



8 November 2022

To All Councillors

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993, that the next Ordinary Meeting of Council will be held in the Council Chambers, on Wednesday, 16 November 2022 at 6.30pm, for the purposes of transacting the undermentioned business.

AGENDA:

PAGE NO.

- (1) **ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS**
- (2) **OPENING PRAYER – presented by Pastor Amanda Francis**
- (3) **RECEIPT OF APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE**
Leave of absence has been granted to:
Councillor Daniel Watton - 8 November 2022 to 30 November 2022 Inclusive
- (4) **CONFIRMATION OF MINUTES OF PREVIOUS MEETING**
Minutes of the Ordinary Meeting of Council held on 19 October 2022 7
Minutes of the Extraordinary Meeting held on 12 October 2022 110
- (5) **DISCLOSURES OF INTEREST**
‡ D110/2022 Disclosures of Interest 113
- (6) **PETITIONS**

(7) PUBLIC ADDRESS

The following people have been invited to address the meeting of Council:

Speakers	Company	Report	Page No.	Duration
Representative	NSW Audit Office	CC86/2022 Annual Financial Statements for the Year Ended 30 June 2022	198	7 mins
Jennifer Hayes	Independant Chair	GMU30/2022 Audit and Risk Committee Annual Report 2021-22	116	7 mins
		CC86/2022 Annual Financial Statements for the Year Ended 30 June 2022	198	

(8) CONSIDERATION AND ADOPTION OF ALL REPORTS BY ENGLOBO

(9) MAYORAL MINUTES

MM15/2022 ANZ Branch Closure - Cessnock 114

(10) MOTIONS OF URGENCY

MOU11/2022 Motions of Urgency..... 115

(11) GENERAL MANAGER'S UNIT

‡ GMU30/2022 Audit and Risk Committee Annual Report 2021-22..... 116
GMU31/2022 Minutes of the Audit and Risk Committee meeting held
27 October 2022..... 119

(12) PLANNING AND ENVIRONMENT

PE65/2022 Development Application No. 8/2022/113/1 proposing
alterations and additions to the 'Bellbird Hotel'

388 Wollombi Road, Bellbird 121
PE66/2022 Outcome of public exhibition - Planning Proposal
18/2021/6 to amend Cessnock LEP Conservation Zones..... 168
PE67/2022 Urban Growth Management Plan - Interim Review 177
PE68/2022 Huntlee Planning Agreement Draft Deed of Variation 3 185
‡ PE69/2022 Agritourism Planning Reforms 193

(13) CORPORATE AND COMMUNITY

‡ CC86/2022 Annual Financial Statements for the Year Ended 30 June 2022
..... 198
‡ CC87/2022 Annual Report 2021-22 207
CC88/2022 September 2022 Review of the 2022-26 Delivery Program .. 210
CC89/2022 Quarterly Budget Review Statement - September 2022 216
CC90/2022 Schedule of Ordinary Meetings of Council for 2023 220
CC91/2022 Ward Boundaries - Variation in Enrolments - Update..... 223
CC92/2022 Minutes of the Strategic Property & Community Facilities
Committee meeting held 26 October 2022 226
‡ CC93/2022 Investment Report - October 2022..... 232
‡ CC94/2022 Resolutions Tracking Report 240

(14) WORKS AND INFRASTRUCTURE

WI71/2022	Tender T2023-05 Camp Road Greta - Road Construction....	241
WI72/2022	Notes of the Inqorate Community Engagement, Awards and Grants Committee Meeting held 20 October 2022	249
WI73/2022	Minutes of Local Traffic committee Meeting held 17 October 2022.....	256

(15) BUSINESS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN

BN31/2022	Growng Temporary Events	262
BN32/2022	Mayoral Car.....	264
BN33/2022	Permanent Security CCTV Cameras - Huntlee District Park.	265

(16) CORRESPONDENCE

‡	CO21/2022	CC58/2022 - Accounting Treatment – Rural Fire Service Fleet.....	267
‡	CO22/2022	BN21/2022 - Addressing Homelessness and Basic Services for the Needy in Cessnock LGA.....	269

(17) COUNCILLORS' REPORTS

(18) REPORT OF THE CONFIDENTIAL SESSION OF THE ORDINARY COUNCIL MEETING ON 16 NOV 2022

‡ - Denotes that Report is for notation only.



Principles for Local Government

Exercise of functions generally

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

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

Council's Values

- Integrity
- Accountability
- Respect
- Excellence
- Teamwork

Our Community's Vision

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

Cessnock – thriving, attractive and welcoming.

Our Community's Desired Outcomes

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



Council Code of Conduct

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

Generally, the Code outlines the following issues:

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



Notice of Copyright and Disclaimer

In accordance with Council's Code of Meeting Practice, Council Meetings are webcast.

The entire chamber including the public gallery is included in the audio recordings and visitors in the gallery who attend Council meetings may have their voice captured and webcast.

By attending a Council meeting you consent to your speech or other personal information being captured, recorded and webcast.

All those in attendance are advised that any opinions expressed or statements made by individual persons during the course of this meeting are the opinions or statements of those individual persons and are not opinions or statements of Council. Council accepts no liability for any defamatory remarks made during the course of the Council meeting.

The recordings of Council Meetings and the official minutes are protected by copyright owned by Council and no part thereof may be copied or recorded or made available to others without the prior written consent of Council.

These recordings are not, and shall not, be taken to be an official record of Council or of any meeting or discussion depicted therein. Only the official minutes constitute an official record of the meeting.

Confidential Meetings will not be webcast. Audio/visual recordings will be archived by Council for no less than 12 months.

**MINUTES OF ORDINARY COUNCIL MEETING OF THE CESSNOCK CITY COUNCIL
HELD IN COUNCIL CHAMBERS ON WEDNESDAY, 19 OCTOBER 2022, COMMENCING
AT 6.30PM**

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

IN ATTENDANCE: General Manager
Director Planning and Environment
Director Corporate and Community Services
Director Works and Infrastructure
Development Services Manager
Strategic Planning Manager
Economic Development & Tourism Manager
Human Resource Manager
Help Desk Support Officer
Media & Communication Coordinator
Corporate Governance Officer

Reverend Nicole Baldwin, Anglican Church presented the Prayer

**APOLOGY/LEAVE
OF ABSENCE:**

MOTION

Moved: Councillor Sander
Seconded: Councillor Hawkins

296

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

Councillor Watton applied for a Leave of Absence from 8 November 2022 – 30 November 2022.

