:100 ARI event if the development has a hazard classification of H3 or above.

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**Appendix 1 Flood Assessment Reports**

**Minor FAR**

It is recommended that a Minor (FAR) is prepared by a suitably qualified and experienced Engineer, however Council will also consider submissions prepared by allied professions such as a Registered Land Surveyor. The full name of the person who prepared the report and relevant qualifications are to be provided on the front page of the report.

A MINOR FAR is to include:

1. A site plan and description of the watercourse, creek or drainage system that is relevant to the flood characteristics of the site, whether located on, adjacent to or remote from the development site;
2. Survey co-ordinates of the location of the FAR;
3. A plan showing cross-sections through site. As a guide, the following cross-section information should be provided:
  - A minimum of 3 cross-sections, at a maximum distance of 20m apart, should be taken through the site, perpendicular to the likely flow path (i.e. the direction of the cross-section may not necessarily be in a single straight line);
  - Cross-sections should extend at least as high as the highest flood level available at the site and if possible be wide enough to cover the full width of the floodplain at that location; and
  - The cross-sections should be plotted at a suitable exaggerated scale (i.e. the vertical scale is not necessarily the same as the horizontal scale);
4. Flood levels for the 1% Annual Exceedance Probability (AEP) events for the pre development scenario (all assumptions, calculations and modelling output tables must be provided);
5. Flood velocities for the 1% AEP event for the pre-development scenario (all assumptions, calculations and modelling output tables must be provided);

Note: the roughness coefficients used shall allow for fully vegetated stream conditions in order to account for potential revegetation of degraded areas without impact on flood levels;

Development in an active mining area is to consider potential subsidence when determining the Flood Planning Level.

**Major FAR**

A major (FAR) must be prepared by a suitable qualified and experienced Engineer recognised under the National Professional Engineers Register or Chartered Professional



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Engineer in this field. The full name of the person who prepared the report, relevant qualifications and registration number are to be provided on the front page of the report.

A MAJOR FAR is to include:

1. A description of the watercourse, creek or drainage system that is relevant to the flood characteristics of the site, whether located on, adjacent to or remote from the development site;

Note: The modelling shall include climate change considerations as per current Government Guidelines predicted changes in rainfall

2. A plan showing cross-sections through the site. As a guide, the following cross-section information should be provided:

- A minimum of 8 cross-sections, at a maximum distance of 20m apart, should be taken through the site, perpendicular to the likely flow path (i.e. the direction of the cross-section may not necessarily be in a single straight line);
- One cross-section should be at the upstream end and one cross-section at the downstream end of the proposed development site;
- Cross-sections should extend at least as high as the highest flood level available at the site and if possible be wide enough to cover the full width of the floodplain at that location; and
- The cross-sections should be plotted at a suitable exaggerated scale (i.e. the vertical scale is not necessarily the same as the horizontal scale);

Note: The modelling shall include a 50% and 100% blockage analysis of all existing drainage structures that may affect the development site;

3. Flood levels for the PMF, 1%, 5%, 10% and 20% Annual Exceedance Probability (AEP) events for the climate change pre development scenario (all assumptions, calculations and modelling output tables must be provided);

Note: Localised flow effects shall be investigated and reported on where relevant;

4. Flood velocities and vectors for the 1% AEP event for the climate change pre-development scenario (all assumptions, calculations and modelling output tables must be provided);

Note: the roughness coefficients used shall allow for fully vegetated stream conditions in order to account for potential revegetation of degraded areas without impact on flood levels;

5. Provisional Hazard categories based on depth and velocity as well as obvious other hazards such as evacuation difficulties as per the requirements of the NSW Floodplain Development Manual 2005;



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6. Note: In areas where local sub-catchment flooding, such as flows from drains, overland flow paths or similar, interact with overall catchment flooding from waterways, a joint probability analysis of flood behaviour shall be undertaken.
7. Provisional Hydraulic categories based on depth and velocity as per the requirements of the NSW Floodplain Development Manual 2005;
8. A determination of the hazard classification/s that apply to the development; and
9. Plans showing the results of (3) to (6) as well as the location of the proposed development.
10. Development in an active mining area is to consider potential subsidence when determining the Flood Planning Level.

Compliance Assessment

The Compliance Assessment is a detailed assessment on how the proposed development will achieve all relevant objectives (Section 1.4) and development controls (Section 3) of this Chapter of the DCP. It is expected that all relevant controls in this DCP are listed and an explanation is given on how each control has been met.

Development plans

Plans for the proposed development or works that indicate compliance with all relevant development controls must be submitted. These plans should contain characteristics as required by Council's DA Submission Matrix and Checklist.

Survey Plan details

In addition to the requirement to lodge general survey details with the development application (as specified in Development Plans above), a survey plan prepared by a registered surveyor must also indicate the following:

1. Existing ground levels at each corner of the proposed building envelope;
2. The floor levels of all existing buildings or structures to be retained as well as proposed floor levels for all new buildings and structures; and
3. The location of any existing buildings or structures.

All levels must be relative to *Australian Height Datum (AHD)*. Levels relating to an arbitrary assumed datum are not acceptable.

Note that some applications for *ancillary development* may not require survey details if a suitable structural engineering certificate (at Section 3.9 and 3.10) is provided.



## Cessnock City Council Planning Agreement Policy

<b>Policy Owner:</b>	Strategic Planning	
<b>Relevant Legislation:</b>	<ul style="list-style-type: none"> <li>- Division 6 of Part 4 of the Environmental Planning and Assessment Act, 1979</li> <li>- Division 1A of Part 4 of the Environmental Planning and Assessment Regulation 2000</li> <li>- Clause 4.6 of Cessnock Local Environmental Plan 2011</li> </ul>	
<b>Related Policy:</b>	Practice Note: Development Contributions published by the Department of Planning, Infrastructure and Natural Resources 19 July 2005 Planning Circular: Voluntary Planning Agreements and Development Control Plans – NSW Planning 18 February 2011 Draft Revised Local Development Contributions Practice Note Department of Planning and Infrastructure 2014	
<b>Policy Adoption/Amended Date:</b>	Adopted on _____	
<b>Policy Reviewed/History:</b>		
<b>Policy Review Date:</b>	<b>Policy Number:</b>	<b>Document Number:</b>
2022		DOC2016/017816

### 1 Purpose and Application

The purpose of this Policy is to provide a clear framework and sound governance for the negotiation and management of planning agreements in the Cessnock local government area.

This Policy applies where a proponent voluntarily proposes a planning agreement referred to under section 93F of the *Environmental Planning and Assessment Act, 1979*.

### 2 Objective

The objectives of the Policy are:

- To establish a clear, open, transparent and accountable framework to govern the negotiation, use, management and implementation of planning agreements by Council;
- To ensure that the framework is soundly based upon probity and enables efficient, fair, transparent and accountable negotiations and implementation;
- To promote public trust and confidence in the processes of negotiation, execution and implementation of planning agreements;
- To ensure that Council, Council officers and proponents understand their roles and responsibilities when negotiating, assessing and implementing planning agreements;
- To provide planning flexibility for Council to negotiate fair, reasonable and equitable development contributions by proponents of planning proposals and development applications;

- To enhance the range and extent of development contributions towards the optimal delivery of public infrastructure services and facilities in the Council area; and
- To enable innovative approaches to the delivery of public infrastructure, services and facilities.

### 3 Definitions

*In this Policy the following definitions are used:*

**Act** means the Environmental Planning and Assessment Act (as amended) 1979;

**Council** means Cessnock City Council;

**Development application (DA)** has the same meaning as in the Environmental Planning and Assessment Act 1979;

**Development contribution** means the kind of provision made by a developer under a planning agreement being a monetary contribution, the dedication of land free of cost or the provision of a material public benefit, or any combinations of the above;

**Explanatory Note** means a written statement that provides details of the objectives, nature, effects and merits of a planning agreement or an amendment to, or revocation of, a planning agreement;

**Instrument Change** means a change to an Environmental Planning Instrument to facilitate development which is the subject of a Planning Agreement;

**Planning benefit** means a development contribution that confers a net public benefit – that is, a benefit that exceeds the benefit derived from measures that would address the impacts of particular development on surrounding land or the wider community;

**Proponent** means a person who has sought a change to an Environmental Planning Instrument through the lodgement of a Planning Proposal or who has submitted or proposes to lodge a development application – or, by formal agreement, is a representative of an applicant for such changes;

**Public facilities** mean public infrastructure, facilities, amenities and services;

**Planning obligation** means an obligation imposed by a planning agreement on a developer requiring the developer to make a development contribution;

**Planning Proposal** means a proposed change to the Cessnock Local Environmental Plan 2011 – a change to an Environmental Planning Instrument - to enable a development subject of an application to be made permissible and to carry out the development subject of the development application and planning agreement;

**Practice Note** means the practice notes on development contributions published by the Department of Infrastructure, Planning and Natural Resources on 19 July 2005 and Department of Planning and Environment.

**Public** includes a section of the public;

**Public benefit** means the benefit enjoyed by the public as a consequence of development contribution;

**Public Purpose includes:**

- Provision of, including recoupment of, the cost of public amenities or public services;
- Provision of, including recoupment of, the cost of affordable housing;
- Transport or other infrastructure relating to land;
- Funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure;
- Monitoring of the planning impacts of development; and
- Conservation or enhancement of the natural environment;

**Regulation** means the *Environmental Planning and Assessment Regulation* (as amended) 2000;

**Surplus value** means the value of the developers' provision under a planning agreement more than the sum of the value of public works required to be carried out by the developer under a condition imposed under Section 80A (1) of the Act and the value of development contributions that are or could have been required to be made under Section 94 or Section 94A of the Act in respect of the development subject of the Agreement.

## 4 Policy Statement

Council is committed to the equitable and transparent approach to the negotiation, development and management of planning agreements to facilitate the delivery of public infrastructure to meet the needs of the community.

## 5 Principles

### 5.1 Guiding

The Council's use of planning agreements will be governed by the following guiding principles:

- Development consent cannot be refused because a planning agreement has not been entered into or the proponent has not offered to enter into one;
- A condition of development consent can only require a planning agreement to be entered into by a proponent strictly in accordance with an offer made by the proponent;
- Planning agreements will not be used to fetter the development assessment process;
- Planning agreements will not improperly fetter the exercise of discretion and the functions of Council under the Act, Regulation or any other Act or law;
- Council will use planning agreements only for a proper planning purpose and a purpose which stands the tests of fairness, reasonableness and equity;
- The interests of individuals or interest groups will not outweigh the public interest when considering, negotiating and finalising a planning agreement;
- Council will not use its statutory position to gain unreasonable public benefits from proponents when considering, negotiating, finalising, executing and implementing planning agreements;
- Council will take appropriate steps to ensure that it avoids any conflict of interest between its role as a planning authority when it has a commercial interest in the outcomes of a planning agreement;
- Council will ensure that planning agreements are based upon sound, reasonable and accountable financial management;
- Council will ensure that all processes and content of a planning agreement are transparent and soundly based upon probity;
- Negotiation of a planning agreement is to be entered into in good faith by all parties; and
- The planning agreement reflects the priorities of the community as identified in Council's Community Strategic Plan.



## 5.2 Acceptability Test

Practice Notes issued by the State government sets out an Acceptability Test for assessing whether planning obligations are appropriate under a planning agreement. The Acceptability Test ensures planning agreements:

- Are directed towards proper or legitimate planning purposes, ordinarily ascertainable from the statutory planning controls and other adopted planning policies applying to development;
- Provide for public benefits that bear a relationship to development that is not *de minimis* (that is benefits that are not wholly unrelated to development);
- Produce outcomes that meet the general values and expectations of the public and protect the overall public interest;
- Provide for a reasonable means of achieving the relevant purposes and outcomes and securing the benefits; and
- Protect the community against planning harm.

## 5.3 Circumstances in which Council will consider the Negotiation of a Planning Agreement

Council at its complete discretion may consider the negotiation of a planning agreement with a proponent who has voluntarily offered to enter into such an agreement in association with a planning proposal or development application. A planning agreement may be considered for such purposes as to:

- Compensate for the loss of, or damage to, public infrastructure, facilities, amenities, services, resources or environmental assets caused by the proposed development through replacement, substitution, repair or regeneration;
- Meet the demands created by the development for new public infrastructure, amenities and services or when, in Council's opinion an environmental offset represents a planning and public benefit;
- Address deficiencies in existing provision of public infrastructure, amenities, services and facilities which have a connection with the planning proposal / development application. There should also be a clear rationale and public benefit to take this approach;
- Achieve recurrent funding in respect of public infrastructure, amenities, services and / or facilities and for on-going maintenance of land of environmental significance which is to be conserved;
- Prescribe inclusions in the development that meet specific planning and environmental objectives of the Council;
- Clearly secure public benefits for the wider community;
- Enable items in the work schedules of Council's contributions plans to be brought forward and/or when deficiencies and/or omissions in Council's existing Development Contributions Plans can be addressed;
- Not involve any unreasonable financial liabilities for the Council.

## 6 Requirements of a Planning Agreement

### 6.1 Mandatory Requirements

The mandatory requirements of a planning agreement are prescribed under Section 93F(3) of the Act. All planning agreements must include:

- A description of the land to which the agreement applies.
- A description of:

- the change to the environmental planning instrument to which the agreement applies; or
- the development to which the agreement applies.
- The nature and extent of the provisions to be made by the proponent under the agreement, the time or times by which the provision is to be made and the manner by which the provision is to be made.
- In the case of proposed development / planning proposal whether the agreement excludes (wholly or in part) or does not exclude the application of section 94 or 94A of the Act;
- If the agreement does not exclude the application of section 94 to the development, whether benefits under the agreement are or are not to be taken into consideration in determining a development contribution under section 94.
- A mechanism for the resolution of disputes under the agreement.
- The enforcement of the agreement by a suitable means, such as the provision of a bond or guarantee, in the event of a breach of the agreement by the proponent.

Clause 25E(1) of the Regulation provides that an explanatory note must accompany a planning agreement that:

- Summarises the objectives, nature and effect of the proposed agreement, amendment or revocation; and
- Contains an assessment of the merits of the proposed agreement, amendment or revocation, including the impact (positive or negative) on the public or any relevant section of the public.

The Act does not preclude a planning agreement containing other provisions that may be necessary or desirable in particular cases, except as provided by law.

## **6.2 Contents of a Planning Agreement**

### **6.2.1 Cost and Value Estimations**

Council will provide standard and consistent values and costs for capital and recurrent aspects of planning agreements as much as possible. Standardised costs can be provided for some items such as for mowing on a cost per square metre basis.

Council will require the proponent to fund an independent Quantity Surveyor to provide cost estimates to form the basis of planning agreement costs for capital and recurrent items.

Where the benefit under a planning agreement is the provision of land for a public purpose, the Council will require a valuation at the proponent's cost and seek to value the benefit on the basis of the estimated amount of compensation to which the proponent would be entitled under the *Land Acquisition (Just Terms Compensation) Act 1991* upon the compulsory acquisition of the land.

### **6.2.2 Recurrent Costs**

Council may request proponents, through a planning agreement, to make contributions towards the recurrent costs of public facilities. Where the amenity, service, or public facility primarily serves the development to which the planning agreement relates or neighbouring development, the arrangement for recurrent funding may be in perpetuity.

If the funding of recurrent costs is required to be part of the planning agreement, the planning agreement will include the following matters:

- The specific purpose of the recurrent funding;
- The nature and extent of the recurrent funding;



- The time period over which the funding shall be provided;
- Any mechanisms for the indexing of the recurrent funding;
- The heads of consideration for any endowment fund or trust that may be required to be established to manage the recurrent funding;
- The provision of security such as bank guarantee, bond or other form of security to secure the ongoing funding;
- Circumstances in which funding would be renegotiated or revoked; and
- Any other matter relevant to securing the public interest in the achievement of an ongoing public benefit.

### 6.2.3 Land Dedication

In the case of land identified within a contributions plan, the value of land in that plan will be considered in determining the initial contribution rates.

Land to be dedicated is required to be valued by a suitably qualified expert. Only land required for a specific community benefit and purpose can be considered for dedication. A long term maintenance cost will need to be included and factored into the final valuation to ensure Council minimises the long term financial burden on the community and the organisation.

The land is to be fit for purpose having specific regard to size, accessibility, topography and location.

Land which is proposed to be dedicated or subject to transfer of ownership to a public agency will be valued based upon the E2 Environmental Conservation Zone under the Cessnock Local Environmental Plan 2011.

Council may refuse the dedication of land when the amount proposed to be dedicated exceeds the minimum area required in a relevant plan and/or the burden of maintenance exceeds the long term benefit of the land to the community.

### 6.2.4 Monetary Contributions

A planning agreement may make provision for monetary contributions other than contributions under an adopted and in force Section 94 or Section 94A Contributions Plan. Council's acceptance of such contributions will be based upon alignment with other Council plans, a clearly articulated public purpose, and the matters stated below.

Where a planning agreement provides for monetary contributions, the following matters are to be stated:

- The amount of the monetary contribution;
- The purpose and extent of the monetary contribution;
- When such contributions are to be paid;
- In the case of staged payments, the nature of the staging or the dates at which time payments are to be made;
- Any mechanisms for the indexing of the monetary contribution against inflation over time;
- Details of any security that is to be provided in lieu of the monetary contribution until such time as it becomes due and payable;
- Any obligations on Council for the expenditure of the monetary contributions and related financial reporting; and
- Any other matter relevant to securing the public interest in the management and expenditure of the monetary contributions.

### 6.2.5 Works In Kind and Material Public Benefit

Council, at its discretion, may accept the provision of a material public benefit by a proponent in lieu of the payment of development contributions.

**Definitions specific to consideration of Works In Kind is explained as follows:**

**Application** - An application for Works In Kind (WIK), Material Public Benefit (MPB), Contribution Offsets or combinations thereof;

**Consent** - The Development Consent that has initiated the Application;

**Contribution Offsets** - The dedication of land and/or the construction of infrastructure required as part of Council's adopted plans;

**Material Public Benefits (MPB)** - consist of some physical (material) component, other than land dedication or monetary contribution, in settlement of the contributions levied upon the development consent, but does not include works nominated in a contribution plan's Work Schedule or planning agreement;

**Plan** - The applicable Section 94 contribution plan;

**WIK Agreement** - A formal agreement that must be entered into with Council following Council approval of an Application under this policy;

**Works In Kind (WIK)** - is the undertaking of work, or the provision of amenities, services or facilities, or the dedication of land as nominated in the Plan's Work Schedule and includes reference to Contribution Offsets;

#### 6.2.5.1 An application for a material public benefit to undertake works in kind will be considered by Council based upon the following criteria:

- The upfront delivery of the works provides a planning and/or public benefit(s);
- The application must be of reasonable cost when compared to the cost of Council's day labour (or regular contractors) to complete the work and the cost (if any) listed in the Plan's Work Schedule.
- Prior to approval, the value (cost and quotes) and the required quality of work will need to be set and agreed upon by the relevant asset manager.
- A formal, legally enforceable WIK Agreement will need to be developed.
- The proponent shall pay to Council 10 percent of the cost of the WIK as a security bond against the future provision of the intended works.
- Five percent of the WIK value (50 percent of the 10 percent security bond) shall be returned to the proponent following practical completion and the remaining five percent value (50 percent security bond) will be refunded after the final inspection and warranty period expire.
- Council may agree to a reduction in the amount of the development contributions prior to completion of the Agreed Works (.i.e. to enable the release of a construction certificate). If this agreement is reached the proponent is required to lodge with Council a Security Bond for 10 percent of the amount of the Agreed Value of the Agreed Works and the Agreed Value Security Bond will be held by Council until Council provides a written notification to the proponent that the Agreed Works have been completed in accordance with the WIK Agreement.
- Where an Application is not approved by Council, the monetary contribution, as per the development consent, remains applicable.
- No negotiation will occur retrospectively, .i.e. after works have commenced.

### 6.2.6 Pooling of development contributions

Where a proposed planning agreement provides for a monetary contribution by the proponent, the Council may seek to include a provision permitting money paid under the agreement to be pooled with money paid under other planning agreements and applied progressively for the different purposes under those agreements, subject to the specific requirements of the relevant agreements. Pooling may be appropriate to allow public benefits, particularly essential infrastructure, to be provided in a timely, fair and equitable way.

### 6.2.7 Capital Works in Kind and Planning Agreements

A planning agreement may make provision for a proponent to carry out construction of amenity, service, or facility on land to be dedicated to Council or already in the public domain. In such circumstances, the provision of quality work which is fit for purpose is critical to Council. A suitably qualified and experienced quantity surveyor will be required to verify all cost estimates submitted by the proponent as part of the negotiation process.

The planning agreement will specify the particulars of the work and the procedure for satisfying any requirements in carrying out of the work taking into account the unique characteristics of the property and the circumstances of the work which will include:

- Requirements and specifications for detailed design plans for future approval or specific references to endorsed plans;
- Public liability insurance during construction and during the defects liability period;
- Requirements for inspections by Council prior to and during the course of construction including the notice to be given in order to arrange such an inspection;
- Requirements for the commencement of handover proceedings;
- Details of the defects liability period;
- Security such as bonds or bank guarantees to be held during the course of construction and during the defects liability period.
- Access for Council officers during the course of construction to ascertain progress or to assess asset value;
- In some cases, permitting Council to carry out the work itself and recover the costs of so doing from the security and/or the proponent; and
- Any other matter relevant to securing the public interest in the achievement of a quality public benefit.

#### 6.2.7.1 Methodology for valuing public benefits under a planning agreement

Where the benefit under a planning agreement is the provision of land for a public purpose, the Council will generally require a valuation at the proponent's cost and seek to value the benefit on the basis of the estimated amount of compensation to which the proponent would be entitled under the *Land Acquisition (Just Terms Compensation) Act 1991* upon the compulsory acquisition of the land.

If the benefit under a planning agreement is the carrying out of works for a public purpose, Council will generally seek to value the benefit on the basis of the estimated value of the completed works on the basis of a cost estimate prepared by a registered quantity surveyor. In either case, the costs of the valuation of the benefits are to be at no cost to Council.

#### 6.2.7.2 Council's costs of negotiating, entering into, monitoring and enforcing a planning agreement

The proponent shall pay Council's full costs in negotiating, executing and implementing the planning agreement including legal costs and the engagement of any independent experts.

Additional costs may be required in some instances for monitoring and enforcement of the planning agreement.

A planning agreement will specify that other costs related to the core purposes of the planning agreement such as architectural design plans and detailed landscape plans and the like will be sought to be borne by the proponent.

Council will at all times seek to be fair, reasonable and accountable in seeking the proponent to reimburse the costs incurred for negotiating, executing and implementing the planning agreement.

## **7 Application of Clause 4.6 Cessnock Local Environmental Plan 2011**

In relation to submissions seeking to vary development standards in accordance with Clause 4.6 of Cessnock Local Environmental Plan 2011, Council will not accept a provision in a planning agreement to justify a variation from applicable development standards in relation to development unless the Council is of the opinion that the subject matter of the proposed planning agreement properly addresses the matters required to be addressed under that Policy in relation to the dispensation sought and there is a resulting urban design or other outcome which leads to improved planning and public benefit.

### **7.1 Management of the negotiation, notification, execution and finalisation of planning agreements**

#### **7.1.1 Probity**

Public probity is fundamentally important and it will ensure that the negotiation of any planning agreement is fair, transparent and is directed at achieving public benefits in an appropriate manner, free of corruption.

In this regard, Council will:

- Exhibit in accordance with the Act all planning agreements to ensure openness and transparency;
- Ensure appropriate delegations and separation of responsibilities in considering development applications that involve planning agreements including, the need to ensure processes are soundly based upon documented risk management;
- Ensure that there is clarity of roles for councillors, council management and staff;
- Take every step to ensure that conflicts of interest (actual and perceived) are ameliorated to the greatest extent possible through independent assessment by third parties where Council has a commercial interest (.i.e. landowner or proponent).
- Not enter into any contractual arrangement which purports to guarantee outcomes that are subject to separate regulatory processes and/or fetters the discretion of the assessment and determination of applications.

Council managers and professional officers with appropriate delegated authority will negotiate a planning agreement on behalf of Council in accordance with this Policy.

Council will ensure that all negotiations with proponents and their representatives are sufficiently documented.

The Council's process for the preparation, negotiation and execution of planning agreements aims to be efficient, predictable, transparent and accountable. The process seeks to ensure that the



negotiation of planning agreements runs in parallel with applications for instrument changes or development applications.

When agreed by the parties, the concluded range of public infrastructure, amenities, services and facilities, together with the dedication and on-going management of environmentally significant land will be embodied in a Heads of Agreement to be formally endorsed by the parties. This will be the basis for drafting of the planning agreement.

Councillors have the responsibilities for:

- Setting the Policy which directs negotiations of planning agreements,
- Endorsing a planning agreement for public notification; and
- Endorsing the planning agreement in conjunction with determining the Planning Proposal for referral to the Department of Planning and Environment or determining the relevant development application.

#### **7.1.2 Involvement of independent third parties in the negotiation process**

The Council may at its sole discretion, appoint an independent person to facilitate or otherwise participate in the negotiations or aspects of it, particularly where:

- an independent assessment of a proposed instrument change or development application is necessary or desirable;
- factual information requires validation in the course of negotiations;
- sensitive financial or other confidential information must be verified or established in the course of negotiations;
- facilitation of complex negotiations are required in relation to large projects or where numerous parties or stakeholders are involved; and
- dispute resolution is required under a planning agreement.

#### **7.1.3 Public Notification and Engagement**

The planning agreement must be negotiated and documented before it is publicly notified as required by the Act and Regulation. The Act states that a minimum period for notification is 28 days.

## **8 Financial Management**

### **8.1 Credits and refunds**

The Council will determine on a case by case basis generally whether to agree to a planning agreement providing for the surplus value under a planning agreement being refunded to the proponent or offset against development contributions required to be made by the proponent in respect of other development in the Council's area.

### **8.2 Provision of security under a planning agreement**

The Council will require a planning agreement to make provision for a security payment of a minimum of 10 percent of the value of the proponent's obligations under the agreement. (Note: the 10% can be applied per stage only if undertaken in accordance with a staged development consent).

The form of security will generally be the unconditional bank guarantee from an Australian Bank in favour of the Council and on terms otherwise acceptable to the Council.

A flat rate of \$20,000 may be applied as security if no civil works are included in the planning agreement.

## **9 Implementation**

### **9.1 When is a planning agreement required to be executed?**

A planning agreement is entered into when it is signed by all of the parties and may include timing and/or staging commitments for the proponent to meet in regard to the completion of works etc.

A planning agreement can be entered into at any time after the agreement is publicly notified in accordance with the Act and Regulation.

### **9.2 Implementation Agreement**

In appropriate cases, the Council may require a planning agreement to provide, prior to commencement of the development the subject of the agreement commences, that Parties enter into an *implementation agreement* that provides for matters such as:

- the times at which and, if relevant, the period during which, the proponent is to fulfill commitments under the planning agreement;
- the design, technical specification and standard of any work required by the planning agreement to be undertaken by the proponent;
- the manner in which a work is to be handed over to the Council; and
- the manner in which a material public benefit is to be made available for its public purpose in accordance with the planning agreement.

The Council will generally require a planning agreement to provide that the proponent's obligations under the agreement take effect when the first development consent operates in respect of development that is the subject of the agreement or within an alternative prescribed time frame.

### **9.3 Monitoring, Review and Enforcement of a Planning Agreement**

The Council will monitor the performance of the proponent's obligations under a planning agreement.

The Council will require the planning agreement to contain a provision establishing a mechanism under which the planning agreement is periodically reviewed with the involvement of all parties.

The Council will require the planning agreement to contain a provision requiring the parties to use their best endeavours' to agree on a modification to the agreement having regard to the outcomes of the review.

### **9.4 Modification or discharge of the proponent's obligations under a Planning Agreement**

The Council will generally only agree to a provision in a planning agreement permitting the developer's obligations under the agreement to be modified or discharged where the modification or discharge is linked to the following circumstances:

- the proponent's obligations have been fully carried out in accordance with the agreement;
- the development consent to which the agreement relates has lapsed;
- the performance of the planning agreement has been frustrated by an event beyond the control of the parties;
- other material changes affecting the operation of the planning agreement have occurred;



- the Council and the proponent otherwise agree to the modification or discharge of the agreement; or
- The Minister has determined in writing to the parties not to support the planning proposal.

### **9.5 Assignment and dealings by the proponent**

The Council will require every planning agreement to provide that the proponent may not assign its rights or obligations under the agreement nor have any dealing in relation to the land the subject of the agreement unless, in addition to any other requirements of the agreement:

- the proponent has, at no cost to the Council, first procured the execution by the person with whom it is dealing of all necessary documents in favour of the Council by which that person agrees to be bound by the agreement as if they were a party to the original agreement; and
- the proponent is not in breach of this Agreement.

### **9.6 Notations on Certificates under section 149(5) of the Act**

The Council will generally require a planning agreement to contain an acknowledgement by the proponent that the Council may, in its absolute discretion, make a notation under s 149(5) of the Act about a planning agreement on any certificate issued under s149(2) of the Act relating to the land the subject of the agreement or any other land.

### **9.7 Registration of planning agreements**

The Council will require a planning agreement to contain provisions for registration of the planning agreement on the title of the land pursuant to section 93H of the Act. The proponent will undertake the registration at no cost to Council and provide evidence of registration.

### **9.8 Dispute resolution**

The Council will require a planning agreement to provide for mediation of disputes between the parties to the agreement, at their own cost, before the parties may exercise any other legal rights in relation to the dispute.

### **9.9 Administration Matters**

The written planning agreement document is to be prepared and presented using Council's Planning Agreement Template prepared by Lindsay Taylor Lawyers.

Three original copies of the planning agreement are required for execution:

1. Copy for the proponent
2. Copy for Council
3. Copy for the Land Titles Office.

A third copy will not be required if the planning agreement is not required to be registered on the title of the land.

Council will provide the proponent with the required paper copies for signature.

The Council will sign and date the required paper copies only after the proponent has signed. Council will then retain one original copy in accordance with the State Records Act 1998. Council will provide the remaining copy(s) to the proponent.



31 July 2017

Mr. Stephen Glen  
The General Manager  
Cessnock City Council  
PO Box 152  
Cessnock NSW 2325

Via email: [council@cessnock.nsw.gov.au](mailto:council@cessnock.nsw.gov.au)

Dear Stephen,

**Re: 57/2017/4: Draft Cessnock Planning Agreement Policy**

The Urban Development Institute of Australia (UDIA) NSW is the key industry body representing the leading participants in the urban development sector in NSW. UDIA NSW is pleased to count Cessnock City Council (CCC) as a long-time and highly valued member of the organisation, and we appreciate the ongoing collaborative working relationship between industry and Cessnock.

UDIA NSW appreciates the opportunity to comment on the Draft Cessnock Planning Agreement Policy (57/2017/4) currently on exhibition. We congratulate Cessnock City Council for undertaking its thorough review of the various issues associated with Planning Agreements.

UDIA NSW offers the following comments:

**5.3 Circumstances in which Council will consider the Negotiation of a Planning Agreement**

Section 5.3 lists the circumstances in which Council will consider negotiating a VPA. At the end of the second last dot point there is the word 'and', which implies that all matters in the list must be satisfied by the proponent before Council will agree to negotiate a VPA. Satisfaction of all matters in the list may not be feasible in all circumstances, yet Council may still be willing to consider negotiating a VPA.

UDIA NSW recommends that the word 'and' be changed to 'or' in order to maintain the spirit of the process.

**Performance Security Measures**

UDIA NSW acknowledges Council's need to enforce the VPA, and agrees that all planning agreements must include some mechanism to enable that enforcement.

However, UDIA NSW maintains that it is not necessary to provide the multiple layers of performance security that Council is proposing. Under the draft policy, Council would hold the following security over delivery of the planning agreement's obligations:

1. Bank guarantee;
2. Registration on title;
3. Ability to hold release of subdivision certificate.

Each of these layers adds real costs to delivering housing. Each of these layers alone is enough to enforce the VPA.

Section 93F(g) of the EP&A Act states that a VPA must provide for '(g) the enforcement of the agreement by a suitable means, such as the provision of a bond or guarantee, in the event of a breach of the agreement by the developer.' However, the bank guarantee is not mandatory.

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The Department of Planning & Environment's draft 2016 Practice Note: Planning Agreements provides a summary of enforcement options:

**Security for enforcement of developer's obligations**

*The EP&A Act does not prescribe any particular means by which the developer's performance of a planning agreement may be enforced. What is a suitable means of enforcement of the planning agreement depends on the circumstances and in particular the nature and extent of the developer's obligations under the planning agreement and the planning authority's reasonable assessment of the risk and consequences of nonperformance.*

*Tying the performance of the developer's obligations to the issuing of certificates under Part 4A of the EP&A Act may provide a suitable means of enforcement of planning agreement obligations in some cases. The EP&A Act and the regulations made under that Act restrict the issuing of a construction certificate, occupation certificate or subdivision certificate by a certifier until any preconditions to the issuing of the certificate specified in a planning agreement have been complied with.*

*Where a developer requests that a Part 4A certificate be issued even though all preconditions to the issuing of the certificate specified in a planning agreement have not been fulfilled, the planning agreement would ordinarily require the developer to provide financial security, such as a bond or bank guarantee, to secure the performance of the unfulfilled obligations as a condition of agreeing to the developer's request. An amendment to the planning agreement would ordinarily be required in such circumstances unless the planning agreement already makes provision for such an arrangement.*

*Where a planning agreement requires land to be dedicated to the planning authority, a suitable means of enforcement of such obligation may well be for the planning agreement to contain a pre-acquisition agreement for the purposes of the Land Acquisition (Just Terms Compensation) Act 1991 enabling the planning authority to compulsorily acquire the land to be dedicated for nominal or an agreed value in the event of default by the developer.*

*Where a planning agreement requires the carrying out of works by the developer, the suitable means of enforcement of such obligation will ordinarily be a financial security, such as a bond or bank guarantee, which can be called on by the planning authority in the event of default, coupled with step-in rights by the planning authority. The value of the financial security to the planning authority should relate to the potential costs that may be incurred by the planning authority in carrying out the relevant works obligations of the developer in the event of default by the developer.*

*Provision by the developer of a financial security or additional financial security, such as a bond or bank guarantee, would ordinarily be appropriate where the developer seeks to postpone obligations under a planning agreement to a time later than the time originally specified for performance. An amendment to the planning agreement would ordinarily be required in such circumstances unless the planning agreement already makes provision for such an arrangement.*

The above excerpt from the 2016 draft Practice Note indicates that Part 4A certificates (such as a subdivision certificate) can be sufficient security in some circumstances. We recommend that Council consider its powers in issuing Part 4A certificates as satisfactory means of providing security.

We offer the following specific comments on the draft policy's sections related to bank guarantees and registration on title:



## 8.2 Provision of Security Under a Planning Agreement

Section 8.2 states:

The Council will require a planning agreement to make provision for a non-refundable security payment of a minimum of 10 percent of the value of the proponent's obligations under the agreement.

The form of security will generally be the unconditional bank guarantee from an Australian Bank (or other institution approved by Council's Chief Finance Officer) in favour of the Council and on terms otherwise acceptable to the Council.

Firstly, UDIA NSW questions the use of the term "non-refundable" in Section 8.2. It would be unusual for a bank guarantee or other form of security to be held in perpetuity. The purpose of a security payment is to ensure that the party providing the security delivers on its obligations. Once those obligations are fulfilled, the security is returned.

UDIA NSW would not support the imposition of a non-refundable security payment. We recommend that the policy makes clear that if a security payment is entered into, the security payment will be released upon fulfilment of the proponent's obligations under the Planning Agreement.

Secondly, if multiple security deposits are utilised in any function, UDIA NSW recommends that Council consider engaging the developer on a "fixed" security that floats across different works and stages, or alternatively allowing a developer to "roll-over" existing security. Each time security is added or removed, the process is administratively burdensome and costly. The development industry would appreciate Council's consideration of a more streamlined approach when multiple security deposits are utilised.

Thirdly, and more broadly, we question whether a security deposit is in fact necessary to enforce the VPA. As outlined above, the use of a bond or guarantee is not mandatory under the legislation. We recommend that Council consider other means of enforcement instead of the 10% bank guarantee, which our members consider excessive. We note that local road infrastructure projects typically have a total security deposit of 5% of the construction value. Additionally, we note that bank guarantees provided under NSW state VPAs are much lower.

As an example of the impact of a 10% requirement, UDIA NSW is aware of two recently negotiated VPAs with Cessnock City Council with values above \$7 million. In both these examples, under the draft Policy, the developer would have to provide bank guarantees in excess of \$700,000 (10%). The security deposit is an additional upfront cash obligation on the developer. This burden on the developer's cash flow imposes a major obstacle to delivering both the infrastructure and the housing lots. Such a requirement can reduce the viability of otherwise developable land, leading to lower supply and/or higher cost of housing.

In summary, the development industry is deeply concerned about a mandatory security deposit requirement at the rate of 10% of the value of the obligations. UDIA NSW urges Council to consider other means to address enforcement of VPAs.

## 9.7 Registration of planning agreements

Another mechanism that can provide security to Council is the registration of the planning agreement on the title of the land. Section 9.7 requires this action.

UDIA NSW again notes that under the legislation it is not a mandatory requirement for a VPA to be registered on title. Further, we note that VPAs negotiated between mining companies and councils in respect of mining projects throughout NSW very rarely require registration of the VPA

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on title as the mines will often cover hundreds of lots and it would be administratively difficult to achieve.

Likewise, the development industry's experience with registration on title has demonstrated two significant challenges:

1. At the time of subdivision, the registration transfers from the original parent lot to all of the newly created lots. The caveat must be removed from the newly created lots before those lots' sales can proceed to settlement. This administrative process is cumbersome and often results in delays in settlement, frustrating the land purchaser and homebuilder, and adding to the developer's holding costs.
2. The registration on title devalues the land when undertaking valuations and therefore reduces the developer's borrowing power, which can result in delays or reduction in supply of residential land.

UDIA NSW therefore recommends that Cessnock City Council adopt the option under the legislation of not requiring the VPA to be registered on title.

### **Conclusion**

UDIA NSW appreciates Cessnock City Council's emphasis on the voluntary nature of Planning Agreements, and its commitment to a fair, equitable and transparent process.

UDIA NSW also appreciates the overall reliance on the currently applicable 2005 NSW Government Practice Note relating to development contributions. As noted above, the NSW Government attempted to update the 2005 Practice Note by exhibiting a *Draft Practice Note: Planning Agreements* in November 2016, which was subsequently followed by an IPART submission on this issue.

Notwithstanding the inclusion of some beneficial elements (such as the updated list of enforcement provisions noted above), UDIA NSW made a submission to the Department of Planning and Environment opposing the *2016 Draft Practice Note* for a number of fundamental reasons. We enclose that submission for your information.

You will note that the enclosed submission refers to caps on S94 payments. To clarify, the UDIA NSW position is that both S94 caps and rate pegging are, on their own, poor public policy. However, S94 caps should not be removed in isolation, as has been recently suggested by the NSW Government. Any change must be considered within a holistic review of the total tax and charges framework currently imposed on the development industry.

Thank you for considering UDIA NSW's comments on the Draft Cessnock Planning Agreement Policy. Should you have any questions or wish to discuss this issue further, please contact our Hunter Manager Elizabeth York on 0434 914 901, or by email at [eyork@udiansw.com.au](mailto:eyork@udiansw.com.au).

Yours sincerely



Steve Mann  
**UDIA CEO**

cc: Wonona Fuzzard, Principal Strategic Land Use Planner

Enclosure

31 July 2017

The General Manager  
Cessnock City Council  
PO Box 152

**WINDSOR** NSW 2325



by Email

Attn: Mr Gareth Curtis

**Submission:**

**57/2017/4: Draft Cessnock Planning Agreement Policy**

Johnson Property Group (JPG) provides this submission on Council's proposed draft Planning Agreement Policy for Council consideration. Johnson Property Group has a wealth of experience in Planning Agreement matters, having negotiated and executed many Planning Agreements with State and Local Government Authorities, including Cessnock City Council. We have two major urban release areas in the Cessnock LGA, namely Bellbird North and Kitchener.

We object to Council's proposal to require a non-refundable security payment (see draft Clause 8.2) for the following reasons:

- The term "non-refundable" is unusual in the context of security performance obligations. The purpose of the security is to ensure that the Council is satisfied of the developers' performance under the Planning Agreement. If the developer has performed their obligations, and Council have accepted that those obligations have been met, then the performance of the developer is deemed to be complete and therefore the developer should be entitled to have the security payment returned.
- Secondly, as the security payment can only be in the form of an unconditional bank guarantee, our experience indicates that Australian Banks would be unlikely to provide such bank guarantee knowing that it is non-refundable.
- JPG would not support the imposition of a non-refundable security payment. We recommend that the policy be amended to reflect that when a security payment is provided, the security payment will be released when the developer fulfils their obligations under the Planning Agreement

We also object to Council's proposal to require the security payment to be 10% of the value of the VPA.

We provide the following:

- JPG have executed multiple multi-million-dollar Planning Agreements with the NSW State Government for its projects across the state, including our Cessnock projects at Bellbird North and Kitchener. In all of these Planning Agreements, the State Government has determined that a \$20,000 bank guarantee is a suitable security performance obligation on the developer. We

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form the view that if the State accept this value as security performance than it should also be acceptable to Local Government;

- Local Government has multiple security options available to it to ensure the developer performs their obligations under the VPA, including:
  - Bank guarantee;
  - Withholding the release of subdivision certificates until Council is satisfied with VPA performance;
  - Withholding the release of the Planning Agreement from the title of the land until Council is satisfied with VPA performance.

JPG believes that all of these layers adds real costs to delivering housing yet provides Council with enough protection to ensure Planning Agreements are enforced and the developer performs their obligations without requiring a 10% security deposit.

- JPG's position on security was put to Council during the negotiation of the Kitchener Local Planning Agreement (executed by CCC and our associated company JPG58 Pty Ltd on 4 November 2015). JPG's position was accepted by Council (who had originally pushed for a higher security amount) and a \$20,000 security amount was accepted by Council. It is noted that if Council presses with a 10% security amount, then in this Kitchener example, the security amount would be circa \$71,000. As Council would appreciate, the security deposit is an additional upfront cash obligation on the developer. This extra unnecessary burden on the developer's cash flow, and often required upfront in the infancy stages of a project, imposes a major obstacle to delivering both the infrastructure and the housing lots and has the potential to reduce borrowing capacity to get the project off the ground.
- JPG does not support the security payment to be calculated at 10% of the cost of the VPA. Rather we would support provision of a \$20,000 bank guarantee to be consistent with the security performance requirements currently imposed by Council and other jurisdictions.

