



31 July 2020

To All Councillors

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993, that an Extraordinary Meeting of Council Council will be held via Audio Link on Wednesday, 5 August 2020 at 5.15pm, for the purposes of transacting the undermentioned business.

The meeting is to be held electronically as per the COVID-19 legislation Amendment (Emergency Measures) Bill 2020 and will be closed to the public. The public may view the meeting via a link on Councils website. Councillors will need to attend the meeting via teleconference.

AGENDA:

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Principles for Local Government

Exercise of functions generally

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

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

Council's Values

- Integrity
- Accountability
- Respect
- Excellence
- Teamwork

Our Community's Vision

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

Cessnock – thriving, attractive and welcoming.

Our Community's Desired Outcomes

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



Council Model Code of Conduct

Council adopted its current Code of Conduct on 17 April 2019. This Code provides details of statutory requirements and gives guidance in respect of the way in which pecuniary and conflict of interest issues must be disclosed.

Generally, the Code outlines the following issues:

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



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Disclosures Of Interest

Report No. PPD12/2020

Corporate and Community Services



SUBJECT: *DISCLOSURES OF INTEREST*

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

RECOMMENDATION

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

SUMMARY

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

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

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

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

ENCLOSURES

There are no enclosures for this report.

SUBJECT: *CESSNOCK CORRECTIONAL CENTRE ACCESS*

RESPONSIBLE OFFICER: *General Manager - Lotta Jackson*

SUMMARY

The purpose of this report is for Council to consider correspondence received from the Minister for Counter Terrorism and Corrections, The Hon. Anthony Roberts, MP on 27 July 2020, and the final option offered for access to the Cessnock Correctional Centre. To ensure a timely response to the Minister, this agenda item has been expedited via an Extraordinary Council meeting.

RECOMMENDATION

1. That Council receives and notes the correspondence received from The Hon Minister Roberts dated 27 July 2020.
2. That Council supports and accepts the proposed scope of option 3(a) as follows:
 - a) Construction of a new access road connecting the existing internal Correctional Centre road network at the eastern site boundary to Occident St Nulkaba (drawing attached).
 - b) Re-sheeting / upgrade of the Occident St road pavement to the Kerlew St intersection.
 - c) The access road is to be of asphalt construction, designed for heavy vehicles with swale stormwater drainage, road lighting and palisade type fencing to neighbouring properties.
 - d) Signage wall and emergency gates.
 - e) Updated way finding signage throughout Cessnock consistent with the existing.
3. That Council notes and accepts the scope clarifications as follows:
 - a) The road alignment shown on the enclosed drawing is approximate noting that the final alignment will be determined during the detailed design process following land acquisition, geotechnical investigation and site surveying.
 - b) The proposal is reliant on the voluntary acquisition of NSW Health and private land, at market valuation.
 - c) The proposal does not include: reconstruction of Kerlew Street including the intersection at Occident Street; traffic calming / signage / road closures etc. in Nulkaba, intersection works at Wine Country Drive.

General Manager's Unit

Report No. GMU16/2020

General Manager's Unit



4. That Council considers any application lodged in respect of the subdivision of land and/or planning proposal in respect of the zoning of the road, in accordance with legislative requirements; and
5. That Council notes the advice provided which outlines that the proposal can proceed as a 'Review of Environmental Factors (REF) under Part 5 of the EP&A Act 1979.

BACKGROUND

At its Ordinary Meeting of 15 April 2020 Council resolved (1240) the following:

1. *That the General Manager writes to the Minister for Corrections Anthony Roberts giving support for Option 3a in the Cessnock Correctional Complex Road Options Analysis Report December 2019 and request a meeting for the General Manager and Mayor discuss entry to the Cessnock Correctional Centre.*
2. *That Council liaise with the State Member for Cessnock Clayton Barr to develop common strategies on this important project and invite Mr Barr to address Council at a Councillor Briefing Session.*

In accordance with Item 2 of this resolution, the State Member for Cessnock Clayton Barr was invited to address Council at a Councillor Briefing that took place on Wednesday 13 May 2020.

In accordance with Item 1 of this resolution, the General Manager wrote to the Minister for Counter Terrorism and Corrections, The Hon. Anthony Roberts, MP on 27 April 2020, giving support for Option 3a, and requesting a meeting for the General Manager and Mayor to discuss entry to the Cessnock Correctional Centre.