FOR

AGAINST

Councillor Jackson
Councillor Moores
Councillor Dunn
Councillor Burke
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Paynter
Councillor Olsen
Councillor Jurd
Councillor Suvaal

Total (12)

Total (0)

CARRIED UNANIMOUSLY

MINUTES:

MOTION **Moved:** Councillor Hill
 Seconded: Councillor Sander

297

RESOLVED that the Minutes of the Ordinary Meeting of Council held on 21 September 2022, as circulated, be taken as read and confirmed as a correct record.

FOR

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

Total (11)

AGAINST

Councillor Olsen

Total (1)

CARRIED

DISCLOSURES OF INTEREST

DISCLOSURES OF INTEREST NO. DI9/2022

SUBJECT: DISCLOSURES OF INTEREST

Nil

PETITIONS

Nil

ADDRESS BY INVITED SPEAKERS

The following people addressed the meeting of Council:

Speakers	Company	For / Against	Report	Page No.	Duration
Megan Lowe	SLR Consulting	For	PE60/2022 - Development Application No. 8/2021/21810/1 Proposing the Consolidation of Five (5) Lots into One (1) Lot, Construction of a Service Station, Convenience Store, Car Wash Facility and Fast Food Premises (‘Hungry Jacks’) to operate 24 hours per day, 7 days a week 157-159 Wollombi Road Cessnock	128	3 mins

PLANNING AND ENVIRONMENT NO. PE60/2022

SUBJECT: DEVELOPMENT APPLICATION NO. 8/2021/21810/1 PROPOSING THE CONSOLIDATION OF FIVE (5) LOTS INTO ONE (1) LOT, CONSTRUCTION OF A SERVICE STATION, CONVENIENCE STORE, CAR WASH FACILITY AND FAST FOOD PREMISES ('HUNGRY JACKS') TO OPERATE 24 HOURS PER DAY, 7 DAYS A WEEK

157-159 WOLLOMBI ROAD CESSNOCK

MOTION

Moved: Councillor Hill

Seconded: Councillor Grine

298

RESOLVED

1. That:

- (i) Development Application No. 8/2021/21810/1 proposing the consolidation of five (5) lots into one (1) lot, construction of a service station, convenience store, car wash facility and fast food premises ('Hungry Jacks') to operate 24 hours per day, 7 days a week at 157-159 Wollombi Road, Cessnock, be approved pursuant to Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, subject to the conditions contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is a permitted land use in the B4 zone under the *Cessnock Local Environmental Plan 2011*,
 - The proposal is consistent with the objectives of the B4 zone under the *Cessnock Local Environmental Plan 2011*,
 - The proposal is consistent with the relevant provisions contained within the relevant State Environmental Planning Policies,
 - The proposal is generally compliant with the provisions of the Cessnock Development Control Plan 2010, and any variations are considered minor in nature,
 - The proposal incorporates adequate measures to ensure the development will not result in any adverse impacts on the natural and built environments,
 - The proposal incorporates adequate measures to ensure the development will not result in any adverse impacts on the social and economic locality,
 - The proposal is suited to the site, having regard to the prevailing character of development in the area, and
 - The proposal is consistent with the public interest.
- (iii) In considering community views, the following is relevant:
 - Measures are able to be implemented to ensure the development does not result in any unacceptable impact as a result of traffic, noise and lighting,

- The social impacts of the development have been adequately addressed and considered acceptable,
- The subject land is considered suitable for the development, and
- Sufficient information has been submitted to allow a full assessment of the proposed development.

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

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.
3. That the following be added to Conditions 2a, b and c and 104 "Convenience Store" after (fuel bowsers and night pay window only).

FOR	AGAINST
Councillor Jackson	Councillor Jurd
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Suvaal	
Total (11)	Total (1)

CARRIED

CONDITIONS OF CONSENT

SCHEDULE 1

CONDITIONS OF CONSENT

1. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2021/21810/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Site Plan Ref: JN1409 sk01d	ADS Architects	28 February 2022
Roof Plan Ref: JN1409 sk02c	ADS Architects	28 February 2022
Elevation Plan Ref: JN1409 sk03b	ADS Architects	18 August 2021

Elevation Plan Ref: JN1409 sk04a	ADS Architects	15 August 2021
Elevations Ref: JN1409 sk05b	ADS Architects	18 August 2021
Signage Ref: JN1409 sk06a	ADS Architects	17 August 2021

Document Title	Prepared By	Dated
Noise Assessment	Muller Acoustic Consulting	August 2021
Statement of Environmental Effects	SLR Consulting Pty Ltd	August 2021
Addendum to Noise Assessment	Muller Acoustic Consulting	27 September 2022
Waste Management Plan	SLR Consulting Pty Ltd	August 2021
Plan of Management	SLR Consulting Pty Ltd	8 March 2022

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

2. Time Limited Approval – 24 Hour Trading

- a. This consent authorises the extended operating hours of the drive-thru, service station (fuel bowsers and night pay window only) and car wash components of the development for twenty four (24) hours per day, seven (7) days a week, subject to paragraphs (b) to (c) of this condition below and the other conditions contained in this development consent.
- b. Pursuant to Section 4.17 (1)(d) (cf previous s 80A) of the EP&A Act, 1979, this consent is limited to a period of 12 months from the date of commencement of the use authorised by this consent. Notice of the commencement date must be provided in writing to Council prior to the use commencing. At the expiration of the trial period, the operating hours of the drive-thru, service station (fuel bowsers and night pay window only) and car wash shall revert to the same operating hours approved for the development, being: (a) The drive-thru, service station (fuel bowsers and night pay window only) and car wash shall operate between the hours of 5.00am until 11pm, seven days per week.
- c. Should the applicant wish to continue operating the drive-thru, service station (fuel bowsers and night pay window only) and car wash components of the development consistent with the extended operating hours beyond the approved 12 month period, an application must be submitted to Council for its consideration and approval prior to the expiration of the 12 month period that allows 24 hour trading but no earlier than a 6 month period from the date of commencement of operations under this consent. Council's consideration of the proposed continuation of the extended operating hours will be based upon, amongst other things, the operator's compliance with the conditions of this development consent and any substantiated complaints received by the Council and/or NSW Police.