We appreciate the opportunity to be consulted on this matter and we appreciate Council's consideration of this submission.

Should Council wish to discuss the contents of this submission, I can be contacted on 0408 991 888 or via email [bryang@johnsonpropertygroup.com.au](mailto:bryang@johnsonpropertygroup.com.au)

Yours sincerely  
Johnson Property Group



**Bryan Garland**  
Development Director  
B Urb & Reg Planning, Dip Civ Eng, JP

Cc: Mrs Wonona Fuzzard (Principal Strategic Land Use Planner)

# Cessnock Public Art Policy

PLANNING FOR OUR PEOPLE  
OUR PLACE OUR FUTURE

# Policy Overview

<b>Policy Owner:</b>	Director Corporate and Community Services		
<b>Relevant Legislation:</b>	Local Government Act 1993 Environmental Planning and Assessment Act, 1979 Roads Act, 1993		
<b>Related Policy:</b>	Cessnock Community Strategic Plan - Our People Our Place Our Future Consultation Protocol for the Referral of Matters to the Cessnock Aboriginal and Torres Strait Islander Advisory Committee Code of Conduct Procurement Policy Section 94A Development Contributions Plan		
<b>Policy Adoption/Amended Date:</b>			
<b>Policy Reviewed/History:</b>	Nil		
<b>Policy Review Date:</b>	<b>Policy Number:</b>	<b>Document Number:</b>	
2021		DOC2017/021177	

## 1. Objective

- To develop a public art collection that is progressive, innovative, contemporary, challenging and stimulating, and that explores a variety of mediums, scales and approaches
- To support the development and commissioning of a diverse range of permanent, temporary and ephemeral artworks in public places which contribute to the social, cultural, environmental and economic value of the area
- To support integration of public art into the urban and natural landscape through adopting a whole of Council approach to planning, selection and maintenance of public art
- To support local established and emerging artists and facilitate community participation
- To improve the quality of the built environment and enhance the relationship between the community and their urban landscape providing an increased sense of identity, ownership, place and pride
- To pursue a range of funding sources

## 2. Policy Statement

This Policy applies to public art which is located on Council owned or managed land or buildings including but not limited to works commissioned, developed, purchased or maintained by Council. This Policy excludes existing public art projects on Council owned land or buildings which are already managed through existing approvals and/or agreements at the date of the adoption of this Policy.

This Policy excludes public art on private property. It does not cover historical/commemorative plaques, interpretive signs, or advertising material.

This Policy is relevant to everyone from artists, art groups, residents, community groups, developers, philanthropic organisations, government agencies, traders, artistic advisors, funding bodies and Council Officers.

## 3. Definitions

**Council** means Cessnock City Council.

**Public Art** is artistic works created for, or located in part of, a public space or facility and/or accessible to the public. The site may be built, landscaped or natural or in parts of buildings frequented by the public. It may be a commissioned work by professional artist/s or a community inspired collaboration between an artist/s, multi-disciplinary teams and members of a community. Some examples include; sculpture, monuments, memorials, mosaics, murals, paintings, new media, land or earth art, kinetic works, functional art such as street furniture.

There are three types of public art, including:

**Permanent:** any work that is permanently sited in the public domain and made to withstand wear and tear and, as far as possible, withstand vandalism.

**Temporary:** any work that has a limited life such as at a special event or less than five years.

**Ephemeral:** any art form that is transitory, changing and exists for a brief time only in the public domain.

**Public Space:** includes but is not limited to streets, squares, parks and spaces that are within buildings that are accessible to the general public and in the ownership of, or under the control of Council.

## 4. Planning and Commissioning Public Art

Public art is an important aspect of major public space design projects. Where appropriate, public art will be considered in the preparation of concepts for streetscape and open space improvements.

Public art within or on Council owned or controlled land requires approval. However, most site-specific curated public art proposals, streetscape, temporary, ephemeral and lighting scheme proposals will be considered either "Exempt Development" or "Complying Development" under the Cessnock Local Environmental Plan.

A License Agreement must be obtained from Council for the temporary occupation of the public domain.

Council will support the development and commissioning of a diverse range of artworks in public places that adds to the social, cultural, environmental and economic value of the area.

Consideration will be made to:

- Integrity of the work;
- Relevance and appropriateness of the work to the context of the site;
- Consistency with planning, heritage and environmental policies and strategies, design guidelines, plans of management and masterplans ;

- Public safety and public access;
- Sustainability and functionality;
- Sustainability of funding including ongoing maintenance;
- Maintenance and durability; and
- Non-duplication of monuments commemorating the same or similar events.

Where there is publicly accessible space, Council will encourage the provision of public art in private developments.

The commissioning of local artists will be supported and encouraged.

Where appropriate, suitable levels of community consultation will be held.

## 5. Collaboration

Council recognises that public art is most effective when it is a collaboration. Collaboration in this sense could be between artist and designer, landscape architects, architects, planners and developers, or artist and the community and other key stakeholders as appropriate (i.e. local historical societies, chambers of commerce, community based organisations, youth, multicultural and Aboriginal representatives).

The active participation of the community in the creation of public spaces can make a positive contribution to the development of public spaces, by enhancing a sense of belonging and place, and can also be a factor in the reduction of vandalism.

## 6. Implementation

Council will establish a project specific Public Art Working Group to assess and advise on public art proposals, projects and commissions (including proposed gifts, bequests, loans, memorials) in accordance with the Guidelines for Implementing Public Art, provided as Attachment A to this Policy. Public Art Working Groups will be linked to Councils Section 94 Steering Group when utilising development contributions and selected and convened by the Policy Owner (or their representative) on a project by project basis. It may consist of relevant Council staff (representing Community and Cultural Engagement, Recreation Services, Design Delivery, Strategic Asset Planning and Strategic Land Use Planning), artists and curators and other key stakeholders of the project as appropriate (i.e. Local historical societies, chambers of commerce, community based organisations, youth, multicultural and Aboriginal representatives).

All public art commissioned will be in accordance with the National Association of Visual Arts (NAVA) contract agreement guidelines.

Council will maintain a register of public art (permanent and temporary) as part of the implementation of this Policy.

## 7. Funding

Council will pursue a range of ways to build its financial base for public art so that it is viable and sustainable into the future. Sources of funding will be actively pursued including:

- Development requirements and/or conditions
- Development Contribution Plans and/or Planning Agreements
- Section 94A Development Contribution funds collected,

- 
- Commonwealth and State Government funding and grants
  - Private sector support i.e. sponsorship, donations and partnerships.

Council will also provide support through the Arts and Cultural Development Program for public artworks initiated by the community and artists.

## 8. Maintenance of Public Art

Maintenance shall be carried out in accordance with an approved Maintenance Plan.

## 9. Decommission of Public Art

Where the work has been severely damaged or has lost the original intent or relevance, or Council is redeveloping the area, Council has the right to decommission the work and make reasonable effort to contact the artist.

If Council cannot identify or locate the artist, or the artist's representative, then the Council may dispose of the public artwork as it sees fit. All decisions and actions should be fully documented. Artworks should first be offered for sale at a price based on independent valuation, first to the artist, then to other institutions or the public or at an auction. Funds from any decommissioned public artwork should be reused for new or upgraded public art within the local government area.

Objects which are destroyed should be disposed of in a responsible manner.



## Cessnock Public Art Policy

### Attachment A

### Guidelines for Implementing Public Art

#### 1 Project Description

Directorate:	
Project Title:	
Project Management Team Leader:	
Asset owner:	<i>Eventual asset owner <b>must</b> be identified at this point</i>
Public Art Project Management Team members:	
Cost Centre/Project/Task No. for procurement:	<i>The source of funds for procurement <b>must</b> be identified at this point</i>
Cost Centre/Project/Task No. for maintenance:	<i>The source of funds for on-going maintenance of the artwork <b>must</b> be identified at this point.</i>

#### 2 Project Budget

Budget:	<p><i>Budget should include the projected cost of the artwork at handover:</i></p> <ul style="list-style-type: none"> <li><i>• Procurement costs, e.g., advertising, selection, consultancies, artist(s) fees for concept design and design development);</i></li> <li><i>• Artist fees including fabrication; and,</i></li> <li><i>• Site preparation and installation.</i></li> </ul>
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### 3 Project Milestones

Provide timelines and milestones as applicable for the particular project. Attach GANTT Charts if appropriate

Community Consultation:	
Call for Tender / Invitations to Quote:	
Artist Selection:	
Developed Design:	
Construction:	
Handover:	

### 4 Site Assessment

Assessing a site for its social, cultural, historical and environmental significance can help ensure that the final artwork is site specific.

For some public art projects, the process is as important as the outcome. A community mosaic project, for example, may employ an artist who, with the community utilises the services of a local historical society or library to research historical significance of the site as part of the project itself.

For any project, however, an adequate site assessment can ensure that public art projects are relevant and appropriate for their sites, and have meaning and resonance in the community.

Location of Public Art:	
Environmental Features:	
Social Significance:	
Historical Significance:	
Cultural Significance:	
Community Stakeholders:	
Accessibility and Current Use:	
Economic and Community Impact:	

## 5 Risk Assessment

A thorough investigation into risks associated with the project in consultation with the asset owner, is necessary.

Public safety:	<i>Will the work be directly accessible to the public? What is required to ensure it does not present an unacceptable safety risk to the public?</i>
Durability:	<i>What durability factors are involved?</i>
Willful damage:	<i>What would be unsuitable materials to be used?</i>
Legal requirements:	<i>What legal requirements are involved?</i>
Other risk issues:	<i>Is the work near or on a road? Does this impact upon the design or materials used? Will young people be involved in the project?</i>

## 6 Cessnock City Council Policies and Plans

Cessnock Public Art Policy:	<i>All public art projects should be considered within the context of the Cessnock Public Art Policy. How are the principles of the Policy supported? What objectives of the Policy will be implemented?</i>
Other relevant Council Policies, Plans and Strategies:	<i>Other relevant Council Policies, Plans and Strategies eg. :</i> <ul style="list-style-type: none"> <li><i>Local planning strategy</i></li> <li><i>Economic Development Strategy</i></li> <li><i>Heritage studies</i></li> <li><i>Recreation and Open Space Strategy</i></li> <li><i>Indigenous and Youth policies, plans and/or programs</i></li> <li><i>Crime Prevention Through Environmental Design</i></li> </ul>

## 7 Type of Project

Description:	<i>Public art can include a diversity of art forms and projects could</i>
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	<p><i>provide an opportunity for a number of different types of artworks or practice including one or a combination of the following:</i></p> <ul style="list-style-type: none"> <li><i>Performing arts, visual arts, including sculpture and text-based work</i></li> <li><i>Hybrid works including multimedia</i></li> <li><i>Workshops, residencies and mentorships associated with public artwork</i></li> </ul> <p><i>For many projects it may be appropriate to attach a site map here.</i></p>
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## 8 Values Statement

The themes, values and concepts which inform the project brief:	<p><i>Drawing on information derived above, the themes, values and concepts that will inform the project brief need to be articulated.</i></p> <p><i>These will be utilised by the artists when they prepare their concept designs, and can also be used to inform public discussion of the finished artworks.</i></p> <p><i>Areas of potential risk should be identified to guide the artists.</i></p>
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## 9 Procurement Process

Procurement Process:	<p><i>When deciding on the most appropriate procurement process, the following points should be considered:</i></p> <ul style="list-style-type: none"> <li><i>Procurement Policy requirements</i></li> <li><i>Public Art Policy</i></li> <li><i>Objectives of the project</i></li> <li><i>Current and projected needs in relation to the site and the local community</i></li> <li><i>Public Art Working Group comments</i></li> <li><i>Size and budget of the project</i></li> </ul> <p><i>Council Procurement Policy explains in detail the procurement processes to be followed. Information provided here should include whether an invitation to quote or call for tender is required, and whether the process followed will have concept design and/or design development phases.</i></p>
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## 10 Additional Resources

Additional resources, expertise, consultancy needed:	<i>Individual public art projects may need additional resources, expertise and consultancies for the selection process, the procurement process, and fabrication and installation. These may include Indigenous leaders to help with consultation with aboriginal communities, people experienced in working with young people, professional curators for aesthetic issues or engineers required to assess specialist reports.</i>
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### 11 Public Art Working Group

Public Art Working Group comments attached?	<i>For larger projects, the project scope may be circulated to members of the public art working group for further comment.</i>
Yes/No	
Signature of Project Management Team Leader:	
Date:	



62-78 Vincent Street  
Cessnock, NSW  
Australia



Contact:  
tel.0249934300  
tel.0249934100



Online help:  
council@cessnock.nsw.gov.au  
<http://www.cessnock.nsw.gov.au>



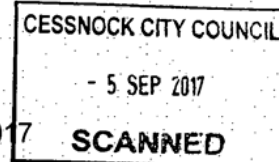
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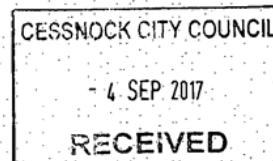
chamber of commerce



Cessnock Chamber of Commerce  
PO Box 529 Cessnock NSW 2325  
ABN 311 583 62 341



1 September 2017



The General Manager  
Cessnock City Council  
PO Box 152  
CESSNOCK NSW 2325

Dear Sir

**Draft Public Art Policy****Your Letter Dated 24<sup>th</sup> July 2017. Attention Bo Moshage. Reference: 57/2017/2**

Cessnock Chamber of Commerce would like to thank you for the opportunity to provide feedback on the Draft Public Art Policy.

It is noted that responses were required by Friday 25<sup>th</sup> August 2017, but due to our Board not meeting until 28<sup>th</sup> August 2017, we requested an extension of time until after that date via an email sent to [council@cessnock.nsw.gov.au](mailto:council@cessnock.nsw.gov.au) on 21<sup>st</sup> August 2017.

The draft Public Art Policy provides clear detail and information on the objectives, purpose, implementation, maintenance and de-commissioning of public art. The inclusion of guidelines are of benefit. Overall, Cessnock Chamber of Commerce endorses the draft policy and congratulates Council on the professional standard of the document.

Cessnock Chamber of Commerce is involved in public art through its Laneway's Project which has seen a number of laneways connecting Vincent Street to either Cumberland Street or Charlton Street car park facilities improved via art works of various types in recent years.

From the Draft Public Art Policy it can be seen that our own Laneway's Project aligns to the objectives and aims of Cessnock City Council. Although the Draft Public Art Policy relates specifically to public art which is commissioned, developed, purchased or maintained by Council, it should be noted that the Chamber works with Council in the implementation of our Lane way's Project initiatives.

Due to the involvement of Cessnock Chamber with the Laneway's Project and Towns with Hearts with the Kurri Kurri Town of Murals project, we would like to recommend that specific reference is made of the Chamber in Section 5 of the Draft Policy under the heading of "Collaboration".

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SD2017/011091 - 05/09/2017

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It is suggested that the following sentence is amended to include Chambers of Commerce in the "ie" section, so that anyone interested in implementing work under the Public Art Policy can liaise with the Chamber as part of the collaboration process:

"Collaboration in this sense could be between artist and designer, landscape architects, planners and developers, or artist and the community and other key stakeholders as appropriate (ie. Local Historical Societies, youth, multicultural, Aboriginal representatives, **Chambers of Commerce and Community Based Organisations**).

Similarly, we would like to suggest that specific reference also be made in Section 5 of the Draft Policy in the following sentence:

'It may consist of relevant Council staff (representing Strategic Land Use Planning), artists and curators and other key stakeholders of the project as appropriate (ie. Local Historical Societies, youth, multicultural, Aboriginal representatives, **Chambers of Commerce and Community Based Organisations**).

NB. It is noted that Towns with Hearts is mentioned as part of Attachment A – Guidelines for Implementing the Public Art within Section 6 covering, Cessnock City Council Policies and Plans (under "Other relevant Council Policies, Plans and Strategies).

Please contact us if you have any enquiries in regard to the feedback provided or we can be of further assistance with the Public Art Policy.

Yours faithfully



Geoff Walker  
President



199 Lang Street, [PO Box 284]

Kurri Kurri NSW 2327

Phone 02 4936 1909

Email [kurrikurritownofmurals@gmail.com](mailto:kurrikurritownofmurals@gmail.com)

**KURRI KURRI TOWN OF MURALS**  
**KURRI KURRI VISITOR INFORMATION CENTRE & GIFT GALLERY**  
**KURRI KURRI NOSTALGIA FESTIVAL**  
**TOWN OF MURALS ART SHOW**  
**[www.visitkurrikurri.com](http://www.visitkurrikurri.com)**  
**[www.kurrikurriofmuralsfestival.com.au](http://www.kurrikurriofmuralsfestival.com.au)**

23 August 2017

The General Manager  
Cessnock City Council  
PO Box 152  
CESSNOCK CITY COUNCIL

**SUBMISSION RE CESSNOCK PUBLIC ART POLICY  
FROM TOWNS WITH HEART Inc**

Towns With Heart Inc supports the rationale for the development of the draft Cessnock Public Art Policy currently on exhibition and is generally in agreement with the content of the draft Policy.

Whilst the policy excludes public art on private property and that which is privately funded, this clause does not satisfactorily address or exclude all of the public art that has been installed and is managed by Towns With Heart Inc.

For the past 15 years, Towns With Heart Inc has been responsible for the installation, management and operation of one of the most significant Public Art projects within the Cessnock LGA – the Town of Murals Project.

The Town of Murals Project involves over 60 murals throughout the Towns With Heart area – identified as Kurri Kurri and surrounding villages of Abermain, Stanford Merthyr, Weston, Heddon Greta, Pelaw Main and Neath. The murals are located primarily on privately owned buildings; with a small number of murals located on Council owned property, on public buildings and/or heritage sites.

Towns With Heart Inc has commenced a strategy of installing “Town Entry Murals” which will define the Towns With Heart area, by their location and size, being free standing murals of significant size, located on the five main entry roads to the TWH area. The existing Town Entry Mural is located on Main Road, Kurri Kurri within the road reserve and required approvals by both Cessnock City Council and RMS. The next Town Entry Mural is planned for Hart Road, Loxford.

The Town of Murals Project has been professionally managed, developed and marketed by Towns With Heart Inc. An overview of the organisation and the project is included below.

Towns With Heart Inc has also been involved in the creation of other public art projects in the Kurri Kurri area. In particular,

- the management and funding for the Big Kookaburra in Rotary Park, Kurri Kurri,
- the installation of street banners in Victoria Street, Kurri Kurri and
- the management and fundraising for the proposed Pit Horse Statue for Rotary Park, Kurri Kurri.

Towns With Heart Inc recommends that the draft Cessnock City Council Public Art Policy be amended to address and exclude all of the public art that has been installed, funded and is managed by Towns With Heart Inc, specifically:

- Existing murals located on public buildings
- Existing murals located on Council owned property
- Existing and proposed Town Entry Murals
- Existing Big Kookaburra sculpture in Rotary Park, Kurri Kurri
- Proposed Pit Horse Statue for Rotary Park, Kurri Kurri
- Existing street banners in Victoria Street, Kurri Kurri

If you would like to discuss this submission, please contact me on (02) 4936 1909.

Yours faithfully,



Lesley Morris  
Community Projects Manager  
Towns With Heart Inc



**ORGANISATION OVERVIEW –TOWNS WITH HEART INC**

Towns With Heart Inc (TWH) is a community based economic development organisation working primarily in the area of Kurri Kurri and surrounding villages of Abermain, Stanford Merthyr, Weston, Heddon Greta, Pelaw Main and Neath.

TWH was established in 2000 to address the general decline throughout the region, to create a reason for people to stop in the area and bring business to the towns.

The main activities of TWH include the Kurri Kurri Murals Project, the Kurri Kurri Nostalgia Festival, the Town of Murals Art Show and the Kurri Kurri Visitor Information Centre and Gift Gallery.

**BACKGROUND – TOWN OF MURALS PROJECT**

Kurri Kurri and the surrounding areas feature over 60 outdoor murals – magnificent public artworks that tell the story of the people, events and places that shaped the unique character, culture and heritage of the area.

The Mural Project was developed by Towns With Heart, a community group set up with the purpose of bringing new life to Kurri Kurri. In 2003, a Mural Committee was established to progress the idea of showcasing the rich and diverse history and encourage visitors to the seven towns under the umbrella of Towns With Heart. The local community, including residents, community groups and businesses, has been consulted and involved in the development of the Town of Murals Project.

**MANAGEMENT AND GOVERNANCE**

The Kurri Kurri Town of Murals Project is owned and managed by Town With Heart Inc. A subcommittee of Towns With Heart Inc oversees the day to day operations and governance of the Kurri Kurri Murals Project.

The subcommittee is responsible for:

- Management of all aspects of the Murals Project
- Seeking funding through grants, sponsorship, donations and other fundraising activities
- Liaison with the local community regarding mural content, locations and creation
- Approval of mural concepts and themes
- Selection of suitable mural locations within the Towns With Heart area
- Management of the tender process and selection of artist/s to create new murals
- Preparation, negotiation and management of legal agreements with artists and property owners
- Completion and administration of any required applications and approvals
- Marketing and promotion of the Town of Murals Project
- Maintenance and repairs work for the murals, including graffiti removal.

A group of local volunteers who are trained Mural Guides are available to conduct mural tours for visitors. Visitors are captivated and enlightened with historical information and personal stories delivered by the Mural guides. A handy map has been produced for those that wish to undertake their own exploration of the magnificent murals.



**OBJECTIVES OF THE TOWN OF MURALS PROJECT**

Towns With Heart created the Town of Murals Project with the following objectives:

- To develop a unique attraction and sustainable tourism product for the TWH area
- To increase visitation and tourism expenditure in the TWH area
- To showcase community assets and link important historical assets within the TWH area
- To build a sense of community pride and achievement in the unique character created

**MURALS CRITERIA**

A Murals Guidelines document has been prepared by Towns With Heart, which outlines the criteria for murals to be included in the Town of Murals project.

The criteria include, but are not limited to:

- Local content or theme – all of the murals contain local content, subjects or themes. There must be a clear connection to the local area, history, character, culture or heritage.
- Standard of art work – the murals present a high standard of artwork, in order to attract visitors and to provide a high quality tourism product that is engaging, informative and attractive.
- Approved draft - prior to the commencement of any work, a draft of the proposed mural must be approved by the TWH Mural Committee, sponsors and other stakeholders.
- Artist and owner agreements - The artist and the owner of the premises on which the mural is located will be required to enter into the approved TWH Agreements with Towns With Heart.
- Inclusion of kookaburra - all murals in the Kurri Kurri Murals Project must include a kookaburra.
- Ownership of the Town of Murals project - TWH retains the ownership of the Kurri Kurri Murals Project and responsibility for the day to day operations of the project, including management, promotion, marketing, maintenance and repairs.

**TOWN ENTRY MURAL CONCEPT**

The concept behind the Town Entry Murals is to develop and enhance the Murals Project – they are not meant to be directional or welcome signs. The Town Entry Murals will be significant installations, expanding the array of existing public art in the Towns With Heart area.

It is important that the murals project continue to develop and grow in order to ensure that new visitors are attracted and previous visitors return to view the new murals and additional attractions. Therefore, we are always looking for new opportunities, sites and ideas for murals to add to the murals project.

The Town Entry Murals will define the Towns With Heart area, by their location and size, being free standing murals of significant size, located on the five main entry roads to the TWH area.

As a permanent promotion of the murals project, they will encourage visitation - generating income to local businesses and organisations. It is expected that they will assist to drive an increase in tourism expenditure in the Towns With Heart area, and will also assist creating employment opportunities and encouraging local investment.



23 October 2017

General Manager  
Cessnock City Council  
PO Box 152  
Cessnock NSW 2325

Dear Stephen Glen,

**LWP CONSENT TO HUNTLEE DCP INTEGRATION INTO CESSNOCK DCP**

Huntlee Pty Ltd has worked closely with Cessnock Council staff members Iain Rush and Wonona Fuzzard to integrate the Huntlee DCP into the Cessnock DCP.

During the consultation process it became apparent that a number of inconsistencies and duplications could be corrected and the document has been updated accordingly. Huntlee and the Cessnock Building department have reviewed the document and are pleased with the final product and look forward to its implementation.

If you require anything further please do not hesitate to email or contact Huntlee on (02) 4938 3910.

Yours sincerely

**Joanna Stuart**

Huntlee Building Coordinator

Huntlee Pty Ltd | ABN: 73 143 744 745  
1 Triton Boulevard, Branxton NSW 2335  
T: 02 4938 3910 | E: [huntlee@lwpproperty.com.au](mailto:huntlee@lwpproperty.com.au)  
LWP Property Group Pty Ltd | ABN: 49 089 040 488  
[www.huntlee.com.au](http://www.huntlee.com.au) | [www.lwppropertygroup.com.au](http://www.lwppropertygroup.com.au)

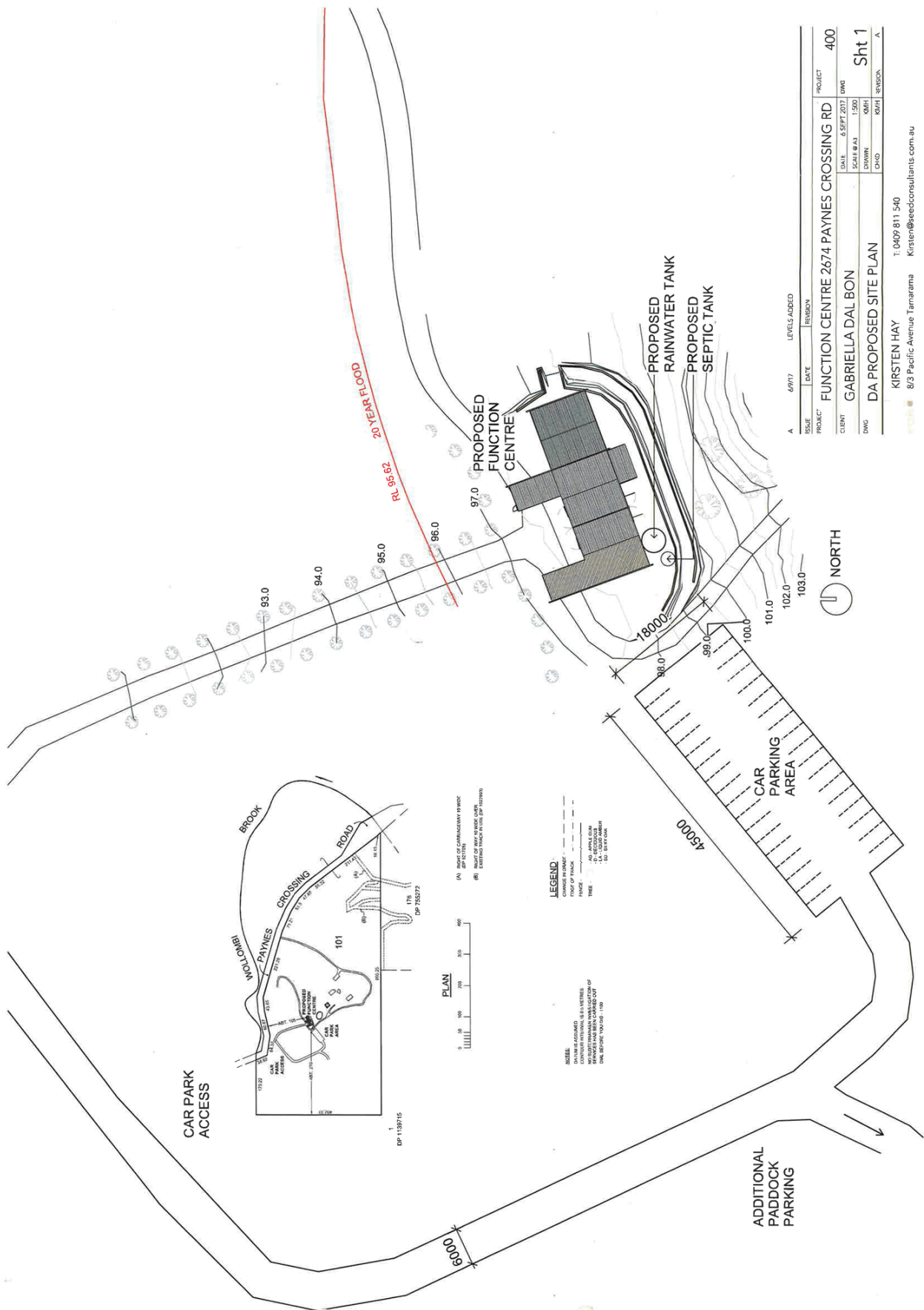


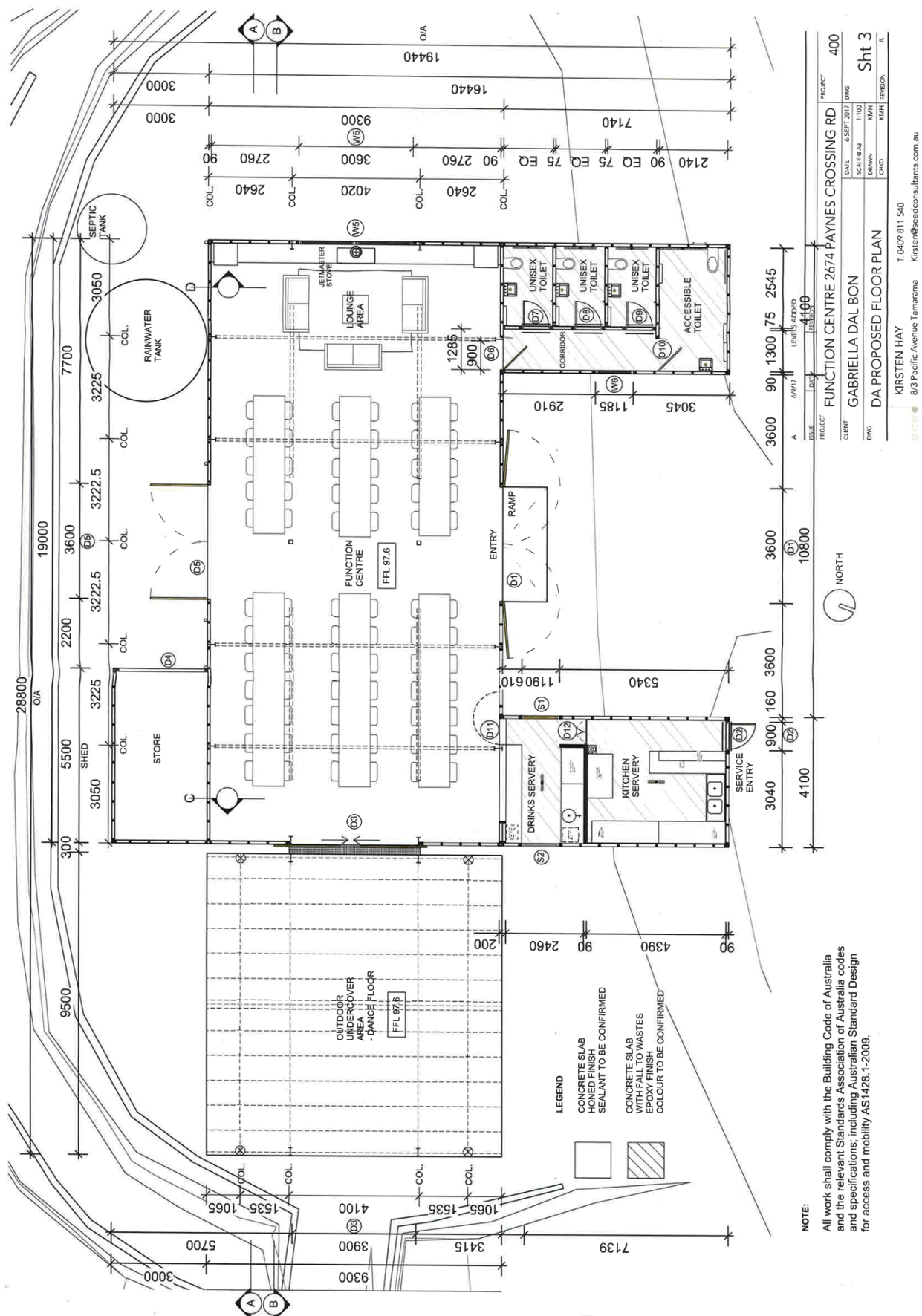
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Planning and Environment No. PE63/2017.DOC

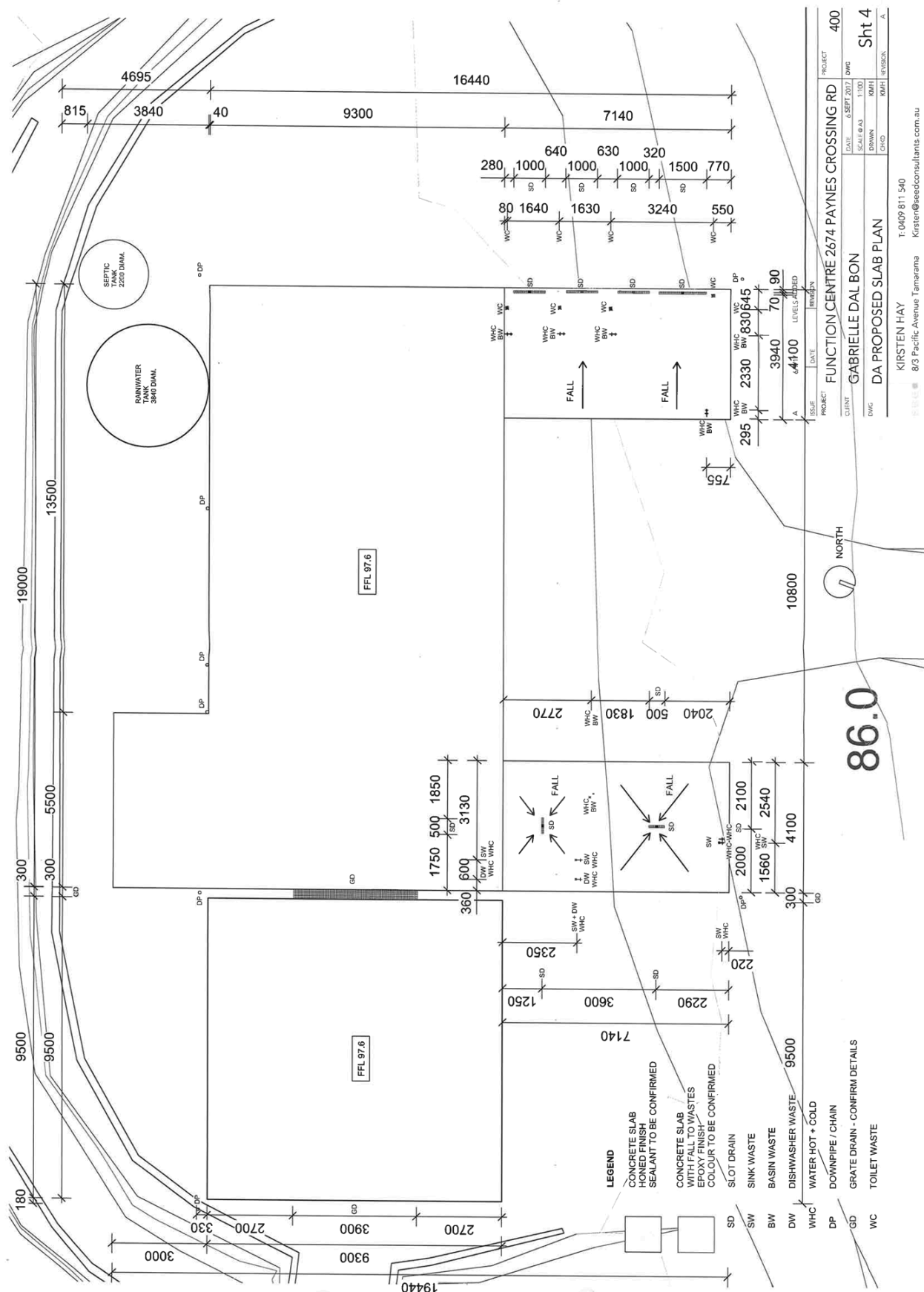
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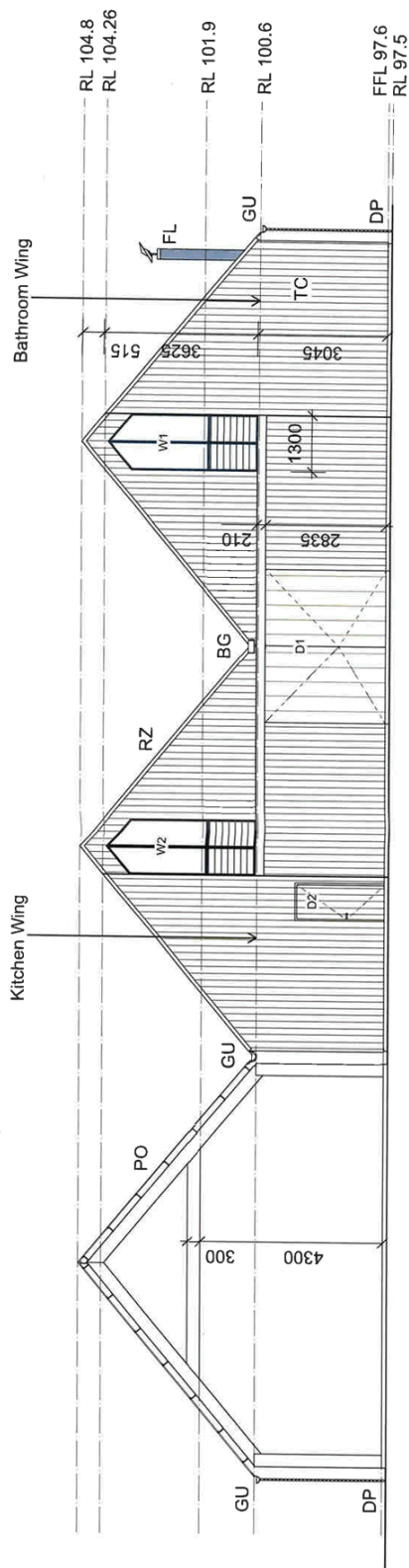




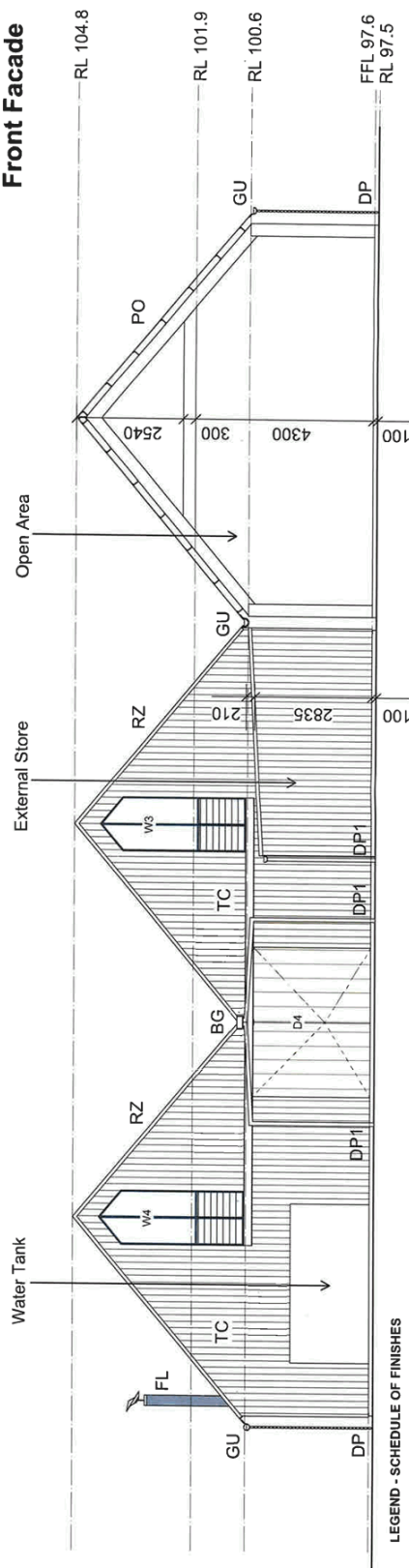




2674 Paynes Crossing Road, Wollombi



North Elevation  
Front Facade

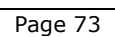


South Elevation  
Rear Facade

- LEGEND - SCHEDULE OF FINISHES**
- RZ ZINCALUME ROOFING - CUSTOM ORB PROFILE 40 DEGREE PITCH
  - TC TIMBER CLADDING - VERTICAL HARDWOOD
  - PO POLYCARBONATE ROOFING - SEE ENGINEER'S DETAILS
  - GU GUTTER HALF ROUND ZINCALUME
  - BG BOX GUTTER ZINCALUME
  - DP GALVANISED CHAIN USED INSTEAD OF DOWNPIPE
  - DP1 ZINCALUME GUTTER
  - FL JETMASTER FLU + COWEL

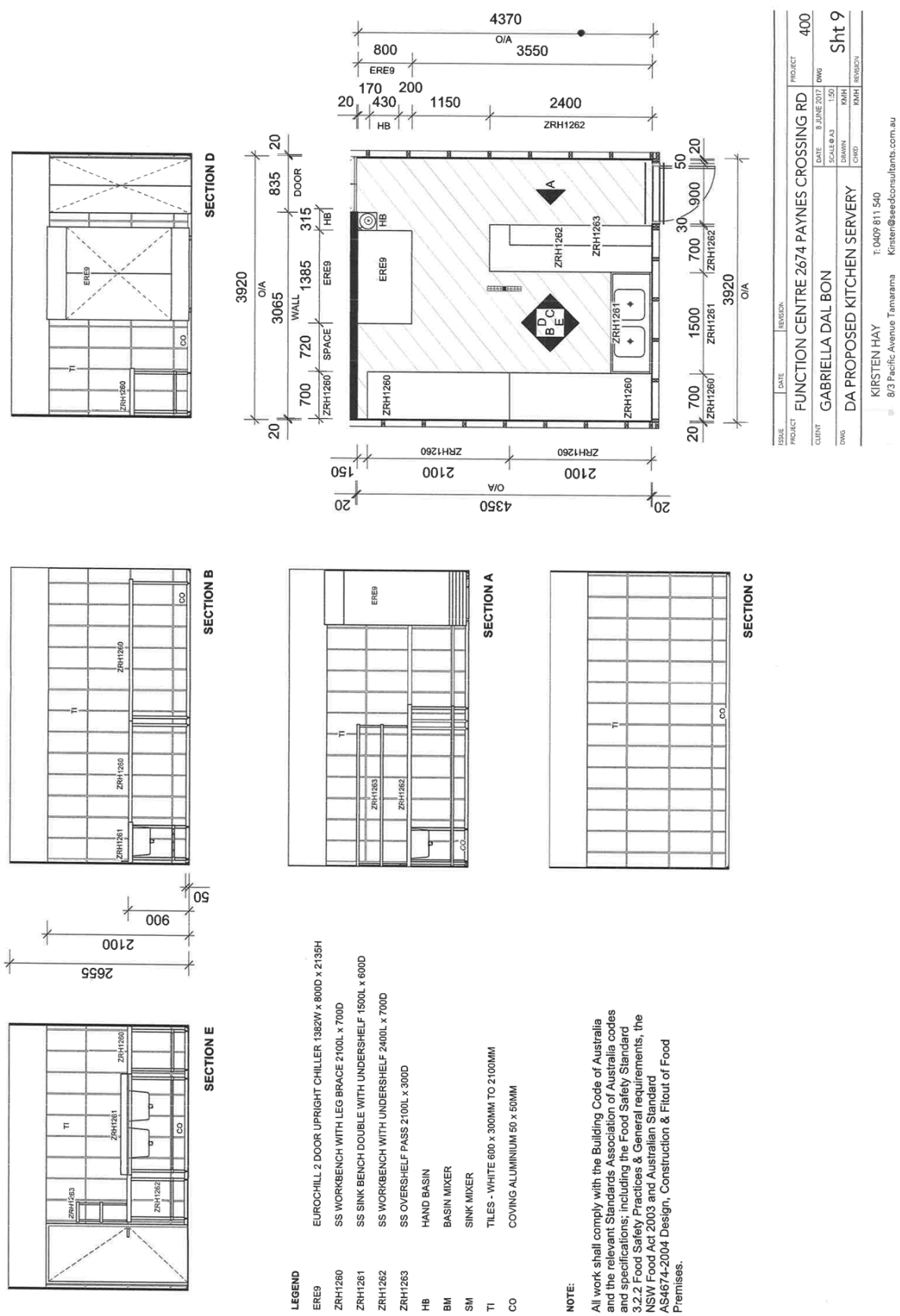
ISSUE	DATE	REVISION	PROJECT
PROJ/EC			FUNCTION CENTRE 2674 PAYNES CROSSING RD
CLIENT			GABRIELLA DAL BON
DWG			DA NORTH + SOUTH ELEVATIONS
			Sht 6

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# The Model Code of Conduct

for Local Councils  
in NSW

October 2017



**CONSULTATION DRAFT**

# CONSULTATION DRAFT

## THE MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW

October 2017

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# Part 1:

## Introduction

*This Model Code of Conduct for Local Councils in NSW* (“the Model Code of Conduct”) is made under section 440 of the *Local Government Act 1993* (“LGA”) and the *Local Government (General) Regulation 2005* (“the Regulation”).