Subsequently a meeting was initiated by the Minister's office that was held in Parliament House on 4 May 2020, with the Minister, representatives from Corrective Services NSW, Cessnock City Council Mayor, General Manager and Director Works & Infrastructure, and Mr Clayton Barr, MP in attendance.

REPORT/PROPOSAL

The correspondence received from the Minister included a drawing to show the proposed location and route of the new access road. The drawing is attached at **Enclosure 1**. The letter detailing the proposal is attached at **Enclosure 2**.

It is proposed that Council accepts the proposed scope and scope clarifications as required by the Minister in the correspondence.

Council's Infrastructure Unit will work closely with the Corrective Services NSW and NSW Public Works Advisory team to ascertain the anticipated traffic movements to and from the Correctional Centre access. The aim is to ensure that any reconstruction of Kerlew Street by Council, including work that may be required at its intersection with Occident Street, traffic calming, or signage, are designed to suit the identified traffic demand and delivered with minimal impacts.

General Manager's Unit

Report No. GMU16/2020

General Manager's Unit



Council's Infrastructure Unit will also liaise with Transport for NSW, to identify traffic impacts on Wine Country Drive and any works that may be required at its intersection with Kerlew Street.

OPTIONS

Nil.

CONSULTATION

- A/Director, Planning & Environment
- Development Services Manager
- A/Director, Works & Infrastructure

STRATEGIC LINKS

a. Delivery Program

N/A

b. Other Plans

Nil

IMPLICATIONS

a. Policy and Procedural Implications

Nil

b. Financial Implications

Cost to the Community: Council officers will scope the work Council will need to undertake to enable option 3a as clarified including any work to upgrade Kerlew Street, and estimate the cost.

Once cost estimates are prepared, the anticipated cost will be included in the budget for 2021-22.

Should funds be required earlier, the matter will be brought to Council at a quarterly budget review during the year.

c. Legislative Implications

Council officers will ensure that any works that are the responsibility of Council are in line with standards and consider any application lodged in respect of the subdivision of land and/or planning proposal in respect of the zoning of the road, in accordance with legislative requirements.

General Manager's Unit

Report No. GMU16/2020

General Manager's Unit



d. Risk Implications

Financial Risk: There is a risk that the cost of the work that Council is required to undertake, as part of the clarified scope, will impact on other projects. However, at this stage it is anticipated that the risk is manageable.

Road Safety Risk: There is a risk that road safety risk matter arise from the changed traffic patterns however this risk is will be mitigated by consideration of the traffic generated and is well balanced by the reduced traffic to the current access point, driver behaviour issues and improved road network directly off the State Road network.

e. Environmental Implications

The proposed access can proceed following preparation of a Review of Environmental Factors (REF) under Part 5 of the EP&A Act 1979 and in consideration of any constraints raised.

f. Other Implications

Nil known at this stage.