3. CC, PC & Notice Required

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

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

4. BCA Compliance

Pursuant to Section 4.17(11) (cf previous s 80A) of the *EP&A Act 1979* all building work must be carried out in accordance with the requirements of the *BCA*.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Certifier, prior to issue of a Construction Certificate.

5. Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a *CC*.

6. Security for Cost of Damage and Completion of Public Work

Prior to issue of a *CC* authorising the carrying out of any work in accordance with this development consent, the applicant must provide security to the Council for the payment of the cost of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which the consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,
- c) remedying any defects in any such public work that arise within six (6) months after the work is completed.

The security is to be for an amount that is the greater of \$5000 or 5% of the estimated cost of carrying out the development and may be provided by way of:

- a) cash deposit with the Council, or
- b) an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred above and on application being made to the Council by the person who provided the security, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the security within six (6) years of the date of issue of the OC or SC for the development the Council may pay the balance to the Chief Commissioner of State Revenue under the *Unclaimed Money Act 1995*.

7. Cessnock Section 7.12 Levy Development Contributions Plan

A total monetary contribution of \$22,612.02 is to be paid to Council, pursuant to Section 7.12 (cf previous s 94A) of the *Environmental Planning and Assessment Act 1979*, such contribution is to be paid prior to the issue of a Construction Certificate in respect of the proposed development.

- i) This condition is imposed in accordance with the provisions of *Cessnock S94A Levy Development Contributions Plan 2017*. A copy of the document is available on Council's website at www.cessnock.nsw.gov.au or maybe inspected at Councils' Customer Services Section, Administration Building, Vincent Street Cessnock.
- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

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

8. Waste Water – Car Wash

Prior to issue of a CC, a detailed design plans are to be prepared by a Hydraulic Engineer and submitted to the Certifier demonstrating how waste water from the car wash will be discharged to the sewer.

9. Asbestos Testing

Prior to issue of a CC, further asbestos testing is to be undertaken by a suitably qualified professional in accordance with the Preliminary Site Investigation Report (prepared by WSP dated June 2020). In the event that there are asbestos findings, the affected area of the site shall be remediated and a clearance certificate issued by a licensed assessor.

10. Soil and Water Management Plan Required

Detailed plans and specification to ensure that there is adequate protection to prevent contamination of soil or water during demolition and construction. The plans and specifications must be to the satisfaction of the Certifier and approved by the Certifier prior to the issue of the CC.

11. Acoustic Construction Detail

The plans and information submitted in association with the CC application must incorporate sufficient detail to demonstrate compliance with the following acoustic measures as outlined in the Noise Assessment Report prepared by Muller Acoustic Consulting, dated August 2021:

- a. Mechanical plant located on the roof top of the control building is to be surrounded by acoustic screens. The screens are to be constructed to an RL of 600mm above the top of the highest item of plant on each rooftop and consist of materials with a surface density of at least 10kg/m², and not contain any gaps (i.e., colour bond, lapped and capped timber or equivalent);
- b. Construction of an impervious barrier along the south western corner of the control building drive-thru lane. The barrier is to be constructed to an RL of 1.8m above the relative ground level of the forecourt and consist of materials with a surface density of at least 10kg/m², and not contain any gaps (i.e., colour bond, lapped and capped timber or equivalent);
- c. Construction of a canopy with an impervious barrier along the eastern and western sides of the vacuum bay. The canopy is to be constructed to an RL of 2.0m above the relative ground level of the forecourt and consist of materials with a surface density of at least 10kg/m², and not contain any gaps (i.e., colour bond, lapped and capped timber or equivalent);
- d. Construction of an impervious barrier surrounding the control building service yard. The barrier is to be constructed to an RL of 2.5m above the relative ground level of the forecourt and consist of materials with a surface density of at least 10kg/m², and not contain any gaps (i.e., colour bond, lapped and capped timber or equivalent).
- e. Construction of a 2.5 metre high lapped and capped timber fence along the eastern boundary of the subject site (adjoining 161 Wollombi Road Cessnock) for a distance of approximately 40 metres, returning along the rear boundary of 161 Wollombi Road Cessnock for a distance of approximately 15 metres in accordance with the addendum to the Noise Assessment Report dated 27.9.22.

The plans must be submitted to and approved by the Certifier as satisfying these requirements prior to the issue of the CC.

12. Retaining Wall

Where a retaining wall is in excess of 600mm in height and/or within 900mm of a property boundary, separate detailed drawings are to be submitted in conjunction with the CC, specifying wall heights, heights of retaining walls, proposed mounding and stabilisation treatment, and landscaping for the elevations of the building.

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

13. Car Parking – Commercial/Industrial

The design of the vehicular access and off street parking facilities must comply with, but not be limited to *AS 2890.1-2004 Parking Facilities – Off-Street Car Parking*, *AS 2890.2-2002 Parking Facilities – Off-Street commercial vehicles facilities*, and *AS 2890.3-1993 Parking Facilities – Bicycle parking facilities*. Details demonstrating compliance with these Standards are to be included on the plans submitted in association with a CC application.

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

14. Disabled Car Parking Spaces

A total of one (1) car parking space for use by persons with a disability must be provided as part of the total car parking requirements.

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

- * AS/NZS 2890.1:2004 Parking Facilities – Off street car parking
- * AS/NZS 1428.1:2009 Design for access and mobility – General requirements for access – New building work
- * AS/NZS 1428.4.1:2009 Design for access and mobility – Means to assist the orientation of people with vision impairment – Tactile ground surface indicators.

15. Parking – Minimum Requirement

Onsite car parking shall be provided for a minimum of twenty-one (21) vehicles and such being set out generally in accordance with Council's Development Control Plan.