Section 440 of the LGA requires every council to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A council’s adopted code of conduct may include provisions that supplement the Model Code of Conduct.

A council’s adopted code of conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, a council’s adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.



## Part 2:

# Definitions

**In the Model Code of Conduct the following definitions apply:**

LGA	the <i>Local Government Act 1993</i>
act of disorder	see the definition in clause 256 of the Local Government (General) Regulation 2005
administrator	an administrator of a council appointed under the Act other than an administrator appointed under section 66
Chief Executive	Chief Executive of the Office of Local Government
<b>Code</b>	<b>means the Model Code of Conduct for Local Councils in NSW</b>
committee	a council committee
conflict of interest	a conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
council committee	a committee established by resolution of council <b>other than a wholly advisory committee</b>
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee <b>other than a wholly advisory committee</b>
council official	includes councillors, members of staff of council, administrators, council committee members, delegates of council <b>and, for the purposes of clause 4.16, council advisers</b>
councillor	any person elected or appointed to civic office, including the mayor
<b>conduct</b>	<b>includes acts and omissions</b>
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	<b>a person referred to in clause 4.8</b>
election campaign	includes council, state and federal election campaigns
<b>environmental planning instrument</b>	<b>has the same meaning as in the <i>Environmental Planning and Assessment Act 1979</i></b>

**Office**

personal information

**Office of Local Government**

information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion

**the Procedures**

**The Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation**

the Regulation

the Local Government (General) Regulation 2005

The term “you” used in the Model Code of Conduct refers to council officials.

The phrase “this code” used in the Model Code of Conduct refers also to the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Local Government (General) Regulation 2005.



# Part 3:

## General Conduct

### Obligations



## General conduct

- 3.1 You must not conduct yourself in carrying out your functions in a manner that:
- a) is likely to bring the council or other council officials into disrepute
  - b) is contrary to statutory requirements or the council's administrative requirements or policies
  - c) is improper or unethical
  - d) is an abuse of power
  - e) causes, comprises or involves intimidation or verbal abuse
  - f) involves the misuse of your position to obtain a personal benefit
  - g) constitutes harassment or bullying behaviour under this code, or is improperly discriminatory.
- 3.2 You must act lawfully and honestly, and exercise a reasonable degree of care and diligence in carrying out your functions under the LGA or any other Act. (section 439).

## Fairness and equity

- 3.3 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.
- 3.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.3 or 3.4.

## Harassment and discrimination

- 3.6 You must not harass or improperly discriminate against others, and you must not support anyone who harasses or improperly discriminates against others. This includes, but is not limited to, harassment or discrimination on the grounds of sex, pregnancy, age, race, marital status, disability, sexuality, political or other affiliation. It also includes discrimination against those who are carers, those who identify as transgender persons, and those who have infectious diseases.
- 3.7 For the purposes of this code, "harassment" is any form of behaviour towards a person that is:
- a) not wanted by the person
  - b) offends, humiliates or intimidates the person, and
  - c) creates a hostile environment.

## Bullying

- 3.8 You must not engage in bullying behaviour towards another council official.
- 3.9 For the purposes of this code, "bullying behaviour" is any behaviour in which:
- a) a person or a group of people repeatedly behaves unreasonably towards another council official or a group of council officials and
  - b) the behaviour creates a risk to health and safety.
- 3.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive or intimidating conduct
  - b) belittling or humiliating comments

- c) spreading malicious rumours
- d) teasing, practical jokes or 'initiation ceremonies'
- e) exclusion from work-related events
- f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- g) displaying offensive material
- h) pressure to behave in an inappropriate manner.

3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:

- a) performance management processes
- b) disciplinary action for misconduct
- c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
- d) directing a worker to perform duties in keeping with their job
- e) maintaining reasonable workplace goals and standards.

## Work health and safety

3.12 All council officials, including councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WH&S Act). You must comply with your duties under the WH&S Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:

- a) take reasonable care for your own health and safety

- b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
- c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WH&S Act and any policies or procedures adopted by the council to ensure workplace health and safety
- d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that you have been notified of
- e) report accidents, incidents, near misses, to the general manager and take part in any incident investigations.

## Land use planning, development assessment and other regulatory functions

3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.

3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

3.15 You must keep a written record of all meetings and other communications with applicants or objectors to planning

**applications. Councillors must disclose in writing any meetings and other communications with applicants or objectors to a planning application at a council or committee meeting where the planning application is under consideration.**

**3.16 For the purposes of clause 3.15, a “planning application” is:**

- a) an application for development consent, or for the modification of a development consent, or**
- b) an application for a complying development certificate, or an application for the modification of a complying development certificate, or**
- c) a formal request to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site.**

## **Binding caucus votes**

**3.17 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.**

**3.18 For the purposes of clause 3.17, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee, irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.**

**3.19 Clause 3.17 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting, or from voluntarily holding a shared view with other councillors on the merits of a matter.**

**3.20 Clause 3.17 does not apply to a decision to elect the mayor or deputy mayor, or to nominate a person to be a member of a council committee or a representative of the council on an external body.**

## **Obligations in relation to meetings**

**3.21 You must comply with rulings by the chair at council and committee meetings or other proceedings of the council.**

**3.22 You must not harass the chair, other council officials or any members of the public present during council or committee meetings or other proceedings of the council.**

**3.23 You must not engage in conduct that disrupts council or committee meetings or other proceedings of the council, or that would otherwise be inconsistent with the orderly conduct of meetings.**

**3.24 If you are a councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the council, or of a committee of the council. Without limiting this clause, you must not:**

- a) leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or**
- b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or**
- c) submit a large number of notices of motion, questions with notice or other business for consideration at a meeting of the council or a committee for the purposes of impeding the consideration of other business in the agenda for the meeting.**

## Part 4:

## Pecuniary Interests

## What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- (a) your interest, or
  - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
  - (c) a company or other body of which you, or your nominee, partner or employer, is a member.
- 4.4 For the purposes of clause 4.3:
- (a) Your “relative” is any of the following:
    - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - ii) your spouse’s or de facto partner’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
  - (b) “de facto partner” has the same meaning as defined in section 21C of the *Interpretation Act 1987*.

- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
- (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
  - (b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
  - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

## What interests do not have to be disclosed?

- 4.6 You do not have to disclose the following interests for the purposes of this Part:
- (a) your interest as an elector
  - (b) your interest as a ratepayer or person liable to pay a charge
  - (c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this code
  - (d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this code



- (e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
  - (f) if you are a council committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the council committee
  - (g) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
  - (h) an interest you have arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
  - (i) an interest you have arising from the making by the council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
    - i) the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
    - ii) security for damage to footpaths or roads
    - iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council, or by or under any contract
  - (j) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor)
  - (k) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252 of the LGA,
  - (l) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor
  - (m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
  - (n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member
  - (o) an interest arising from the appointment of a councillor to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.
- 4.7 For the purposes of clause 4.6, “relative” has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

## What disclosures must be made by a designated person?

### 4.8 Designated persons include:

- (a) the general manager
- (b) other senior staff of the council for the purposes of section 332 of the LGA
- (c) a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
- (d) a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

### 4.9 A designated person:

- (a) must prepare and submit written returns of interests in accordance with clauses 4.21, and
- (b) must disclose pecuniary interests in accordance with clause 4.10.

4.10 A designated person must as soon as practicable disclose in writing to the general manager (or if the person is the general manager, to the council) the nature of any pecuniary interest the person has in any council matter with which the person is dealing.

4.11 Clause 4.10 does not require a designated person who is a member of staff of the council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to his or her other conditions of employment.

4.12 The general manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.

4.13 A disclosure by the general manager must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and the council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

## What disclosures must be made by council staff other than designated persons?

4.14 A member of staff of council, other than a designated person, must disclose in writing to their supervisor or the general manager the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable.

4.15 The staff member's supervisor or the general manager must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

## What disclosures must be made by council advisers?

- 4.16 A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee, must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser.
- 4.17 A person does not breach clause 4.16 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

## What disclosures must be made by a council committee member?

- 4.18 A council committee member must disclose pecuniary interests in accordance with clause 4.29 and comply with clause 4.30.
- 4.19 For the purposes of clause 4.18, a "council committee member" includes a member of staff of council.

## What disclosures must be made by a councillor?

- 4.20 A councillor:
- (a) must prepare and submit written returns of interests in accordance with clause 4.21, and

- (b) must disclose pecuniary interests in accordance with clause 4.29 and comply with clause 4.30.

## Disclosure of interests in written returns

- 4.21 A councillor or designated person must make and lodge with the general manager a return in the form set out in schedule 2 to this code, disclosing the councillor's or designated person's interests as specified in schedule 1 to this code within 3 months after:
- (a) becoming a councillor or designated person, and
  - (b) 30 June of each year, and
  - (c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).
- 4.22 A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:
- (a) they made and lodged a return under that clause in the preceding 3 months, or
  - (b) they have ceased to be a councillor or designated person in the preceding 3 months.
- 4.23 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.24 The general manager must keep a register of returns required to be made and lodged with the general manager.

- 4.25 Returns required to be lodged with the general manager under clause 4.21(a) and (b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 4.26 Returns required to be lodged with the general manager under clause 4.21(c) must be tabled at a council meeting as soon as practicable after the return is lodged.
- 4.27 The general manager must cause the information contained in returns made and lodged by councillors and the general manager under clause 4.21, other than information disclosing the address of the councillor's or general manager's principal place of residence, to be published on the council's website as soon as practicable after the returns are lodged. The general manager must cause the information published on the council's website to be kept up to date.
- 4.28 Information contained in returns made and lodged by designated persons other than the general manager is not to be publicly disclosed (including in the tabling of the returns under clauses 4.25 and 4.26) unless the council decides to grant access to the information in response to an access request made under the *Government Information (Public Access) Act 2009*.
- 4.30 The councillor or council committee member must not be present at, or in sight of, the meeting of the council or committee:
- (a) at any time during which the matter is being considered or discussed by the council or committee, or
  - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- 4.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:
- (a) a member of, or in the employment of, a specified company or other body, or
  - (b) a partner of, or in the employment of, a specified person.
- Such a notice is, unless and until the notice is withdrawn, sufficient disclosure of the councillor's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.

## Disclosure of pecuniary interests at meetings

- 4.29 A councillor or a council committee member who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.33 A councillor or a council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or council committee member has an interest in the matter of a kind referred to in clause 4.6.



- 4.34 A person does not breach clauses 4.29 or 4.30 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.
- 4.35 Despite clause 4.30, a councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.30 does not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- (a) the matter is a proposal relating to:
    - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
    - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
  - (b) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
  - (c) the councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.
- 4.37 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:
- (a) be in the form set out in schedule 3 of this code and contain the information required by that form, and
  - (b) be laid on the table at a meeting of the council as soon as practicable after the disclosure is made, and a copy of the special disclosure is to be recorded in the minutes of the meeting.
- 4.38 The *Minister for Local Government* may, conditionally or unconditionally, allow a councillor or a council committee member who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the *Minister* is of the opinion:
- (a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
  - (b) that it is in the interests of the electors for the area to do so.





## Part 5:

# Non-pecuniary Conflicts of Interest

## What is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests a council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 **A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.**
- 5.3 **Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in favour of your public duty.**
- 5.4 **When considering whether or not you have a non-pecuniary conflict of interest, it is always important to think about how others would view your situation.**
- 5.5 **The political views of a councillor do not constitute a private interest for the purposes of clause 5.2.**

## Managing non-pecuniary conflicts of interest

- 5.6 **Where you have a non-pecuniary conflict of interest for the purposes of clause 5.2, you must disclose the relevant private interest fully and in writing as soon as practicable.**

- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant **where it does not involve a pecuniary interest for the purposes of clause 4.1**, but it involves:
- a) **a relationship between a council official and another person that is particularly close, for example, a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household**
  - b) **other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship**
  - c) **an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong, including, but not limited to, active participation in its management or administration and other activities**
  - d) **a financial interest that is not a pecuniary interest for the purposes of clause 4.1.**
  - e) **the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.**

5.10 If you have a significant non-pecuniary conflict of interest, you must manage it in one of two ways:

- a) by removing yourself from consideration of the matter in which you have a significant non-pecuniary conflict of interest and arranging to have your duties in relation to the matter allocated to another person, or
- b) if the significant non-pecuniary conflict of interest arises in relation to a matter you are required to consider at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.29 and 4.30.

5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.

5.12 If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with your manager.

5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.

## Political donations

5.14 Councillors should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.

5.15 Where a councillor has received or knowingly benefitted from a reportable political donation:

- a) made by a major political donor in the previous four years, and
- b) where the major political donor has a matter before council,

the councillor must declare a non-pecuniary conflict of interest, disclose the nature of the interest, and **manage the conflict of interest as if they had a pecuniary interest in the matter by complying with clauses 4.29 and 4.30.**

5.16 For the purposes of this Part:

- a) a "reportable political donation" is a "reportable political donation" for the purposes of section 86 of the *Election Funding, Expenditure and Disclosures Act 1981*
- b) a "major political donor" is a "major political donor" for the purposes of section 84 of the *Election Funding, Expenditure and Disclosures Act 1981*.

5.17 Councillors should note that political donations below \$1000, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant **for the purposes of clause 5.9** and take the appropriate action to manage them.

5.18 If a councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 5.15, that councillor is not prevented from participating in a decision **to delegate consideration of the matter in question to another person** (see clause 5.13 above).

## Loss of quorum as a result of compliance with this Part

- 5.19 Where a majority of councillors is precluded from consideration of a matter **by compliance with a requirement under this Part**, the council or committee must resolve to delegate consideration of the matter in question to another person.
- 5.20 Where a majority of councillors is precluded under this Part from consideration of a matter, and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the LGA, the councillors may apply in writing to the Chief Executive to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interest.
- 5.21 The Chief Executive will only exempt a councillor from complying with a requirement under this Part where:
- a) compliance by councillors with a requirement under the Part in relation to a matter will result in the loss of a quorum, and
  - b) the matter relates to the exercise of a function of the council that may not be delegated under section 377 of the Act.
- 5.22 Where the Chief Executive exempts a councillor from complying with a requirement under this Part, the councillor must still disclose any interests they have in the matter the exemption applies to, in accordance with **clause 5.6**.
- 5.23 A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary

conflict of interest in the matter is permitted to participate in consideration of the matter if:

- a) the matter is a proposal relating to
  - i) the making of a principal environmental planning instrument applying to the whole or a significant **portion** of the council's area, or
  - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant **portion** of the council's area, and
- b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person's principal place of residence, and
- c) the councillor **discloses** the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part **in accordance with clause 5.6**.

## Other business or employment

- 5.24 **The general manager must not engage, for remuneration, in private employment or contract work outside the service of the council without the approval of the council.**
- 5.25 **A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the council that relates to the business of the council or that might conflict with the staff member's council duties unless he or she has notified the general manager in writing of the employment or work.**

5.26 The general manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment or contract work outside the service of the council that relates to the business of the council, or that might conflict with the member's council duties.

5.27 A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the council if prohibited from doing so.

5.28 Members of staff must ensure that any outside employment or business they engage in will not:

- a) conflict with their official duties
- b) involve using confidential information or council resources obtained through their work with the council
- c) require them to work while on council duty
- d) discredit or disadvantage the council
- e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

way other members of the community deal with the council. In particular, you must not:

- a) access council information for personal purposes
- b) undertake personal dealings with the council during work time, or
- c) approach council staff in staff only areas to discuss your personal dealings with the council.

You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this code.

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## Personal dealings with council

5.29 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a **development** consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

5.30 You must undertake any personal dealings you have with the council in a manner that is consistent with the





## Part 6:

## Personal Benefit

For the purposes of this section, a reference to a gift or benefit does not include a political donation **for the purposes of the *Election Funding, Expenditure and Disclosures Act 1981***.

## Gifts and benefits

- 6.1 You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.
- 6.2 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members include parents, **spouses or de facto partners**, children and siblings.

## How are offers of gifts and benefits to be dealt with?

- 6.3 You must not:
- a) seek or accept a bribe or other improper inducement
  - b) seek gifts or benefits of any kind
  - c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
  - d) **accept any gift or benefit of value**
  - e) accept an offer of cash or a cash-like gift, regardless of the amount
  - f) **participate in competitions for prizes where eligibility is based on the council being in a customer-supplier relationship with the competition organiser**

- g) **personally benefit from reward points programs when purchasing on behalf of the council.**

- 6.4 Where you are offered or receive a gift or benefit, you must disclose this promptly to your supervisor or the general manager in writing. The recipient, supervisor, or general manager must ensure that, at a minimum, the following details are recorded in the council's gift register:

- a) **whether the gift was accepted or refused**
- b) **the nature of the gift**
- c) **the estimated monetary value of the gift**
- d) **the name of the person who offered the gift, and**
- e) **the date on which the gift was offered or received.**

- 6.5 Where you receive a gift or benefit of value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

## Token gifts and benefits

- 6.6 Generally speaking, token gifts and benefits include:
- a) **one or more gifts or benefits received from a person over a 12-month period that do not exceed a cumulative value of \$50.**
  - b) free or subsidised meals, beverages or refreshments provided in conjunction with:
    - i) the discussion of official business
    - ii) council work-related events such as **council-sponsored events**, training, education sessions or workshops

- iii) conferences
- iv) council functions or events
- v) social functions organised by groups, such as council committees and community organisations
- c) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$50
- d) gifts of single bottles of alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address) that do not exceed a value of \$50
- e) ties, scarves, coasters, tie pins, diaries, chocolates or flowers
- f) prizes that do not exceed \$50 in value.

## Gifts and benefits of value

- 6.7** Gifts or benefits that exceed \$50 in value are to be treated as gifts or benefits of value and must not be accepted.
- 6.8** Where you have accepted a token gift or benefit from a person, you must not accept a further gift or benefit from the same person or another person associated with that person within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or a person associated with that person, during the same 12-month period would exceed \$50 in value.
- 6.9** Gifts and benefits of value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting

codes with a ticket value that exceeds \$50, corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, the use of holiday homes, free or discounted travel.)

- 6.10** Clause 6.9 does not apply to events that have been organised or sponsored by the council, where the person is required to attend the event for the purposes of performing their official functions.
- 6.11** For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

## “Cash-like gifts”

- 6.12** For the purposes of clause 6.3(e), “cash-like gifts” include but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.

## Improper and undue influence

- 6.13** You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials **through the proper exercise of their role as prescribed under the LGA.**
- 6.14** You must not take advantage (or seek to take advantage) of your status or position with council, or of functions you perform for council, in order to obtain a private benefit for yourself or for any other person or body.



## Part 7:

# Relationships Between Council Officials

## Obligations of councillors and administrators

- 7.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. **Under section 223 of the LGA, the role of the governing body of the council includes the development and endorsement of the strategic plans, programs, strategies and policies of the council, including those relating to workforce policy.**
- 7.2 Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager in the performance of the council's functions by way of council or committee resolution, or by the mayor or administrator exercising their power under section 226 of the **LGA (section 352)**
  - b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the staff member or delegate
  - c) contact a member of the staff of the council on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
  - d) contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the mayor or administrator exercising their power under section 226 of the **LGA. Councillors may contact the council's external auditor or the chair of the council's audit risk and improvement committee to provide information reasonably**

necessary for the external auditor or audit, risk and improvement committee to effectively perform their functions.

## Obligations of staff

- 7.3 Under section 335 of the LGA, the role of the general manager includes conducting the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council, implementing without undue delay, lawful decisions of the council and ensuring that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 7.4 Members of staff of council must:
- a) give their attention to the business of the council while on duty
  - b) ensure that their work is carried out efficiently, economically and effectively
  - c) carry out lawful directions given by any person having authority to give such directions
  - d) give effect to the lawful decisions, policies and procedures of the council, whether or not the staff member agrees with or approves of them
  - e) ensure that any participation in political activities outside the service of the council does not conflict with the performance of their official duties.

## Inappropriate interactions

- 7.5 You must not engage in any of the following inappropriate interactions:



- a) councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters **including but not limited to industrial relations matters such as grievances, workplace investigations and disciplinary matters**
- b) council staff approaching councillors and administrators to discuss individual or operational staff matters **including but not limited to industrial relations matters such as grievances, workplace investigations and disciplinary matters**
- c) **subject to clause 8.6**, council staff refusing to give information that is available to other councillors to a particular councillor
- d) councillors and administrators who have lodged a development application with council, discussing the matter with council staff in staff-only areas of the council
- e) councillors and administrators being overbearing or threatening to council staff
- f) councillors and administrators making personal attacks on council staff in public forums **including social media**
- g) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
- h) council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- i) council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals
- j) councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the mayor or administrator, unless they are exercising their **functions** under section 226 of the **LGA**.



## Part 8:

# Access To Information and Council Resources

## Councillor and administrator access to information

- 8.1 The general manager is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The general manager and public officer are also responsible for ensuring that members of the public can access publicly available council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 8.2 The general manager must provide councillors and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable **them to exercise their official functions** and in accordance with council procedures.
- 8.4 Members of staff of council who provide any information to a particular councillor in the performance of their **official functions** must also make it available to any other councillor who requests it and in accordance with council procedures.
- 8.5 Councillors and administrators who have **a private interest only in council information** have the same rights of access as any member of the public.
- 8.6 Notwithstanding clause 8.4, councillors who are precluded from participating in the consideration of a matter under this code because they have a pecuniary or significant non-pecuniary conflict of interest in the matter, are not entitled to access to council information in relation to the matter unless the information is otherwise available to members of the

public, or the council has determined to make the information available under the GIPA Act.

## Councillors and administrators to properly examine and consider information

- 8.7 Councillors and administrators must ensure that they comply with their duty under section 439 of the LGA to act honestly and exercise a reasonable degree of care and diligence by properly examining and considering all the information provided to them relating to matters that they are required to make a decision on.

## Refusal of access to documents

- 8.8 Where the general manager or public officer determine to refuse access to a document sought by a councillor or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the councillor or administrator to perform their **official functions** (see clause 8.2). The general manager or public officer must state the reasons for the decision if access is refused.

## Use of certain council information

- 8.9 In regard to information obtained in your capacity as a council official, you must:
- only access council information needed for council business
  - not use that council information for private purposes

- c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your office or position with council
- d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

## Use and security of confidential information

- 8.10 You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.
- 8.11 In addition to your general obligations relating to the use of council information, you must:
  - a) **only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions**
  - b) protect confidential information
  - c) only release confidential information if you have authority to do so
  - d) only use confidential information for the purpose for which it is intended to be used
  - e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
  - f) not use confidential information with the intention to cause harm or detriment to the council or any other person or body

- g) **not disclose any information discussed during a confidential session of a council or committee meeting or any other confidential forum.**

## Personal information

- 8.12 When dealing with personal information you must comply with:
  - a) the *Privacy and Personal Information Protection Act 1998*
  - b) the *Health Records and Information Privacy Act 2002*
  - c) the Information Protection Principles and Health Privacy Principles
  - d) the council's privacy management plan
  - e) the Privacy Code of Practice for Local Government

## Use of council resources

- 8.13 You must use council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.
- 8.14 Union delegates and consultative committee members may have reasonable access to council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:
  - a) the representation of members with respect to disciplinary matters
  - b) the representation of employees with respect to grievances and disputes
  - c) functions associated with the role of the local consultative committee.

- 8.15 You must be scrupulous in your use of council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.
- 8.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 8.17 You must not use council resources, property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 8.18 You must not use the council letterhead, council crests or other information that could give the appearance it is official council material for:
- a) the purpose of assisting your election campaign or the election campaign of others, or
  - b) for other non-official purposes.
- 8.19 You must not convert any property of the council to your own use unless properly authorised.
- 8.21 You must not use social media to post comments, photos, sound recordings or other information that:
- a) compromises your capacity to perform your official duties in an unbiased manner
  - b) has the potential to have a negative impact on your working relationships within the council or with external parties
  - c) is offensive, humiliating, threatening or intimidating to other council officials or those that deal with the council
  - d) has the capacity to damage the council's reputation or contains content about the council that may be misleading or deceptive
  - e) divulges confidential council information
  - f) breaches the privacy of other council officials or those that deal with council
  - g) contains allegations of suspected breaches of this code or information about the consideration of a matter under this code, or
  - h) could be perceived to be an official comment on behalf of the council where you have not been authorised to make such comment.

## Internet access and use of social media

- 8.20 You must not use council's computer resources **or other mobile devices** to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, **or that could otherwise lead to criminal penalty or civil liability and/or damage the council's reputation.**



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## Council record keeping

- 8.22 All information received in your official capacity is a council record and must be managed in accordance with the council's approved record management practices and policies.
- 8.23 All information stored in either soft or hard copy on council supplied resources is deemed to be related to the business of the council and can be used by the council as a council record regardless of whether the original intention was to create the information for personal purposes.

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## Councillor access to council buildings

- 8.24 Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.
- 8.25 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or delegate) or as provided in the procedures governing the interaction of councillors and council staff.
- 8.26 Councillors and administrators must ensure that when they are within a staff area **they refrain from conduct that could be perceived to** improperly influence council staff decisions.



## Part 9:

# Maintaining the Integrity of This Code

- 9.1 You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this code or its administration.

## Complaints made for an improper purpose

- 9.2 You must not make a complaint or cause a complaint to be made under this code for an improper purpose.
- 9.3 For the purposes of clause 9.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to intimidate or harass another council official
  - b) to damage another council official's reputation
  - c) to obtain a political advantage
  - d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
  - e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
  - f) to avoid disciplinary action under this code
  - g) to take reprisal action against a person for making a complaint under this code
  - h) to take reprisal action against a person for exercising a function prescribed under the Procedures for the administration of this code
  - i) to prevent or disrupt the effective administration of this code.

## Detrimental action

- 9.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this code.
- 9.5 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this code.
- 9.6 For the purposes of clauses 9.4 and 9.5, a detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
  - b) intimidation or harassment
  - c) discrimination, disadvantage or adverse treatment in relation to employment
  - d) dismissal from, or prejudice in, employment
  - e) disciplinary proceedings.

## Compliance with requirements under this code

- 9.7 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.
- 9.8 You must comply with a reasonable and lawful request made by a person exercising a function under **the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.**
- 9.9 You must comply with a practice ruling made by the **Office**.

- 9.10 Where you are a councillor or the general manager, you must comply with any council resolution requiring you to take action as a result of a breach of this code.

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## Disclosure of information about the consideration of a matter under this code

- 9.11 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 9.12 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 9.13 You must not make allegations about, or disclose information about, suspected breaches of this code at council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.
- 9.14 You must not disclose information about a complaint you have made under this code or a matter being considered under this code except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.

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## Complaints alleging a breach of this part

- 9.15 Complaints alleging a breach of this Part by a councillor, the general manager or an administrator **are to be managed by the Office. The Office may delegate the consideration of an alleged breach of this Part to the general manager, the mayor or to another person.**
- 9.16 Complaints alleging a breach of this Part by other council officials **are to be managed** by the general manager.





# Schedule 1:

## Disclosures of Interest

## Part 1: Preliminary

### Definitions

1. For the purposes of the schedules to this code, the following definitions apply:

**address** means:

- a) in relation to a person other than a corporation, the last residential or business address of the person known to the councillor or designated person disclosing the address, or
- b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or

- c) in relation to any real property, the street address of the property.

**de facto partner** has the same meaning as defined in section 21C of the *Interpretation Act 1987*.

**disposition of property** means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:

- a) the allotment of shares in a company
- b) the creation of a trust in respect of property
- c) the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property
- d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property

- e) the exercise by a person of a general power of appointment over property in favour of another person

- f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

**gift** means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate consideration, in money or money's worth passing from the person to whom the disposition was made to the person who made the disposition, but does not include a financial or other contribution to travel.

**interest** means:

- a) in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or
- b) in relation to a corporation, a relevant interest (within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth) in securities issued or made available by the corporation.

**listed company** means a company that is listed within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth.

**occupation** includes trade, profession and vocation.

**professional or business association** means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

**property** includes money.

**return date** means:

- a) in the case of a return made under clause 4.21(a), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause 4.21(b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.21(c), the date on which the councillor or designated person became aware of the interest to be disclosed.

**relative** includes any of the following:

- a) a person's spouse or de facto partner
- b) a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- c) a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- d) the spouse or de facto partner of a person referred to in paragraphs (b) and (c).

**travel** includes accommodation incidental to a journey.

## Matters relating to the interests that must be included in returns

- 2. **Interests etc. outside New South Wales:** A reference in this schedule or in schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.
- 3. **References to interests in real property:** A reference in this schedule or in schedule 2 to real property in which a councillor or designated person has an interest includes

a reference to any real property situated in Australia in which the councillor or designated person has an interest.

- 4. **Gifts, loans etc. from related corporations:** For the purposes of this schedule and schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a councillor or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

## Part 2: Pecuniary interests to be disclosed in returns

### Real property

- 5. A person making a return under clause 4.21 of this code must disclose:
  - a) the **street** address of each parcel of real property in which he or she had an interest on the return date, and
  - b) the **street** address of each parcel of real property in which he or she had an interest in the period since 30 June of the previous financial year, and
  - c) the nature of the interest.
- 6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
  - a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or

- b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to his or her duties as the holder of a position required to make a return.
- 7. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a councillor or designated person.
- 8. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

## Gifts

- 9. A person making a return under clause 4.21 of this code must disclose:
  - a) a description of each gift received in the period since 30 June of the previous financial year, and
  - b) the name and address of the donor of each of the gifts.
- 10. A gift need not be included in a return if:
  - a) it did not exceed **\$1000**, unless it was among gifts totalling more than **\$1000** made by the same person during a period of 12 months or less, or
  - b) it was a political donation disclosed, or required to be disclosed, under Part 6 of the *Election Funding Expenditure and Disclosures Act 1981*, or
  - c) the donor was a relative of the donee, or
  - d) subject to paragraph (a), it was received prior to the person becoming a councillor or designated person.
- 11. For the purposes of clause 10 of this schedule, the amount of a gift other than money is an amount equal to the value of the property given.

## Contributions to travel

- 12. A person making a return under clause 4.21 of this code must disclose:
  - a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
  - b) the dates on which the travel was undertaken, and
  - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.
- 13. A financial or other contribution to any travel need not be disclosed under this clause if it:
  - a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
  - b) was made by a relative of the traveller, or
  - c) was made in the ordinary course of an occupation of the traveller that is not related to his or her functions as the holder of a position requiring the making of a return, or
  - d) did not exceed **\$500**, unless it was among gifts totalling more than **\$500** made by the same person during a 12-month period or less, or
  - e) was a political donation disclosed, or required to be disclosed, under Part 6 of the *Election Funding Expenditure and Disclosures Act 1981*, or
  - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New

South Wales, or to enable the traveller to represent the party within Australia, or

- g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.
- 14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

### Interests and positions in corporations

- 15. A person making a return under clause 4.21 of this code must disclose:
  - a) the name and address of each corporation in which he or she had an interest or held a position (whether remunerated or not) on the return date, and
  - b) the name and address of each corporation in which he or she had an interest or held a position in the period since 30 June of the previous financial year, and
  - c) the nature of the interest, or the position held, in each of the corporations, and
  - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
- 16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
  - a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
  - b) required to apply its profits or other income in promoting its objects, and

c) prohibited from paying any dividend to its members.

- 17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
- 18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.

### Interests as a property developer or a close associate of a property developer

- 19. A person making a return under clause 4.21 of this code must disclose whether they were a property developer, or a close associate of a corporation that is a property developer, on the return date.
- 20. For the purposes of clause 19:

**close associate** of a corporation means each of the following:

  - a) a director or officer of the corporation, or a related body corporate of the corporation, or the spouse of such a director or officer
  - b) a person whose voting power in the corporation, or a related body corporate of the corporation, is greater than 20% or the spouse of such a person
  - c) if the corporation is a trustee, manager or responsible entity in relation to a trust—a person who holds more than 20% of the units in the trust (in the case of a unit trust) or is a beneficiary of the trust (in the case of a discretionary trust)
  - d) if the corporation or a related body corporate of the corporation is a stapled entity in relation to a stapled



security—a person who holds more than 20% of the units in the trust that is the other stapled entity.

**officer, related body corporate** and **voting power** have the same meanings as they have in the *Corporations Act 2001* of the Commonwealth.

**property developer** means a person engaged in a business that regularly involves the making of relevant planning applications by or on behalf of the person in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit.

**spouse of a person** includes a de facto partner of that person.

## Positions in trade unions and professional or business associations

21. A person making a return under clause 4.21 of the code must disclose:
  - a) the name of each trade union, and of each professional or business association, in which he or she held any position (whether remunerated or not) on the return date, and
  - b) the name of each trade union, and of each professional or business association, in which he or she has held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
  - c) a description of the position held in each of the unions and associations.
22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

## Dispositions of real property

23. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property by the person (**including the street address of the affected property**) in the period since 30 June of the previous financial year, under which he or she wholly or partly retained the use and benefit of the property or the right to re-acquire the property.
24. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property to another person (**including the street address of the affected property**) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.
25. A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor or designated person.

## Sources of income

26. A person making a return under clause 4.21 of this code must disclose:
  - a) each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
  - b) each source of income received by the person in the period since 30 June of the previous financial year.
27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:



- a) in relation to income from an occupation of the person:
    - (i) a description of the occupation, and
    - (ii) if the person is employed or the holder of an office, the name and address of his or her employer, or a description of the office, and
    - (iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
  - b) in relation to income from a trust, the name and address of the settlor and the trustee, or
  - c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed **\$1000**, or is not reasonably expected to exceed **\$1000**, as the case may be.
29. The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.
30. **A fee paid to a councillor or to the mayor or deputy mayor under sections 248 or 249 of the LGA need not be disclosed.**

## Debts

31. A person making a return under clause 4.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:
- a) on the return date, and
  - b) at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
33. A liability to pay a debt need not be disclosed by a person in a return if:
- a) the amount to be paid did not exceed **\$1000** on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:
    - (i) the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
    - (ii) the amounts to be paid exceeded, in the aggregate, **\$1000**, or
  - b) the person was liable to pay the debt to a relative, or

- c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
- d) in the case of a debt arising from the supply of goods or services:
  - (i) the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
  - (ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to his or her duties as the holder of a position required to make a return, or
- e) **subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.**

## **Discretionary disclosures**

34. A person may voluntarily disclose in a return any interest, benefit, advantage or liability, whether pecuniary or not, that is not required to be disclosed under another provision of this Schedule.

## Schedule 2:

### Form of Return – Disclosure of Interest

## 'Disclosures by councillors and designated persons' return

- 1 The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1 of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).
- 2 If this the first return you have been required to lodge with the general manager after becoming a councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a councillor or designated person.
- 3 If you have previously lodged a return with the general manager and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the general manager, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
- 4 If you have previously lodged a return with the general manager and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
- 5 This form must be completed using block letters or typed.
- 6 If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

- 7 If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.
- 8 "\*" means delete whichever is inapplicable.

## Important information

This information is being collected for the purpose of complying with clause 4.21 of the Model Code of Conduct.

You must not lodge a return that you know or ought reasonably to know is false or misleading in a material particular (see clause 4.23 of the Model Code of Conduct). Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the council, the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

The information collected on this form will be kept by the general manager in a register of returns. The general manager is required to table all returns at a council meeting.

If you are a councillor or the general manager, information in this return other than information about your principal place of residence will be published on the council's website.

If you are a designated person other than the general manager, information in this return is not to be publicly disclosed by the council unless the council decides to grant access in response to an access request made under the *Government Information (Public Access) Act 2009*.

You have an obligation to keep the information contained in this return up to date. If you become aware of a new interest that must be disclosed in this return, or an interest that you have previously failed to disclose, you must submit an updated return within three months of becoming aware of the previously undisclosed interest.

**Disclosure of pecuniary interests and other matters by** *[full name of councillor or designated person]*

\*as at *[return date]*

\*in respect of the period from *[date]* to *[date]*

*[councillor's or designated person's signature]*

*[date]*

**A. Real Property**

**Street address** of each parcel of real property in which I had an interest \*at the return date/\*at any time since 30 June

Nature of interest

**B. Sources of income**

1 \*Sources of income I reasonably expect to receive from an occupation in the period commencing on the first day after the return date and ending on the following 30 June:

\*Sources of income I received from an occupation at any time since 30 June:

Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership conducted (if applicable)
---------------------------	--	--

2 \*Sources of income I reasonably expect to receive from a trust in the period commencing on the first day after the return date and ending on the following 30 June:

\*Sources of income I received from a trust since 30 June:

Name and address of settlor	Name and address of trustee
-----------------------------	-----------------------------

3 \*Sources of other income I reasonably expect to receive in the period commencing on the first day after the return date and ending on the following 30 June:

\*Sources of other income I received at any time since 30 June:

*[Include description sufficient to identify the person from whom, or the circumstances in which, that income was received]*

**C. Gifts**

Description of each gift I received at any time since 30 June

Name and address of donor

#### D. Contributions to travel

Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time since 30 June	Dates on which travel was undertaken	Name of States, Territories of the Commonwealth and overseas countries in which travel was undertaken
---	--------------------------------------	---

#### E. Interests and positions in corporations

Name and address of each corporation in which I had an interest or held a position *at the return date/*at any time since 30 June	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)
---	-----------------------------	----------------------------------	---

#### F. Were you a property developer or a close associate of a corporation that is a property developer on the return date? (Y/N)

#### G. Positions in trade unions and professional or business associations

Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) *at the return date/*at any time since 30 June	Description of position
---	-------------------------

#### H. Debts

Name and address of each person to whom I was liable to pay any debt *at the return date/*at any time since 30 June
---

#### I. Dispositions of property

1 Particulars of each disposition of real property by me (**including the street address of the affected property**) at any time since 30 June as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time

2 Particulars of each disposition of property to a person by any other person under arrangements made by me (**including the street address of the affected property**), being dispositions made at any time since 30 June, as a result of which I obtained, either wholly or in part, the use and benefit of the property

#### J. Discretionary disclosures



## Schedule 3: Form of Special Disclosure of Pecuniary Interest

- 1 This form must be completed using block letters or typed.
- 2 If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

---

## **Important Information**

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).

The special disclosure must relate to a pecuniary interest that arises only because of an interest of the councillor in the councillor's principal place of residence, or an interest of another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) in that person's principal place of residence.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting in respect of which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

**Special disclosure of pecuniary interests by** *[full name of councillor]*

in the matter of *[insert name of environmental planning instrument]*

which is to be considered at a meeting of the *[name of council or council committee (as the case requires)]*

to be held on the      day of      20 .

**Pecuniary interest**

Address of land in which councillor or an associated person, company or body has a proprietary interest (the identified land)<sup>1</sup>

Relationship of identified land to councillor  
*[Tick or cross one box.]*

- ☐ Councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease, trust, option or contract, or otherwise).
- ☐ Associated person of councillor has interest in the land.
- ☐ Associated company or body of councillor has interest in the land.

**Matter giving rise to pecuniary interest<sup>2</sup>**

Current zone/planning control  
*[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]*

Proposed change of zone/planning control  
*[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]*

Effect of proposed change of zone/planning control on councillor **or associated person**  
*[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]*

*[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]*

Councillor's signature

Date

*[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]*

- 1 Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).
- 2 Clause 4.3 of the Model Code of Conduct provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You may also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.
- 3 "Relative" is defined by clause 4.4 of the Model Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.



Procedures for the  
Administration of

# The Model Code of Conduct

for Local Councils in NSW

October 2017



**CONSULTATION DRAFT**



# CONSULTATION DRAFT

## PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW

October 2017

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# Part 1:

## Introduction

These procedures ("the Model Code Procedures") are prescribed for the administration of the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct").

The Model Code of Conduct is made under section 440 of the *Local Government Act 1993* ("the Act") and the *Local Government (General) Regulation 2005* ("the Regulation"). Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct.

The Model Code Procedures are made under section 440AA of the Act and the Regulation. Section 440AA of the Act requires every council to adopt procedures for the administration of their codes of conduct that incorporate the provisions of the Model Code Procedures.

In adopting procedures for the administration of their adopted codes of conduct, councils may supplement the Model Code Procedures. However, provisions that are not consistent with those prescribed under the Model Code Procedures will have no effect.