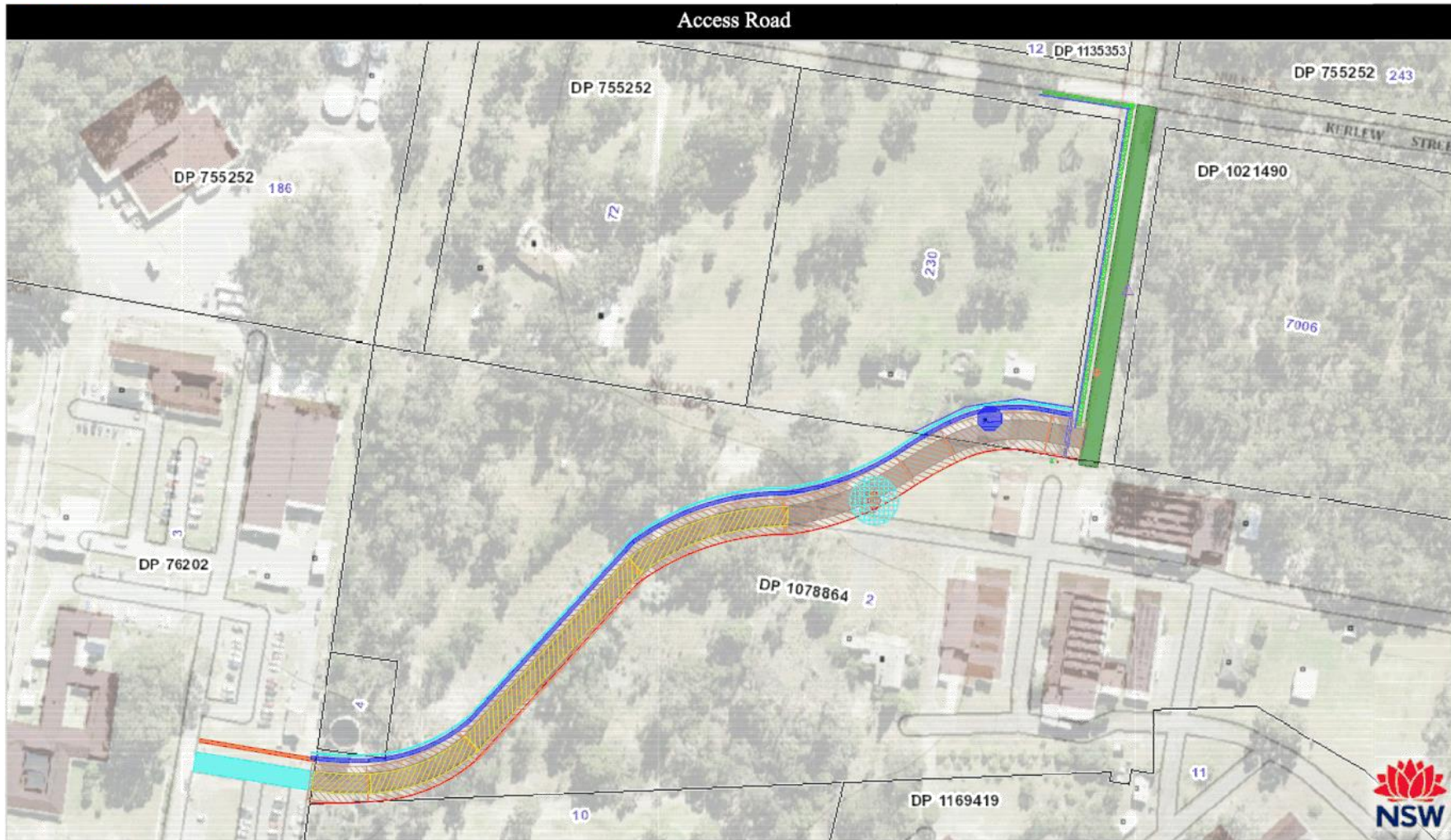
CONCLUSION

Council received a letter from the Minister for Counter Terrorism and Corrections, The Hon. Anthony Roberts, MP on 27 July, with final option offered for the Cessnock Correctional Centre Access. It is recommended that Council accepts this proposal 3a and the clarifications of the same. To ensure that a timely response is provided to the Minister, this agenda item has been expedited via an Extraordinary Council meeting.

ENCLOSURES

- [1](#) ↓ Proposed Road Alignment
- [2](#) ↓ Correspondence from Minister Roberts

Cessnock 330



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The Hon. Anthony Roberts MP
Minister for Counter Terrorism and Corrections

Ref: OM20/4326

Ms Lotta Jackson
General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Dear Ms Jackson

I apologise for the delay in writing to you after our meeting in May this year.

By way of background, I will set out below the historical significance of previous correspondence between us and contextualise my reasoning for writing to you.

In February 2020 and again in March 2020 Cessnock City Council passed resolutions of Council listing a series of 'conditions' be met by Corrective Services NSW ('Corrections') before the support of Council for the proposed access road Option 3a was to be offered.