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

16. Detailed Landscape Plan

A detailed Landscape Plan prepared by a suitably qualified person must be submitted and approved by the Certifier, prior to the issue of a CC. The plan must include:

- a) A detailed planting schedule including species by botanical and common names, quantities, pot sizes and estimated size at maturity
- b) Details of planting procedure
- c) Details of earthworks including mounding, retaining walls and planter boxes
- d) A landscape maintenance schedule for the owner/occupier to administer over the determined time frame
- e) Details of drainage and watering systems including detailed specification and plans including; proposed material, make/model, dimensions, quantities

- f) The landscaping of the site is to be designed to:
 - i) Be low maintenance with a mixture of native and exotic species
 - ii) Be designed for a safe level of transparency
 - iii) Include trees and shrubs known to be fauna food sources where possible
 - iv) Not interfere with sight lines for vehicles entering or exiting the site (at full height – post establishment)
- g) Details of proposed turf species, turf underlay, quantity

17. Food Premises

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

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

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

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

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

18. Outdoor Lighting

Prior to the issue of a CC, the Certifier must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises, adjacent dwellings and the road reserve, and that the outdoor lighting complies with the relevant provisions of *AS 1158.3:2005 Pedestrian area (Category*

P) lighting – Performance and design requirements and AS 4282:1997 Control of the obtrusive effects of outdoor lighting.

19. Mechanical Exhaust System

Details of any proposed mechanical exhaust systems, detailing compliance with the relevant requirements of Clause F4.12 of the *BCA* and *AS 1668 Parts 1 and 2* (including exhaust air quantities and discharge location points) are to be provided to the Certifier prior to the issue of a *CC*.

20. Air Conditions Units

Any air conditioning unit on the site must be installed and operated at all times so as not to cause “Offensive Noise” as defined by the *Protection of the Environment Operations Act 1997*.

Details demonstrating noise attenuation measures in this regard are to be submitted to the Certifier prior to the issue of a *CC*.

21. Garbage Room / Waste Storage Areas

Details and location of the proposed garbage room and waste storage/collection areas are to be provided to the Certifier prior to the issue of a *CC*. Rooms used for the storage of garbage, and rooms used for the washing and storage of garbage receptacles, are to be constructed of solid material, cement rendered and trowelled to a smooth even surface, and subject to the following requirements:

- a. The floor must be impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room
- b. Garbage rooms must be vented to the external air by natural or mechanical ventilation
- c. A supply of hot and cold water mixed through a centralised mixing valve must be available to the bin storage area
- d. Must be constructed in a manner to prevent the entry of vermin.
- e. Be provided with adequate light and ventilation.

Such details must be approved by the Certifier as satisfying this requirement prior to the issue of a *CC*.

22. Smoke Free Premises

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

23. Underground Petroleum Storage Systems (UPSS): New or Modified Service Stations - Design

- a. Prior to issue of a *CC*, the detailed design specification of the Underground Petroleum Storage System (UPSS) and leak detection system must be submitted to the *CA* showing compliance with the UPSS Regulation and consistency with industry best practice as set out in Australian Standard *AS*

4897-2008: The design, installation and operation of underground petroleum storage systems. This includes, but is not limited to, provision of ground water monitoring wells, loss monitoring and mandatory pollution protection equipment comprising of non-corrodible secondary containment tanks and associated pipework and over fill protection devices.

- b. The applicant must ensure that the design of the UPSS and leak detection system is undertaken by a Duly Qualified Person, which is defined in the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019 (UPSS Regulation 2019). The design is to be certified by the Duly Qualified Person as satisfying this requirement prior to the issue of CC.

24. Waste Management Plan

A Waste Management Plan is to be provided to the Certifier prior to the issue of a CC. The Waste Management Plan is to be prepared in accordance with the following:

- a) Estimated quantities of materials that are reused, recycled, removed from the site
- b) On site material storage areas during construction
- c) Materials and methods used during construction to minimise waste
- d) Nomination of end location of all waste generated

All requirements of the approved Waste Management Plan must be implemented during the construction of the development.

25. Crime Prevention Through Design

The following Crime Prevention Through Environmental Design (CPTED) principles shall be incorporated into the building and maintained through the life of the development.

- a) Back to base alarm systems.
- b) Access control system that allows staff to remotely lock external entry points from the service counter.
- c) Installation and use of 24 hour CCTV covering areas of public use, loading dock and building entry/exit points and associated signage indicating that CCTV surveillance is in 24 hour operation.
- d) Installation of bollards along the store frontage.
- e) Lighting is required to be designed in accordance with the Australian and New Zealand *Lighting Standard AS 1158*. A lighting maintenance policy should be established. Security lighting should be installed in and around the building, and such shall not impact on any adjoining premises. The lighting should be vandal resistant - especially external lighting.
- f) The provision of a night window to allow for payment of fuel during hours of darkness.

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

26. Bicycle Storage to be Provided

The bicycle storage area must accommodate a minimum of four (4) bicycles and be design in accordance with *AS 2890.3:1993 Parking Facilities – Bicycle parking facilities*.

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

27. Amended Plan of Management

The Plan of Management (PoM) prepared by SLR Consulting Pty Ltd, dated 8 March 2022 is to be amended, prior to issue of the CC, to include the following:

- a. A litter patrol schedule to be conducted by staff four (4) times daily to collect litter on site and along Wollombi Road (to Darwin and Miller Street) Cessnock.
- b. The provision of a 'pay before you pump' system during the hours of darkness.
- c. Transactions associated with the payment of fuel are to occur through the night pay window between the hours of 10.00pm and 5.00am.
- d. Customer ordering displays are to be continually set at the lower volume setting to minimise noise disturbance.

28. Roadworks

The registered proprietors of the land shall construct the following for the full frontage of the subject land, for a distance of approximately 72 metres in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to the release of the S138 Roads Act Approval.

- a) Construct a new concrete footpath 1.5 metres wide, 100mm thick with SL82 reinforcement.
- b) Topdress and turf footpath.