**Note: Parts 6, 7, 8 and 11 of these Model Code Procedures apply only to the management of code-of-conduct complaints about councillors (including the mayor) or the general manager.**

## Part 2:

## Definitions

For the purposes of the procedures, the following definitions apply:

the Act	the <i>Local Government Act 1993</i>
administrator	an administrator of a council appointed under the Act other than an administrator appointed under section 66
code of conduct	a code of conduct adopted under section 440 of the Act
code of conduct complaint	<b>a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures</b>
complainant	a person who makes a code of conduct complaint
complainant councillor	a councillor who makes a code of conduct complaint
complaints coordinator	a person appointed by the general manager under these procedures as a complaints coordinator
conduct reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
<b>council committee</b>	<b>a committee established by resolution of council other than a wholly advisory committee</b>
<b>council committee member</b>	<b>a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee</b>
councillor	a person elected or appointed to civic office and includes a mayor
council official	any councillor, member of staff of council, administrator, council committee member, delegate of council <b>and, for the purposes of clause 4.16 of the Model Code of Conduct, council adviser</b>
delegate of council	a person (other than a councillor or member of staff of a council) or body and the individual members of that body to whom a function of the council is delegated
<b>the Office</b>	<b>the Office of Local Government</b>
investigator	a conduct reviewer
the Regulation	<i>the Local Government (General) Regulation 2005</i>
subject person	<b>a person whose conduct is the subject of investigation by a conduct reviewer under these procedures</b>



# Part 3:

## Administrative Framework

## The establishment of a panel of conduct reviewers

- 3.1 The council must by resolution establish a panel of conduct reviewers.
- 3.2 The council may by resolution enter into an arrangement with one or more other councils to share a panel of conduct reviewers **including through a regional body associated with the councils.**
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a conduct reviewer, a person must, at a minimum, meet the following requirements:
- a) an understanding of local government, and
  - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
  - c) knowledge and experience of one or more of the following:
    - i) investigations
    - ii) law
    - iii) public administration
    - iv) public sector ethics
    - v) alternative dispute resolution, and
  - d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not eligible to be a conduct reviewer if they are:
- a) a councillor, or
  - b) a nominee for election as a councillor, or
  - c) an administrator, or
  - d) an employee of a council, or
  - e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - g) a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.
- 3.8 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.9 The council may terminate the panel of conduct reviewers at any time by resolution.
- 3.10 When the term of the conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.11 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council.

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## The appointment of complaints coordinators

- 3.12 The general manager must appoint a member of staff of the council or **another person (such as, but not limited to, a member of staff of another council or a regional body associated with the council)**, to act as a complaints coordinator. **Where the complaints coordinator is a member of staff of the council**, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.13 The general manager may appoint other members of staff of the council or **other persons (such as, but not limited to, members of staff of another council or a regional body associated with the council)**, to act as alternates to the complaints coordinator.
- 3.14 The general manager must not undertake the role of complaints coordinator.
- 3.15 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the Public Interest *Disclosures Act 1994*.
- 3.16 The role of the complaints coordinator is to:
- a) coordinate the management of complaints made under the council's code of conduct
  - b) liaise with and provide administrative support to a conduct reviewer or conduct review committee
  - c) liaise with the **Office** and
  - d) arrange the annual reporting of code of conduct complaints statistics.



## **Part 4:**

# **How May Code Of Conduct Complaints be Made?**

## What is a code of conduct complaint?

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that alleges conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct.
- 4.2 The following are not "code of conduct complaints" for the purposes of these procedures:
- a) complaints about the standard or level of service provided by the council or a council official
  - b) complaints about the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
  - c) complaints about the policies or procedures of the council
  - d) complaints about the exercise in good faith by a council official of their functions, whether or not involving error.
- 4.3 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a code of conduct complaint are to be dealt with under council's routine complaints management processes.

## When must a code of conduct complaint be made?

- 4.4 A code of conduct complaint must be made within three months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 4.5 A complaint made after 3 months may only be accepted if the general manager **or their delegate**, or, in the case of a complaint about the general manager, the mayor **or their delegate**, is satisfied that there are compelling grounds for the matter to be dealt with under the code of conduct.

## How may a code of conduct complaint about a council official other than the general manager be made?

- 4.6 All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing. **This clause does not operate to prevent a person from making a complaint to an external agency.**
- 4.7 Where a code of conduct complaint about a council official other than the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.8 In making a code of conduct complaint about a council official other than the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.



- 4.9 The general manager **or their delegate**, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.10 Notwithstanding **clauses 4.6 and 4.7**, where the general manager becomes aware of a possible breach of the council's code of conduct, he or she may initiate the process for the consideration of the matter under these procedures without a written complaint.
- 4.15 Notwithstanding **clauses 4.11 and 4.12**, where the mayor becomes aware of a possible breach of the council's code of conduct by the general manager, he or she may initiate the process for the consideration of the matter under these procedures without a written complaint.

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## How may a code of conduct complaint about the general manager be made?

- 4.11 Code of conduct complaints about the general manager are to be made to the mayor in writing. **This clause does not operate to prevent a person from making a complaint about the general manager to an external agency.**
- 4.12 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.13 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.14 The mayor **or their delegate**, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.



## Part 5:

# How are Code of Conduct Complaints to be Managed?

## Delegation by general managers and mayors of their functions under this Part

- 5.1 A general manager or mayor may delegate his or her functions under this Part to a member of staff of the council or to a person or persons external to the council other than a state government agency. References in this part to the general manager or mayor are also to be taken to be references to their delegates.

## What complaints may be declined at the outset?

- 5.2 Without limiting any other provision in these procedures, the general manager or, in the case of a complaint about the general manager, the mayor, may decline to deal with a complaint under these procedures where he or she is satisfied that the complaint:
- a) is not a code of conduct complaint, or
  - b) subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or
  - c) is trivial, frivolous, vexatious or not made in good faith, or
  - d) relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or
  - e) is not made in a way that would allow the alleged conduct and any alleged breaches of the council's code of conduct to be readily identified.

## How are code of conduct complaints about staff (other than the general manager) to be dealt with?

- 5.3 The general manager is responsible for the management of code of conduct complaints about members of staff of council (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.4 The general manager must refer code of conduct complaints about members of staff of council alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.5 The general manager may decide to take no action in relation to a code of conduct complaint about a member of staff of council other than one requiring referral to the Office under clause 5.4 on grounds that he or she considers that no action is warranted in relation to the complaint.
- 5.6 Where the general manager decides to take no action in relation to a code of conduct complaint about a member of staff of council, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.7 Code of conduct complaints about members of staff of council must be managed in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.

- 5.8 Sanctions for **breaches of the code of conduct by** staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

## How are code of conduct complaints about delegates of council, council advisers and council committee members to be dealt with?

- 5.9 The general manager is responsible for the management of code of conduct complaints about delegates of council and council committee members (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.10 The general manager must refer code of conduct complaints about council advisers, delegates of council and council committee members alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.11 The general manager may decide to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member other than one requiring referral to the Office under clause 5.10 on the grounds that he or she considers that no action is warranted in relation to the complaint.
- 5.12 Where the general manager decides to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member,
- the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.13 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about delegates of council or council committee members, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or a voluntary apology. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.14 Where the general manager resolves a code of conduct complaint under clause 5.13 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.15 Sanctions for **breaches of the code of conduct by** delegates of council and/or council committee members depend on the severity, scale and importance of the breach and may include one or more of the following:
- a) censure
  - b) requiring the person to apologise to any person or organisation adversely affected by the breach **in such a time and form specified by the general manager**
  - c) prosecution for any breach of the law
  - d) removing or restricting the person's delegation

- e) removing the person from membership of the relevant council committee.
- 5.16 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.15, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:
- a) the substance of the allegation (including the relevant provision/s of the council's code of conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and
  - b) the person must be given an opportunity to respond to the allegation, and
  - c) the general manager must consider the person's response in deciding whether to impose a sanction under clause 5.15.

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## How are code of conduct complaints about administrators to be dealt with?

- 5.17 The general manager must refer all code of conduct complaints about administrators to the **Office** for its consideration.
- 5.18 The general manager must notify the complainant of the referral of their complaint in writing.

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## How are code of conduct complaints about councillors to be dealt with?

- 5.19 The general manager must refer the following code of conduct complaints about councillors to the **Office**:
- a) **complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct**
  - b) complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interest arising from **political donations** (see section 328B of the Act)
  - c) **complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct**
  - d) complaints that are the subject of a special complaints management arrangement with the **Office** under clause 5.47.
- 5.20 Where the general manager refers a complaint to the Office under clause 5.19, the general manager must notify the complainant of the referral in writing.
- 5.21 **The general manager may decide to take no action in relation to a code of conduct complaint about a councillor, other than one requiring referral to the Office under clause 5.19, on grounds that he or she considers that no action is warranted in relation to the complaint.**



5.22 Where the general manager decides to take no action in relation to a code of conduct complaint about a councillor, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.

5.23 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the **Office** under clause 5.19, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or a **voluntary apology**. **The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.**

5.24 Where the general manager resolves a code of conduct complaint under **clause 5.23** to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.

5.25 The general manager must refer all code of conduct complaints about councillors, other than those referred to the **Office** under **clause 5.19 or finalised under clause 5.22** or resolved under clause 5.23, to the complaints coordinator.

## How are code of conduct complaints about the general manager to be dealt with?

5.26 The mayor must refer the following code of conduct complaints about the general manager to the **Office**:

- a) **complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct**
- b) **complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct**
- c) complaints that are the subject of a special complaints management arrangement with the **Office** under clause **5.47**.

5.27 Where the mayor refers a complaint to the **Office** under clause **5.26**, the mayor must notify the complainant of the referral in writing.

**5.28 The mayor may decide to take no action in relation to a code of conduct complaint about the general manager, other than one requiring referral to the Office under clause 5.26, on grounds that he or she considers that no action is warranted in relation to the complaint.**

**5.29 Where the mayor decides to take no action in relation to a code of conduct complaint about the general manager, the mayor must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.**

5.30 Where the mayor considers it to be practicable and appropriate to do so, he or she may seek to resolve code of

conduct complaints about the general manager, other than those requiring referral to the **Office** under **clause 5.26**, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or a **voluntary apology**. **The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.**

- 5.31 Where the mayor resolves a code of conduct complaint under **clause 5.30** to the mayor's satisfaction, the mayor must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.32 The mayor must refer all code of conduct complaints about the general manager, other than those referred to the **Office** under **clause 5.26** or finalised under **clause 5.28** or resolved under **clause 5.30**, to the complaints coordinator.

## How are complaints about both the general manager and the mayor to be dealt with?

- 5.33 Where the general manager or mayor receives a code of conduct complaint that alleges a breach of the code of conduct by both the general manager and the mayor, the general manager or mayor must either:
- a) delegate their functions under this part with respect to the complaint to a member of staff of the council other than the general manager or to a person external to the council, or
  - b) refer the matter to the complaints coordinator under clause 5.25 and clause 5.32.

## Referral of code of conduct complaints to external agencies

- 5.34 The general manager, mayor or a conduct reviewer may, at any time, refer a code of conduct complaint to an external agency or body such as, but not limited to, the **Office**, the Independent Commission Against Corruption, the NSW Ombudsman or the police for its consideration, where they consider such a referral is warranted.
- 5.35 Where the general manager, mayor or conduct reviewer refers a complaint to an external agency or body under clause 5.34, they must notify the complainant of the referral in writing where it is appropriate for them to do so.
- 5.36 Referral of a matter to an external agency or body shall finalise consideration of the matter under the code of conduct unless the council is subsequently advised otherwise by the referral agency or body.

## Disclosure of the identity of complainants

- 5.37 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- a) the complainant consents in writing to the disclosure, or
  - b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
  - c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or

- d) a conduct reviewer is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
- e) it is otherwise in the public interest to do so.

5.38 **Clause 5.37** does not apply to code of conduct complaints made by councillors about other councillors or the general manager.

5.39 Where a councillor makes a code of conduct complaint about another councillor or the general manager, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.

5.40 A request made by a complainant councillor under **clause 5.39** must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.

5.41 **The general manager or mayor, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.39 before disclosing information that identifies or tends to identify the complainant councillor, but they are not obliged to comply with the request.**

5.42 **Where a complainant councillor makes a request under clause 5.39, the general manager or mayor or, where the matter is referred to a conduct reviewer, the conduct reviewer, shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.**

## Code of conduct complaints made as public interest disclosures

5.43 Code of conduct complaints that are made as public interest disclosures under the *Public Interest Disclosures Act 1994* are to be managed in accordance with the requirements of that Act, the council's internal reporting policy, and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.

5.44 Where a councillor makes a code of conduct complaint about another councillor or the general manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.

5.45 Where a complainant councillor declines to consent to the disclosure of their identity as the complainant under **clause 5.44**, the general manager or the mayor must refer the complaint to the **Office** for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

## Special complaints management arrangements

- 5.46 The general manager may request in writing that the **Office** enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.
- 5.47 Where the **Office** receives a request under **clause 5.46**, it may agree to enter into a special complaints management arrangement if it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:
- a) imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, or
  - b) impeded or disrupted the effective administration by the council of its code of conduct, or
  - c) impeded or disrupted the effective functioning of the council.
- 5.48 A special complaints management arrangement must be in writing and must specify the following:
- a) the code of conduct complaints the arrangement relates to, and
  - b) the period that the arrangement will be in force.
- 5.49 The **Office** may, by notice in writing, amend or terminate a special complaints management arrangement at any time.
- 5.50 While a special complaints management arrangement is in force, an officer of the **Office** (the assessing **OLG officer**) must undertake the preliminary assessment of the code of conduct complaints specified
- in the arrangement in accordance with the requirements of **Part 6** of these procedures.
- 5.51 Where, following a preliminary assessment, the assessing **OLG officer** determines that a code of conduct complaint warrants investigation by a conduct reviewer, the assessing **OLG officer** shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing **OLG officer**.
- 5.52 Prior to the expiry of a special complaints management arrangement, **the Office may, at the request of the general manager**, review the arrangement to determine whether it should be renewed or amended.
- 5.53 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under **clause 5.52**.

## **Part 6:**

# **Preliminary Assessment of Code of Conduct Complaints About Councillors or the General Manager by Conduct Reviewers**



## Referral of code of conduct complaints about councillors or the general manager to conduct reviewers

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager submitted to the complaints coordinator **to a conduct reviewer** within 21 days of receipt of a complaint by the general manager or the mayor.
- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
- a) a panel of conduct reviewers established by the council, or
  - b) a panel of conduct reviewers established by an organisation approved by the chief executive of the **Office**.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. **Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.**
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
- a) they have a conflict of interest in relation to the matter referred to them, or
  - b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
  - c) they or their employer has entered into one or more contracts with the council (**other than contracts relating to the exercise of their functions as a conduct reviewer**) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a cumulative value that exceeds \$100,000, or
  - d) at the time of the referral, they or their employer are the council's legal service providers or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see **clause 5.2** of the Model Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council, **including any information about previous proven breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.**
- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer, and advise which conduct reviewer the matter has been referred to.



6.9 Where a matter has been referred to a conduct reviewer, the conduct reviewer must comply with these procedures in their consideration of the matter and exercise their functions in a diligent and timely manner.

6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:

- a) comply with these procedures in their consideration of the matter, or
- b) comply with a lawful and reasonable request by the complaints coordinator, or
- c) exercise their functions in a timely or satisfactory manner.

## Preliminary assessment of code of conduct complaints about councillors or the general manager by a conduct reviewer

6.11 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.

6.12 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:

- a) to take no action
- b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation,

counselling, training, mediation, informal discussion, negotiation or a **voluntary apology**

- c) to refer the matter back to the general manager or, in the case of a complaint about the general manager, the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, or a **voluntary apology**
- d) to refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, **the Office** or the police
- e) to investigate the matter.

6.13 In determining how to deal with a matter under clause 6.12, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.30.

6.14 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.12.

6.15 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.12. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.

6.16 The conduct reviewer must refer to **the Office** any complaints referred to him or her that should have been referred to **the Office** under clauses **5.19** and **5.26**.

6.17 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.

- 6.18 The resolution of a code of conduct complaint under clause 6.12, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.**
- 6.19 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.12, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.
- 6.20 Where the conduct reviewer refers a complaint to another agency or body, they must notify the complainant of the referral in writing where it is appropriate for them to do so.
- 6.21 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a "code of conduct complaint" for the purposes of these procedures, and
  - b) that the alleged conduct is sufficiently serious to warrant investigation, and
  - c) that the matter is one that could not or should not be resolved by alternative means.
- 6.22 In determining whether a matter is sufficiently serious to warrant investigation, the conduct reviewer is to consider the following:**
- a) the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
  - b) the likely impact of the alleged conduct on the reputation of the council and public confidence in it
  - c) whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
  - d) any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.23 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator.
- 6.24 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.
- 
- Referral back to the general manager or mayor for resolution**
- 6.25 Where the conduct reviewer determines to refer a matter back to the general manager or to the mayor to be resolved by alternative and appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the mayor, recommending the means by which the complaint may be resolved.
- 6.26 The conduct reviewer must consult with the general manager or mayor prior to referring a matter back to them under **clause 6.12(c)**.

6.27 The general manager or mayor may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under **clause 6.12**.

6.28 Where the conduct reviewer refers a matter back to the general manager or mayor under **clause 6.12(c)**, the general manager or, in the case of a complaint about the general manager, the mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.

6.29 Where the conduct reviewer refers a matter back to the general manager or mayor under **clause 6.12(c)**, the general manager, or, in the case of a complaint about the general manager, the mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

## Complaints assessment criteria

6.30 In undertaking the preliminary assessment of a complaint, the conduct reviewer may have regard to the following considerations:

- a) whether the complaint is a "code of conduct complaint" **for the purpose of these procedures**
- b) **whether the complaint has been made in a timely manner in accordance with clause 4.4, and if not, whether there are compelling grounds for the matter to be dealt with under the council's code of conduct**
- c) whether the complaint is trivial, frivolous, vexatious or not made in good faith

- d) whether the complaint discloses prima facie evidence of **conduct that, if proven, would constitute** a breach of the code
- e) whether the complaint raises issues that would be more appropriately dealt with by another agency or body
- f) whether there is or was an alternative and satisfactory means of redress available in relation to the conduct complained of
- g) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation or **a voluntary apology**
- h) whether the issue/s giving rise to the complaint have previously been addressed or resolved
- i) **any previous proven breaches of the council's code of conduct**
- j) whether the conduct complained of forms part of **an ongoing pattern of behaviour**
- k) whether there were mitigating circumstances giving rise to the conduct complained of
- l) the seriousness of the alleged conduct (**having regard to the criteria specified in clause 6.22**)
- m) the significance of the conduct or the impact of the conduct for the council
- n) how much time has passed since the alleged conduct occurred
- o) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.



## **Part 7:**

# **Investigations of Code of Conduct Complaints About Councillors or the General Manager**

## What matters may a conduct reviewer investigate?

- 7.1 A conduct reviewer (hereafter referred to as an “investigator”) may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 7.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the general manager, or, in the case of alleged conduct on the part of the general manager, to the mayor.
- 7.3 The general manager or the mayor **or their delegate** is to deal with a matter reported to them by an investigator under **clause 7.2** as if it were a new code of conduct complaint in accordance with these procedures.

## How are investigations to be commenced?

- 7.4 The investigator must at the outset of their investigation provide a written notice of investigation to the subject person. The notice of investigation must:
- a) disclose the substance of the allegations against the subject person, and
  - b) advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
  - c) advise of the process to be followed in investigating the matter, and

- d) invite the subject person to make a written submission in relation to the matter within **at least 14 days** or such other period specified by the investigator in the notice, and
  - e) provide the subject person the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 7.5 The subject person may, within **7 days** of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the subject person to identify the substance of the allegation against them.
- 7.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the subject person in relation to the matter referred to them.
- 7.7 Where an investigator issues an amended notice of investigation, they will provide the subject person with a further opportunity to make a written submission in response to the amended notice of investigation within **at least 14 days** or such other period specified by the investigator in the amended notice.
- 7.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the complainant, the complaints coordinator and the mayor. The notice must:



- a) advise them of the matter the investigator is investigating, and
- b) in the case of the notice to the complainant, invite them to make a written submission in relation to the matter within **at least 14 days** or such other period specified by the investigator in the notice.

## Written and oral submissions

- 7.9 Where the subject person or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 7.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 7.11 Prior to preparing a draft report, the investigator must give the subject person an opportunity to address the investigator on the matter being investigated. The subject person may do so in person or by telephone **or other electronic means**.
- 7.12 Where the subject person fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the subject person.
- 7.13 Where the subject person accepts the opportunity to address the investigator in person, they may have a support person or legal adviser in attendance. The support person or legal adviser will act in an advisory or support role to the subject

person only. They must not speak on behalf of the subject person or otherwise interfere with or disrupt proceedings.

- 7.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

## How are investigations to be conducted?

- 7.15 Investigations are to be undertaken without undue delay.
- 7.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 7.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 7.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 7.19 An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

## Referral or resolution of a matter after the commencement of an investigation

- 7.20 At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:

- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or **a voluntary apology**, or
  - b) refer the matter to the general manager, or, in the case of a complaint about the general manager, to the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or **a voluntary apology**, or
  - c) refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, **the Office** or the Police.
- 7.21 Where an investigator determines to exercise any of the options under **clause 7.20** after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 7.22 **The resolution of a code of conduct complaint under clause 7.20, paragraphs (a) or (b) is not to be taken as a determination that there has been a breach of the council's code of conduct.**
- 7.23 Where an investigator determines to exercise any of the options under **clause 7.20** after the commencement of an investigation, they may by written notice to the subject person, the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the subject person, the complainant, the complaints coordinator and the mayor, discontinue their investigation of the matter.
- 7.24 Where the investigator discontinues their investigation of a matter under **clause 7.22**, this shall finalise the consideration of the matter under these procedures.
- 7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under **clause 7.20** or to discontinue their investigation except as may be specifically required under these procedures.
- ## Draft investigation reports
- 7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 7.27 The investigator must provide their draft report to the subject person and invite them to make a written submission in relation to it within **at least 14 days** or such other period specified by the investigator.
- 7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within **at least 14 days** or such other period specified by the investigator.
- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their

proposed report that makes new adverse comment about the subject person or an affected person, they must provide the subject person or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.

7.31 Where the subject person or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.

7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

## Final investigation reports

7.33 Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under **clause 7.23**.

7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.

7.35 The investigator's final report must:

- a) make findings of fact in relation to the matter investigated, and,
- b) make a determination that the conduct investigated either,
  - i. constitutes a breach of the code of conduct, or
  - ii. does not constitute a breach of the code of conduct, and
- c) provide reasons for the determination.

7.36 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may make one or more of the following recommendations:

- a) that the council revise any of its policies or procedures
- b) that the subject person undertake any training or other education relevant to the conduct giving rise to the breach
- c) that the subject person be counselled for their conduct
- d) **that the subject person be removed from membership of a committee of the council or any other body or organisation that the subject person serves on as the council's representative**
- e) that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation
- f) that findings of inappropriate conduct be made public **by publishing the investigator's findings and determination in the minutes of the council meeting at which the matter is considered**
- g) in the case of a breach by the general manager, that action be taken under the general manager's contract
- h) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Act
- i) in the case of a breach by a councillor, that the council resolves as follows:
  - i. that the councillor be formally censured for the breach under section 440G of the Act, and
  - ii. that the matter be referred to **the Office** for further action under the misconduct provisions of the Act.

- 7.37 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- a) that the council revise any of its policies or procedures
  - b) that a person or persons undertake any training or other education.
- 7.38 In making a recommendation under **clause 7.36**, the investigator may have regard to the following:
- a) the seriousness of the breach
  - b) whether the breach can be easily remedied or rectified
  - c) whether the subject person has remedied or rectified their conduct
  - d) whether the subject person has expressed contrition
  - e) whether there were any mitigating circumstances
  - f) the age, physical or mental health or special infirmity of the subject person
  - g) whether the breach is technical or trivial only
  - h) any previous **proven** breaches
  - i) whether the breach forms part of **an ongoing pattern of behaviour**
  - j) the degree of reckless intention or negligence of the subject person
  - k) the extent to which the breach has affected other parties or the council as a whole
  - l) the harm or potential harm to the reputation of the council or local government in general arising from the conduct
  - m) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny
  - n) whether an educative approach would be more appropriate than a punitive one
  - o) the relative costs and benefits of taking formal **disciplinary** action as opposed to taking no action or taking informal action
  - p) what action or remedy would be in the public interest.
- 7.39 Where the investigator proposes to make a recommendation under clause 7.36(i), the investigator must first consult with the Office on their proposed findings, determination and recommendation prior to finalising their report, and must take any comments by the Office into consideration when finalising their report.**
- 7.40 At a minimum, the investigator's final report must contain the following information:
- a) a description of the allegations against the subject person
  - b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated
  - c) a statement of reasons as to why the matter warranted investigation**
  - d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means**
  - e) a description of any attempts made to resolve the matter by use of alternative means
  - f) the steps taken to investigate the matter
  - g) the facts of the matter



- h) the investigator's findings in relation to the facts of the matter and the reasons for those findings
  - i) the investigator's determination and the reasons for that determination
  - j) any recommendations.
- 7.41 The investigator must provide a copy of their report to the complaints coordinator and the subject person.**
- 7.42 The investigator must provide the complainant with a written statement containing the following information:**
- a) the investigator's findings in relation to the facts of the matter and the reasons for those findings**
  - b) the investigator's determination and the reasons for that determination**
  - c) any recommendations, and**
  - d) such other additional information that the investigator considers may be relevant.**
- 7.43 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor, and this will finalise consideration of the matter under these procedures.
- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under **clause 7.36**, paragraph (a) **only**, the complaints coordinator must provide a copy of the investigator's report to the general manager. Where the general manager agrees with the recommendation/s, the general manager is responsible for implementing the recommendation/s.
- 7.45 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under **clause 7.36**, paragraphs (b) or (c) **only**, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor. The general manager is responsible for arranging the implementation of the recommendation/s where the report relates to a councillor's conduct. The mayor is responsible for arranging the implementation of the recommendation/s where the report relates to the general manager's conduct.
- 7.46 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under **clause 7.36**, paragraphs (d) to (i), the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

## Consideration of the final investigation report by council

- 7.47 The role of the council in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the code of conduct and has made a recommendation in their final report under **clause 7.36**, paragraphs **(d) to (i)**.
- 7.48 The council is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the Act.
- 7.49 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interests in relation to the matter unless otherwise required to do so under the code of conduct.
- 7.50 Prior to imposing a sanction, the council must provide the subject person with an opportunity to make a submission to the council. A submission may be made orally or in writing. The subject person is to confine their submission to addressing the investigator's recommendation/s.**
- 7.51 Once the subject person has made their submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.**
- 7.52 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.**
- 7.53 Prior to imposing a sanction, the council may by resolution:
- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
  - b) seek an opinion from **the Office** in relation to the report.
- 7.54 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from **the Office**.
- 7.55 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 7.56 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council and the subject person.
- 7.57 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 7.58 The council is only required to provide the subject person a further opportunity to **make an oral or written submission** on a supplementary report if the supplementary report contains new information that is adverse to them.
- 7.59 A council may by resolution impose one or more of the following sanctions on a subject person:
- a) **that the subject person undertake any training or other education relevant to the conduct giving rise to the breach**
  - b) **that the subject person be counselled for their conduct**
  - c) **that the subject person be removed from membership of a committee of the council or any other body or organisation that the subject person serves on as the council's representative**



- d) that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the resolution
- e) that findings of inappropriate conduct be made public **by publishing the investigator's findings and determination in the minutes of the meeting**
- f) in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach
- g) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Act
- h) in the case of a breach by a councillor:
  - i. that the councillor be formally censured for the breach under section 440G of the Act, and
  - ii. that the matter be referred to **the Office** for further action under the misconduct provisions of the Act.

**7.62 Where the council resolves not to adopt the investigator's recommendation/s or imposes, under clause 7.59, a sanction on the subject person that is different to the sanction recommended by the investigator, the complaints coordinator must notify the Office of the council's decision and the reasons for it.**

**7.60 The council is not obliged to adopt the investigator's recommendation/s. Where the council proposes not to adopt one or more of the investigator's recommendation/s, the council must resolve not to adopt the recommendation/s and state in its resolution the reasons for its decision.**

**7.61 Where the council proposes to impose, under clause 7.59, a sanction on the subject person that is different to the sanction recommended by the investigator in their final report, the council must state in its resolution the reasons for its decision.**



## Part 8:

## Oversight and Rights of Review

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## Failure to comply with a requirement under these procedures

- 8.1 Where any person believes that a person has failed to comply with a requirement prescribed under these procedures, they may at any time raise their concerns in writing with the Office.

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## Complaints about conduct reviewers

- 8.2 The general manager must refer complaints about conduct reviewers to the Office for its consideration.
- 8.3 The general manager must notify the complainant of the referral of their complaint in writing.
- 8.4 The general manager must implement any recommendation made by the Office as a result of its consideration of a complaint about a conduct reviewer.

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## Practice rulings

- 8.5 Where a subject person and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to **the Office** to make a ruling on a question of procedure (a practice ruling).
- 8.6 Where **the Office** receives a request in writing for a practice ruling, **the Office** may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 8.7 Where **the Office** makes a practice ruling, all parties are to comply with it.

- 8.8 **The Office** may decline to make a practice ruling. Where **the Office** declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

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## Requests for review

- 8.9 A person who is the subject of a sanction imposed under **Part 7** of these procedures other than one imposed under clause **7.59, paragraph (h)**, may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.
- 8.10 A review under **clause 8.9** may be sought on the following grounds:
- a) that the investigator has failed to comply with a requirement under these procedures, or
  - b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
  - c) that in imposing its sanction the council has failed to comply with a requirement under these procedures.
- 8.11 A request for a review made under **clause 8.9** must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 8.12 **The Office** may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.
- 8.13 **The Office** may undertake a review of a matter without receiving a request under **clause 8.9**.

- 8.14 **The Office** will undertake a review of the matter on the papers. However, **the Office** may request that the complaints coordinator provide such further information that **the Office** considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by **the Office**.
- 8.15 Where a person requests a review under **clause 8.9**, **the Office** may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by **the Office**.
- 8.16 **The Office** must notify the person who requested the review and the complaints coordinator of the outcome of **the Office's** review in writing and the reasons for its decision. In doing so, **the Office** may comment on any other matters the Office considers to be relevant.
- 8.17 Where **the Office** considers that the investigator or the council has erred, **the Office** may recommend that a decision to impose a sanction under these procedures be reviewed.
- 8.18 In the case of a sanction implemented by the general manager or mayor under **clause 7.45**, where **the Office** recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must provide a copy of **the Office's** determination in relation to the matter to the general manager or the mayor, and
  - b) the general manager or mayor must review any action taken by them to implement the sanction, and
  - c) the general manager or mayor must consider **the Office's** recommendation in doing so.
- 8.19 In the case of a sanction imposed by the council by resolution under **clause 7.59**, where **the Office** recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must, where practicable, arrange for **the Office's** determination to be tabled at the next ordinary council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting following the election, and
  - b) the council must:
    - i. review its decision to impose the sanction, and
    - ii. consider **the Office's** recommendation in doing so, and
    - iii. resolve to either rescind or reaffirm its previous resolution in relation to the matter.
- 8.20 Where, having reviewed its previous decision in relation to a matter under **clause 8.19**, the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.





## Part 9:

# Procedural Irregularities

- 9.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct, except as may be otherwise specifically provided under the code of conduct.
- 9.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
- a) the non-compliance is isolated and/or minor in nature, or
  - b) reasonable steps are taken to correct the non-compliance, or
  - c) reasonable steps are taken to address the consequences of the non-compliance.

## Part 10: Practice Directions

- 10.1 **The Office** may at any time issue a practice direction in relation to the application of these procedures.
- 10.2 **The Office** will issue practice directions in writing, by circular to all councils.
- 10.3 All persons performing a function prescribed under these procedures must consider **the Office's** practice directions when performing the function.

## **Part 11:**

# **Reporting Statistics on Code of Conduct Complaints About Councillors and the General Manager**

- 11.1 The complaints coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:
- a) the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September (**the reporting period**)
  - b) the number of code of conduct complaints referred to a conduct reviewer **during the reporting period**
  - c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage **during the reporting period** and the outcome of those complaints
  - d) the number of code of conduct complaints investigated by a conduct reviewer **during the reporting period**
  - e) without identifying particular matters, **the outcome of investigations completed under these procedures during the reporting period**
  - f) the number of matters reviewed by **the Office during the reporting period** and, without identifying particular matters, the outcome of the reviews, and
  - g) the total cost of dealing with code of conduct complaints made about councillors and the general manager **during the reporting period**, including staff costs.
- 11.2 The council is to provide the Office with a report containing the statistics referred to in **clause 11.1** within 3 months of the end of September of each year.



## Part 12: Confidentiality

- 12.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.
- 12.2 Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or has purported to make, the general manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.
- 12.3 Prior to seeking the Office's consent under clause 12.2, the general manager or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission and consider any submission made by them.
- 12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the general manager or their delegate.
- 12.5 The general manager or their delegate must give written notice of a determination made under clause 12.2 to:
- a) the complainant
  - b) the complaints coordinator
  - c) the Office, and
  - d) any other person the general manager or their delegate considers should be notified of the determination.
- 12.6 Any requirement under these procedures that a complainant is to be provided with information about a code of conduct complaint that they have made or has purported to make, will not apply to a complainant the subject of a determination made by the general manager or their delegate under clause 12.2 unless that person is otherwise entitled to receive the information under the *Public Interest Disclosures Act 1994*.



Cessnock City Council

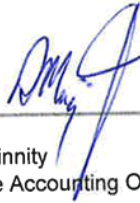
**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17

**Report by Responsible Accounting Officer**

The following statement is made in accordance with Clause 203(2) of the Local Government (General) Regulations 2005:

It is my opinion that the Quarterly Budget Review Statement for Cessnock City Council for the quarter ended 30/09/17 indicates that Council's projected financial position at 30/6/18 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Signed: \_\_\_\_\_



Robert Maginnity  
Responsible Accounting Officer

Date: 26th October 2017

**Report prepared by:**

Signed: \_\_\_\_\_



Paul Grosbernd  
Management Accountant

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17

Cessnock City Council  
**Income & Expenses Budget Review Statement**

Budget review for the quarter ended 30 September 2017

**Income & Expenses - General Fund**

	Original Budget 2017/18	Approved Changes		Revised Budget 2017/18	Variations for this Sep Qtr	Notes	Projected Year End Result	YTD Budget	Actual YTD figures
		Carry Forwards	Other than by QBRs						
<b>Income</b>									
Rates and Annual Charges	47,113,950	-	-	47,113,950	(36,238)	1	47,077,712	47,116,910	47,161,901
User Charges and Fees	7,246,688	-	-	7,246,688	718,585	2	7,965,273	1,811,676	2,207,441
Interest and Investment Revenues	849,500	-	-	849,500	(2,000)	3	847,500	212,379	244,036
Other Revenues	1,146,404	-	-	1,146,404	113,735	4	1,260,139	349,098	542,851
Grants & Contributions - Operating	11,028,896	-	1,074,661	12,103,557	290,764	5	12,394,311	1,454,014	1,531,666
Grants & Contributions - Capital	2,983,626	1,122,598	706,200	4,812,424	-		4,812,424	1,191,286	1,287,234
<b>Total Income from Continuing Operations</b>	<b>70,369,064</b>	<b>1,122,598</b>	<b>1,780,861</b>	<b>73,272,523</b>	<b>1,084,836</b>		<b>74,357,369</b>	<b>52,135,363</b>	<b>52,975,129</b>
<b>Expenses</b>									
Employee Costs	30,467,225	-	-	30,467,225	224,980	6	30,692,205	7,264,651	7,326,858
Borrowing Costs	485,347	-	-	485,347	-		485,347	121,335	107,437
Materials & Contracts	12,496,843	528,132	58,193	13,083,168	364,695	7	13,447,863	5,109,426	6,813,628
Depreciation	9,985,000	-	-	9,985,000	-		9,985,000	2,496,250	2,496,250
Legal Costs	550,000	-	-	550,000	17,273	8	567,273	142,376	301,607
Consultants	290,500	-	-	290,500	15,705	9	306,205	82,378	127,267
Other Expenses	11,597,150	-	-	11,597,150	21,431	10	11,618,581	2,944,308	2,729,775
Net Loss from disposal of assets	2,500,000	-	-	2,500,000	-		2,500,000	-	-
<b>Total Expenses from Continuing Operations</b>	<b>68,372,065</b>	<b>528,132</b>	<b>58,193</b>	<b>68,958,390</b>	<b>644,084</b>		<b>69,602,474</b>	<b>18,160,724</b>	<b>19,902,822</b>
<b>Net Operating Result from Continuing Operations</b>	<b>1,996,999</b>	<b>594,466</b>	<b>1,722,668</b>	<b>4,314,133</b>	<b>440,752</b>		<b>4,754,885</b>	<b>33,974,639</b>	<b>33,072,307</b>
Discontinued Operations - Surplus/(Deficit)	-	-	-	-	-		-	-	-
<b>Net Operating Result from All Operations</b>	<b>1,996,999</b>	<b>594,466</b>	<b>1,722,668</b>	<b>4,314,133</b>	<b>440,752</b>		<b>4,754,885</b>	<b>33,974,639</b>	<b>33,072,307</b>
<b>Net Operating Result before Capital Items</b>	<b>(986,627)</b>	<b>(528,132)</b>	<b>1,016,468</b>	<b>(498,291)</b>	<b>440,752</b>		<b>(57,539)</b>	<b>32,783,353</b>	<b>31,785,073</b>

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17

Cessnock City Council  
**Income & Expenses Budget Review Statement**

Budget review for the quarter ended 30 September 2017

**Income & Expenses - General Fund  
Operating and Capital**

	Original Budget 2017/18	Approved Changes		Revised Budget 2017/18	Variations for this Sep Qtr	Notes	Projected Year End Result	Actual YTD figures
		Carry Forwards	Other than by QBRs					
<b>Income</b>								
Council & General Manager's Units	359,600	-	-	359,600	6,098		365,698	67,023
Planning and Environment Directorate	3,419,288	-	-	3,419,288	283,451		3,702,739	1,615,046
Corporate & Community Services Directorate	45,257,300	1,805,420	60,000	47,122,720	2,940,862		50,063,582	36,518,184
Works & Infrastructure Services Directorate	26,830,869	1,587,825	6,213,952	34,632,646	1,636,312		36,268,958	14,584,831
<b>Total Income from Continuing Operations</b>	<b>75,867,057</b>	<b>3,393,245</b>	<b>6,273,952</b>	<b>85,534,254</b>	<b>4,866,723</b>		<b>90,400,977</b>	<b>52,785,084</b>
<b>Expenses</b>								
Council & General Manager's Units	4,183,980	14,457	-	4,198,437	42,770		4,241,207	1,688,637
Planning and Environment Directorate	9,183,169	227	-	9,183,396	207,211		9,390,607	2,676,463
Corporate & Community Services Directorate	14,810,059	310,731	160,000	15,280,790	3,001,344		18,282,134	5,409,945
Works & Infrastructure Services Directorate	47,689,756	3,067,830	6,113,952	56,871,538	1,612,155		58,483,693	15,976,558
<b>Total Expenses from Continuing Operations</b>	<b>75,866,964</b>	<b>3,393,245</b>	<b>6,273,952</b>	<b>85,534,161</b>	<b>4,863,480</b>		<b>90,397,641</b>	<b>25,751,603</b>
<b>Net Operating Result from Continuing Operations</b>	<b>93</b>	<b>-</b>	<b>-</b>	<b>93</b>	<b>3,243</b>		<b>3,336</b>	<b>27,033,481</b>
<b>Net Operating Result from All Operations</b>	<b>93</b>	<b>-</b>	<b>-</b>	<b>93</b>	<b>3,243</b>		<b>3,336</b>	<b>27,033,481</b>



Cessnock City Council

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17**Income & Expenses Budget Review Statement**  
**Recommended changes to revised budget**

Budget Variations being recommended include the following material items:

**Notes Details****Income**

<b>1</b>	<b>Rates and Annual Charges</b>	<b>(\$36,238)</b>
	Increased Income	
	Ordinary Rates	\$8,762
	Stormwater Management Services	\$4,800
	Decreased Income	
	Domestic Waste Management Charges	(\$49,800)
<b>2</b>	<b>User Charges and Fees</b>	<b>\$718,585</b>
	Increased Income	
	Town Planning Fees	\$100,285
	Garbage Tipping Fees	\$530,000
	Building Permits & Fees	\$16,000
	Sewage Management Fees	\$13,350
	Inspection Fees	\$41,400
<b>3</b>	<b>Interest &amp; Investment Revenues</b>	<b>(\$2,000)</b>
	Decreased Income	
	Interest on Overdue Rates & Charges	(\$2,000)
<b>4</b>	<b>Other Revenues</b>	<b>\$113,735</b>
	Increased Income	
	Lease / Rentals	(\$6,600)
	Fines	\$5,300
	Insurance Claims	\$4,600
	Legal Fees Recovery - Rates	\$10,000
	Sales - Waste Tip Metals & Gas	\$100,435
<b>5</b>	<b>Grants &amp; Contributions - Operating</b>	<b>\$290,754</b>
	Increased Income	
	General Administration Services	\$6,600
	Welfare Services	\$11,054
	Waste Levy Programs	\$168,990
	Illegal Dump Cleanup Program	\$102,118

**Expenditure**

<b>6</b>	<b>Employee Costs</b>	<b>\$224,980</b>
	Increased Expenditure	
	Environmental Health Salaries	\$150,000
	(offset by transfer from reserve)	
	Fire Safety Officers Salaries	\$63,000
	(partly offset by increased income of \$33,000)	
	Training	\$6,500
<b>7</b>	<b>Material &amp; Contracts</b>	<b>\$364,695</b>
	Increased Expenditure	
	Kerbside Recycling Contract	\$50,000
	Destination Marketing Plan	\$55,000
	(funded from Tourism funds)	
	Youth First Initiative Program	\$30,000
	(funded from within Economic Development)	
	Banners for Christmas & Anzac Day	\$10,000
	Purchase Projector for CPAC	\$20,488
	Loading Dock at CPAC	\$10,000
	(offset by transfer from reserve)	
	Illegal Dump Cleanup Program	\$102,118
	(offset by Grant income)	
	Waste Tip Site Plant Hire & Cover Material	\$100,000

Cessnock City Council

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17

**Income & Expenses Budget Review Statement**  
**Recommended changes to revised budget**

Budget Variations being recommended include the following material items:

**Notes Details**

(offset by transfer from reserve)