I responded to you in writing on 30 March 2020 stating "*Corrections simply cannot meet those conditions prior to any planning and design work*", and further advised you that "*Corrections has no option but to formally withdraw its offer of 3(a) and will continue accessing the facility via Lindsay Street.*"

After the offer was withdrawn, a Mayoral Minute was discussed at the Ordinary Council Meeting held on 15 April 2020. Council resolved:

- 1. That the General Manager writes to the Minister for Corrections Anthony Roberts giving support for Option 3a in the Cessnock Correctional Complex Road Options Analysis Report December 2019 and request a meeting for the General Manager and Mayor discuss entry to the Cessnock Correctional Centre.*

In accordance with the above Mayoral Minute on 20 April 2020 you wrote to me as Minister for Counter Terrorism and Corrections:

"In line with this resolution the Mayor, myself and the Director Works & Infrastructure would appreciate the opportunity to meet with you to further discuss how we can redress the issue of the access to the Cessnock Correctional Centre, recognizing Council's support for Option 3a."

Subsequently a meeting was initiated by my office and was held in Parliament House on 4 May 2020 with yourself, the Mayor of Cessnock City Council, the Director Works & Infrastructure (Cessnock City Council), Clayton Barr MP, representatives from Corrections and myself.

At this meeting there were two significant issues discussed that remain a concern to Corrections and myself.

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Firstly, despite the open and transparent communication with yourself and Council since May 2019, the Mayor declared that the reason Councilors passed resolutions against the access road was because Councilors were unaware that alignment 3(a) was the only option left for consideration as there was a 'void' in the information supplied to Council by Corrections.

I asked you if the information sent to you was not passed onto Council and Councilors creating a 'void' in communication. In reply, you immediately informed me that in late February, Justice Infrastructure made it clear that option 3(a) was the final and only option available. You then indicated that this was conveyed to every Councilor prior to the March Council meeting.

I remain perplexed as to where there is a 'void' in information and communication to Council.

The second issue of concern discussed at the meeting was an abundant sense of political interference attempting to pit Council and residents against Corrections and the NSW Government. When pressed on this issue the Mayor admitted he cannot guarantee that the issue of the access road, if put back on the table, would not be politicised.

Despite the aforementioned concerns, I have since had a meeting with the Member for Cessnock (at his urgent request) and was reminded that the residents of Lindsay St had been silent on this issue and did not make representations supporting the road access. Lindsay St residents also felt that Council did not communicate with them and as such, they did not consider Council withdrawing its support for Option 3(a) and were in fact quite confused by Council's actions.

I do not feel that the Lindsay St residents should be punished without further opportunity for Council to reconsider Option 3(a) and its positive impact holistically on all residents of both Lindsay St and Nulkaba residents.

The expansion of Cessnock Correctional Complex was financially completed in FY2019/20. Noting the current fiscal conditions of Government, I have asked Corrections to reconsider what scope it may be able to progress through the reprioritisation of capital funds within the Department in FY2020/21.

Summarised below is the scope of a proposed final offer:

Proposed Scope Option 3(a)

- *Construction of a new access road connecting the existing internal Correctional Centre road network at the eastern site boundary to Occident St Nulkaba (drawing attached).*
- *Re-sheeting / upgrade of the Occident St road pavement to the Kerlew St intersection.*
- *The access road is to be of asphalt construction, designed for heavy vehicles with swale stormwater drainage, road lighting and palisade type fencing to neighbouring properties.*
- *Signage wall and emergency gates.*
- *Updated way finding signage throughout Cessnock consistent with the existing.*

Scope Clarifications

- *The road alignment shown on the enclosed drawing is approximate noting that the final alignment will be determined during the detailed design process following land acquisition, geotechnical investigation and site surveying.*
- *The proposal is reliant on the voluntary acquisition of NSW Health and private land, at market valuation.*
- *The proposal does not include: reconstruction of Kerlew Street including the intersection at Occident Street; traffic calming / signage / road closures etc. in Nulkaba, intersection works at Wine Country Drive.*

If Council is prepared to accept the amended scope of works above and to prevent any further complications, I require:

- *a successful resolution from Cessnock City Council accepting the 'scope of works' above to construct the access road (option 3A) and acceptance of the 'Scope Clarifications';*
- *approval, where required, for the subdivision of land and apply appropriate zoning to that land for road construction; and*
- *planning approval (if required) noting the current advice is that the proposal may proceed as a 'Review of Environmental Factors (REF) under Part 5 of the EP&A Act 1979.*

I look forward to Council's response.

Yours sincerely



The Hon. Anthony Roberts MP
Minister for Counter Terrorism and Corrections

CC: Mr Clayton Barr MP, Member for Cessnock

27 July 2020