29. OSD System

A stormwater drainage design, incorporating on site stormwater retention / detention facilities, prepared by a qualified practising Civil Engineer must be provided to the Certifier prior to the issue of a CC. The design must be prepared / amended to make provision for the following:

- a) The design must be generally in accordance with the stormwater drainage concept plan on Drawing No. 190269 C01 to C07 (Revision D) prepared by Richmond and Ross Pty Ltd dated 4 February 2022.
- b) Comply with Council's Engineering Requirements for Development.
- c) All plumbing within the site must be carried out in accordance with *AS 3500.3.2003 Plumbing and Drainage – Stormwater Drainage*

- d) Overflow pipeline(s) must be provided for any rainwater tank(s) to discharge by gravity to the Council drainage system. Where OSD facilities are required by this consent, the overflow pipelines must be discharged by gravity to the OSD storage tank(s)
- e) An inspection opening or stormwater pit must be installed inside the property adjacent to the boundary for all stormwater outlets
- f) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- g) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system
- h) Stormwater must be discharged by gravity to the kerb and gutter of a public road or to Council's piped drainage system
- i) Stormwater must be discharged by gravity directly into Council's piped drainage system
- j) All redundant stormwater pipelines within the footpath area must be removed, and the footpath and kerb reinstated
- k) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm

Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.

30. Road – Fees

The applicant shall lodge payment of fees as follows:-

- a) Road fees - engineering plan checking
- b) Road fees – PC certification of works

Final fee amounts will be levied on accurate dimensions contained within the engineering plans.

The fees shall be payable prior to the issue of a *CC / Section 138* for the Construction Works and shall be in accordance with Council's adopted fees and charges current at the time of payment.

31. Stormwater – Construction Management Plan Requirement

A construction management plan shall be submitted with the application for the *CC* and approved by the Certifier as satisfying the below requirements:

- a) Details of sedimentation and erosion control
- b) Details of provision of truck and machinery wash down areas. Note: All trucks and machinery must be free from all foreign material where such material is likely

to cause pollution. An area must be set aside for the cleaning of concrete agitator trucks.

- c) Details of dust mitigation on building sites and access roads
- d) Location and phone number of the site office
- e) Details regarding provision of areas set aside for the storage/stockpiling of:
 - i) Construction refuse
 - ii) Construction materials
 - iii) Raw materials such as sand, soil, mulch and the like
 - v) Details regarding the provision of facilities for workers associated with the development.

Note: All protection and control of earthworks shall be carried out in accordance with Council's "Engineering Requirements for Development", Department of Conservation and Land Management's 'Urban Erosion and Sediment Control' requirements, and the Department of Housing 'Soil and Water Management for Urban Developments'.

32. Stormwater – Detailed Design Requirements

A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property, and connection to the existing drainage system in accordance with Council's 'Engineering Requirements for Development' (available at Council's offices). Such layout shall include existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development.

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

33. Stormwater – Detention Requirement

The registered proprietor of the land is to provide a stormwater detention facility within the boundaries of the site to reduce the peak stormwater discharge from the developed lot to that of the peak stormwater discharged from the undeveloped lot for all storm events from the 1 in 1 year to the 1 in 100 year Average Recurrence Interval (ARI) storm event. A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property. Details shall include onsite storage, the method of controlled release from the site, and connection to an approved drainage system in accordance with Council's 'Engineering Requirements for Development'.

Detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development, shall be prepared by an engineer suitably qualified and experienced in the field of hydrology and hydraulics. The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

34. Section 50 – Hunter Water Act 1991

Evidence shall be submitted to Council that the registered proprietors of the land on whose behalf the application was made have complied with the requirements of Section 50 of the Hunter Water Act 1991. Such evidence shall be submitted to Council prior to the issue of the CC.

PRIOR TO COMMENCEMENT OF WORKS

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

35. Public Liability Insurance

Any person or contractor undertaking works on public property must take out Public Risk insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within, public property. The Policy is to note, and provide protection for Cessnock City Council as an interested party, and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property. The insurance shall also note the location and the risk.

36. S138 Roads Act Approvals

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, or public road reserve be required, a S138 Roads Act Approval will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The S138 application is to be submitted to, and approved by, Council prior to works commencing.

37. Relocation of Services

The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. In the event that existing services are required to be relocated the proprietor shall make application to obtain any necessary approval from the relevant service authority prior to commencement of any works.

38. Road - Bonds

The applicant shall pay a performance and maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater, to be held by Council for a period of 12 months.

It will be necessary for the applicant to submit evidence of the contract price of all construction works in order for Council to assess accurate bond amounts.

The bond shall be payable prior to the issue of a *Section 138* approval.

The bond may be used to meet any costs referred to above, and on application being made to the Council by the person who provided the bond, any balance remaining is to be refunded to, or at the direction of, that person.

A fee in accordance with Council's current fees and charges is to be paid prior to the final inspection of works and subsequent bond return.

If no application is made to the Council for a refund of any balance remaining of the bond within six (6) years of the date of issue of a compliance certificate for the development, the Council may pay the balance to the Chief Commissioner of State Revenue under the *Unclaimed Money Act 1995*.

39. Excavation Protection of Adjoining Property

If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:

- a) Must preserve and protect the adjoining building from damage
- b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished
- c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated, or on the adjoining allotment of land.

In this condition, the allotment of land includes public property.

40. Shoring and Adequacy of Adjoining Property

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense:

- i. protect and support the building, structure or work on adjoining land from possible damage from the excavation; and
- ii. if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.

This condition does not apply if the person having the benefit of the development consent own the adjoining land or the owner of the adjoining land gives written consent to the condition not applying.

41. Construction and Traffic Management Plan

The applicant must prepare a Construction Management and Traffic Management Plan incorporating the following matters. The plan must be submitted to and approved by the *PC* as satisfying these matters prior to the commencement of works.

- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.

- iv) Location of any proposed crane, concrete pump, truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An onsite parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer.
- b) During excavation, demolition and construction phases, noise generated from the site must be controlled.
 - c) All site works must comply with the work health and safety requirements of SafeWork NSW.
 - d) During excavation, demolition and construction phases, toilet facilities are to be provided on site, at the rate of one (1) toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.
 - e) All traffic control plans must be in accordance with the TfNSW publication *Traffic Control Worksite Manual* and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of six (6) weeks prior to the proposed activity being undertaken.

42. Erection of Signs

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

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

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

43. Nominated Location of Waste

The location and facilities for the collection, storage and disposal of waste generated within the premises shall be submitted to the *PC*, prior to the commencement of works.