<b>8</b>	<b>Legal Costs</b>	<b>\$17,273</b>	
	Increased Expenditure		
	Debt Recovery		\$10,000
	(offset by Income)		
	Internal Audit Function		\$8,500
	Decreased Expenditure		
	General Legal Expenses		(\$1,500)
<b>9</b>	<b>Consultants</b>	<b>\$15,705</b>	
	Increased Expenditure		
	IPWEA expenditure		\$9,000
	Heritage Local Area Improvement		\$6,000
<b>10</b>	<b>Other Expenses</b>	<b>\$21,431</b>	
	Increased Expenditure		
	Telephone / Internet expenses		\$13,700
	Bank Charges		\$6,000

Cessnock City Council

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17**Approved Changes - Other than by QBRS**

Budget Variations already processed prior to the September Review include the following material items:

**Notes**

<b>1</b>	<b>Grants &amp; Contributions - Operating</b>	<b>\$1,074,661</b>
	Increased Income	
	Roads to Recovery Grant	\$1,074,661
	For major projects:	
	Local Road Traffic Facilities Construction \$44,939	
	Bridge Construction Program \$679,222	
	Pathways Construction Program \$230,500	
<b>2</b>	<b>Grants &amp; Contributions - Capital</b>	<b>\$706,200</b>
	Increased Income	
	Ramsay's leap Heritage Grant	\$30,000
	Cessnock Rd Weston Blackspot Funding	\$200,000
	Resources for Regions - Hermitage Rd & Wayfinding	\$878,000
	CPTIG Bus Shelter Grant	\$100,000
	Decreased Income	
	RMS Buchanan Culvert Works	(\$351,800)
	Reduction in Cessnock Civic Precinct revote of grant	(\$150,000)
<b>3</b>	<b>Material &amp; Contracts</b>	<b>\$58,193</b>
	Increased Expenditure	
	Regional Rds Maintenance Program	\$58,193

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17

Cessnock City Council  
**Capital Budget Review Statement**  
Budget review for the quarter ended 30 September 2017  
**Capital Budget - General Fund**

	Original Budget 2017/18	Approved Changes		Revised Budget 2017/18	Variations for this Sep Qtr	Notes	Projected Year End Result	Actual YTD figures
		Carry Forwards	Other than by QBRs					
<b>Capital Expenditure</b>								
Gravel Rehab & Resheeting Program	317,700	-	-	317,700	-	-	317,700	99,108
Local Road Renewal Program	1,826,043	40,200	(161,596)	1,704,647	-	-	1,704,647	408,120
Local Road Construction Program	-	-	1,347,000	1,347,000	-	-	1,347,000	-
Traffic Facilities Program	3,747,000	103,500	(3,702,061)	148,439	-	-	148,439	81,263
Regional Road Renewal Program	1,552,400	-	281,596	1,833,996	-	-	1,833,996	353,496
Resources for Regions	-	-	878,000	878,000	-	-	878,000	382,704
Black Spot Program	-	-	200,000	200,000	-	-	200,000	3,500
Drainage Construction Program	1,022,000	1,546,525	(151,800)	2,416,725	-	-	2,416,725	1,359,188
Bridge Construction Program	2,250,500	18,000	3,323,265	5,591,765	-	-	5,591,765	885,020
Pathways Construction Program	259,100	168,800	230,500	658,400	-	-	658,400	544,535
Pool Facilities Renewal Program	203,200	-	70,000	273,200	-	-	273,200	76,752
Community Buildings Renewal Program	96,500	28,200	-	124,700	-	-	124,700	9,996
Recreation Facilities Renewal Program	160,800	-	-	160,800	-	-	160,800	12,184
Recreation Buildings Renewal Program	133,500	62,400	-	195,900	-	-	195,900	31,566
Recreation Facilities Construction Program	122,976	12,100	-	135,076	-	-	135,076	21,284
Cessnock Civic Precinct Revitalisation Program	385,000	196,400	(138,193)	443,207	-	-	443,207	120,331
Cemetery Facilities Construction Program	270,000	41,100	20,000	331,100	-	-	331,100	280,914
Waste Services Capital Program	430,000	-	-	430,000	-	-	430,000	134,603
New Garbage Cell Development	-	-	4,050,000	4,050,000	-	-	4,050,000	2,292,847
Major Plant-Capital-Workshop	1,524,000	-	-	1,524,000	100,000	1	1,624,000	1,624,940
Other Fixed Assets	1,105,900	483,061	14,764	1,603,725	34,944	2	1,638,669	670,385
<b>Total Capital Expenditure</b>	<b>15,406,619</b>	<b>2,700,286</b>	<b>6,261,475</b>	<b>24,368,380</b>	<b>134,944</b>		<b>24,503,324</b>	<b>9,392,736</b>
<b>Capital Funding</b>								
Rates & Other Untied Funding	7,756,800	-	(10,000)	7,746,800	18,500	-	7,765,300	-
Capital Grants & Contributions	2,983,626	-	1,828,798	4,812,424	-	-	4,812,424	-
Reserves:								
- External Restrictions/Reserves	-	-	-	-	-	-	-	-
- Internal Restrictions/Reserves	2,617,831	2,698,886	4,360,870	9,677,587	116,444	-	9,794,031	-
New Loans	1,853,362	-	-	1,853,362	-	-	1,853,362	-
Section 94 Funding	195,000	1,400	81,807	278,207	-	-	278,207	-
<b>Total Capital Funding</b>	<b>15,406,619</b>	<b>2,700,286</b>	<b>6,261,475</b>	<b>24,368,380</b>	<b>134,944</b>		<b>24,503,324</b>	<b>-</b>
<b>Net Capital Funding - Surplus/(Deficit)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>		<b>-</b>	<b>-</b>

Cessnock City Council

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17**Capital Budget Review Statement**  
**Recommended changes to original budget**

Budget Variations being recommended include the following material items:

**Notes**

<b>1</b>	<b>Major Plant-Capital-Workshop</b>	<b>\$100,000</b>
	Increased Expenditure	
	Increase in Major Plant purchases	\$100,000
	(offset by transfer from Plant & Equipment reserve)	
<b>2</b>	<b>Other Fixed Assets</b>	<b>\$34,944</b>
	Increased Expenditure	
	Service Desk at Kurri Kurri Library	\$20,000
	Purchase Safe at Tourist Centre	\$5,000
	(offset by transfer from Internally Restricted Assets)	
	Completion of Building Renovations at Youth Centre	\$11,444
	(offset by transfer from Internally Restricted Assets)	
	Decreased Expenditure	
	Traffic Monitoring Equipment	\$1,500

Cessnock City Council

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17**Capital Budget Review Statement****Approved Changes - Other than by QBRS**

Budget Variations already processed prior to the September Review include the following material items:

**Notes**

<b>1</b>	<b>Local Road Renewal Program</b>	<b>(\$161,596)</b>
	Increased Income	
	Roads to Recovery	\$120,000
	Transfer to Regional Road Renewal Program	(\$281,596)
<b>2</b>	<b>Local Road Construction Program</b>	<b>\$1,347,000</b>
	Fosters Bridge Roads Component transferred from Traffic Facilities Program	\$1,347,000
<b>3</b>	<b>Traffic Facilities Program</b>	<b>(\$3,702,061)</b>
	Fosters Bridge Roads Component transferred to Local Road Construction Program	(\$1,347,000)
	Frame Drive Bridge Roads Component moved to Bridge Construction Program	(\$2,400,000)
	Increased Income	
	Roads to Recovery	\$44,939
<b>4</b>	<b>Regional Road Renewal Program</b>	<b>\$281,596</b>
	Transfer from Local Road Renewal Program	\$281,596
<b>5</b>	<b>Resources for Regions Program</b>	<b>\$878,000</b>
	Increased Income	
	Resources for Regions Grant	\$878,000
<b>6</b>	<b>Black Spot Program</b>	<b>\$200,000</b>
	Increased Income	
	RMS Grant	\$200,000
<b>7</b>	<b>Drainage Construction Program</b>	<b>(\$151,800)</b>
	Increased Income	
	RMS Hunter Expressway Reserve Buchanan Culvert Works	\$200,000
	Decreased Income	
	RMS grant income Buchanan Culvert Works	(\$351,800)
<b>8</b>	<b>Bridge Construction Program</b>	<b>\$3,323,265</b>
	Increased Income	
	Roads to Recovery	\$679,222
	Bridge Replacement Reserve	\$65,380
	Bridges Renewal Program Grant	\$163,427
	Transfer from Pre-Construction Design Program	\$15,236
	Frame Drive Bridge Roads Component moved from Traffic Facilities Program	\$2,400,000
<b>9</b>	<b>Pathways Construction Program</b>	<b>\$230,500</b>
	Increased Income	
	Roads to Recovery	\$230,500
<b>10</b>	<b>Pool Facilities Renewal Program</b>	<b>\$70,000</b>
	Increased Income	
	Section 94 - Branxton Pool Heat Pumps	\$70,000
<b>11</b>	<b>Cessnock Civic Precinct Revitalisation Program</b>	<b>(\$138,193)</b>
	Decreased Income	
	Grant	(\$150,000)
	Increased Income	



Cessnock City Council

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17**Capital Budget Review Statement**  
**Approved Changes - Other than by QBRS**

Budget Variations already processed prior to the September Review include the following material items:

<b>Notes</b>		
	Section 94 Funds	\$11,807
<b>12</b>	<b>Cemetery Facilities Construction Program</b>	<b>\$20,000</b>
	Transfer from Strategic Asset Planning	\$20,000
<b>13</b>	<b>New Garbage Cell Development</b>	<b>\$4,050,000</b>
	Increased Income	
	Transfer from Internally Restricted Assets	\$4,050,000
<b>14</b>	<b>Other Fixed Assets</b>	<b>\$14,764</b>
	Increased Expenditure	
	Administration Building Cooling Tower	\$60,000
	(offset by transfer from Internally Restricted Assets)	
	Decreased Expenditure	
	Transfer from Pre Construction Design to Bridge Construction	(\$45,236)

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17

**Cessnock City Council**

**Cash & Investments Budget Review Statement**

Budget review for the quarter ended 30 September 2017

**Cash & Investments - General Fund**

	Actual 2016/17	Original Budget 2017/18	Approved Changes Carry Forwards	Other than by QBRs	Revised Budget 2017/18	Variations for this Sep Qtr	Projected Year End Result
<b>Externally Restricted <sup>(1)</sup></b>							
Developer Contributions	8,379,889	(225,000)	(1,400)	(70,000)	8,083,489	-	8,083,489
RMS Contributions	2,708,913	-	(228,727)	(200,000)	2,280,186	-	2,280,186
Specific Purpose Unexpended Grants	2,023,062	-	(2,023,062)	-	-	-	-
Domestic Waste Management	432,479	-	-	-	432,479	-	432,479
Other	62,000	-	-	-	62,000	-	62,000
<b>Total Externally Restricted</b>	<b>13,606,343</b>	<b>(225,000)</b>	<b>(2,253,189)</b>	<b>(270,000)</b>	<b>10,858,154</b>	-	<b>10,858,154</b>
(1) Funds that must be spent for a specific purpose							
<b>Internally Restricted <sup>(2)</sup></b>							
Plant & Vehicle Replacement	2,547,532	(540,500)	-	-	2,007,032	(60,000)	1,947,032
Employees Leave Entitlement	2,102,357	455,000	-	-	2,557,357	-	2,557,357
Carry Over Works	310,000	-	-	-	310,000	(310,000)	-
Bridge Replacement	560,514	32,200	-	(65,380)	527,334	-	527,334
Cemetery	4,868	5,200	-	-	10,068	-	10,068
Computer Services	276,943	50,000	-	-	326,943	(99,852)	227,091
Insurance Provisions	559,729	(70,700)	-	-	489,029	62,704	551,733
Miscellaneous & Property Reserve	1,702,033	(279,900)	-	(282,811)	1,139,322	(176,444)	962,878
Financial Assistance Grant in Advance	3,481,852	-	-	-	3,481,852	-	3,481,852
Operations & Programs Provision	243,242	190,000	-	-	433,242	(60,000)	373,242
Property Investment Fund	732,411	11,900	-	-	744,311	(18,950)	725,361
Rezoning Fees	85,251	-	-	-	85,251	-	85,251
Single Invitation Contracts	846,068	(758,631)	-	-	87,437	-	87,437
Energy Efficiency Reserve	175,111	-	-	-	175,111	-	175,111
Waste Depot & Rehabilitation	9,146,611	793,030	-	(4,050,000)	5,889,641	595,107	6,484,748
<b>Total Internally Restricted</b>	<b>22,774,522</b>	<b>(112,401)</b>	<b>-</b>	<b>(4,398,191)</b>	<b>18,263,930</b>	<b>(67,435)</b>	<b>18,196,495</b>
(2) Funds that Council has earmarked for a specific purpose							
<b>Unrestricted (ie. available after the above Restrictions)</b>	158,000	-	-	-	158,000	3,243	161,243
<b>Total Cash &amp; Investments</b>	<b>36,538,865</b>	<b>(337,401)</b>	<b>(2,253,189)</b>	<b>(4,668,191)</b>	<b>29,280,084</b>	<b>(64,192)</b>	<b>29,215,892</b>

Cessnock City Council

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17

**Cash & Investments Budget Review Statement****Comment on Cash & Investments Position**

Not Applicable

**Investments**

Investments have been invested in accordance with Council's Investment Policy.

**Cash**

The Cash at Bank figure included in the Cash &amp; Investment Statement totals \$38,277,000

This Cash at Bank amount has been reconciled to Council's physical Bank Statements.  
The date of completion of this bank reconciliation is 30/09/17

**Reconciliation Status**

The YTD Cash &amp; Investment figure reconciles to the actual balances held as follows:

**\$ 000's**

Cash at Bank (as per bank statements)		5,873
Investments on Hand		32,541
less: Unpresented Cheques	(Timing Difference)	(41)
add: Undeposited Funds	(Timing Difference)	199
less: Identified Deposits (not yet accounted in Ledger)	(Require Actioning)	(295)
add: Identified Outflows (not yet accounted in Ledger)	(Require Actioning)	
less: Unidentified Deposits (not yet actioned)	(Require Investigation)	-
add: Unidentified Outflows (not yet actioned)	(Require Investigation)	-
<b>Reconciled Cash at Bank &amp; Investments</b>		<b>38,277</b>

Cessnock City Council

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17

**Key Performance Indicators Budget Review Statement**

	Current Projection Amounts 17/18	Indicator 17/18	Actual 16/17
<b>1. Operating Performance</b>			
Operating Revenue (excl. Capital) - Operating Expenses	\$ 2,443	Ratio 3.51%	3.97%
Operating Revenue (excl. Capital Grants & Contributions)	\$ 69,545		
This ratio measures Council's achievement of containing operating expenditure within operating revenue.			
Benchmark:	Minimum >=0.00%		
<b>2. Own Source Operating Revenue</b>			
Operating Revenue (excl. ALL Grants & Contributions)	\$ 57,151	Ratio 76.86%	63.37%
Total Operating Revenue (incl. Capital Grants & Cont)	\$ 74,357		
This ratio measures fiscal flexibility. It is the degree of reliance on external funding sources such as operating grants & contributions.			
Benchmark:	Minimum >=60.00%		
<b>3. Unrestricted Current Ratio</b>			
Current Assets less all External Restrictions	\$ 57,700	Ratio 3.03	2.45
Current Liabilities less Specific Purpose Liabilities	\$ 19,073		
To assess the adequacy of working capital and its ability to satisfy obligations in the short term for the unrestricted activities of Council.			
Benchmark:	Minimum >=1.50		
<b>4. Debt Service Cover Ratio</b>			
Operating Result before Interest & Dep. Exp.	\$ 12,913	Ratio 7.13	8.11
Principal Repayments + Borrowing Interest Costs	\$ 1,811		
This ratio measures the availability of operating cash to service debt including interest, principal and lease payments.			
Benchmark:	Minimum >=2.00		
<b>5. Rates, Annual Charges, Interest &amp; Extra Charges Outstanding</b>			
Rates, Annual & Extra Charges Outstanding	\$ 1,115	Ratio 2.29%	2.04%
Rates, Annual & Extra Charges Collectible	\$ 48,600		
To assess the impact of uncollected rates and annual charges on Council's liquidity and the adequacy of recovery efforts.			
Benchmark:	Minimum < 5.00%		
<b>6. Cash Expense Cover Ratio</b>			
Current Year's Cash & Cash Equivalents (Incl all Term Deposits) X 12	\$ 34,903	Ratio 6.05	6.31
Payments from Cash Flow of operating and financing activities	\$ 5,765		
This liquidity ratio indicates the number of months a Council can continue paying for its immediate expenses without additional cash inflow.			
Benchmark:	Minimum >=3.00		

Source for benchmarks: Code of Accounting Practice and Financial Reporting #25

Cessnock City Council

**Quarterly Budget Review Statement**  
for the period 01/07/17 to 30/09/17**Consultancy & Legal Expenses Budget Review Statement**

## Consultancy &amp; Legal Expenses Overview

Expense	YTD Expenditure (Actual Dollars)	Budgeted (Y/N)
Consultancies	\$ 127,267	Y
Legal Fees	\$ 301,607	Y

**Definition of a consultant:**

A consultant is a person or organisation engaged under contract on a temporary basis to provide recommendations or high level specialist or professional advice to assist decision making by management. Generally it is the advisory nature of the work that differentiates a consultant from other contractors.

**Details**

Company	Purpose	Rationale	Amount
Conybeare Morrison International	Cessnock Commercial Precinct Project	Land Use Planning Strategy	\$ 18,636
Premium Claim Solutions	Claims Management - Public Liability	Specialist Claims Management	\$ 42,582
Elizabeth Evans Heritage Consultant	Heritage Advisor	Heritage Specialist	\$ 2,747
Edwards Planning	Heritage Advisor	Heritage Specialist	\$ 9,750
Lindsay Taylor Lawyers	Section 94 Review	Legal Advice	\$ 16,171
Passmore Duff P/L T/as CARM	Staff Development	Training	\$ 12,050
Moir Landscape Architecture	Kurri Kurri Town Centres Masterplans	Land Use Planning Strategy	\$ 13,330
IPWEA - NSW Division	Staff Development	Training	\$ 12,000

Legal Expenditure Summary	Original Budget	Sept Review	Dec Review	Revised Budget	Mar Variation	Projected Result	Actual YTD
Debt Recovery	\$ 350,000	\$ 10,000	\$ -	\$ 360,000	\$ -	\$ 360,000	\$ 97,850
Planning & Development	\$ 180,000	\$ 273	\$ -	\$ 180,273	\$ -	\$ 180,273	\$ 179,967
Other Legal Costs	\$ 20,000	\$ 7,000	\$ -	\$ 27,000	\$ -	\$ 27,000	\$ 23,790
Sub Total	\$ 550,000	\$ 17,273	\$ -	\$ 567,273	\$ -	\$ 567,273	\$ 301,607
Less Recoveries							
Debt Recovery	\$ 350,000	\$ 10,000	\$ -	\$ 360,000	\$ -	\$ 360,000	\$ 225,607
Planning & Development	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sub Total	\$ 350,000	\$ 10,000	\$ -	\$ 360,000	\$ -	\$ 360,000	\$ 225,607
Net Council Cost	\$ 200,000	\$ 7,273	\$ -	\$ 207,273	\$ -	\$ 207,273	\$ 76,000

Legal Expenditure Details	Original Budget	Sept Review	Dec Review	Revised Budget	Mar Variation	Projected Result	Actual YTD
- Huntlee	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 235
- Legal Advices	\$ 180,000	\$ -	\$ -	\$ 180,000	\$ -	\$ 180,000	\$ 65,172
- Avery's Rise	\$ -	\$ 273	\$ -	\$ 273	\$ -	\$ 273	\$ 273
- Geary Class 1 Appeal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 18,035
- Crowne Plaza - Marquee	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 51,458
- Crowne Plaza - Workers Accommodations	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 44,794
Planning & Development Total	\$ 180,000	\$ 273	\$ -	\$ 180,273	\$ -	\$ 180,273	\$ 179,967
Debt Recovery Total	\$ 350,000	\$ 10,000	\$ -	\$ 360,000	\$ -	\$ 360,000	\$ 97,850
- Property Management	\$ 2,000	\$ -	\$ -	\$ 2,000	\$ -	\$ 2,000	\$ 107
- General Administration	\$ 11,500	\$ (500)	\$ -	\$ 11,000	\$ -	\$ 11,000	\$ 6,323
- General Manager	\$ 6,500	\$ 7,500	\$ -	\$ 14,000	\$ -	\$ 14,000	\$ 17,360
Other Legal Total	\$ 20,000	\$ 7,000	\$ -	\$ 27,000	\$ -	\$ 27,000	\$ 23,790
Total Expenditure	\$ 550,000	\$ 17,273	\$ -	\$ 567,273	\$ -	\$ 567,273	\$ 301,607

## Cessnock City Council

Statement of Financial Position  
as at 30 September 2017

\$ '000	Actual 2017	Year to date 2018
<b>ASSETS</b>		
<b>Current Assets</b>		
Cash & Cash Equivalents	7,039	6,414
Investments	28,500	31,000
Receivables	5,941	34,468
Inventories	376	364
Other	197	-
<b>Total Current Assets</b>	<b>42,053</b>	<b>72,246</b>
<b>Non-Current Assets</b>		
Investments	1,000	1,000
Inventories	1,270	1,270
Infrastructure, Property, Plant & Equipment	744,195	750,886
<b>Total Non-Current Assets</b>	<b>746,465</b>	<b>753,156</b>
<b>TOTAL ASSETS</b>	<b>788,518</b>	<b>825,402</b>
<b>LIABILITIES</b>		
<b>Current Liabilities</b>		
Payables	7,976	11,765
Borrowings	1,179	1,179
Provisions	8,959	8,959
<b>Total Current Liabilities</b>	<b>18,114</b>	<b>21,903</b>
<b>Non-Current Liabilities</b>		
Payables	1,915	1,915
Income received in advance	773	796
Borrowings	5,419	5,419
Provisions	11,386	11,386
<b>Total Non-Current Liabilities</b>	<b>19,493</b>	<b>19,516</b>
<b>TOTAL LIABILITIES</b>	<b>37,607</b>	<b>41,419</b>
<b>Net Assets</b>	<b>750,911</b>	<b>783,983</b>
<b>EQUITY</b>		
Retained Earnings	432,613	465,685
Revaluation Reserves	318,298	318,298
<b>Total Equity</b>	<b>750,911</b>	<b>783,983</b>



## Cessnock City Council - Monthly Cash Flow Analysis

Month	CBA Cash and Working Accounts										Investment Balance	Total
	Opening Balance	EFT/Chqs	Payroll	New Investments	Roll over Investments	Matured Investments	Other Income	RTA	GST	Rates	Closing Balance	
July 2017	6,277	(5,642)	(1,672)	-	-	2,800	2,140	-	409	2,667	5,979	33,179
August 2017	5,979	(7,513)	(1,801)	(5,300)	-	-	2,417	2,915	414	8,931	6,042	38,542
September 2017	6,042	(5,666)	(1,518)	-	-	-	2,477	-	447	4,132	5,914	38,414
October 2017	5,914	(4,731)	(1,491)	(700)	(800)	1,700	1,097	119	100	1,272	2,480	34,780
November 2017	2,480	(6,400)	(1,850)	-	(5,100)	5,900	1,805	300	250	8,200	5,585	37,085
December 2017	5,585	(4,720)	(1,480)	-	(3,000)	3,000	920	300	250	1,800	2,655	34,155
January 2018	2,655	(4,500)	(1,850)	-	(3,300)	4,900	1,150	300	100	1,900	1,355	31,255
February 2018	1,355	(5,400)	(1,480)	-	(1,400)	3,400	1,575	300	100	7,100	5,550	33,450
March 2018	5,550	(4,600)	(1,480)	-	(4,800)	4,800	920	300	200	2,400	3,290	31,190
April 2018	3,290	(4,200)	(1,480)	-	(2,200)	5,100	920	300	100	1,000	2,830	27,830
May 2018	2,830	(5,600)	(1,850)	-	-	2,600	1,805	300	200	8,300	8,585	30,985
June 2018	8,585	(7,200)	(1,480)	-	-	-	920	300	200	1,300	2,625	25,025

Actual	
Estimate	

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Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 03 May 2017	Nicole Benson	ANZAC Day Street Banners for Cessnock and Kurri Kurri	18/10/2017	5/05/2017	12/10/2017
BN22/2017 213	<i>Councillor Gray</i>	Justin Fitzpatrick-Barr				
<p>12 Oct 2017 - 12:04 PM - Nicole Benson  Action completed by: Kristy Meyers  Report being presented to Council 18/10/17.  10 Aug 2017 - 3:07 PM - Kristy Meyers  Arrangements are being made to suit banners for existing poles.  15 Jun 2017 - 11:05 AM - Kristy Meyers  Item 1 being investigated by Media &amp; Communications.  Item 2 being investigated by Recreation Services.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 05 July 2017	Colin Davis	Shopping Trolleys	24/11/2017	7/07/2017	9/11/2017
BN30/2017 301	<i>Councillor Dunn</i>	Gareth Curtis				
<p>09 Nov 2017 - 9:30 AM - Colin Davis  Action completed by: Colin Davis  Report to meeting of 1 November 2017  07 Sep 2017 - 9:33 AM - Colin Davis  Briefing arranged for Council on 25 October 2017. A report will be presented to Council in November 2017 following briefing.  02 Aug 2017 - 11:18 AM - Colin Davis  A review of policies from other Council's is currently being carried out. Interviews have also been scheduled with Trolley Trackers and all supermarkets/stores within the LGA to investigate current procedures and future options.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 19 July 2017	Maria Nikolaidis	Footpath Cycleway - Wine Country Drive	18/10/2017	24/07/2017	12/10/2017
BN33/2017 320	<i>Councillor Dagg</i>	Justin Fitzpatrick-Barr				
<p>12 Oct 2017 - 11:52 AM - Maria Nikolaidis  Action completed by: Kristy Meyers  Report being presented to Council 18/10/17.  07 Sep 2017 - 12:43 PM - Rachael O'Hara  Item 1 - Preparing a project brief for the requested works.  Item 2 - Preparing a project brief for two stages.  Item 3 - Investigating opportunities for funding.  Item 4 - Drafting a report to Council.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 02 August 2017	Maria Nikolaidis	NSW Government Funding for Tourist Route 33 - Wollombi Road - Wollombi to Bellbird	13/12/2017	4/08/2017	8/11/2017
BN35/2017 330	<i>Councillor Dunn</i>	Justin Fitzpatrick-Barr				
<p>08 Nov 2017 - 2:44 PM - Maria Nikolaidis  Action completed by: Rachael O'Hara  Correspondence report prepared for the information of Council 1 November 2017.  06 Oct 2017 - 10:53 AM - Rachael O'Hara  Item 1 - Letters prepared and sent.  Item 2 - Seeking grant opportunities.  Item 3 - Letters prepared and sent.  25 Aug 2017 - 2:42 PM - Rachael O'Hara  Item 1 - Drafting letter to parliamentary representatives.  Item 2 - Investigating available grants.</p>						

Item 3 - Drafting letter to associations.

09 Aug 2017 - 11:15 AM - Kristy Meyers  
DOC2017/054290.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 02 August 2017	Maria Nikolaidis	Mount View Road, Cessnock	15/11/2017	4/08/2017	8/11/2017
BN36/2017 331	Councillor Olsen	Justin Fitzpatrick-Barr				
08 Nov 2017 - 2:51 PM - Maria Nikolaidis Action completed by: Rachael O'Hara Report presented to Council 1 November 2017. 12 Oct 2017 - 10:44 AM - Rachael O'Hara Item 1 - Drafting report to Council. Item 2 - Sort amendment to Capital Works program. Item 3 - Prepared draft letter to Minister for Corrections. 25 Aug 2017 - 1:42 PM - Rachael O'Hara Item 1 - Drafting report to Council. Item 2 - Removing major works on Mount View Road from current works programs. Item 3 - Drafting letter to Minister for Corrections. 21 Aug 2017 - 4:28 PM - Kristy Meyers Draft report generated in Info Council. 10 Aug 2017 - 3:23 PM - Kristy Meyers Investigations and design is underway. A report will be brought back to Council for end October / early November 2017.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 02 August 2017	Maria Nikolaidis	Quarrybylong Street, Cessnock	15/11/2017	4/08/2017	8/11/2017
BN37/2017 332	Councillor Olsen	Justin Fitzpatrick-Barr				
08 Nov 2017 - 2:54 PM - Maria Nikolaidis Action completed by: Rachael O'Hara Report presented to Council 1 November 2017. 12 Oct 2017 - 10:48 AM - Rachael O'Hara Item 1 - Preparing a report with costings of formalising the footpath with Kerb and Guttering 25 Aug 2017 - 2:18 PM - Rachael O'Hara Item 1 - Drafting report to Council. 21 Aug 2017 - 4:28 PM - Kristy Meyers Draft report generated in Info Council. 10 Aug 2017 - 3:24 PM - Kristy Meyers Investigations and design is underway. A report will be brought back to Council for end October / early November 2017.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 06 September 2017	Justin Fitzpatrick-Barr	Strategic Emergency Services Precinct	4/10/2017	7/09/2017	12/10/2017
BN45/2017	Councillor Doherty	Justin Fitzpatrick-Barr				
12 Oct 2017 - 11:47 AM - Justin Fitzpatrick-Barr Action completed by: Kristy Meyers Letter posted 12/10/17.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 04 October 2017	Colin Davis	Abandoned Vehicles	1/11/2017	5/10/2017	9/11/2017
BN49/2017 283	Councillor Fitzgibbon	Gareth Curtis				

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09 Nov 2017 - 9:28 AM - Colin Davis

Action completed by: Colin Davis

Council noted recommendation at its meeting of 18 October 2017

12 Oct 2017 - 4:43 PM - Colin Davis

Report going to Council meeting of 18 October 2017

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 04 October 2017	Gina Radford	Policing Review - Impacts on Cessnock LGA	1/11/2017	5/10/2017	11/10/2017
MM15/2017		Stephen Glen				

11 Oct 2017 - 12:54 PM - Gina Radford

Action completed by: Sandra Richardson

Completed

11 Oct 2017 - 12:53 PM - Sandra Richardson

The following letters have been sent on 10 October 2017 - DOC2017/070853, 071551, 071553, 071555 & 071566.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 04 October 2017	Nicole Benson	BMX TRACK CESSNOCK LGA	1/11/2017	5/10/2017	11/10/2017
Q105/2017		Justin Fitzpatrick-Barr				

11 Oct 2017 - 9:05 AM - Nicole Benson

Action completed by: Kristy Meyers

Answer to question report being presented to 18/10/17 Council meeting.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 20 September 2017	Hannah McCauley	East Cessnock Flying-Fox Camp Management Plan	18/10/2017	22/09/2017	11/10/2017
PE49/2017		Gareth Curtis				

249

11 Oct 2017 - 2:47 PM - Hannah McCauley

Action completed by: Hannah McCauley

Stakeholders and agencies written to.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 21 June 2017	Justin Fitzpatrick-Barr	Adoption of Community Strategic Plan, 2017-21 Delivery Program, Resourcing Strategy and 2017-18 Operational Plan & Budget	4/10/2017	27/06/2017	12/10/2017
PE32/2017		Justin Fitzpatrick-Barr				

268

12 Oct 2017 - 11:51 AM - Justin Fitzpatrick-Barr

Action completed by: Kristy Meyers

Raising the Funding Ratio for Works and Infrastructure Report being presented to Council 18/10/17

18 Aug 2017 - 10:50 AM - Kristy Meyers

DW&I to prepare a report back to Council on or before 18 October 2017 as per item 6 of the resolution.

02 Aug 2017 - 11:49 AM - Justin Fitzpatrick-Barr

Action completed by: Robyn Keegan

Community Strategic Plan - 2027, Delivery Program 2017-21 (includes the 2017-18 Operational Plan), Resourcing Strategy 2017-21 are available on the CCC Website.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 20 September 2017	Warren Jeffery	Gateway Entries	15/11/2017	22/09/2017	12/10/2017
WI70/2017		Justin Fitzpatrick-Barr				

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12 Oct 2017 - 10:08 AM - Warren Jeffery

Action completed by: Rachael O'Hara

Item 1 - Noted

Item 2 - Noted

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Item 3 - Continuing to pursue grant funding.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 04 October 2017	Janine McCarthy	Appointment of alternate Councillor representative to the Hunter and Central Coast Joint Regional Planning Panel for consideration of Development Application Nos. 8/2017/459/1 and 8/2017/460/1	1/11/2017	5/10/2017	17/10/2017
PE54/2017 274 17 Oct 2017 - 3:18 PM - Janine McCarthy Action completed by: Lucy Wakeman Completed 17 Oct 2017 - 3:14 PM - Lucy Wakeman Letters sent to JRPP as per resolution. See DOC2017/072328 & DOC2017/072340		Gareth Curtis				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 04 October 2017	Nathan Eveleigh	North Rothbury Tidy Towns - Twilight Markets	1/11/2017	5/10/2017	18/10/2017
W174/2017 281 18 Oct 2017 - 12:03 PM - Nathan Eveleigh Action completed by: Nathan Eveleigh 18 Oct 2017 - 12:01 PM - Nathan Eveleigh Open Space & Community Facilities staff have notified North Rothbury Tidy Towns of Council's resolution. The Tidy Towns committee are now considering their options to run only 1 market or not at all due to the "per market" fee remaining in place. They will advise Open Space & Community Facilities staff once the decision has been made.		Justin Fitzpatrick-Barr				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 04 October 2017	Ian Lyall	Attendance by the Internal Auditor at International Meetings of the Institute of Internal Auditors Guidance Development Committee	31/10/2018	5/10/2017	19/10/2017
GMU15/2017 271 19 Oct 2017 - 6:00 PM - Ian Lyall Action completed by: Ian Lyall Refer notes 06 Oct 2017 - 11:33 AM - Ian Lyall 1. Noted. Travel arrangements will be made at the appropriate time. 2. Appropriate disclosure will be made in the 2017/18 annual report.		Stephen Glen				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Robert Maginnity	Update on Richmond Vale	15/11/2017	20/10/2017	20/10/2017
Q115/2017 20 Oct 2017 - 4:41 PM - Robert Maginnity Action completed by: Robert Maginnity Answered on the night of the meeting		Robert Maginnity				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 04 October 2017	Kristen Wells	Section 96 (AA) Application to Modify NSW Land and Environment Court Order No. 10515 of 1995 (Council reference: 5/1994/80115/1)  Black Hill Road, Black Hill	1/11/2017	5/10/2017	24/10/2017
PE52/2017 272 24 Oct 2017 - 10:51 AM - Kristen Wells Action completed by: Janine McCarthy Determination notice issued.		Gareth Curtis				

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Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Janine McCarthy	Ash Street Development Application	15/11/2017	20/10/2017	24/10/2017
Q109/2017		Gareth Curtis				
24 Oct 2017 - 10:51 AM - Janine McCarthy Action completed by: Janine McCarthy Answer provided in business paper for Council's meeting of 1 November 2017.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Janine McCarthy	Glennie Street, Ellalong	15/11/2017	20/10/2017	24/10/2017
Q113/2017		Gareth Curtis				
24 Oct 2017 - 10:51 AM - Janine McCarthy Action completed by: Janine McCarthy Answer provided in business paper for Council's meeting of 1 November 2017.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Janine McCarthy	DA Processing Times	15/11/2017	20/10/2017	24/10/2017
Q116/2017		Gareth Curtis				
24 Oct 2017 - 10:51 AM - Janine McCarthy Action completed by: Janine McCarthy Answer provided in business paper for Council's meeting of 1 November 2017.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 05 July 2017	Annaleize Hambling	Banners - Vincent Street	2/08/2017	7/07/2017	25/10/2017
Q74/2017		Stephen Glen				
25 Oct 2017 - 10:55 AM - Annaleize Hambling Action completed by: Annaleize Hambling An order has been placed for Christmas banners and a grant application is underway for ANZAC Day banners. 25 Oct 2017 - 10:51 AM - Annaleize Hambling An order has been placed for Christmas banners and a grant application is underway for the ANZAC Day street banners. 11 Oct 2017 - 4:18 PM - Annaleize Hambling An order for Christmas banners has been placed and a report has been prepared for Councillors in relation to the ANZAC Day banners. 10 Aug 2017 - 9:35 AM - Robyn Larsen The following response was provided to 19 July 2017 Council meeting. Actions are progressing well in relation to investigating the modification of existing poles in Branxton, Weston, Abermain, Kearsley, Ellalong, Paxton, Millfield, Wollombi and Greta Cenotaphs. A review of 15 street banner poles, comprising eight (8) existing poles in Victoria Street, Kurri Kurri, seven (7) existing poles in Vincent Street, Cessnock has also been undertaken. Council officers are exploring the funding opportunities relating to the Anzac Banners and quotes are being sourced in relation to the design and production of banners. A report will be prepared for Councils consideration once investigations into this matter have been finalised.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Annaleize Hambling	ANZAC Day Street Banners 2017	15/11/2017	20/10/2017	25/10/2017
GMU18/2017		Stephen Glen				
25 Oct 2017 - 11:10 AM - Annaleize Hambling Action completed by: Annaleize Hambling Completed. 25 Oct 2017 - 11:01 AM - Annaleize Hambling The grant application will be submitted ahead of November 11 to secure funding for ANZAC Day street banners. Council officers will look for opportunities to increase the number of banner poles within the 7 locations across the LGA on an ongoing basis including identifying grant opportunities.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Robert Maginnity	Code of Conduct Review Panel 2017	15/11/2017	20/10/2017	2/11/2017

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CC73/2017 296 02 Nov 2017 - 11:47 AM - Robert Maginnity Action completed by: Robert Maginnity Panel appointed and available for use by Code of Conduct complaints coordinator		Robert Maginnity				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Paul Grosbernd	Financial Statements for the Year Ended 30 June 2017	9/11/2017	3/11/2017	3/11/2017
CC78/2017 307 03 Nov 2017 - 12:18 PM - Paul Grosbernd Action completed by: Paul Grosbernd Noted. No further action required.		Robert Maginnity				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Ian Lyall	Minutes of the Extraordinary Audit Committee Meeting held 17 October 2017	29/11/2017	3/11/2017	3/11/2017
GMU19/2017 309 03 Nov 2017 - 12:34 PM - Ian Lyall Action completed by: Ian Lyall Noted.		Stephen Glen				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Robert Maginnity	Council Recess Period	29/11/2017	3/11/2017	3/11/2017
CC77/2017 313 03 Nov 2017 - 12:40 PM - Robert Maginnity Action completed by: Robert Maginnity Delegations with Mayor & GM over recess period (if needed) 03 Nov 2017 - 12:39 PM - Robert Maginnity Corporate Governance - please note recess period & office closure.		Robert Maginnity				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Nicole Benson	Request for Fee Waiver for Charity Day at Jeffery Park Kearsley	29/11/2017	3/11/2017	3/11/2017
W184/2017 319 03 Nov 2017 - 12:05 PM - Nicole Benson Action completed by: Nicole Benson 03 Nov 2017 - 12:04 PM - Nicole Benson Invoice for stalls sent and VMS coordinated in consultation with applicant.		Justin Fitzpatrick-Barr				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 06 September 2017	Darrylen Allan	Proposal to Close Council Offices Between Christmas and New Year	4/10/2017	7/09/2017	6/11/2017
GMU14/2017 226 06 Nov 2017 - 11:33 AM - Darrylen Allan Action completed by: Darrylen Allan Resolution noted and all related actions completed.		Stephen Glen				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Keren Brown	Heritage Listing Process for Wollombi Public School (former)	15/11/2017	20/10/2017	6/11/2017



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PE55/2017 293 06 Nov 2017 - 10:17 AM - Keren Brown Action completed by: Keren Brown Noted		Gareth Curtis				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Nicole Benson	Removal of Magnolia Trees	15/11/2017	20/10/2017	6/11/2017
Q112/2017  06 Nov 2017 - 12:07 PM - Nicole Benson Action completed by: Nicole Benson		Justin Fitzpatrick-Barr				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Nicole Benson	Relocation of Magnolia Trees & Agapanthus	29/11/2017	3/11/2017	6/11/2017
Q117/2017  06 Nov 2017 - 12:28 PM - Nicole Benson Action completed by: Nicole Benson Report prepared for 15 November meeting.		Justin Fitzpatrick-Barr				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 06 September 2017	Warren Jeffery	Re-establishment of expired Alcohol Free Zones in the Cessnock, Kurri Kurri and Weston Central Business Districts	15/11/2017	7/09/2017	7/11/2017
WI65/2017 240 07 Nov 2017 - 3:31 PM - Warren Jeffery Action completed by: Rachael O'Hara Item 1 - A proposal was prepared and presented at its Ordinary Meeting 1 November 2017. All resolutions regarding The Local Government Act & Ministerial guidelines have been complied with. 07 Nov 2017 - 3:22 PM - Rachael O'Hara Item 1 - A proposal was prepared and presented at its Ordinary Meeting 1 November 2017. All resolutions associated with WI82/2017 have been undertaken. 20 Sep 2017 - 12:01 PM - Rachael O'Hara Item 1 - Drafting report for Council Meeting. Submission period closes 1 November 2017.		Justin Fitzpatrick-Barr				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Katrina Kerr	Frame Drive, Abermain	15/11/2017	20/10/2017	7/11/2017
Q110/2017  07 Nov 2017 - 2:33 PM - Katrina Kerr Action completed by: Rachael O'Hara Answer to Questions was presented at its Ordinary Meeting 1 November 2017. The answer was noted.		Justin Fitzpatrick-Barr				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Katrina Kerr	Maitland Street, Branxton	15/11/2017	20/10/2017	7/11/2017
Q114/2017  07 Nov 2017 - 2:34 PM - Katrina Kerr Action completed by: Rachael O'Hara Answer to Questions was presented at its Ordinary Meeting 1 November 2017. The answer was noted.		Justin Fitzpatrick-Barr				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Warren Jeffery	Re-establishment of Alcohol Free Zones	29/11/2017	3/11/2017	7/11/2017
WI82/2017 317		Justin Fitzpatrick-Barr				

07 Nov 2017 - 2:57 PM - Warren Jeffery

Action completed by: Rachael O'Hara

Item 1 - Completed

Item 2 - Signs currently being updated with new date decals.