44. Soil and Water Management Plan Implemented

The requirements of the Soil and Water Management Plan shall be in place prior to the commencement of demolition works and/or construction works and shall be maintained throughout the demolition and/or construction process.

DURING WORKS

The following conditions are to be complied with during works.

45. Construction Hours

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. Work is not to be carried out on Sundays and public holidays.

46. Acoustic Measures - Construction

All construction recommendations contained within the Acoustic Report (prepared by Muller Acoustic Consulting dated August 2021) *Section 5.2 Noise Attenuation Assumptions* are to be incorporated into the construction phase of the development.

47. Site is Securely Fenced

The site must be appropriately secured and fenced at all times during works.

48. Approved Plans Kept on Site

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

49. Construction Noise

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

50. Erosion and Sediment Controls

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's "Engineering Requirements for Development", and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks, and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

51. Contaminated Land

During earthworks, an *unexpected finds protocol* must be prepared and implemented if potentially contaminated materials are identified, to allow for their appropriate management. Any assessment and remediation of potentially contaminated materials must be undertaken by an appropriately qualified and experienced environmental professional.

Any waste generated during the redevelopment, including demolition materials and excavated soil, must be assessed for potential offsite reuse/disposal opportunities in accordance with the NSW EPA *Waste Classification Guidelines (2014)* and current resource recovery exemptions/orders

52. Location of Council Pipes

During all phases of demolition, excavation and construction, it is the full responsibility of the applicant and their contractors to:

- a) Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works
- b) Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits
- c) Ensure dedicated overland flow paths are satisfactorily maintained through the site

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage, and the like). All proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

If the Council pipeline is uncovered during construction, all work must cease, and the PC and Council must be contacted immediately for advice. Any damage caused to the Council stormwater drainage system must be immediately repaired in full as directed, and at no cost to Council.

53. Service Station – Onsite Treatment of Forecourt Runoff - Installation

- a. Installation of the service station forecourt and run-off treatment must be undertaken in accordance with the approved detailed design specification and NSW EPA Practice Note: Managing run-off from service station forecourts and is to be overseen by a Duly Qualified Person, which is defined in the POEO (Underground Petroleum Storage System) Regulation 2019.

Note: All ground surfaces within the service station forecourt must be made of impervious material (asphalt is not suitable). High risk contamination zones must be delineated with a physical divide and covered by a canopy with 10-degree overhang.

- b. High contamination risk zone/s must be graded to an underground containment vessel (i.e. treatment system). The underground containment vessel must:
 - i. Be designed and constructed to ensure it is compatible with petroleum products and other likely water pollutants;

- ii. Have a minimum capture volume of the capacity of the largest compartment of a delivery tank using the service stations; or 9000L, whichever the greatest; and
 - iii. Be fitted with a high level audible and visual alarm.
- c. Drainage inlets located within the service station forecourt area must be provided with signage indicating the fate of flow such as “flows to stormwater system via treatment”.

54. Service Station – Management of Forecourt run-off via Containment Vessel

- a. Installation of the service station forecourt and run-off treatment must be undertaken in accordance with the details approved under the CC and the NSW EPA Practice Note: Managing run-off from service station forecourts and is to be overseen by a Duly Qualified Person, which is defined in the UPSS Regulation 2019.

Note: All ground surfaces within the service station forecourt must be made of impervious material (asphalt is not suitable). High risk contamination zones must be delineated with a physical divide and covered by a canopy with 10-degree overhang.

- b. High contamination risk zone/s must be graded to an underground containment vessel (i.e. sump/tank). The underground containment vessel must:
- i. Be designed and constructed to ensure it is compatible with petroleum products and other likely water pollutants;
 - ii. Have a minimum capture volume of the capacity of the largest compartment of a delivery tank using the service stations; or 9000L, whichever the greatest; and
 - iii. Be fitted with a high level audible and visual alarm.
- c. Drainage inlets located within the service station forecourt area must be provided with signage indicating the fate of flow such as “flows to containment sump”.

55. Underground Petroleum Storage Systems (UPSS): New or Modified Service Stations - Installation

- a. The UPSS and leak detection system must be installed in accordance with the detailed design specification approved under the CC.
- b. The groundwater monitoring wells must be:
- i. Sealed to exclude surface water;
 - ii. Properly installed to target the hydrocarbon contamination of concern;
 - iii. Constructed to prevent cross-contamination with other groundwater monitoring wells;
 - iv. Clearly marked to indicate their presence;
 - v. Properly secured

56. Excavations and Backfilling

All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a professional engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- a) Preserve and protect the building from damage
- b) If necessary, underpin and support the building in a manner certified by a professional engineer.
- c) Give at least seven (7) days' notice to the adjoining owner before excavating, of the intention to excavate

The principal contractor, owner builder, or any person who needs to excavate and undertake building work, must first contact "Dial Before You Dig" and allow a reasonable period of time for the utilities to provide locations of their underground assets.

57. Virgin Fill to be Used

All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste, and which has been excavated from areas of land that are not contaminated with human made chemicals as a result of industrial, commercial, mining or agricultural activities, and which do not contain sulphate ores or soils.

58. Stormwater – Impact on Adjoining Land – Natural Drainage

Filling shall not be placed in such a manner that natural drainage from adjoining land will be obstructed.

59. Stormwater – Impact on Adjoining Land – Surface Water

Filling shall not be placed on land in such a manner that surface water will be diverted to adjoining land.

60. Road – Obstruction of Footpath Restriction

No obstruction is to be caused to Council's footpaths, roads and/or other public areas during construction of the development.

No spoil, building materials, excavated or demolition material from the site shall be stored or deposited on the public road, footpath, public place or Council owned property, without prior approval of Council.

61. Removal of Contaminated Soil

Any soil proposed to be disposed of off-site must be classified, removed and disposed of in accordance with the New South Wales Environment and Heritage *Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-liquid Wastes 1999* and the *Protection of the Environment Operations Act 1997*.

Any soil which fails to meet the criteria is not to be disposed of off-site unless agreed to in writing by the Environment Protection Authority. Results of testing are to be forwarded to Cessnock Council for acknowledgement before any off-site disposal, and before proceeding with any construction works.

62. Building Materials on Site

All building materials, plant and equipment are to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves, etc.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of an Occupation Certificate (as specified within the condition):

63. Roads – Concrete Crossing

The registered proprietors shall construct and maintain two (2) concrete access crossings from the kerb and gutter in Wollombi Road to the property boundary, in accordance with Council's "Engineering Requirements for Development" and AS 2890.1. A S138 Roads Act Approval is required from Council prior to any construction commencing within the road reserve. The access crossing is required to be constructed prior to the issue of an OC for the whole of the building. Where a Partial OC is issued the crossing shall be completed within six (6) months from the date of the Partial OC.

Construction of the crossing will require inspections to be undertaken by Council. The applicant shall pay Council engineering site supervision fees in accordance with Council's current Fees & Charges, prior to the inspections being undertaken.

The initial fee will facilitate approval of the application and one (1) construction inspection (steel and formwork inspection).

A final inspection will be required upon completion of the driveway and restoration of all disturbed footway areas. (A separate fee will be required to be paid when the final inspection is booked.) Should further inspections become necessary as a result of unsatisfactory or defective works, additional inspection fees will be charged in accordance with Council's current Fees & Charges.

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

64. Parking – Provision

Car parking areas must be completed in accordance with the approved plans with twenty-one (21) car parking spaces provided prior to the issue of an OC.

65. Parking – Loading Facility Requirement

Loading/unloading facilities shall be constructed and linemarking associated with tanker filling must be completed prior to the issue of an OC.

66. Disabled Access/Parking

The proposed development shall be provided with vehicular access and parking for the disabled in accordance with AS 1428.1 and AS 2890.6. The access shall be provided prior to issue of an OC.

67. Completion of Car Park

Prior to the issue of an *OC*, the *PC* must ensure that the vehicle access and off-street parking facilities have been constructed in accordance with the development consent and relevant *AS* and the following have been implemented within the property, where applicable:

- a) The car park has been completed, line marked and all signage relating to car parking erected
- c) Sign(s) have been erected that clearly indicate to the drivers of vehicles, both on and off the property, which driveway they are to use to enter or leave the subject land.
- d) Sign(s) have been erected that clearly indicate to the drivers of vehicles, on the property, the location and means of access to the car parking areas.

Certification by a qualified practicing Civil Engineer that the vehicular access and off-street parking facilities have been constructed in accordance with the above and relevant *AS*'s must be provided to the *PC* prior to the issue of an *OC*.

68. Positive Covenant – OSD

Prior to the issue of an *OC*, a positive covenant must be created under Section 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to maintain the onsite detention and onsite retention/re-use facilities on the property.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

- a) The proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the onsite stormwater detention facilities ("OSD").
- b) The proprietor shall have the OSD inspected annually by a competent person.
- c) The Council shall have the right to enter upon the land referred to above, at all reasonable times, to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures which comprise the OSD, or which convey stormwater from the said land, and recover the costs of any such works from the proprietor.
- d) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD, or failure to clean, maintain and repair the OSD.

The proprietor, or successor, must bear all costs associated with the preparation of the subject 88E instrument. Proof of registration with the NSW Department of Lands must be submitted to, and approved by, the *PC* prior to the issue of an *OC*.

69. Reinstate Road Reserve Verge

The applicant shall construct/reconstruct the unpaved road reserve verge with grass - species and installation shall be approved by Council prior to issue of an *OC*.

70. Completion of Road Works

Prior to the issue of an *OC*, the *PC* must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with Council's S138 Roads Act Approval.

Works-as-Executed plans of the extent of roadworks, including any component of the stormwater drainage system that is to revert to Council, certified by a registered surveyor, together with certification by a qualified practising Civil Engineer, to verify that the works have been constructed in accordance with the approved design and relevant AS, must be provided to Council prior to the issue of an *OC*.

The Works-as-Executed plan(s) must show the as-built details in comparison to those shown on the plans approved with the road works permit. All relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

71. Road – Access Completion

Construction of all access roads, road works (including the removal and restoration of redundant vehicular crossings, etc), driveways, access corridors, car parking areas and loading bays, including the provision of appropriate line marking and other traffic management devices, are to be completed prior to issue of an *OC*.

An R2-14L 'ALL TRAFFIC (LEFT SYMBOLIC) ONLY' sign shall be installed on the existing median island directly opposite to the proposed site exit crossover.

An R2-4n 'NO ENTRY' sign facing the Mount View Road intersection shall be installed at the site exit crossover.

72. Road – Removal of Redundant Infrastructure

All redundant vehicular accesses shall be removed, and the footpath, road shoulders and kerb and gutter, where applicable, restored to match existing conditions at no cost to Council, prior to use of the building or issue of an *OC*.

73. Positive Covenant – OSD

Prior to the issue of an *OC*, a positive covenant must be created under Section 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to maintain the onsite detention and onsite retention/re-use facilities on the property.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

- a) The proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the onsite stormwater detention facilities ("OSD").
- b) The proprietor shall have the OSD inspected annually by a competent person.
- c) The Council shall have the right to enter upon the land referred to above, at all reasonable times, to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures which comprise the OSD, or which convey stormwater from the said land, and recover the costs of any such works from the proprietor.

- d) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD, or failure to clean, maintain and repair the OSD.

The proprietor, or successor, must bear all costs associated with the preparation of the subject 88E instrument. Proof of registration with the NSW Department of Lands must be submitted to, and approved by, the *PC* prior to the issue of an *OC*.

74. New Stormwater System Proposed

Prior to the issue of an *OC*, the *PC* must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant *AS*.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a licensed plumber or qualified practising civil engineer, that the drainage system has been constructed in accordance with the approved design and relevant *AS*, must be provided to the *PC* prior to the issue of an *OC*.