Item 3 - Advertised in Cessnock Advertiser on 8 November 2017.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Michael Alexander	Opening of Waste Transfer Station	29/11/2017	3/11/2017	7/11/2017
Q119/2017		Justin Fitzpatrick-Barr				

07 Nov 2017 - 12:56 PM - Michael Alexander

Action completed by: Michael Alexander

Opening scheduled for 13 Nov 2017

07 Nov 2017 - 12:54 PM - Michael Alexander

Opening scheduled for 13/Nov 2017; delayed given State Govt funding & Ministers invitation/availability (originally scheduled for 30/10/2017)

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 04 October 2017	Justin Fitzpatrick-Barr	The Local Government Community Infrastructure Register	1/11/2017	5/10/2017	8/11/2017
MM14/2017		Justin Fitzpatrick-Barr				

08 Nov 2017 - 10:11 AM - Justin Fitzpatrick-Barr

Action completed by: Kristy Meyers

Resolution 1 & 2 complete.

08 Nov 2017 - 10:11 AM - Kristy Meyers

Resolution No. 1 complete. 4 projects have been submitted.

20 Oct 2017 - 2:15 PM - Sandra Richardson

Resolution no. 2 complete and letters sent 12/10/17 to:

Opposition Leader, Bill Shorten DOC2017/072521

Federal Member Cessnock, Joel Fitzgibbon DOC2017/072522

Federal Member Paterson, Meryl Swanson DOC2017/072525

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Bruce Hughes	Petition - Renaming part of Acacia Street Kurri Kurri	15/11/2017	20/10/2017	8/11/2017
W176/2017 299		Justin Fitzpatrick-Barr				

08 Nov 2017 - 2:25 PM - Bruce Hughes

Action completed by: Rachael O'Hara

The naming of Acacia Street has been retained for both sections of Acacia Street, Kurri Kurri

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Geoffrey Bent	Road Works - Mulbring	15/11/2017	20/10/2017	8/11/2017
Q111/2017		Justin Fitzpatrick-Barr				

08 Nov 2017 - 10:05 AM - Geoffrey Bent

Action completed by: Kristy Meyers

Answer to Question report presented to Council 1 November 2017.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Katrina Kerr	Minutes of Local Traffic Committee held 18 September 2017	29/11/2017	3/11/2017	8/11/2017
W186/2017 321		Justin Fitzpatrick-Barr				

08 Nov 2017 - 2:31 PM - Katrina Kerr

Action completed by: Rachael O'Hara

Actions out of the adopted recommendations of the Local Traffic Committee are in progress, tracked by as follows:

Item 1 - TC28/2017 - CRM 18806/2017 created for completion of works (original CRM 9189/2017), Item 2 - TC29/2017 - Proposed treatments on the agenda for the November LTC meeting, Item 3 - TC31/2017 - Pelaw Main School Zone: - Exploring funding sources for the installation of Children's Crossing and parking areas/restrictions, Detailed design to be prepared. - Bus Zone has been removed, shelter relocated to Tomalpin Street, and unrestricted parallel parking is in place. Item 4 - This issue was rectified at the meeting. The original treatments proposed at the August LTC meeting (TC25/2017) were accepted by the RMS representative. No further action should be required. Item 5 - Peter preparing a briefing. No date booked at this stage.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Colin Davis	Abandoned Vehicles	15/11/2017	20/10/2017	9/11/2017
PE57/2017 295 09 Nov 2017 - 9:29 AM - Colin Davis Action completed by: Colin Davis Council noted the recommendation at its meeting of 18 October 2017.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Robyn Larsen	Schedule of Ordinary Meetings of Council Dates 2018	29/11/2017	3/11/2017	9/11/2017
CC76/2017 312 09 Nov 2017 - 11:59 AM - Robyn Larsen Action completed by: Robyn Larsen Meeting invite sent out to Councillors and staff and dates added to Council's website as well as InfoCouncil. 03 Nov 2017 - 12:38 PM - Robert Maginnity Corporate Governance - please arrange for meeting dates to be set up in InfoCouncil and in Council calendar. 03 Nov 2017 - 12:38 PM - Robyn Larsen Action reassigned to Robyn Larsen by: Robert Maginnity						

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Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 February 2017	Nicole Benson	Upgrade of Bellbird BMX Track	26/01/2018	3/02/2017	
BN1/2017 100	<i>Councillor Olsen</i>	Justin Fitzpatrick-Barr				
<p>23 Oct 2017 - 9:13 AM - Nicole Benson  ROSSP deferred for a briefing. Briefing held on 11 October and ROSSP to go back to Council early 2018. This report will follow.  18 Sep 2017 - 10:50 AM - Nicole Benson  draft ROSSP to be considered by Council on 20 September for public exhibition. Final adoption estimated to be late Nov early Dec  07 Jul 2017 - 9:57 AM - Kelly Bates  Report to follow adoption of ROSSP 2017  06 Feb 2017 - 11:29 AM - Nicole Benson  ROSSP 2017 expected to be adopted by end September 2017. This report will follow.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 19 October 2016	Maria Nikolaidis	Establishment of Commuter Car Park - Stanford Road, Heddon Greta	15/11/2017	24/10/2016	
BN12/2016 33	<i>Councillor Gray</i>	Justin Fitzpatrick-Barr				
<p>08 Nov 2017 - 10:43 AM - Rachael O'Hara  Report being presented to its Ordinary Meeting 15 November 2017.  28 Aug 2017 - 12:20 PM - Rachael O'Hara  Item 1 - Investigating Heddon Greta site and continuing dialogue with RMS. Drafting report to Council.  Item 2 - Investigating alternate site at HEX interchanges.  14 Jun 2017 - 2:53 PM - Kristy Meyers  To Design Delivery for carriage of the Commuter Carpark Project Stanford Road, Heddon Greta.  14 Jun 2017 - 11:04 AM - Karen Burgess  Liaison meeting scheduled for 20 June 2017.  30 May 2017 - 8:53 AM - Karen Burgess  Draft concept designs prepared for discussion with RMS at the next liaison meeting.  08 May 2017 - 12:33 PM - Robyn Larsen  Further RMS liaison meeting to be scheduled.  06 Mar 2017 - 10:17 AM - Karen Burgess  Further RMS liaison meeting scheduled for 30 March 2017.  09 Nov 2016 - 2:35 PM - Kristy Meyers  Discussed at quarterly meeting held with RMS on 2 November 2016. RMS advised that they do not normally provide commuter car parking space, however, investigation will be undertaken for possible short term measures. Longer term solutions and associated funding to be further investigated.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 February 2017	Nicole Benson	Installation of Racquet Ball Court	26/01/2018	3/02/2017	
BN2/2017 101	<i>Councillor Olsen</i>	Justin Fitzpatrick-Barr				
<p>23 Oct 2017 - 9:10 AM - Nicole Benson  ROSSP deferred for a briefing. Briefing held on 11 October and ROSSP to go back to Council early 2018. This report will follow.  18 Sep 2017 - 10:56 AM - Nicole Benson  Report to be considered by Council at 18 October meeting  24 Aug 2017 - 9:02 AM - Nicole Benson  Report to be considered by Council in conjunction with the Recreation and Open Space Strategic Plan in September 2017.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 17 May 2017	Katrina Kerr	Lovedale Road, Camp Road and Talga Road, Lovedale - Intersections	13/12/2017	19/05/2017	
BN23/2017 239	<i>Councillor Dagg</i>	Justin Fitzpatrick-Barr				
<p>12 Oct 2017 - 10:23 AM - Rachael O'Hara</p>						

Item 1 - Completed investigation. Proceeding with design.  
 Item 2 - Preparing amendment to 2017/2018 Operational Plan  
 Item 3 - Drafting a report to Council.  
 14 Jun 2017 - 12:45 PM - Katrina Kerr  
 Item 1 - Being investigated  
 Item 2 - An update to the 2017/18 Operational Plan has been sought.  
 Item 3 - To be reported back to Council in 17/18 as per resolution.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 19 July 2017	Maria Nikolaidis	Main Road Heddon Greta	15/11/2017	24/07/2017	
BN32/2017 319	Councillor Gray	Justin Fitzpatrick-Barr				
08 Nov 2017 - 2:33 PM - Rachael O'Hara Report being presented to 15 November 2017 meeting. 15 Aug 2017 - 11:12 AM - Rachael O'Hara Item 1 - Drafting report to Council on outcomes of meetings with Roads Minister and RMS. Item 2 - Formulating strategies to fast track resolution of safety issues.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 16 August 2017	Warren Jeffery	Narrow Roads - Footpath Parking	13/12/2017	18/08/2017	
BN38/2017 349	Councillor Fitzgibbon	Justin Fitzpatrick-Barr				
09 Nov 2017 - 10:08 AM - Rachael O'Hara Draft memo with Director for review. 05 Sep 2017 - 10:47 AM - Rachael O'Hara Investigating and drafting a Councillor memo.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 06 September 2017	Warren Jeffery	Lovedale Road and Wilderness Road Lovedale - Traffic Accidents Reports and Statistics	15/11/2017	7/09/2017	
BN42/2017 241	Councillor Fagg	Justin Fitzpatrick-Barr				
08 Nov 2017 - 3:14 PM - Rachael O'Hara Report prepared for Council Meeting 15 November 2017. 03 Oct 2017 - 3:11 PM - Rachael O'Hara Item 1 - Obtaining crash data. Item 2 - Researching previous recommendations. Item 3 - Investigating options for temporary and permanent works.  12 Sep 2017 - 3:49 PM - Rachael O'Hara Draft report generated in InfoCouncil.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 06 September 2017	Justin Fitzpatrick-Barr	Sponsorship and Subsidies Review	1/03/2018	7/09/2017	
BN43/2017 242	Councillor Fagg	Justin Fitzpatrick-Barr				
28 Sep 2017 - 11:59 AM - Kristy Meyers Report back to be provided within six (6) months as per the resolution. 25 Sep 2017 - 9:58 AM - Kristy Meyers Draft report has been generated in Info Council.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 06 September 2017	Martin Johnson	Planning Agreement - Rosehill Estate, Millfield	27/10/2017	7/09/2017	

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BN44/2017 243 03 Oct 2017 - 11:10 AM - Wonona Fuzzard Report prepared for Council Meeting of 18 October 2017.	Councillor Doherty	Gareth Curtis				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 06 September 2017	Nicole Benson	Cessnock and Branxton Pool Family Fun Days - Trial	30/06/2018	7/09/2017	
BN46/2017 245 08 Sep 2017 - 6:47 AM - Nicole Benson Trials to be scheduled in and advertised to the community. Report back scheduled for June 2018.	Councillor Fitzgibbon	Justin Fitzpatrick-Barr				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 20 September 2017	Katrina Kerr	Government Circuit Kearsley	13/12/2017	22/09/2017	
BN47/2017  12 Oct 2017 - 10:26 AM - Rachael O'Hara Item 1- Preparing a report to Council. Item 2 - Reviewing traffic management Item 3 - Writing to local Police.  26 Sep 2017 - 11:23 AM - Rachael O'Hara Draft report generated in InfoCouncil.	Councillor Olsen	Justin Fitzpatrick-Barr				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Stephen Glen	Strategic Weekend	15/11/2017	20/10/2017	
BN50/2017 302	Councillor Lyons	Stephen Glen				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Nicole Benson	Public Toilets	13/12/2017	20/10/2017	
BN51/2017 303 01 Nov 2017 - 1:09 PM - Vickie Stovell Report Moved to December meeting 23 Oct 2017 - 12:12 PM - Kristy Meyers Draft report placed in Info Council.	Councillor Olsen	Justin Fitzpatrick-Barr				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Warren Jeffery	Disabled Parking Adjacent ot Kurri Kurri Centrelink	21/02/2018	20/10/2017	
BN52/2017 304 08 Nov 2017 - 5:29 PM - Rachael O'Hara Investigating provision of disabled parking. 23 Oct 2017 - 12:13 PM - Kristy Meyers Draft report placed in Info Council.	Councillor Gray	Justin Fitzpatrick-Barr				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Maria Nikolaidis	NRMA Recharge Points	13/12/2017	3/11/2017	
BN53/2017	Councillor Lyons	Justin Fitzpatrick-Barr				

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08 Nov 2017 - 5:20 PM - Rachael O'Hara

Drafting a letter to NRMA.

03 Nov 2017 - 2:02 PM - Yvonne Blake

Justin Fitzpatrick-Barr to generate correspondence for General Manager to review and sign.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 15 February 2017	Nathan Goodbun	Corner Wollombi Road and Mount View Road Millfield - Tourist Directional Signage	21/02/2018	21/02/2017	
BN6/2017 119	Councillor Stapleford	Justin Fitzpatrick-Barr				
10 Oct 2017 - 12:09 PM - Rachael O'Hara Item 1 - Awaiting policy decision from RMS. Discussions ongoing. 05 Sep 2017 - 11:16 AM - Rachael O'Hara Item 1 - Drafting a Councillor Memo. 13 Jun 2017 - 11:01 AM - Katrina Kerr Liaison with TASAC in progress. 23 Mar 2017 - 1:34 AM - Katrina Kerr Liaison with TASAC to occur ahead of sign design in accordance with Wine Country Signage Strategy. 09 Mar 2017 - 11:22 AM - Kristy Meyers Works Delivery require design and location for placement.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 15 February 2017	Warren Jeffery	Road Safety Improvements - East of Stonehurst Winery Wollombi Road Cedar Creek	7/02/2018	21/02/2017	
BN7/2017 120	Councillor Stapleford	Justin Fitzpatrick-Barr				
09 Nov 2017 - 10:21 AM - Rachael O'Hara Item 1 - Investigations continuing. Item 2 - Although unfunded, the project has been included in the Traffic Facilities Program of the Draft Delivery Program 2017-2021. Item 3 - Drafting a report to Council. 18 Aug 2017 - 11:49 AM - Rachael O'Hara Draft report is being prepared for Council meeting. Location crash data being reviewed. 14 Jun 2017 - 9:12 AM - Katrina Kerr Item 1 - Investigation and detailed design are scheduled for 2017-18. Item 2 - Although unfunded, the project has been included in the Traffic Facilities Program of the Draft Delivery Program 2017-2021. Item 3 - Opportunities for funding are being considered and a report will be prepared to outline the available options.						
09 Mar 2017 - 10:20 AM - Kristy Meyers Item 1 - Being investigated Item 2 - Project included in draft 17-21 Delivery Program Item 3 - To be reported back to Council in 17/18 as per resolution.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 20 September 2017	Susanne Brinkworth	Request for Easement over Council land for Stormwater Purposes - 75C Church Street Cessnock	31/12/2017	22/09/2017	
CC64/2017 255		Robert Maginnity				
06 Nov 2017 - 11:31 AM - Robyn Keegan Updated by Sue Brinkworth - Valuation to be undertaken.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 04 October 2017	Susanne Brinkworth	Easement for Drainage of Water within 10 and 12 Cooper Street, Heddon Greta	31/12/2017	5/10/2017	



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CC69/2017 277 06 Nov 2017 - 11:32 AM - Robyn Keegan Updated by Sue Brinkworth - Surveyor engaged to prepare plan of easement.		Robert Maginnity				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Jo Miller	Minutes of the Aboriginal and Torres Strait Islander Committee of Cessnock City Council held on 13 October 2017	29/11/2017	3/11/2017	
CC79/2017 314		Robert Maginnity				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 06 September 2017	Ian Lyall	Minutes of the Audit Committee Meeting held 8 August 2017	6/02/2018	7/09/2017	
GMU12/2017 224 03 Nov 2017 - 3:51 PM - Ian Lyall 3. Amendments to Audit Committee charter to be submitted to February 2018 Audit Committee meeting. Will involve full review of charter. 03 Oct 2017 - 10:08 AM - Ian Lyall 1. Noted 2. Term extension letters sent to Dr Felicity Barr and Mr Neal O'Callaghan on 26 September 2017. 3. Amendment to the Audit Committee Charter will be submitted to the November 2017 Audit Committee meeting.		Stephen Glen				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 16 November 2016	Jane Holdsworth	Council's Role in Christmas - CBD Decorations and Council Christmas Appeal	30/09/2017	18/11/2016	
GMU15/2016		Stephen Glen				
10 Aug 2017 - 1:59 PM - Jane Holdsworth Meeting has been held with the Advance Cessnock City Partners 10 August 2017. Recommendations are to be collated and reported to Council in early September 2017. 05 Jul 2017 - 3:50 PM - Jane Holdsworth Meeting to be held in July 2017 with Chambers of Commerce to finalise ideas for the Christmas period. 08 Jun 2017 - 9:22 AM - Jane Holdsworth Further meeting to be held with the Chambers of Commerce, with a further report to come back to Council by August 2017. 03 May 2017 - 12:36 PM - Robyn Larsen Have sent letters to the Chambers of Commerce as per the resolution to look for ideas for Christmas decorations. Have had a subsequent meeting and they are keen to assist with ideas. A report to Council will be prepared early in the new financial year. 10 Jan 2017 - 12:13 PM - Kristy Meyers Lights were installed before Christmas and have been removed in the New Year. Remaining resolution items to be actioned and finalised by Economic Development.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Jane Holdsworth	Major Cooperative Destination Marketing Campaign Funding Opportunity	15/11/2017	20/10/2017	
GMU16/2017 291		Stephen Glen				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 17 May 2017	Jane Holdsworth	Funding requests from Branxton-Greta Business Chamber and Richmond Vale Preservation Co-operative Society Ltd	4/10/2017	19/05/2017	
GMU8/2017 224 14 Sep 2017 - 2:36 PM - Robyn Keegan Report to be provided to Council at the Ordinary Council 4 October 2017. 25 Aug 2017 - 11:15 AM - Kristy Meyers		Stephen Glen				

Item 6 - Update by Natalie Drage - This item has been discussed with the Board of the Richmond Vale Preservation Society and will continue to be discussed as part of the Agenda for the Quarterly Meetings with the Board and Council staff.

10 Aug 2017 - 2:03 PM - Jane Holdsworth

Updated application form for funding has been provided to the Branxton-Greta Chamber, investigation still progressing into increase of funding

12 Jul 2017 - 8:38 AM - Kristy Meyers

DW&I has advised that Item 6 to be actioned by C&CS - Community & Cultural Engagement. Refer to DOC2017/047020 for tracking. Progress will be updated via this Info Council Action.

05 Jul 2017 - 3:53 PM - Jane Holdsworth

All actions to be finalised by 31 July 2017 with a report to Council.

08 Jun 2017 - 9:26 AM - Jane Holdsworth

A Councillor briefing meeting has been organised to discuss this issue on 14 June 2017.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 06 September 2017	Gareth Curtis	Potential Relocation of Harness Racing to Cessnock City Local Government Area	13/12/2017	7/09/2017	
MM13/2017		Gareth Curtis				

19 Sep 2017 - 3:09 PM - Sandra Richardson

Point 1 of resolution complete (DOC2017/064935, DOC2017/064928, DOC2017/064105, DOC2017/06410112).

Meeting arranged between Strategic Planning Manager and Economic Development Manager to be held 25/9/2017 to progress points 3 & 4.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Ian Lyall	Audit Committee - Appointment of Alternate Delegate	29/11/2017	3/11/2017	
MM16/2017		Stephen Glen				

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09 Nov 2017 - 11:50 AM - Ian Lyall

Action reassigned to Ian Lyall by: Sandra Richardson

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 03 May 2017	Robert Maginnity	Adoption of Draft Community Strategic Plan, Draft Resourcing Strategy, Draft 2017-21 Delivery Program and Draft 2017-18 Operational Plan for Public Exhibition	14/12/2017	5/05/2017	
PE20/2017		Robert Maginnity				

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13 Sep 2017 - 12:07 PM - Robyn Keegan

Briefing to be held in conjunction with road finding alternatives.

08 Sep 2017 - 3:39 PM - Joanne Walpole

Briefing to be scheduled on Financial Sustainability.

04 Jul 2017 - 6:34 PM - Robert Maginnity

Action completed by: Bronwyn Rumbel

Documents placed on public exhibition during April-May 2017.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 17 May 2017	Iain Rush	Draft Kurri Kurri District Strategy	1/11/2017	19/05/2017	
PE22/2017		Gareth Curtis				

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03 Oct 2017 - 11:01 AM - Iain Rush

Councillor briefing scheduled for Wednesday 25 October 2017. Matter will be reported to Council following the Councillor briefing in November 2017.

07 Sep 2017 - 9:39 AM - Iain Rush

1. That Council place the Draft Kurri Kurri District Strategy on public exhibition for a minimum period of six weeks.

Exhibition of the Draft Strategy occurred for a period of six weeks, between 21 June 2017 and 2 August 2017.

2. That Council receive a further report following public exhibition of the Draft Strategy.

Councillor briefing session scheduled for 25 October 2017. Final Strategy to be reported to Council in November.

05 Jul 2017 - 11:03 AM - Iain Rush

1. That Council place the Draft Kurri Kurri District Strategy on public exhibition for a minimum period of six weeks.

Exhibition commenced 21 June 2017 for a period of six weeks, ending 2 August 2017.  
2. That Council receive a further report following public exhibition of the Draft Strategy.  
Not yet commenced.

08 Jun 2017 - 9:25 AM - Wonona Fuzzard

Exhibition to commence on the 21 June 2017 for six weeks.

24 May 2017 - 10:22 AM - Iain Rush

1. That Council place the Draft Kurri Kurri District Strategy on public exhibition for a minimum period of six weeks.

Exhibition to commence following exhibition of Cessnock CBD project.

2. That Council receive a further report following public exhibition of the Draft Strategy.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 21 June 2017	Wonona Fuzzard	Draft Cessnock Planning Agreement Policy	30/11/2017	27/06/2017	
PE28/2017 264		Gareth Curtis				
06 Nov 2017 - 10:20 AM - Wonona Fuzzard Report to Council 15 November 2017 detailing the outcomes of the public exhibition process. 03 Oct 2017 - 11:21 AM - Wonona Fuzzard Councillor Briefing will be held 11 October 2017 to discuss outcomes of exhibition. 07 Sep 2017 - 3:50 PM - Martin Johnson Resolutions 1 and 2 completed 07 Sep 2017 - 3:47 PM - Martin Johnson Matter deferred until October to enable a briefing of Councillors to occur 27 Jun 2017 - 3:50 PM - Wonona Fuzzard Placed on Public Exhibition from 28 June to 31 July 2017.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 21 June 2017	Susanne Brinkworth	Minutes of the Strategic Property and Community Facilities Committee held 7 June 2017	30/06/2018	27/06/2017	
PE31/2017 267		Robert Maginnity				
11 Oct 2017 - 12:48 PM - Robyn Keegan Resolutions 12 - 15 - EOI to be drafted for the sale of three properties, Lot 502, 507 & 508 DP 755215. 08 Sep 2017 - 12:29 PM - Susanne Brinkworth Action reassigned to Susanne Brinkworth by: Hannah McCauley 08 Sep 2017 - 12:28 PM - Hannah McCauley Hi Sue, As discussed with Martin Johnson on 8th September 2017 can you please review and action Resolutions 12 - 15. If you have any questions please see Martin. Thanks, Hannah 07 Sep 2017 - 4:23 PM - Martin Johnson Resolution 1-6 completed. Resolutions 7-15 currently being actioned						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 19 July 2017	Wonona Fuzzard	Draft Cessnock Section 94A Levy Contributions Plan 2017	22/12/2017	24/07/2017	
PE34/2017 306		Gareth Curtis				
06 Nov 2017 - 10:21 AM - Wonona Fuzzard Report to be presented to Council 13 December 2017 detailing outcomes of the public exhibition. 03 Oct 2017 - 11:22 AM - Wonona Fuzzard A Councillor Briefing will be held on 11 October 2017 to discuss outcomes of exhibition. 07 Sep 2017 - 3:57 PM - Martin Johnson Resolutions 1,2 and 4 completed. Briefing of Councillors planned for October 2017						

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24 Jul 2017 - 11:59 AM - Wonona Fuzzard

The Draft Cessnock Section 94A Levy Contributions Plan 2017 will be placed on public exhibition from Wednesday 26 July to Friday 25 August 2017.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 19 July 2017	Keren Brown	Draft Cessnock Flood Risk Management Policy and Draft Chapter of the Cessnock Development Control Plan 2011 - Development on Flood Prone Land	6/12/2017	24/07/2017	
PE37/2017 309		Gareth Curtis				
<p>06 Nov 2017 - 9:56 AM - Keren Brown Scheduled to be reported to Council on 15 November 2017. 03 Oct 2017 - 10:02 AM - Keren Brown Council Briefing scheduled for 11 October 2017. 07 Sep 2017 - 8:49 AM - Keren Brown 2. Draft documents to be reported to the Floodplain Management Committee meeting on 14 September prior to a report to Council. 02 Aug 2017 - 12:54 PM - Keren Brown 1. The Draft Flood Risk Management Policy 2017 and Draft Chapter 9 Development on Flood Prone Land are on Public exhibition from 26 July until 25 August 2017.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 19 July 2017	Keren Brown	Planning Proposal - City Wide Heritage Amendment	14/02/2018	24/07/2017	
PE39/2017 311		Gareth Curtis				
<p>02 Aug 2017 - 1:03 PM - Keren Brown 1. The Planning Proposal has been forwarded to the Department of Planning and Environment requesting a Gateway determination on 2/8/17. Complete 2. A letter has been sent to the Department of Planning and Environment requesting delegations for Council under section 59 of the Environmental Planning and Assessment Act 1979. Complete Action 3 and 4 are awaiting a Gateway determination.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 19 July 2017	Susanne Brinkworth	Minutes of the Strategic Property and Community Facilities Committee held 5 July 2017	31/12/2017	24/07/2017	
PE40/2017 312		Robert Maginnity				
<p>11 Oct 2017 - 2:18 PM - Robyn Keegan L J Hooker, Cessnock has been engaged to Auction 28 North Avenue, Cessnock - previously known as Cessnock Pensioner Hall. The auction will take place on 11 November 2017. 05 Oct 2017 - 3:07 PM - Joanne Walpole - EOI issued for Real Estate Agents for sale. - Agent appointed. - Sale process commenced. 11 Sep 2017 - 11:19 AM - Susanne Brinkworth Action reassigned to Susanne Brinkworth by: Martin Johnson 11 Sep 2017 - 11:17 AM - Martin Johnson Sue Please action Resolutions 3-7. Action 1,2 and 8 completed 07 Sep 2017 - 4:27 PM - Martin Johnson Resolutions 1,2 and 8 completed. Resolution 3-7 in progress 24 Jul 2017 - 10:39 AM - Gareth Curtis Martin -please follow up the actions relevant to strategic planning - also send onto those staff responsible for items 3,4,5,6,and 7.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 16 August 2017	Kerry Porter	DA 8/2017/160/1 proposing construction of a multi-dwelling development	15/11/2017	18/08/2017	
PE44/2017 339		Gareth Curtis				
<p>06 Nov 2017 - 9:52 AM - Janine McCarthy</p>						

The applicant advised Council's assessment officer on 2 November 2017, that the outstanding flooding information will be submitted as soon as practical, at this stage, estimated to be the week ending 24 November 2017.

24 Oct 2017 - 3:20 PM - Janine McCarthy

The amended plans lodged by the applicant on 21 September 2017 relate to planning issues only. These plans are being publicly exhibited between 19 October and 2 November 2017.

It is noted that the flooding related documentation remains outstanding, and Council's assessment officer has requested this information be submitted to enable assessment by Council's consultant development engineers. In the event this information is not submitted in a timely manner (noting it has been outstanding since the matter was considered by Council on 16 August 2017), the DA will be referred back to Council on the basis of the information submitted to date.

03 Oct 2017 - 10:08 AM - Janine McCarthy

Amended plans lodged by applicant on 21 September 2017. Under assessment.

05 Sep 2017 - 12:02 PM - Sandra Richardson

Meeting held 5 September 2017 between applicant, Development Services Manager and Senior Planning Assessment Officer. Design issues discussed and applicant advised will be lodging amended plans.

04 Sep 2017 - 9:25 AM - Sandra Richardson

A meeting has been arranged with the applicant at 11am on Tuesday 5th September 2017 to discuss the outstanding matters regarding the application (the meeting will be attended by Council's Development Services Manager and Senior Planning Assessment Officer).

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Martin Johnson	Planning Agreement - Rosehill Estate, Millfield	15/11/2017	20/10/2017	
PE56/2017		Gareth Curtis				

25 Oct 2017 - 10:36 AM - Kristy Meyers

Item 1 - Noted

Item 2 - Noted by Infrastructure Manager and assigned to C&CS to amend (DOC2017/075753)

Item 3 - Noted by Infrastructure Manager and assigned to Finance to reallocate (DOC2017/075753)

Item 4 - Noted by Open Space & Community Facilities Manager (DOC2017/075932)

Item 5 - To be actioned by P&E

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Colin Davis	Shopping Trolleys	28/02/2018	3/11/2017	
PE58/2017		Gareth Curtis				
310						
	09 Nov 2017 - 9:55 AM - Colin Davis					
	Policy to be placed on public exhibition from 22 November 2017 until 20 December 2017.					

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Colin Davis	Revised Policy - Compliance and Enforcement Policy	28/02/2018	3/11/2017	
PE59/2017		Gareth Curtis				

09 Nov 2017 - 10:11 AM - Colin Davis

Report on a revised parking policy addressing the issues raised to be brought back to Council in February 2018

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 17 February 2016	Martin Johnson	Strategic Property Review - Phase 2 Progress Report - Part 1	31/12/2017	19/02/2016	
PE6/2016		Gareth Curtis				

1555

07 Sep 2017 - 4:09 PM - Martin Johnson

Resolutions 1 and 3 completed. Resolution 2 still being actioned, with Councillor Briefing (originally proposed March 2017) to be scheduled when Strategic Property Review Project Manager appointed.

06 Mar 2017 - 9:59 AM - Bronwyn Rumbel

Councillor Briefing scheduled for 22 March 2017.

11 Oct 2016 - 9:33 AM - Bronwyn Rumbel

Part 2 (of 4) report on the outcomes of Phase 2 of the Strategic Property Review was considered by Council on 3 August 2016.

This viability of this project may be impacted by the proposed expansion of Cessnock Correctional Centre.

Estimated completion date amended to determine potential impacts and for briefing of newly elected Council.

12 Apr 2016 - 9:39 AM - Bronwyn Rumbel

A provision of \$75,000 (funded from the Property Investment Fund) has been included in the March Budget Review. The Executive has determined that further reports (parts 2-4) on the progress of Phase 2 of the Strategic Property Review be considered by Council following the adoption of the Community Infrastructure Strategic Plan (currently scheduled for June 2016).

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 November 2015	Bo Moshage	Planning Proposal - Hydro Kurri Kurri	31/05/2018	20/11/2015	
PE89/2015	<p>Gareth Curtis</p> <p>24 Mar 2017 - 4:14 PM - Bo Moshage Resolution 1, 2 &amp; 3 completed. Resolution 4 to 10 under investigation</p> <p>23 Jan 2017 - 9:29 AM - Bo Moshage Council is working in consultation with MCC and the Proponent to prepared and finalise the supporting documents outlining in the Planning Proposal critical steps and pathways as they relate to Resolution 4 to 10</p> <p>29 Nov 2016 - 9:23 AM - Bo Moshage Council is working in consultation with MCC and the Proponent to prepared and finalise the supporting documents outlining in the Planning Proposal critical steps and pathways as they relate to Resolution 4 to 10</p> <p>03 Aug 2016 - 11:47 AM - Bo Moshage In consultation with MCC and the Proponent, Council has finalised a draft project plan outlining the critical steps and pathways in undertaking the Planning Proposal in relation to Resolution 4 to 10.</p> <p>08 Jul 2016 - 2:45 PM - Bo Moshage On Going meets with the DoPE, MCC and Proponent to discuss the Gateway Conditions.</p> <p>09 May 2016 - 4:19 PM - Bo Moshage Following the Gateway Determination Council has met with the DoPE and MCC to discuss the Gateway Conditions. Both CCC and MCC have met with the RMS to discuss traffic implications. Meetings with the OEH to discuss flooding and biodiversity considerations are anticipated to occur within the next week</p> <p>11 Apr 2016 - 9:03 AM - Bo Moshage Gateway received by Council 23/3/16 and currently being reviewed with meeting with MCC and DoP&amp;E to follow to give effect to Resolutions 4 to 10</p> <p>05 Feb 2016 - 2:15 PM - Bo Moshage Gateway Determination requested 27/11/15</p> <p>05 Feb 2016 - 2:14 PM - Bo Moshage Resolution 1, 2 &amp; 3 completed. Resolution 4 to 10 under investigation</p>					
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 09 December 2015	Iain Rush	18/2015/1: Joint Planning Proposal - Cessnock and Singleton Councils - Vineyards District	10/12/2017		
PE99/2015	<p>Gareth Curtis</p> <p>03 Oct 2017 - 11:03 AM - Iain Rush Background studies completed for City Planning Strategy Project. The background studies will help inform the Joint Planning Proposal. Meeting held with Singleton Council in September 2017 to discuss the outcome of the background studies and discuss implications on specific land uses. Meeting to be scheduled with the Department of Planning and Environment to discuss way forward with Singleton Council.</p> <p>07 Sep 2017 - 9:44 AM - Iain Rush Resolution of Council on 9 December 2015:</p> <ol style="list-style-type: none"> <li>1. That Cessnock City Council prepare a Planning Proposal in conjunction with Singleton Council to standardise, as far as possible, the objectives and Land Use Table of the RU4 Primary Production Small Lots Zone. Complete</li> <li>2. That Cessnock City Council, in conjunction with Singleton Council, request a Gateway determination in respect of the Planning Proposal from the Department of Planning and Environment pursuant to the Environmental Planning and Assessment Act 1979. Complete - Gateway determination issued 3 March 2016.</li> <li>3. That Cessnock City Council, in conjunction with Singleton Council, undertake consultation with public authorities and the community as determined by the Department of Planning and Environment Gateway determination. Not yet commenced. The Joint Planning Proposal is interrelated with the Vineyards District Study and its findings. Presently awaiting receipt of the final District Study before resuming the Planning Proposal process. On 21 December 2016, the DoPE extended the Gateway timeframe to 10 December 2017.</li> <li>4. That a further report be presented to Council following the public exhibition of the Planning Proposal, to consider any submissions received. Not yet commenced.</li> <li>5. That Council request authorisation to exercise the functions of the Minister for Planning under section 59 of the Environmental Planning and Assessment Act 1979 to make the Local Environmental Plan.</li> </ol>					



Complete - Delegation issued on 3 March 2016.

03 May 2017 - 12:19 PM - Iain Rush

Resolution of Council on 9 December 2015:

1. That Cessnock City Council prepare a Planning Proposal in conjunction with Singleton Council to standardise, as far as possible, the objectives and Land Use Table of the RU4 Primary Production Small Lots Zone. Complete

2. That Cessnock City Council, in conjunction with Singleton Council, request a Gateway determination in respect of the Planning Proposal from the Department of Planning and Environment pursuant to the Environmental Planning and Assessment Act 1979.

Complete - Gateway determination issued 3 March 2016.

3. That Cessnock City Council, in conjunction with Singleton Council, undertake consultation with public authorities and the community as determined by the Department of Planning and Environment Gateway determination.

Not yet commenced. The Joint Planning Proposal is interrelated with the Vineyards District Study and its findings. Presently awaiting receipt of the final District Study before resuming the Planning Proposal process. On 21 December 2016, the DoPE extended the Gateway timeframe to 10 December 2017.

4. That a further report be presented to Council following the public exhibition of the Planning Proposal, to consider any submissions received.

Not yet commenced.

5. That Council request authorisation to exercise the functions of the Minister for Planning under section 59 of the Environmental Planning and Assessment Act 1979 to make the Local Environmental Plan.

Complete - Delegation issued on 3 March 2016.

08 Feb 2017 - 9:23 AM - Iain Rush

The Proposal will be informed by the findings of the Vineyards District Study. To allow this to occur, the Department of Planning and Environment has extended the timeframe to complete the Planning Proposal to 10 December 2017.

Estimated Completion Date changed by: Wonona Fuzzard From: 02 Dec 2016 To: 02 July 2017

03 Aug 2016 - 11:14 AM - Iain Rush

The Joint Planning Proposal is interrelated with the Vineyards District Study component of the City Wide Planning Strategy and its findings. A meeting occurred with several vineyards peak bodies on 29 July 2016 to discuss proposed amendments to land uses in the RU4 Zone in Cessnock and Singleton and in light of the broader preliminary findings of the Vineyards District Study.

11 Jul 2016 - 10:25 AM - Wonona Fuzzard

Pre exhibition consultation is currently occurring with peak bodies and Singleton Council. This will conclude at the end of July 2016.

21 Mar 2016 - 2:09 PM - Iain Rush

Gateway Determination issued on 3 March 2016. Consultation commenced with vineyards 'peak bodies' on 14 March 2016.

04 Mar 2016 - 12:14 PM - Iain Rush

Request for Gateway determination forwarded to DoPE on 15 December 2016. Council is still awaiting the determination.

02 Feb 2016 - 11:30 AM - Iain Rush

Request for Gateway determination forwarded to DPE on 15 December 2016.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Gareth Curtis	Wollombi Barnstay DA	29/11/2017	3/11/2017	
Q118/2017		Gareth Curtis				

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Katrina Kerr	Footpath on the West Side of Alfred Street, West Cessnock	13/12/2017	3/11/2017	
Q120/2017		Justin Fitzpatrick-Barr				
	08 Nov 2017 - 5:17 PM - Rachael O'Hara					
	Investigating the feasibility of a foot path on the west side of Alfred Street, West Cessnock.					

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 19 April 2017	Martin Conner	Wollombi Flood Warning System Design - Update	13/12/2017	20/04/2017	
WI24/2017		Justin Fitzpatrick-Barr				
190						
	05 Oct 2017 - 3:47 PM - Rachael O'Hara					
	Item 1 - Noted					



<p>Item 2 - Noted</p> <p>Item 3 - Anticipating result of grant application in late November with report back to Council in December 2017.</p> <p>05 Oct 2017 - 3:45 PM - Rachael O'Hara</p> <p>Draft report generated in InfoCouncil.</p> <p>30 May 2017 - 8:56 AM - Karen Burgess</p> <p>OEH funding announcement expected December 2017.</p> <p>08 May 2017 - 12:32 PM - Robyn Larsen</p> <p>Funding application submitted to OEH by due date.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 21 June 2017	Bruce Hughes	Hydro Aluminium Kurri Kurri Pty Ltd Proposed Road Closures	21/02/2018	27/06/2017	
<p>WI35/2017</p> <p>278</p> <p>08 Nov 2017 - 2:17 PM - Rachael O'Hara</p> <p>Item 1 - Council has made an application to NSW Department of Industry - Lands to close the subject roads.</p> <p>Item 2 - Council has advertised the proposed road closures in the local newspaper and notified the necessary agencies.</p> <p>Item 3 - Awaiting NSW Department of Industry - Lands to assess the application prior to completing this action.</p> <p>Item 4 - Awaiting NSW Department of Industry - Lands to assess the application prior to completing this action.</p> <p>Item 5 - Awaiting NSW Department of Industry - Lands to assess the application prior to completing this action.</p> <p>Item 6 - Awaiting NSW Department of Industry - Lands to assess the application prior to completing this action.</p> <p>12 Oct 2017 - 9:42 AM - Bruce Hughes</p> <p>Item 1 - Council has made an application to NSW Department of Industry - Lands to close the subject roads.</p> <p>Item 2 - Council has advertised the proposed road closures in the local newspaper and notified the necessary agencies. The Department requested Council notify two additional agencies.</p> <p>Item 3 - Council is presently waiting the required minimum 28 days for any submissions from these agencies before proceeding.</p> <p>Item 4 - Awaiting the notification, advertising and allowing for submissions to be completed prior to this action.</p> <p>Item 5 - Awaiting the notification, advertising and allowing for submissions to be completed prior to this action.</p> <p>Item 6 - Awaiting the notification, advertising and allowing for submissions to be completed prior to this action.</p> <p>10 Aug 2017 - 2:43 PM - Bruce Hughes</p> <p>Council has completed the first step in advertising the proposal and waiting 28 days for any submissions. The searches necessary to make application to Crown Lands have also been completed. Next step is to make application to Crown Lands for the proposed closure.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 21 June 2017	Susanne Brinkworth	Easement for Drainage of Water within 11 Ridley Street, Abermain	31/12/2017	27/06/2017	
<p>WI37/2017</p> <p>280</p> <p>11 Oct 2017 - 12:50 PM - Robyn Keegan</p> <p>Document TGE to be executed by Owner.</p> <p>05 Oct 2017 - 3:09 PM - Joanne Walpole</p> <p>Waiting on signed deed from property owner.</p> <p>01 Aug 2017 - 2:01 PM - Susanne Brinkworth</p> <p>Action reassigned to Susanne Brinkworth by: Rachael O'Hara</p> <p>01 Aug 2017 - 2:01 PM - Rachael O'Hara</p> <p>1. Reallocated to Snr Property Officer for action. Tracked via DOC2017050972.</p> <p>2. Reallocated to Snr Property Officer for action. Tracked via DOC2017050972.</p> <p>3. Reallocated to Snr Property Officer for action. Tracked via DOC2017050972.</p> <p>4. Reallocated to Snr Property Officer for action. Tracked via DOC2017050972.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 05 July 2017	Paul Burton	Options for Cessnock Pool	13/12/2017	7/07/2017	
<p>WI47/2017</p> <p>295</p> <p>08 Nov 2017 - 10:08 AM - Vickie Stovell</p> <p>Site Visit 8/11/17 differed to 13/12/17</p> <p>07 Sep 2017 - 2:41 PM - Paul Burton</p>						

## Report CC84/2017 - Resolutions Tracking Report

Enclosure 2

<p>Aquatic facility site visits and Councillor Briefing proposed for 8 November.  10 Aug 2017 - 2:39 PM - Kristy Meyers  Arrangements to be made regarding site visits with Councillors to aquatic facilities.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 19 July 2017	Paul Grosbernd	Weston Bears Park	13/12/2017	24/07/2017	
WI52/2017 315		Robert Maginnity				
<p>06 Nov 2017 - 2:24 PM - Nicole Benson  Hi Paul please allocate the funds as per the resolution.  10 Aug 2017 - 2:38 PM - Paul Burton  RFQ to be issued to engage consultant to prepare feasibility study.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 06 September 2017	Patricia Donnelly	Council Facilities Energy Efficiency Project	30/06/2018	7/09/2017	
WI59/2017 234		Justin Fitzpatrick-Barr				
<p>02 Nov 2017 - 9:40 AM - Patricia Donnelly  Meeting held with Maintenance Coordinator and contactors Hartcher Hall to scope out projects and provide estimates for installations. Next planning session to be held in 3 weeks.  08 Sep 2017 - 2:35 PM - Patricia Donnelly  Meeting to discuss formation of a PCG for recommendation 1 held on 18/9/17. Not all required staff attended. Meeting with Director to discuss process to move forward arranged for 17/10/17.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 06 September 2017	Nicole Benson	Bridges Hill Park Playground Concept Design	13/12/2017	7/09/2017	
WI63/2017 238		Justin Fitzpatrick-Barr				
<p>08 Nov 2017 - 11:31 AM - Vickie Stovell  Exhibition ended 27/10/17 and submissions are currently under review.  08 Sep 2017 - 6:42 AM - Nicole Benson  Noted. Clr briefing scheduled for November.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 06 September 2017	Paul Burton	Miller Park, Mount View Park and Turner Park Masterplans	13/12/2017	7/09/2017	
WI64/2017 239		Justin Fitzpatrick-Barr				
<p>08 Sep 2017 - 6:45 AM - Nicole Benson  Noted. Clr briefing scheduled for 8 November.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 20 September 2017	Paul Burton	Recreation and Open Space Strategic Plan	13/12/2017	22/09/2017	
WI67/2017 257		Justin Fitzpatrick-Barr				
<p>07 Nov 2017 - 1:13 PM - Vickie Stovell  Report will come back to Council following adoption of Turner Park Masterplan.  12 Oct 2017 - 11:56 AM - Kristy Meyers  Briefing held 11/10/17. Draft document to come back to Council for Public Exhibition.</p>						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 20 September 2017	Emma Crosdale	Plan of Management for Community Land	13/12/2017	22/09/2017	
WI69/2017		Justin Fitzpatrick-Barr				

259 08 Nov 2017 - 11:17 AM - Vickie Stovell Documents came off public exhibition 27/10/2017. Currently seeking quotation to hold a public hearing. 05 Oct 2017 - 11:23 AM - Kristy Meyers Documents have been placed on public exhibition.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 20 September 2017	Nicole Benson	Pool Opening Hours	30/05/2018	22/09/2017	
WI71/2017 261		Justin Fitzpatrick-Barr				
12 Oct 2017 - 12:00 PM - Kristy Meyers Report back to Council in May 2018.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 20 September 2017	Nicole Benson	Outdoor Pools Service Improvement Project Outcomes	13/12/2017	22/09/2017	
WI72/2017 262		Justin Fitzpatrick-Barr				
12 Oct 2017 - 12:01 PM - Kristy Meyers KKA&FC report back to Council scheduled for 1 November 2017.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 20 September 2017	Warren Jeffery	Loading Zone Western Side of Vincent Street	13/12/2017	22/09/2017	
WI73/2017 263		Justin Fitzpatrick-Barr				
19 Oct 2017 - 10:56 AM - Warren Jeffery Site inspection conducted 18/10/17 for project scoping 12 Oct 2017 - 10:07 AM - Rachael O'Hara Item 1 - Noted Item 2 - Noted Item 3 - Preparing a report to the Local Traffic Committee in consultation with Cessnock Radio Cab Item 4 - Preparing draft motion.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Katrina Kerr	Pathway - Wine Country Drive, Nulkaba Between the Corners of Kerlew Street and Lomas Lane	15/11/2017	20/10/2017	
WI77/2017 300		Justin Fitzpatrick-Barr				
09 Nov 2017 - 10:16 AM - Rachael O'Hara Item 1 - Noted Item 2 - Noted Item 3 - Amending the Pathways Construction Program.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 18 October 2017	Justin Fitzpatrick-Barr	Raising the Funding Ratio for Works and Infrastructure	7/02/2018	20/10/2017	
WI78/2017 301		Justin Fitzpatrick-Barr				
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Katrina Kerr	Quarrybylong Street, Cessnock	29/11/2017	3/11/2017	
WI80/2017		Justin Fitzpatrick-Barr				

09 Nov 2017 - 10:03 AM - Rachael O'Hara

Item 1 - Noted

Item 2 - Adding the project to the delivery program 2017-2021 and moving St Phillips footpath to Delivery Program 2021-2025.

Item 3 - Drafting a report to Council.

07 Nov 2017 - 3:58 PM - Rachael O'Hara

Draft report generated

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Katrina Kerr	Mount View Road, Cessnock	29/11/2017	3/11/2017	
WI81/2017		Justin Fitzpatrick-Barr				

08 Nov 2017 - 5:26 PM - Rachael O'Hara

Item 1 - Noted

Item 2 - Adding to the list of projects for the Delivery Program 2021-2025.

Item 3 - Drafting a letter.

Item 4 - Including issues reiterated in letter (A, B, C, D)

Item 5 - Investigating options for Council to seek compensation.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Nicole Benson	Cost to include Kurri Kurri Aquatic and Fitness Centre in the Free Pool Entry Trial	25/05/2018	3/11/2017	
WI83/2017		Justin Fitzpatrick-Barr				

318

03 Nov 2017 - 11:59 AM - Nicole Benson

Information noted. Report to come back in 2018 regarding participation and costs.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Meeting of Council 01 November 2017	Nicole Benson	Minutes of Dollar for Dollar Committee Meeting Held 4 October 2017	15/12/2017	3/11/2017	
WI85/2017		Justin Fitzpatrick-Barr				

320

06 Nov 2017 - 12:05 PM - Nicole Benson

In regards to Resolution Items 9 to 11, the guidelines for the Community and Cultural Development Dollar for Dollar Grant Scheme have been amended to advise applications for prizes, gifts or donations will be ineligible for funding. The guidelines have also been amended to advise that grant funding will however be considered for acquisitional art prizes. The next meeting of the Dollar for Dollar Committee will include an agenda item for the Community and Cultural Development Dollar for Dollar Grant Scheme Guidelines and at that meeting the above changes will be tabled.

03 Nov 2017 - 12:14 PM - Nicole Benson

Allocation of funds and correspondence to groups is underway.

Cessnock City Council  
Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta



### Concept Design Report

### Commuter Car Park - Main Road & Stanford Road, Heddon Greta

#### Prepared By

Document Owner(s)	Project / Organization Role
Santosh Deo	Design Delivery

#### Version Control

Version	Date	Author	Design Delivery Manager
1.0	29 Mar 2017	S Deo	Katrina Kerr

Cessnock City Council  
Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

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Cessnock City Council  
Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

## 1 INTRODUCTION

### 1.1 Purpose of this Report

The purpose of this report is to provide Concept Design options for formalisation of the existing Commuter Car Park to manage car-pooling for commuters using the Hunter Expressway (HEX). The Concept Design will be presented to Roads and Maritime Services (RMS) and other relevant State Government Agencies for consideration.

### 1.2 Background

An informal car park, used by commuters who car pool or share travel on HEX, has formed on Main Road, Heddon Greta. Use of the car park combined with egress from the recently developed Puma Service Station and Red Rooster fast food outlet has an adverse impact on local and through traffic on Main Road, between Stanford Road and Heddon Street, Heddon Greta. See Fig 1.1 below.

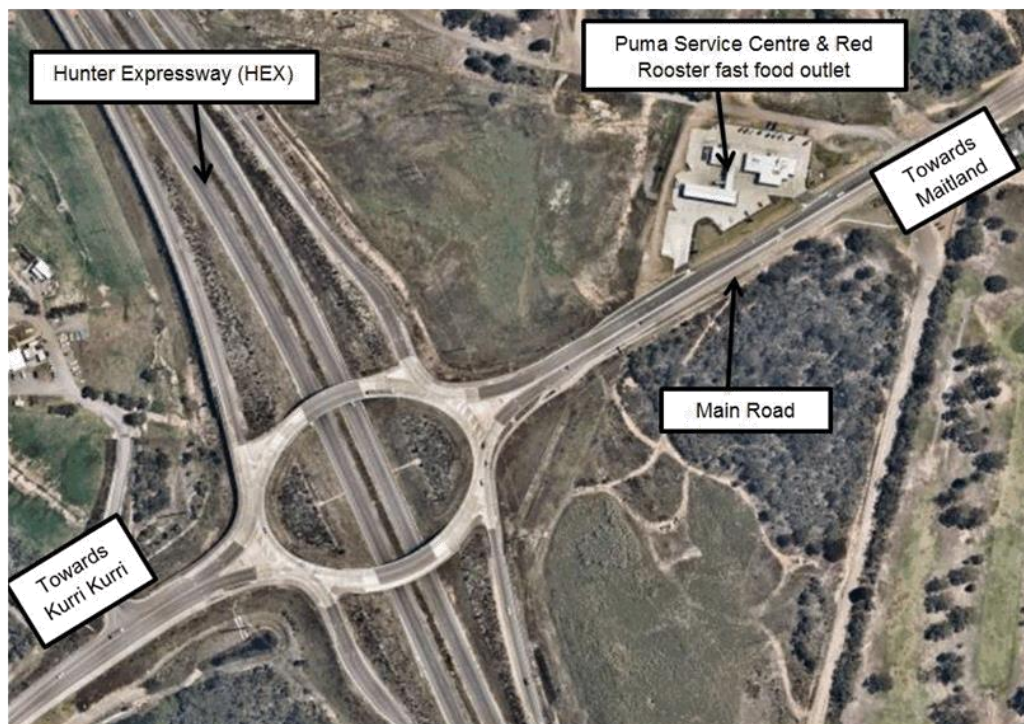


Figure 1.1 – Aerial View of the site with HEX and Main Road

At the RMS Liaison Meeting held at Cessnock City Council (CCC) 02 November 2016, a Council Notice of Motion (No. BN12/2016) – Establishment of Commuter Car Park – Stanford Road, Heddon Greta, was discussed. It was agreed that Council would investigate land ownership and draft up suitable design options to offer commuter parking with a view to having further discussions with RMS and the relevant State Government Agencies.



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Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

### 1.3 Report Objective

The Report aims to outline the background, current traffic issues, investigations undertaken, and propose a Concept Design to formalise the existing Commuter Car Park.

In detail, the objective of this report is to:

- Confirm demand for commuter parking,
- Identify related traffic issues,
- Propose a Concept Design to formalise the existing Commuter Car Park, and
- Recommend treatments for related traffic issues on Main Road.

## 2 INVESTIGATIONS

---

### 2.1 Land Ownership

The site of the existing commuter car park is approx. 3,000sq.m over the area of road reserve and land, this land is owned and managed by Crown Land.

### 2.2 Site Issues

A number of public utilities affect the site including:

- Hunter Water
- National Broadband Network (NBN) (Middle of the Main Road)
- Telstra Network

### 2.3 Road Environment

Main Road is a classified road which forms part of State Route MR195. It is two lanes, two ways.

The speed zone on Main Road is 60kph until mid-way between the entry and exist to the service station/fast food outlet where it changes to 70kph as follows:

- 70kph from service station eastbound towards Kurri Kurri, and
- 60kph from service station westbound towards Maitland.

"No Stopping" parking restrictions are in place on the northern side across the frontage of the service station/fast food outlet. There is no parking controls posted on the southern side.

A footway extends from the residential area to the east and joins a shared cycleway at the HEX interchange.

## 3 TRAFFIC MANAGEMENT

---

### 3.1 Traffic Complaints

CCC has received numerous verbal and written complaints, of traffic issues and near misses adjacent to the newly developed service station and fast food outlet as drivers performing U-turns to head westward and right turns, to access and egress the commuter car park. The complaints are that the movements are dangerous.

Cessnock City Council  
Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

Similar movements are occurring at other nearby intersections, see **Appendix – A**, of:

- Earp Street,
- Young Street,
- Stanford Street, and
- Heddon Street.

These movements seek to avoid queuing and congestion at the service station and fast food outlet, as well as from the residential areas of Heddon Greta and Clifleigh, seeking to join Main Road by having to cross oncoming traffic. Hazardous circumstances are created due to the lack of traffic facilities at those intersections. Further detail is provided in **Appendix – B**.

### 3.2 Traffic Observations

In a typical observation on a weekday between 10 and 10.30am, a large number of vehicles exiting from the service station and/or fast food outlet were performing U-turns to head westward to Kurri Kurri. See Fig 1.2. In the 30min period there were:

- 5 U-turns,
- 1 U-turn in the throat of Access Street, followed by right turn into Main Road, and
- 3 right hand turns from commuter car park and Access Road.

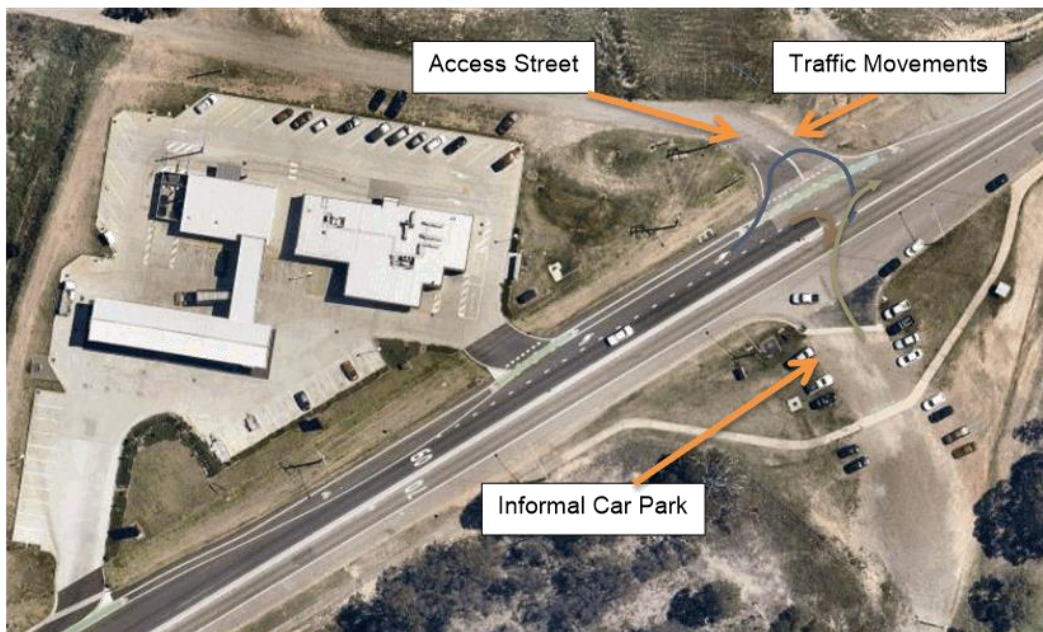


Figure 1.2 – Aerial View of traffic movements at the intersection of Main Road & Access Street and Commuter Car Park

It was noted that numerous vehicles are also performing U-turns and right hand turns from other intersections on Main Road, into other adjacent intersections such as Earp, Young, Stanford and Heddon Streets. These movements were often undertaken at speed, in heavy traffic and as such in an unsafe manner.

Cessnock City Council  
Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

Westbound traffic on Main Road wishing to head to Kurri Kurri, speed to negotiate the gap between vehicles in both directions, and as there is no right turn lane at the intersection, drivers are forced to perform U-turns without waiting for suitable gaps between cars travelling in the opposite direction.

### **Traffic Counts Survey**

This section of Main Road experiences high traffic volume and since the opening of HEX there has been a 45% increase in traffic on the road.

Due to the number of concerns from the local community and the site observations, CCC engaged Northern Transport Planning and Engineering Pty Ltd to conduct a fresh survey with 24/7 video survey at the two intersections of:

- Main Road & Stanford Road, and
- Main Road & Earp Street.

Preliminary results, on the basis of one weekend 24hr period count as shown in **Appendix – C**. The counts, conducted on Saturday 18 March 2017, indicate the severity of the issue, showing a total of 300 U-turns on Main Road as follows:

- 208 U-turns at Stanford Road, and
- 90 U-turns at Earp Street.

## **4 COMMUTER CAR PARK**

### **4.1 Concept Design**

Several days of observation revealed that the current demand for car parking on the former Stanford Road is approx. 50 to 55 bays, including vehicles parked on the street.



Figure 1.1 – Aerial view of proposed Commuter Car Park

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Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

A Concept Design for a formal Commuter Car Park with a total area of approx. 3,000sq.m has been prepared providing 84 bays to cater for growth and the anticipated demand once safe well-lit parking becomes available. Formalisation with increased capacity will allow for restrictions to be placed on street parking and thereby improve sight distances and reduce congestion.

A Kiss and Ride is also envisaged to allow car-pooling without consuming all day parking.

To integrate with public transport, a new bus stop has been incorporated into the Concept to connect commuters to the car pool area. The bus stop in easy walking distance will encourage use of public transport to and from Maitland, Kurri Kurri and Cessnock, offering a connection to HEX. A shared cycleway should also be incorporated with bike racks to allow passive transport to the car pool area. **See Appendix – D.**

#### 4.2 Car Park Access and Egress

In consideration of the immediate and surrounding traffic issues, including hazardous U-turns and right hand turns, and to provide safe access and egress to and from the proposed Commuter Car Park, a traffic facility is needed at the intersection of Main Road and Stanford Road.

Installation of a roundabout is considered the safest and most efficient facility and will provide safety and traffic management benefits to both local and through traffic. It will provide access in all directions and to the formalised Commuter Car Park.

### 5 RECOMMENDATION

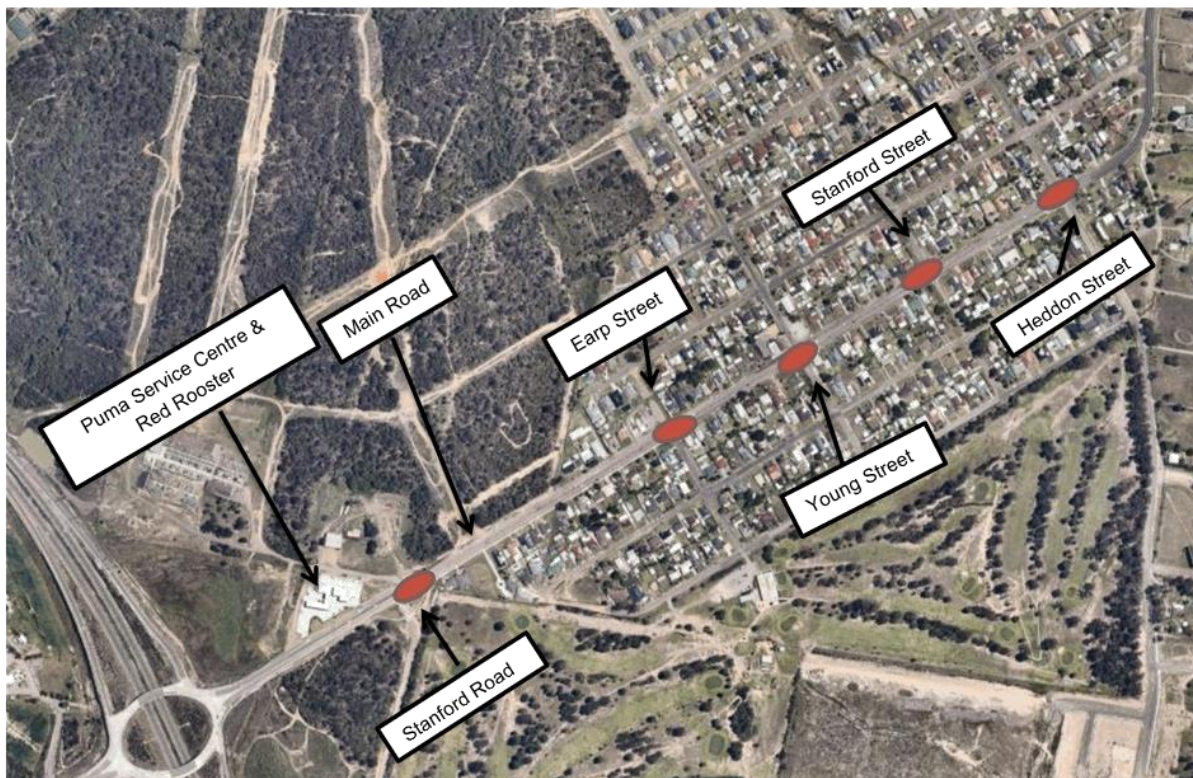
It is recommended that the Concept Design for the Commuter Car Park and roundabout be furthered to a Preliminary Design Stage with Preliminary Cost Estimates to allow further consideration.



Cessnock City Council  
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Appendix - A

Aerial view of intersections at HEDDON GRETA experiencing traffic issues.






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## Appendix – B





### Traffic issues on Main Road, HEDDON GRETA

Main Road Heddon Greta is experiencing congestion and unsafe driver behaviour due to the lack of traffic facilities, particularly at the six intersections as set out below:

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Cessnock City Council  
Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

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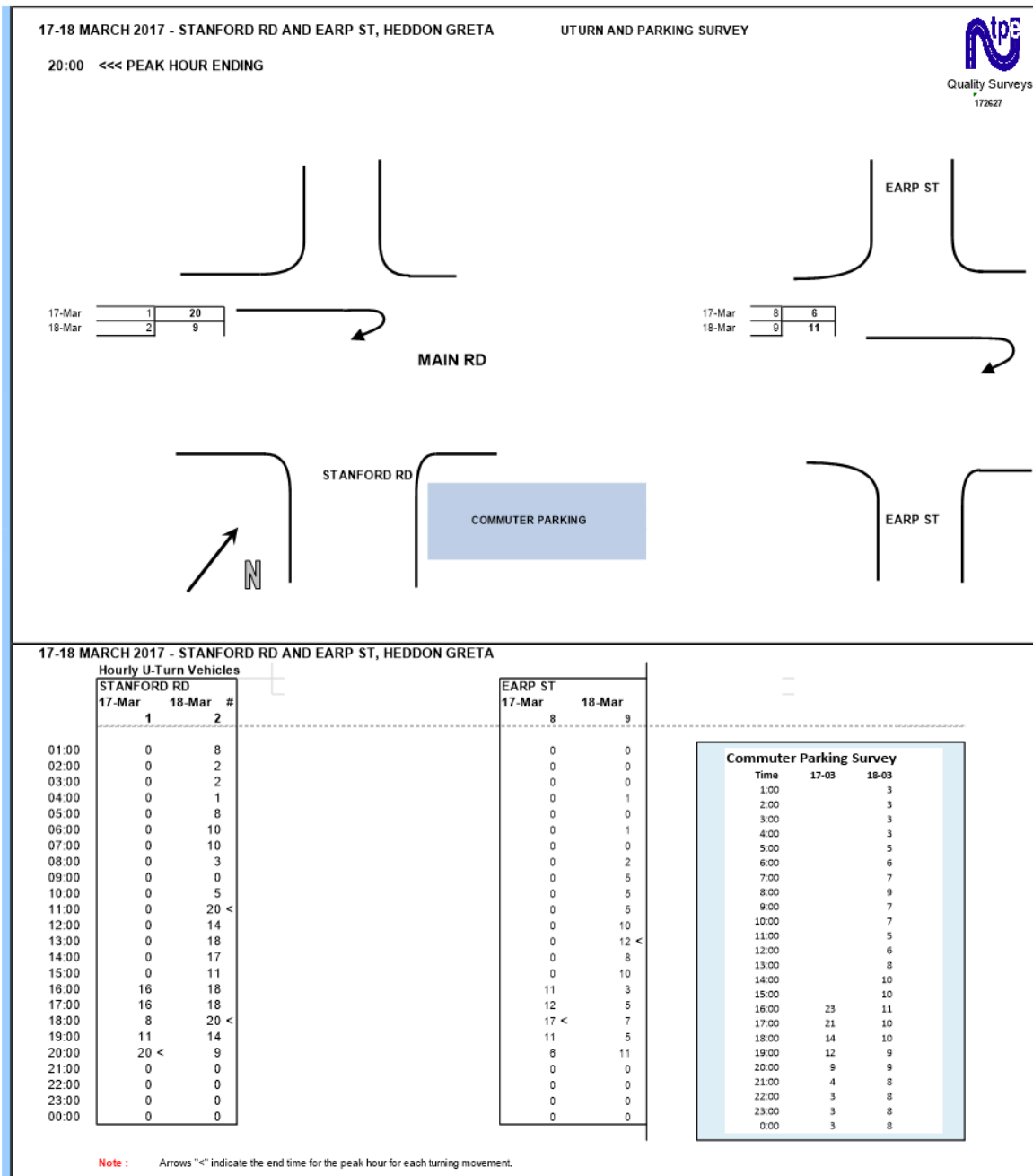


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Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

## Appendix - C

## Traffic Survey

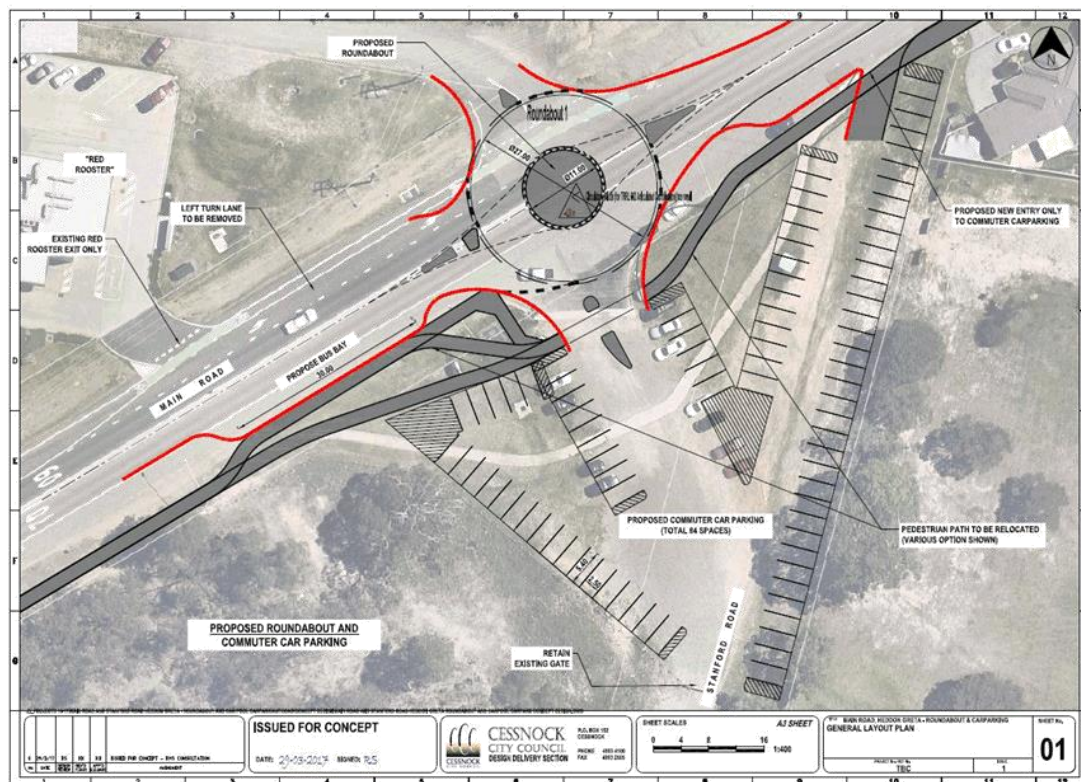
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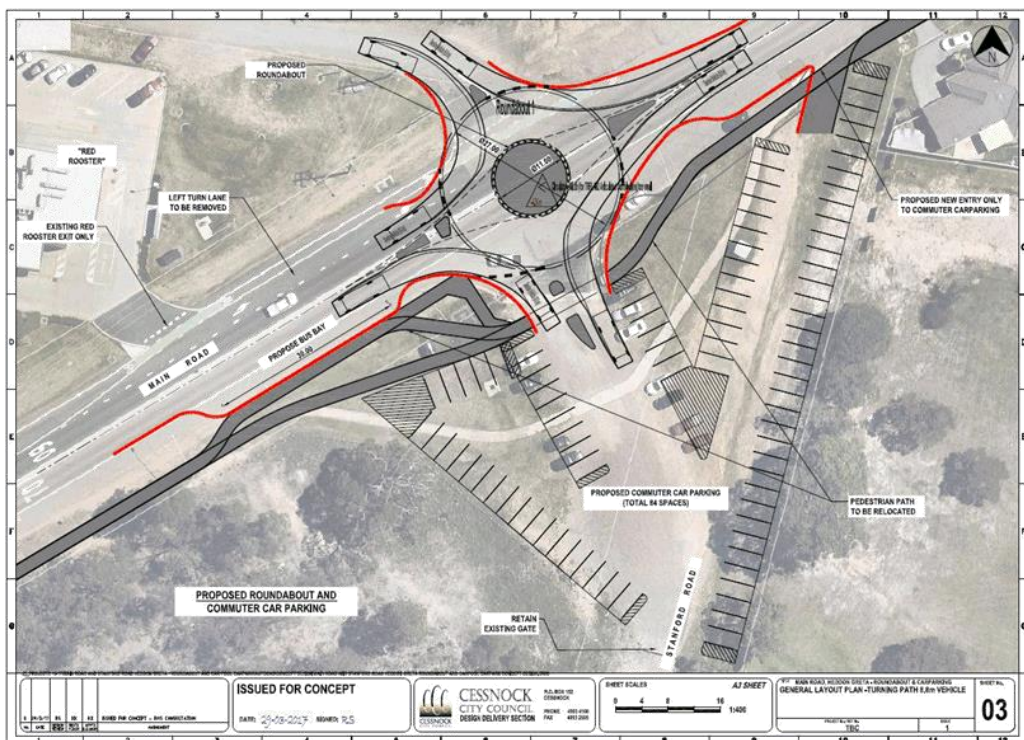
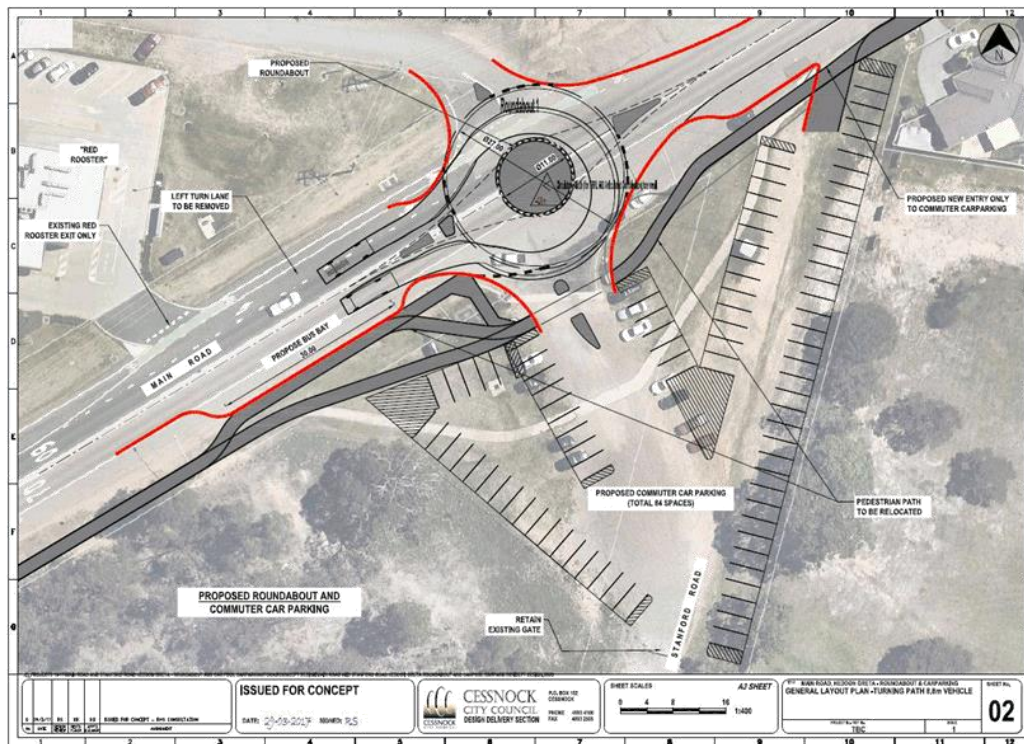
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## Appendix - D

## Concept Design

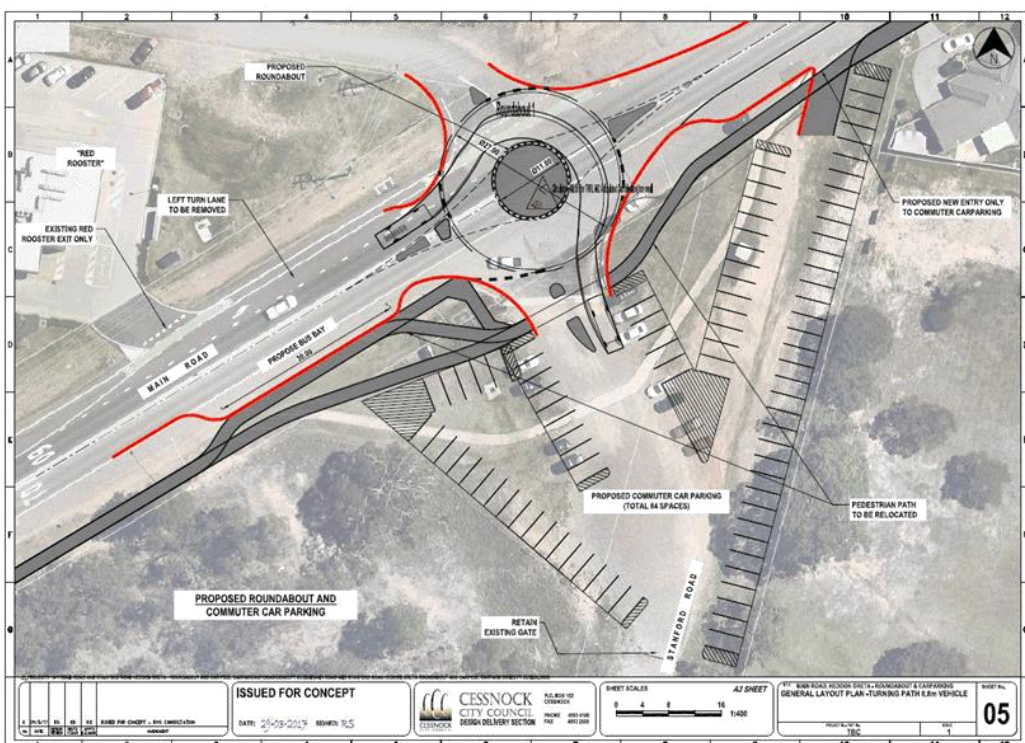
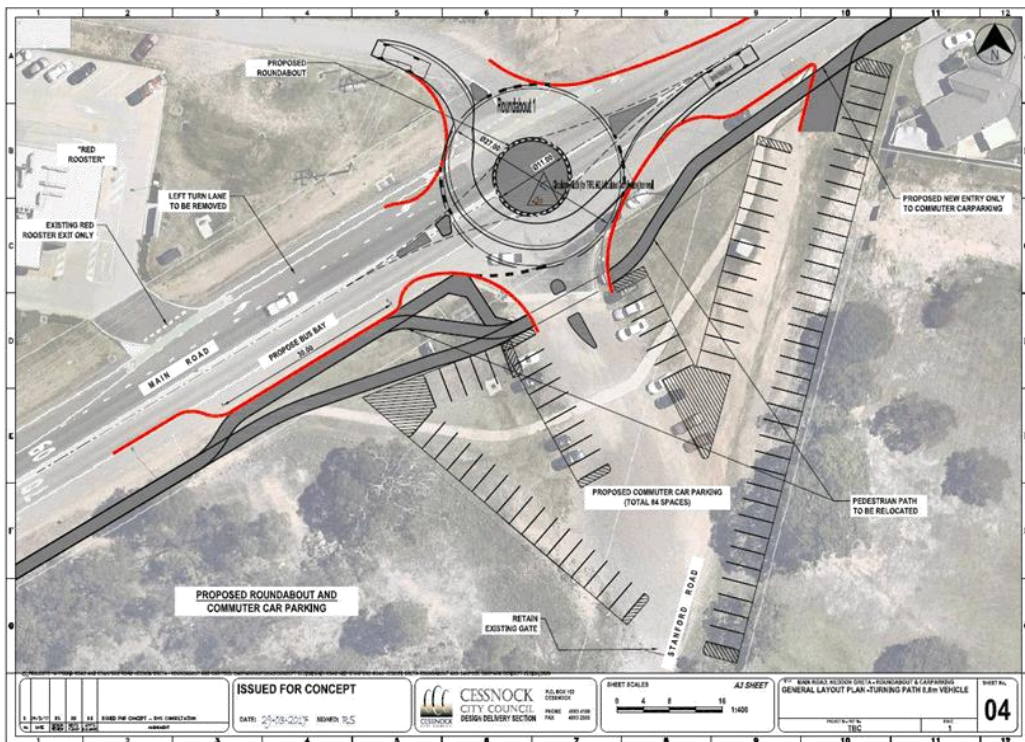


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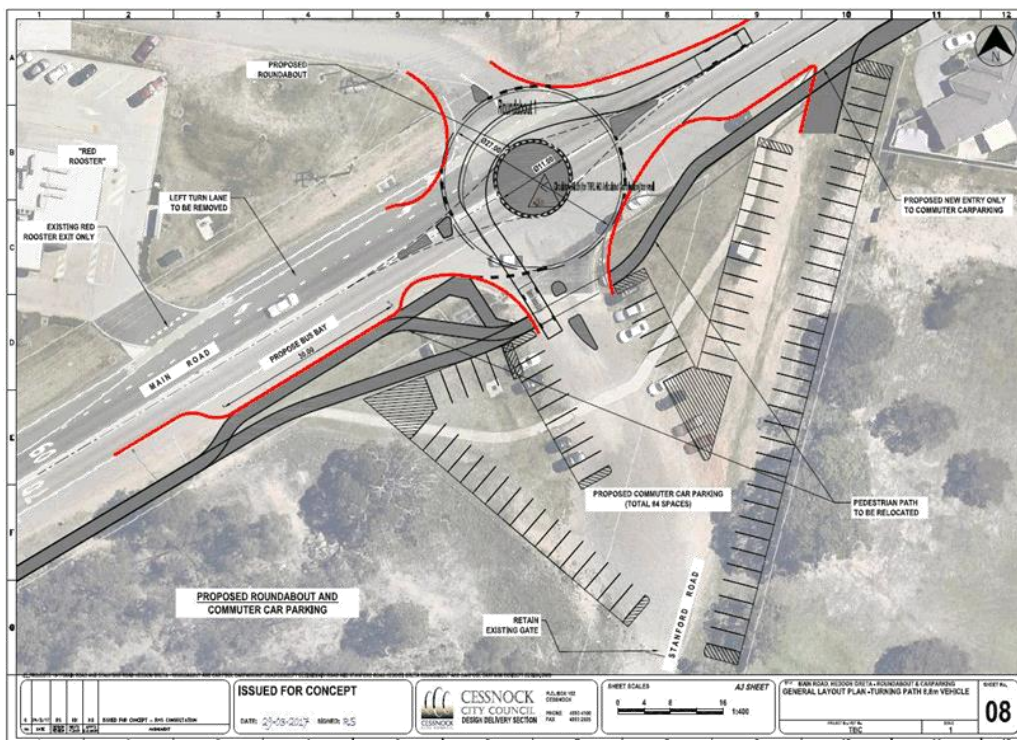
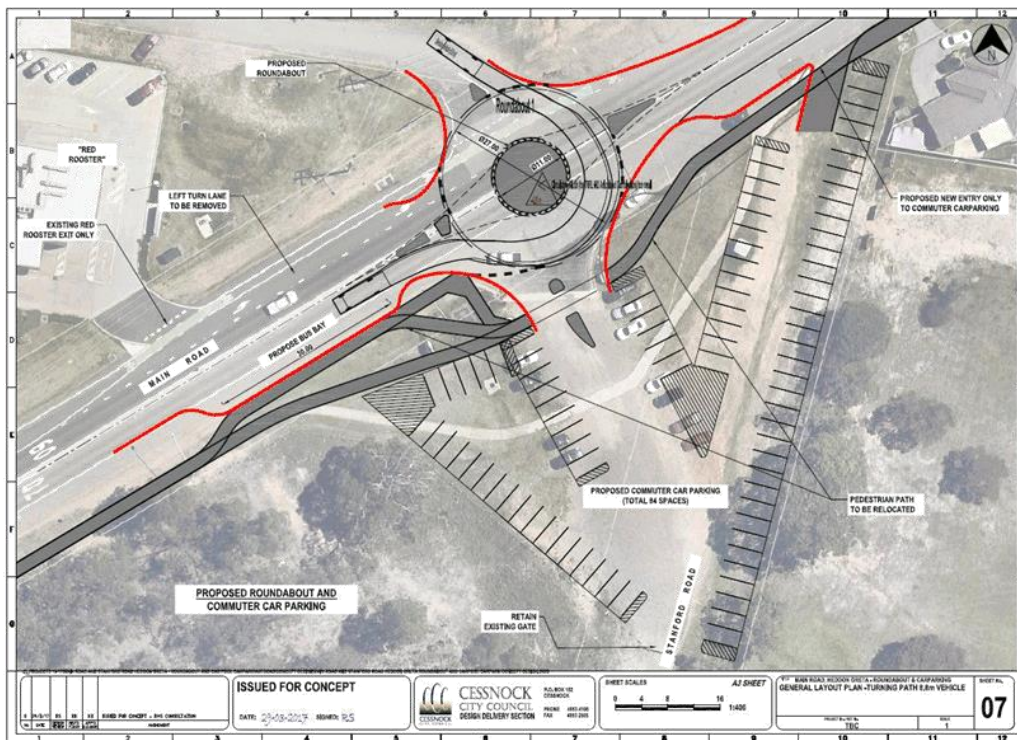




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Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta



**Discussion Notes for Meeting with**

**Scot MacDonald MLC**

**Parliamentary Secretary for the Hunter and Central Coast**

**24 May 2017**

**Commuter Parking Adjacent To Hunter Expressway (HEX) Interchanges.**

**Introduction**

A number of daily commuters who use the Hunter Expressway (HEX) are opting to car pool or share travel, this has led to the un-formalised use of commuter parking areas along the HEX Interchanges.

One of the most used areas is adjacent to the Kurri Kurri Interchange on Main Road, Heddon Greta. Use of this un-formalised car parking area, combined with egress from the recently developed Puma Service Station and Red Rooster fast food outlet has had an adverse impact on local and through traffic on Main Road, between Stanford Road and Heddon Street, Heddon Greta.

Other affected areas include the Branxton / Greta Interchange and Buchanan Road Interchange.

**Background**

Main Road is a classified road forming part of State Route MR195. It is two lanes, two way and provides direct access to HEX from a number of key population areas, including Heddon Greta, Cliftleigh, Gillieston Heights and Maitland.

Use of vacant land as a commuter car park adjacent to the HEX on ramp at Main Road is allowing motorists to effectively car pool. Cessnock City Council (CCC) has received numerous verbal and written complaints, of traffic issues and near misses as a result of the unformalised nature of this car parking area.

Further, the adjacent newly developed service station and fast food outlet at Heddon Greta, has resulted in a number of drivers performing:

- right turns to access and egress the commuter car park, and
- U-turns to head westward.

In addition, motorists are choosing to park in a manner deemed safe by offenders but unfortunately contrary to the default parking rules, as such enforcement has become an issue for many. A similar situation has resulted at Branxton / Greta Interchange and Buchanan Road Interchange.

A Concept Design for a formal Commuter Car Park at Heddon Greta, with a total area of approx. 3,000sq.m has been prepared by CCC providing 84 bays to cater for growth and the anticipated demand once safe well-lit parking becomes available. Formalisation with increased capacity will allow restriction of on street parking and thereby improve sight distances and reduce congestion.

DOC2017/028378

A Kiss and Ride is also envisaged to allow car-pooling without consuming all day parking.

To integrate with public transport, a new bus stop has been incorporated into the Concept to connect commuters to the car pool. The proposed bus stop is in easy walking distance and it will encourage use of public transport to and from Maitland, Kurri Kurri and Cessnock, offering a connection to HEX. A proposed shared cycleway is also incorporated in the design with bike racks to allow passive transport to the car pool area.

In consideration of the immediate and surrounding traffic issues, including hazardous U-turns and right hand turns, and to provide safe access and egress to and from the Commuter Car Park, a traffic facility is needed at the intersection of Main Road and Stanford Road.

Installation of a roundabout is considered to be the safest and most efficient facility and will provide safety and traffic management benefits to both local and through traffic. It will provide access in all directions as well as to the formalised Commuter Car Park, as westbound traffic will be able to make safe U-turns and right turns.

**Outcome / Conclusion**

Council through liaising with RMS further develops the Concept Design for the proposed Commuter Car Park and roundabout to allow for further consideration of the project should funding be made available.

**Recommendation / Request**

In order to undertake the above works and provide Commuter Parking at major nodes of HEX, Council seeks urgent State Government funding assistance.

DOC2017/028378





**Discussion Notes for Meeting with**

**Scot MacDonald MLC**

**Parliamentary Secretary for the Hunter and Central Coast**

**24 May 2017**

**Main Road, Heddon Greta – Various Intersection and Pedestrian Issues**

**Introduction**

Since the opening of the Hunter Expressway (HEX), Cessnock City Council (CCC) has received numerous verbal and written complaints of poor traffic flow, congestion, and near misses on Main Road, Heddon Greta.

**Background**

Main Road, Heddon Greta is a classified road forming part of State Route MR195. Main Road experiences high traffic volumes, particularly during peak periods and since the opening of HEX, there has been a 45% increase in traffic on the road.

With this increase in traffic, CCC has received numerous verbal and written complaints, of traffic issues and near misses. Issues are occurring from the Stanford Road intersection through to Testers Hollow impacting drivers from residential areas who seek to enter Main Road heading either westward to Kurri Kurri or eastward to Maitland. Extended wait times are causing drivers to filter through residential areas, which has increased both volumes and speed. Wait times are of particular concern at morning and afternoon peaks.

Due to congestion and wait times, drivers seek alternate methods of joining Main Road, including performing U-turns or right turns, often in unsuitable areas. The complaints are that the movements are dangerous.

U turns are of particular concern at:

- Earp Street;
- Young Street;
- Stanford Street; and
- Heddon Street.

In addition, opportunities for safe pedestrian movements across Main Road, are lacking, particularly adjacent to bus stops and shops.

**Outcome / Conclusion**

An analysis of the cumulative impact of HEX and residential development feeding onto Main Road is required to plan, design and construct appropriate traffic facilities to ensure community safety.

DOC2017/028378

**Recommendation / Request**

Council seeks the support of the Parliamentary Secretary, for the Hunter and Central Coast in an effort to address these concerns.

It is recommended that RMS lead an analysis of the cumulative impact of HEX on Main Road, and consult with CCC on a plan for traffic management improvements.

DOC2017/028378

Cessnock City Council  
Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta



### Concept Design Report

### Commuter Car Park - Main Road & Stanford Road, Heddon Greta

#### Prepared By

Document Owner(s)	Project / Organization Role
Santosh Deo	Design Delivery

#### Version Control

Version	Date	Author	Design Delivery Manager
1.0	29 Mar 2017	S Deo	Katrina Kerr

Cessnock City Council  
Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

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Cessnock City Council  
Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

## 1 INTRODUCTION

### 1.1 Purpose of this Report

The purpose of this report is to provide Concept Design options for formalisation of the existing Commuter Car Park to manage car-pooling for commuters using the Hunter Expressway (HEX). The Concept Design will be presented to Roads and Maritime Services (RMS) and other relevant State Government Agencies for consideration.

### 1.2 Background

An informal car park, used by commuters who car pool or share travel on HEX, has formed on Main Road, Heddon Greta. Use of the car park combined with egress from the recently developed Puma Service Station and Red Rooster fast food outlet has an adverse impact on local and through traffic on Main Road, between Stanford Road and Heddon Street, Heddon Greta. See Fig 1.1 below.

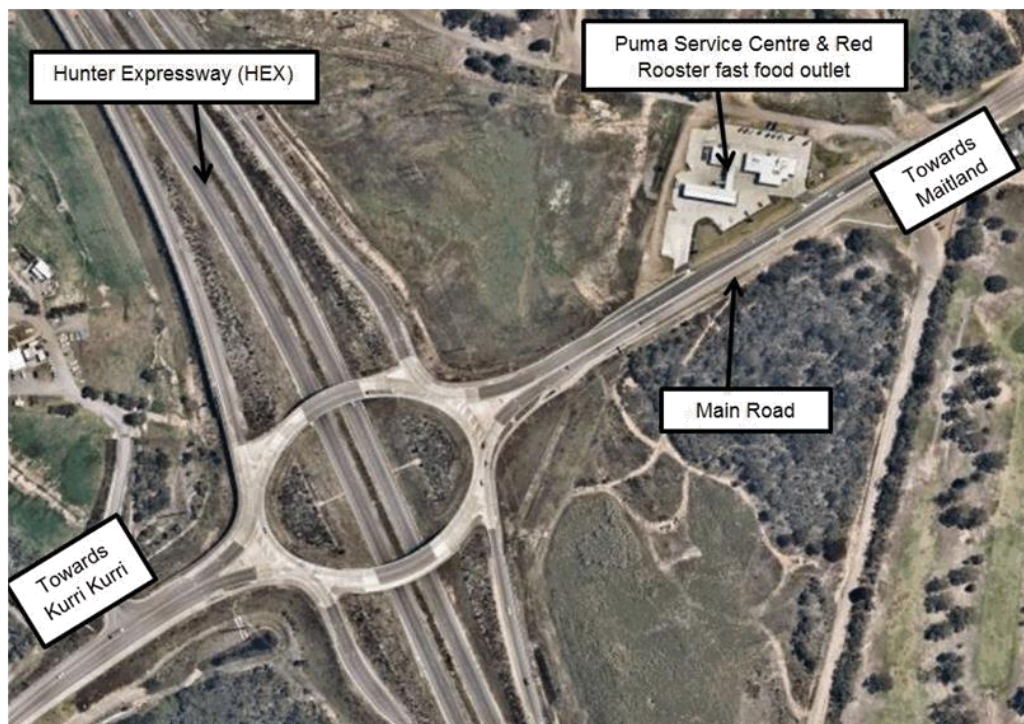


Figure 1.1 – Aerial View of the site with HEX and Main Road

At the RMS Liaison Meeting held at Cessnock City Council (CCC) 02 November 2016, a Council Notice of Motion (No. BN12/2016) – Establishment of Commuter Car Park – Stanford Road, Heddon Greta, was discussed. It was agreed that Council would investigate land ownership and draft up suitable design options to offer commuter parking with a view to having further discussions with RMS and the relevant State Government Agencies.



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Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

### 1.3 Report Objective

The Report aims to outline the background, current traffic issues, investigations undertaken, and propose a Concept Design to formalise the existing Commuter Car Park.

In detail, the objective of this report is to:

- Confirm demand for commuter parking,
- Identify related traffic issues,
- Propose a Concept Design to formalise the existing Commuter Car Park, and
- Recommend treatments for related traffic issues on Main Road.

## 2 INVESTIGATIONS

---

### 2.1 Land Ownership

The site of the existing commuter car park is approx. 3,000sq.m over the area of road reserve and land, this land is owned and managed by Crown Land.

### 2.2 Site Issues

A number of public utilities affect the site including:

- Hunter Water
- National Broadband Network (NBN) (Middle of the Main Road)
- Telstra Network

### 2.3 Road Environment

Main Road is a classified road which forms part of State Route MR195. It is two lanes, two ways.

The speed zone on Main Road is 60kph until mid-way between the entry and exist to the service station/fast food outlet where it changes to 70kph as follows:

- 70kph from service station eastbound towards Kurri Kurri, and
- 60kph from service station westbound towards Maitland.

"No Stopping" parking restrictions are in place on the northern side across the frontage of the service station/fast food outlet. There is no parking controls posted on the southern side.

A footway extends from the residential area to the east and joins a shared cycleway at the HEX interchange.

## 3 TRAFFIC MANAGEMENT

---

### 3.1 Traffic Complaints

CCC has received numerous verbal and written complaints, of traffic issues and near misses adjacent to the newly developed service station and fast food outlet as drivers performing U-turns to head westward and right turns, to access and egress the commuter car park. The complaints are that the movements are dangerous.



Similar movements are occurring at other nearby intersections, see **Appendix – A**, of:

- Earp Street,
- Young Street,
- Stanford Street, and
- Heddon Street.

These movements seek to avoid queuing and congestion at the service station and fast food outlet, as well as from the residential areas of Heddon Greta and Clifleigh, seeking to join Main Road by having to cross oncoming traffic. Hazardous circumstances are created due to the lack of traffic facilities at those intersections. Further detail is provided in **Appendix – B**.

### 3.2 Traffic Observations

In a typical observation on a weekday between 10 and 10.30am, a large number of vehicles exiting from the service station and/or fast food outlet were performing U-turns to head westward to Kurri Kurri. See Fig 1.2. In the 30min period there were:

- 5 U-turns,
- 1 U-turn in the throat of Access Street, followed by right turn into Main Road, and
- 3 right hand turns from commuter car park and Access Road.



Figure 1.2 – Aerial View of traffic movements at the intersection of Main Road & Access Street and Commuter Car Park

It was noted that numerous vehicles are also performing U-turns and right hand turns from other intersections on Main Road, into other adjacent intersections such as Earp, Young, Stanford and Heddon Streets. These movements were often undertaken at speed, in heavy traffic and as such in an unsafe manner.

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Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

Westbound traffic on Main Road wishing to head to Kurri Kurri, speed to negotiate the gap between vehicles in both directions, and as there is no right turn lane at the intersection, drivers are forced to perform U-turns without waiting for suitable gaps between cars travelling in the opposite direction.

### **Traffic Counts Survey**

This section of Main Road experiences high traffic volume and since the opening of HEX there has been a 45% increase in traffic on the road.

Due to the number of concerns from the local community and the site observations, CCC engaged Northern Transport Planning and Engineering Pty Ltd to conduct a fresh survey with 24/7 video survey at the two intersections of:

- Main Road & Stanford Road, and
- Main Road & Earp Street.

Preliminary results, on the basis of one weekend 24hr period count as shown in **Appendix – C**. The counts, conducted on Saturday 18 March 2017, indicate the severity of the issue, showing a total of 300 U-turns on Main Road as follows:

- 208 U-turns at Stanford Road, and
- 90 U-turns at Earp Street.

## **4 COMMUTER CAR PARK**

### **4.1 Concept Design**

Several days of observation revealed that the current demand for car parking on the former Stanford Road is approx. 50 to 55 bays, including vehicles parked on the street.



Figure 1.1 – Aerial view of proposed Commuter Car Park

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Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

A Concept Design for a formal Commuter Car Park with a total area of approx. 3,000sq.m has been prepared providing 84 bays to cater for growth and the anticipated demand once safe well-lit parking becomes available. Formalisation with increased capacity will allow for restrictions to be placed on street parking and thereby improve sight distances and reduce congestion.

A Kiss and Ride is also envisaged to allow car-pooling without consuming all day parking.

To integrate with public transport, a new bus stop has been incorporated into the Concept to connect commuters to the car pool area. The bus stop in easy walking distance will encourage use of public transport to and from Maitland, Kurri Kurri and Cessnock, offering a connection to HEX. A shared cycleway should also be incorporated with bike racks to allow passive transport to the car pool area. **See Appendix – D.**

#### 4.2 Car Park Access and Egress

In consideration of the immediate and surrounding traffic issues, including hazardous U-turns and right hand turns, and to provide safe access and egress to and from the proposed Commuter Car Park, a traffic facility is needed at the intersection of Main Road and Stanford Road.

Installation of a roundabout is considered the safest and most efficient facility and will provide safety and traffic management benefits to both local and through traffic. It will provide access in all directions and to the formalised Commuter Car Park.

### 5 RECOMMENDATION

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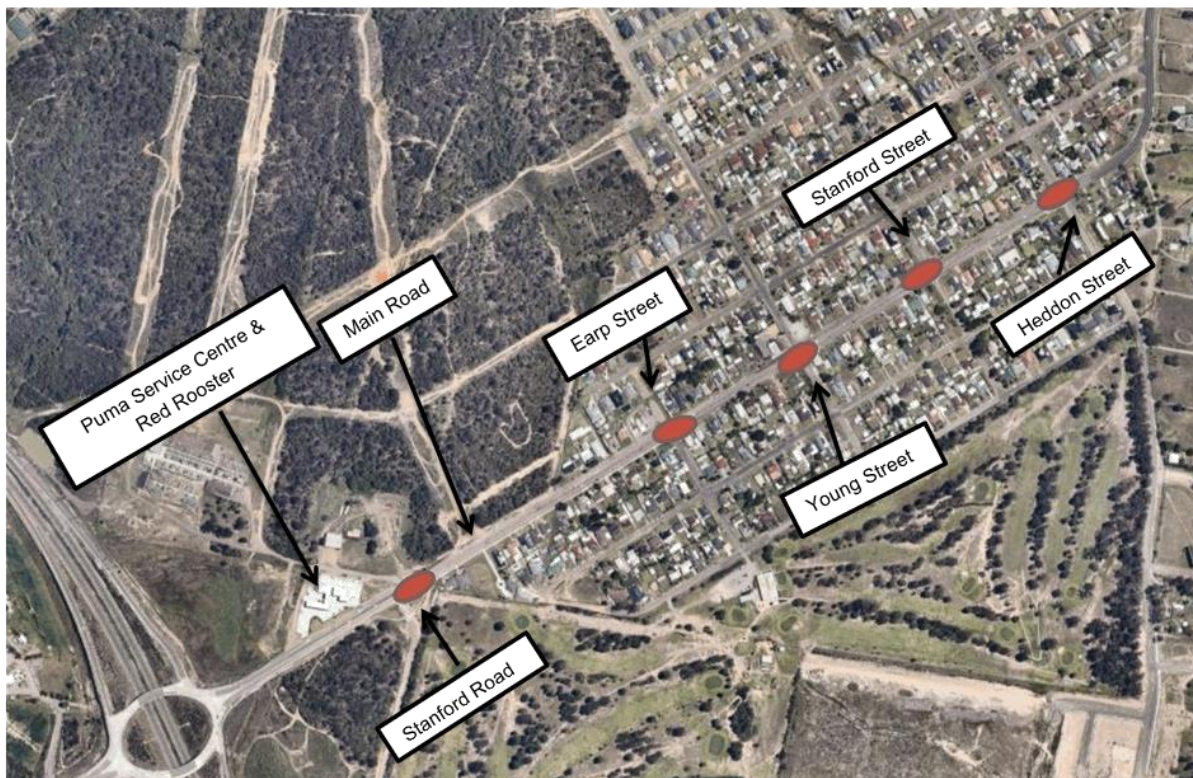
It is recommended that the Concept Design for the Commuter Car Park and roundabout be furthered to a Preliminary Design Stage with Preliminary Cost Estimates to allow further consideration.



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Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

Appendix - A

Aerial view of intersections at HEDDON GRETA experiencing traffic issues.






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## Appendix – B





### Traffic issues on Main Road, HEDDON GRETA

Main Road Heddon Greta is experiencing congestion and unsafe driver behaviour due to the lack of traffic facilities, particularly at the six intersections as set out below:

<p><b>1. Stanford Road</b> <u>U-Turns</u></p> <ul style="list-style-type: none"> <li>Eastbound traffic on Main Road heading back to HEX or Kurri Kurri.</li> <li>208 U-turns recorded in 24 hrs.</li> </ul> <p><u>Right Turns</u></p> <ul style="list-style-type: none"> <li>Right turn movements from Main Road into informal car park.</li> <li>Right turn movements from Access Street westbound back to HEX or Kurri Kurri.</li> </ul>	 <p>1.1 Aerial view – Intersection of Main Road &amp; Stanford Road.</p>
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Commuter Car Park - Main Rd & Stanford Rd, Heddon Greta

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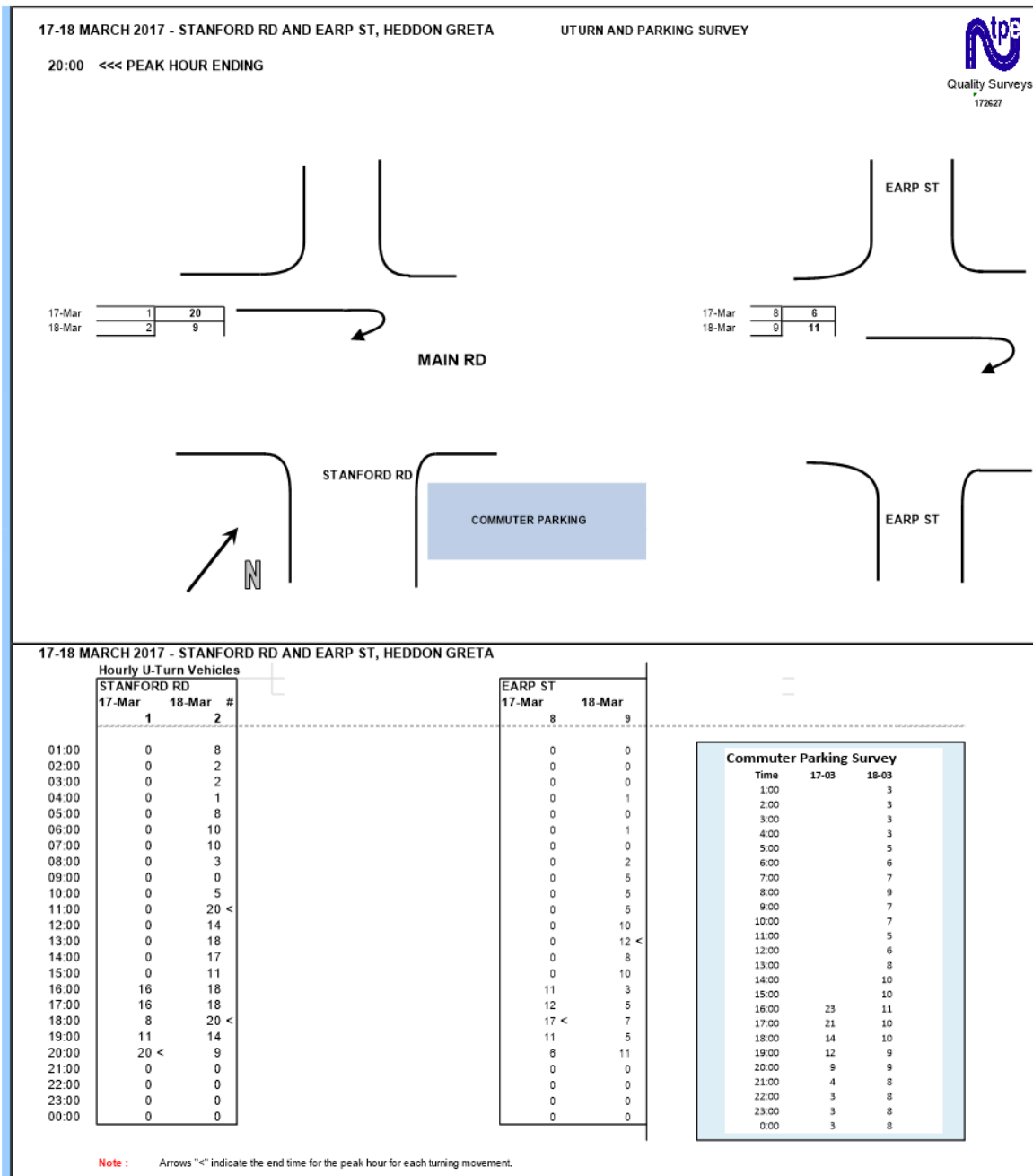


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## Appendix - C

## Traffic Survey

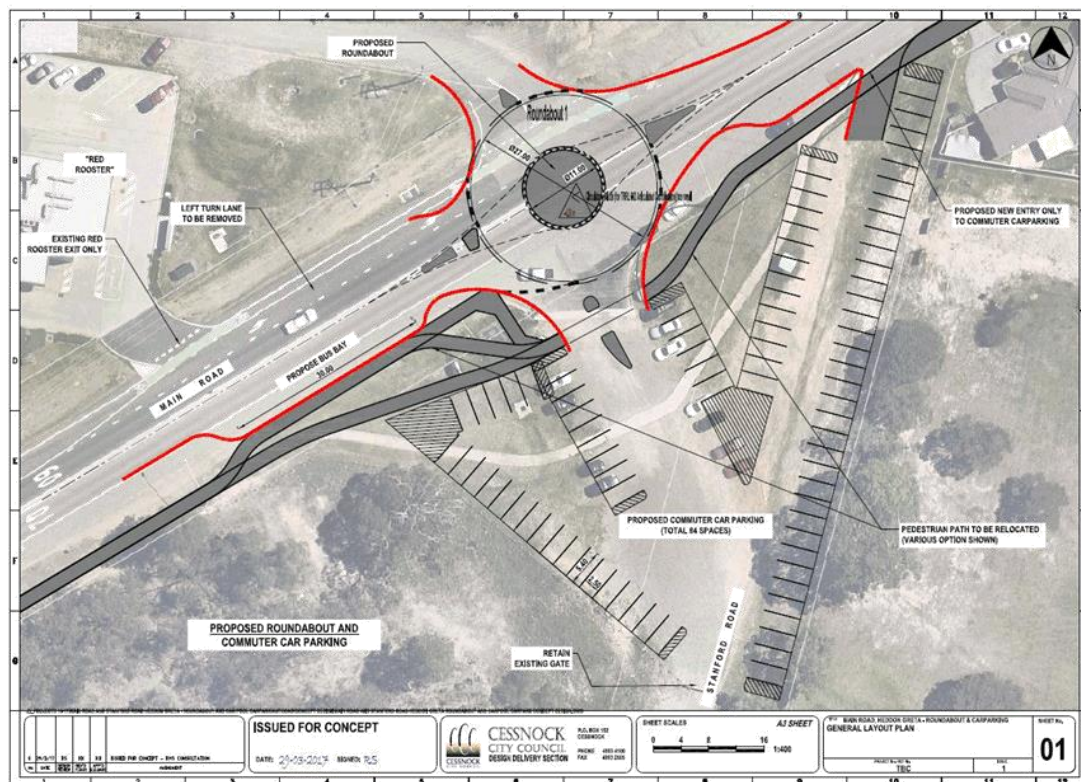
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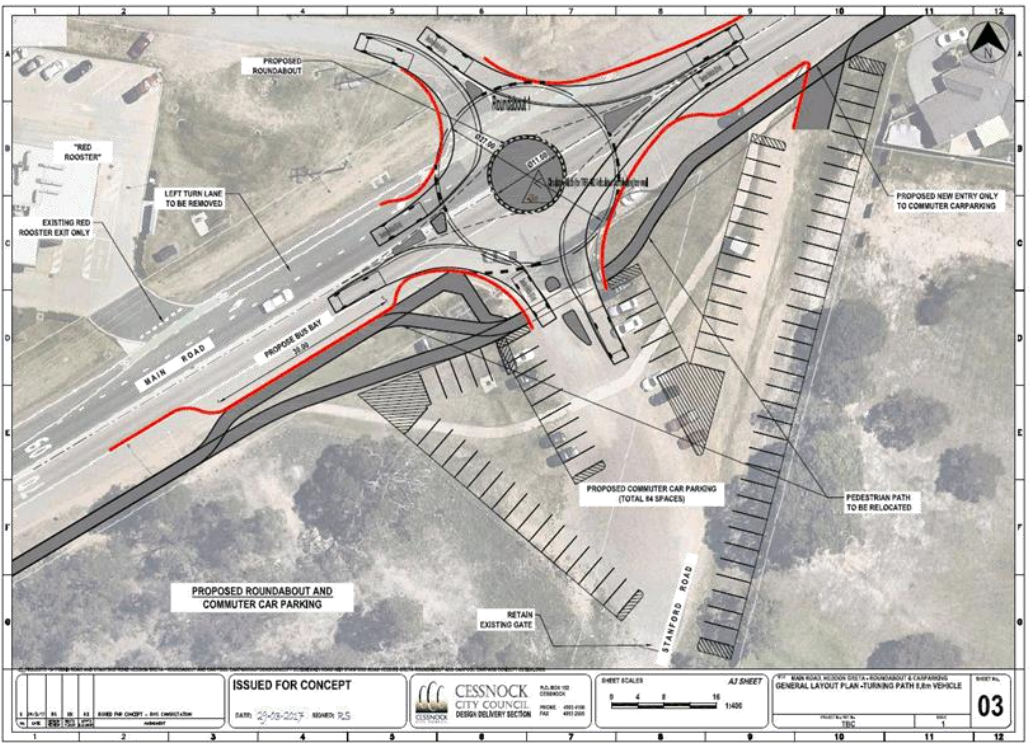
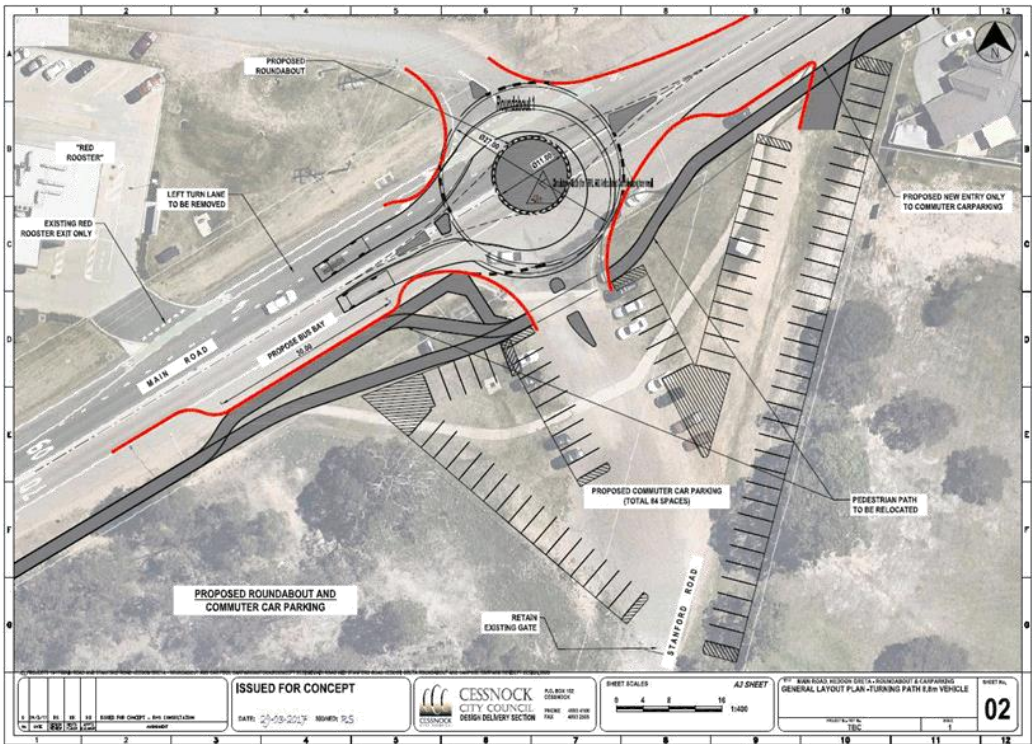
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## Appendix - D

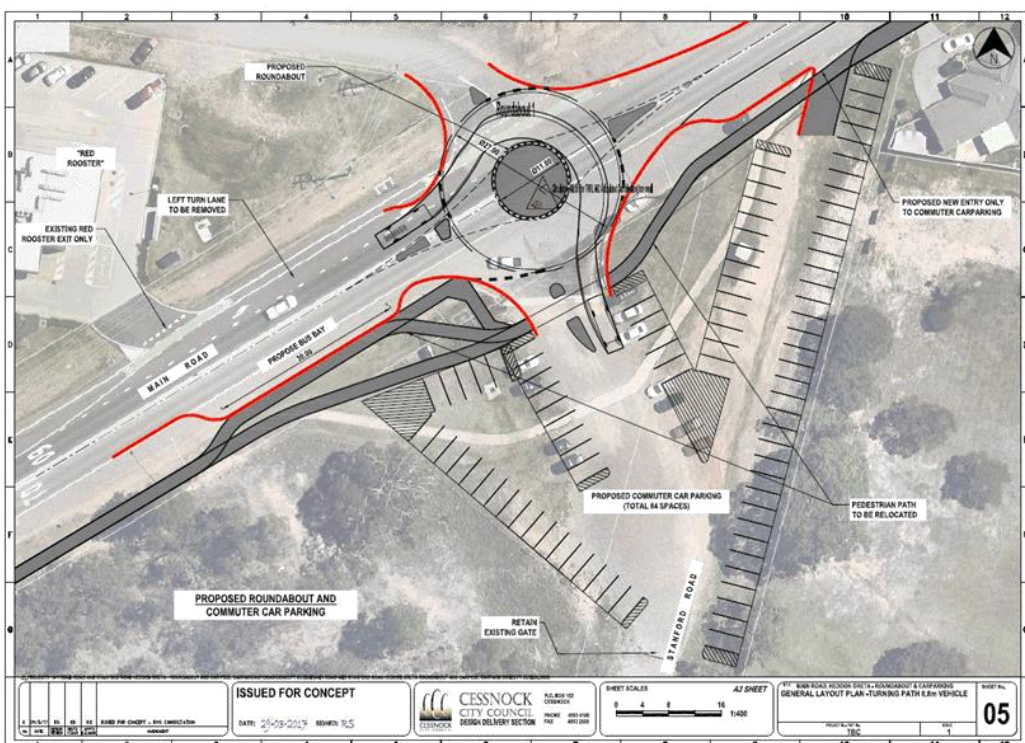
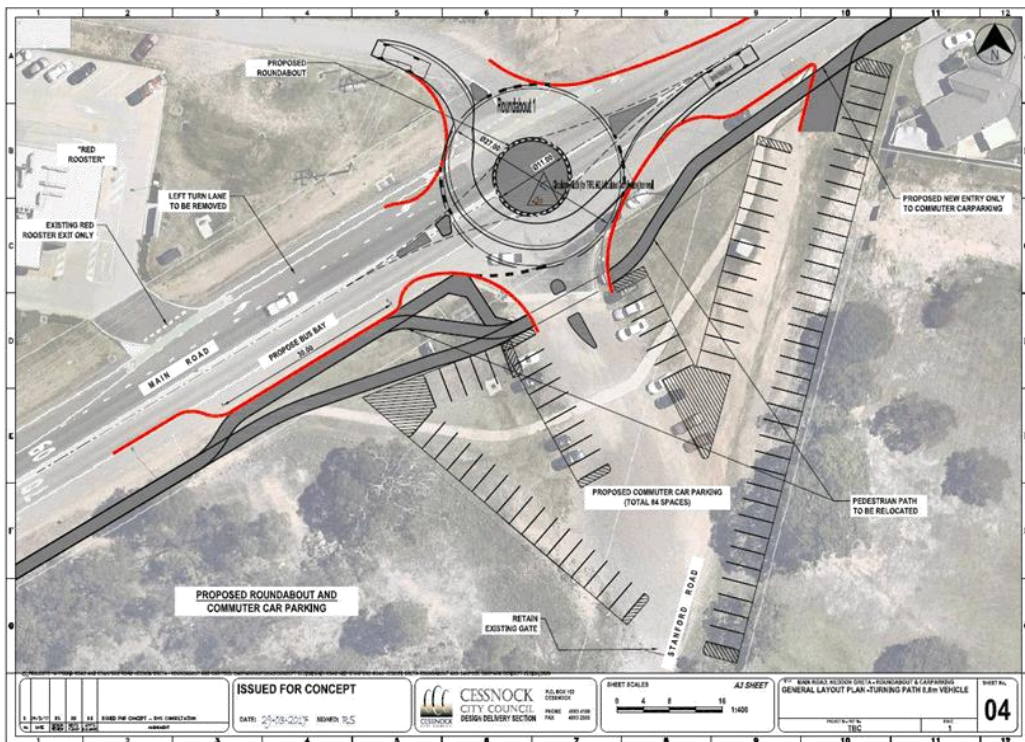
## Concept Design



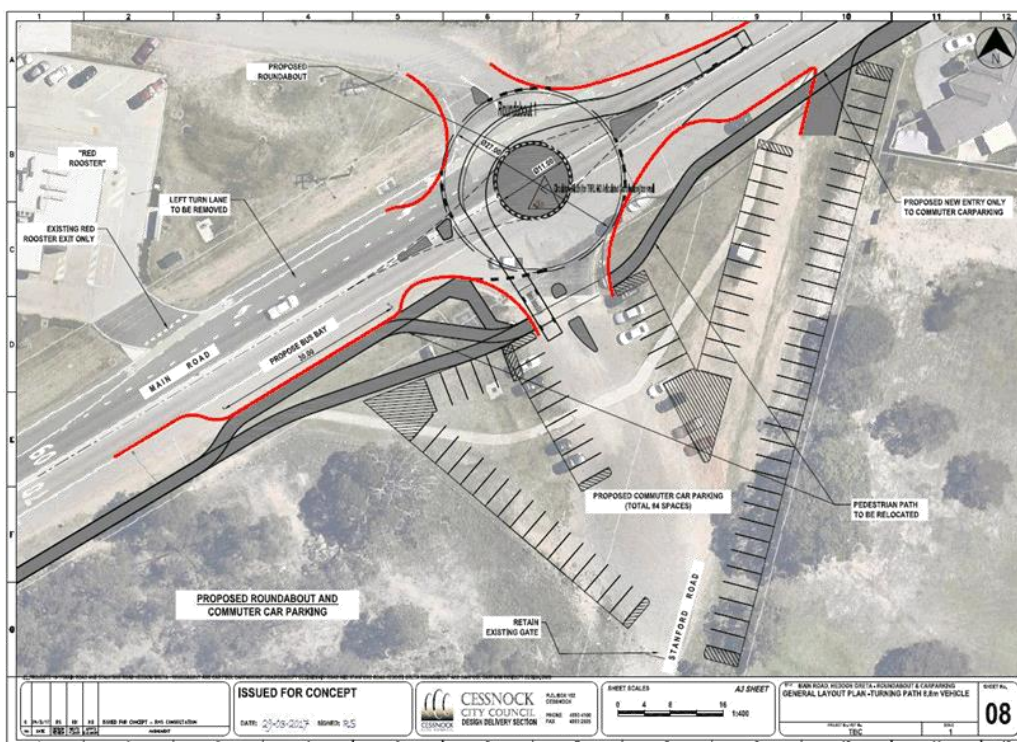
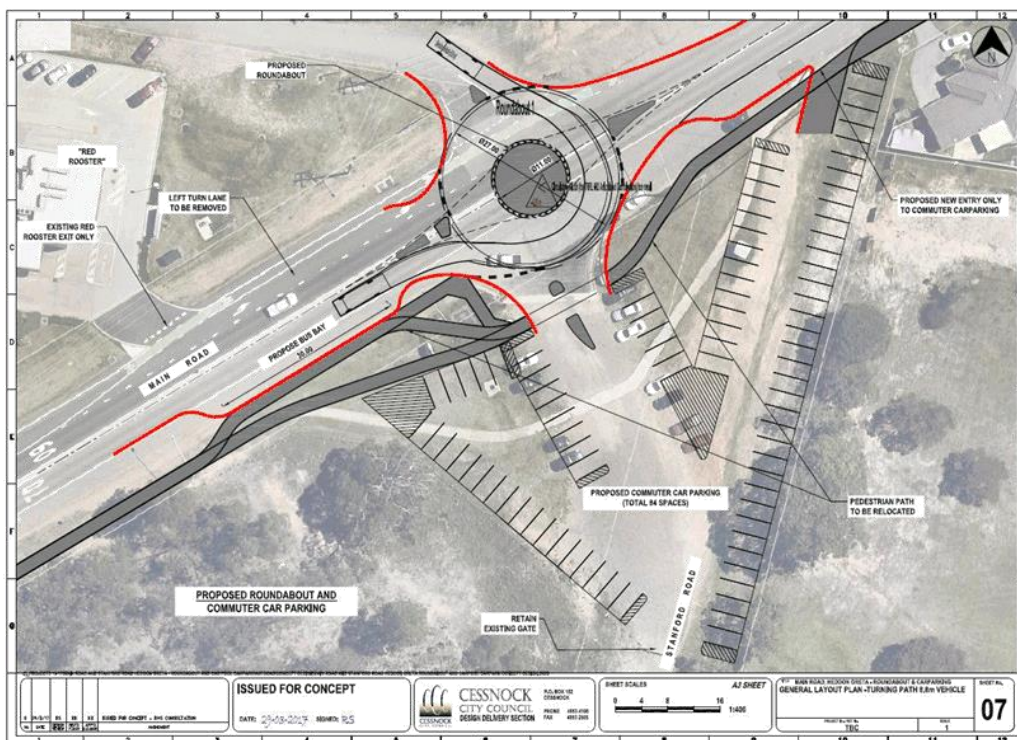
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CAR No.	Location / Category	Photograph	Description of risk to road safety Reason why this is a safety issue	Risk Level
35	Lovedale Road Ch.7400 to Ch.7950/ Roadside hazards		Trees were observed along both sides of Lovedale Road, Ch.7400 to Ch.7950, adjacent to narrow shoulder resulting in a roadside hazard for road users and a less forgiving roadside environment.	Medium



CAR No.	Location / Category	Photograph	Description of risk to road safety Reason why this is a safety issue	Risk Level
36	Lovedale Road Ch.7970 / Intersections		<p>The Wilderness Road intersection, Ch.7970, is located on a sharp crest, restricting intersection sight distance, and has reduced pavement width to accommodate safe intersection movements past turning vehicles resulting in an increased potential for rear end and intersection type crashes. Poor intersection definition and delineation was also observed from Wilderness Road.</p>	High

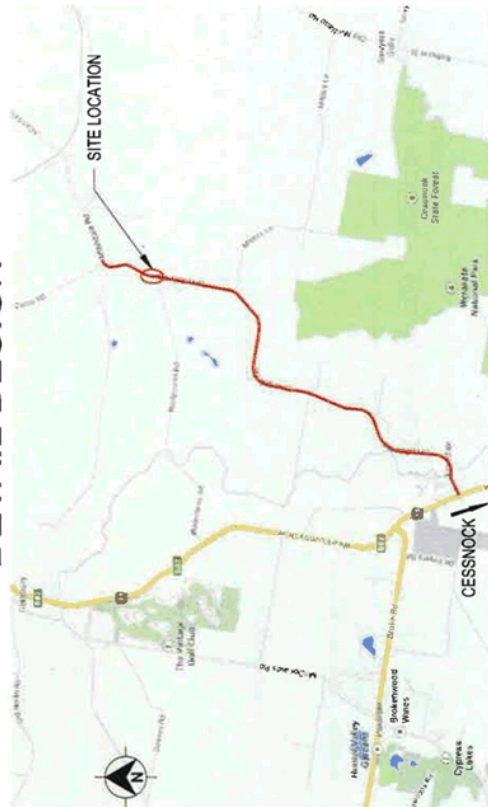
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RSA-13-030 - LOVEDALE ROAD - MR220 TO CAMP ROAD - LOVEDALE.DOC



# CESSNOCK CITY COUNCIL LOVEDALE ROAD SAFETY IMPROVEMENTS WILDERNESS ROAD INTERSECTION CAR36


## DETAIL DESIGN



Map data ©2012 Google, Where(R), Smaas Pty Ltd

LOCALITY PLAN  
NOT TO SCALE

<b>PREPARED BY</b> TRANSPORT FOR NSW, ROADS & MARITIME SERVICES (RMS) NETWORK SERVICES DIRECTORATE ENGINEERING TECHNOLOGY PROJECTS DELIVERY, HUNTER		<b>DESIGNED</b> NAME: ANTHONY SCOTT DATE: 18.11.2014	<b>VERIFIED</b> NAME: IAN LEACH DATE: 18.11.2014	<b>RECOMMENDED</b> NAME: _____ DATE: _____	<b>ACCEPTED</b> NAME: _____ DATE: _____	<b>MAP PROJECT No.</b> D/00378	<b>DESIGN PROJECT No.</b> SF2013-160229	<b>STAGE</b> 100% DETAIL	<b>PAGE</b> 1	<b>SHEET No.</b> 001
						<b>DRAWING</b> CAR36_001_1.dwg	<b>REGISTRATION NUMBER</b> DS2014/000331			

 <b>Transport</b> Roads & Maritime Services		<b>ROADS AND MARITIME SERVICES</b>		DRAWING <b>CAR36_002_1.dwg</b>		STAGE <b>100% DETAIL</b>		PART <b>1</b>		SHEET NO. <b>002</b>	
ENGINEERING TECHNOLOGY PROJECT MANAGER DESIGN NUMBER		LOVEDALE ROAD ROAD SAFETY IMPROVEMENT WILDERNESS ROAD INTERSECTION CAR36 CESSNOCK CITY COUNCIL INDEX SHEET		REGISTRATION NUMBER <b>DS2014/000331</b>							







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**From:** admin@premier.nsw.gov.au  
**Sent:** Thursday, 26 October 2017 10:07 AM  
**To:** council  
**Subject:** Correspondence to the NSW Premier

Dear Mr Pynsent and Mr Maginnity,

Thank you for your recent meeting request to the Hon Gladys Berejiklian MP, Premier of NSW to discuss the review of the State's regional policing command structure.

I hope you will understand the Premier receives a significant number of diary requests and due to conflicting commitments and time constraints, it is unfortunate that she cannot accept them all. The Premier will need to decline on this occasion and has asked that I convey her apologies.

As this matter falls within the administration of the Hon Troy Grant, Minister for Police and Minister for Emergency Services, I encourage you to extend the invitation to their office.

For your convenience the Minister's contact phone number is 02 8574 6800.

Thank you for taking the time to write to the Premier.

Yours sincerely

Lisa Do  
Office of the NSW Premier  
Tel: 02 8574 5000

This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please delete it and notify the sender. Views expressed in this message are those of the individual sender, and are not necessarily those of the office of the Premier.

Ref No: MX17-08582