75. Works-As-Executed Plan

Two (2) copies of a *WAE* plan prepared by a registered surveyor (both marked up in red), must be submitted to, and approved by, the *PC*, clearly showing all aspects of the constructed drainage and / or OSD. The plan must include:

- a) Sufficient levels and dimensions to verify the constructed storage volumes
- b) Location and surface levels of all pits
- c) Invert levels of the tanks, internal drainage line, orifice plates fitted, and levels within the outlet control pit
- d) Finished floor levels of all structures and driveways
- e) Verification that trash screens and/or GPTs have been installed
- f) Locations and levels of any overland flow paths
- g) The *WAE* plan information should be shown on a stamped copy of the approved civil works drawings
- h) Surface levels of pits and surrounding ground levels
- i) Levels of spillways and surrounding kerb
- j) Floor levels of buildings, including garages
- k) Top of kerb levels at the front of the lot
- l) Dimensions of stormwater basins and extent of inundation
- m) Calculation of actual detention storage volume provided

The plan shall be accompanied by a report from the designer stating the conformance or otherwise of the as-constructed basins in relation to the approved design.

The *WAE* plan and report shall be submitted to and approved by *PC* prior to the issue of an *OC*.

76. Stormwater – Plan of Management

The registered proprietor of the land shall prepare a Plan of Management for the OSD facilities within the development. The plan shall set out all design and operational parameters for the detention facilities, including design levels, hydrology and hydraulics, inspection and maintenance requirements, and time intervals for such inspection and maintenance. The plan shall be submitted to the *PC* for approval prior to the issue of an *OC*.

77. Drainage Works

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

78. Underground Petroleum Storage Systems (UPSS): New or Modified Service Stations – Commissioning Report

- a. Prior to the issue of any *OC*, a commissioning report must be submitted to the *PCA*, and must certify that the UPSS was:
 - i. Installed in accordance with the detailed design specification (enter details to identify document),
 - ii. Tested (including Equipment Integrity Testing (EIT)) and commissioned by duly qualified persons in accordance with the UPSS regulation 2019;
 - iii. For a modified UPSS, the person responsible must also include current “as built” drawings, dates of commencement and completion of the modification; and
 - iv. If a UPSS is removed, replaced or decommissioned, a Validation Report must be provided to Council within 60 days of the removal or the completion of remediation.

A validation report must be kept a minimum seven years from the date of creation or after the decommissioning of a UPSS.

- b. Prior to the issue of any *OC*, a report must be submitted to the *PCA* and Council relating to the design, installation and testing of the groundwater monitoring wells. The report must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section 7.1 of Cessnock City Council Contaminated Land Policy – Land Use Planning, 26/03/2020.

The front cover of the report must include the details of the consultant’s certification.

- c. Prior to the issue of any *OC*, a Fuel System Operation Plan (FSOP) in accordance with Regulation 18 of the UPSS Regulation 2019 must be submitted to and approved by the *CA*. The FSOP must, as a minimum, address the following matters:
 - i. Specific information about the storage system, including identifying the 'person responsible' for the system;
 - ii. Loss monitoring and detection procedures;
 - iii. Incident management procedures;
 - iv. Details about system maintenance;
 - v. Current 'as built' drawings for the system;
 - vi. A plan of the storage site. The plan must also include information on storage system, all buildings and associated infrastructure, all fences

- and gates, all groundwater monitoring wells, any unsealed ground surfaces and all drainage and services;
- vii. A copy of industry standards that have been followed in constructing and maintaining the UPSS;
- viii. A copy of the specifications of the design and installation of the system and any modification; and
- ix. An inventory of employee site induction and incident management training that has been undertaken on site.

79. Service Station – Commissioning of Onsite Treatment of Forecourt Runoff

- a. Prior to the issue of the *OC*, a Comprehensive Monitoring and Management Plan for the treatment device must be developed by a suitably qualified person and submitted to the *PC*. The Comprehensive Monitoring and Management Plan must:
 - i. Demonstrate ongoing compliance with Class 1 requirements of European British Standard BSEN 857-1:2002; and
 - ii. Provide a water quality monitoring program to monitor the effectiveness of the treatment device on the receiving environment. At a minimum, the water quality monitoring program must:
 - i. Identify suitable monitoring and sampling location(s), including stormwater discharge outlet points;
 - ii. Require measurement of the total petroleum hydrocarbons (TPHs) at the sampling locations at six monthly intervals in accordance with the most current version of the publication 'Approved Methods for the Sampling and Analysis of Water Pollutants in New South Wales' and in accordance with the ANZECC Guidelines;
 - iii. Require visual inspections of storm water discharge outlet points after rainfall events to identify the presence of hydrocarbons;
 - iv. Identify responsible persons and contact details;
 - v. Require review and update at six monthly intervals, for the lifetime of the treatment device;
 - vi. Provide for corrective actions if the system fails or becomes noncompliant with the manufacturers recommendations of the European British Standard BSEN 857-1:2002; and
 - vii. Record the results from 6 monthly TPH measurement and visual monitoring. Findings must be kept on-site and made available to an Authorised Officer upon request.
- b. Prior to the issue of an *OC*, certification must be submitted to the *CA* demonstrating that all treatment devices shown in the approved Detailed Design Specification have been installed on-site in accordance with the manufacturers recommendations and is adequately sized for the type and volume of storm water treated.
- c. Prior to the issue of any *OC* a commissioning report must be completed and submitted to the *CA*, authorised by a Duly Qualified Person, which is defined in the Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2019 that includes:
 - i. The date of completion of the installation of the Treatment Device; and
 - ii. Certification installation of the service station forecourt and run-off treatment was undertaken in accordance with the approved detailed design specification and NSW EPA Practice Note: Managing run-off from service station forecourts.

80. Service Station – Commissioning of Forecourt run-off Containment Vessel

Prior to the issue of any *OC* a commissioning report must be completed and submitted to the *CA*, authorized by a Duly Qualified Person, which is defined in the UPSS Regulation 2019, and includes:

- a. The date of completion of the installation of the Containment Vessel; and
- b. Certification installation of the service station forecourt and run-off treatment was undertaken in accordance with the approved Detailed Design Specification [enter details to identify document] and NSW EPA Practice Note: Managing run-off from service station forecourts.

81. Food Premises

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

82. Acoustic Report Recommendations Complied With

A certificate must be submitted to and approved by Council’s Environmental Health Team prior to the issue of an *OC* or before the commencement of the use (whichever is earlier). The certificate must be prepared by an accredited Acoustic consultant, and must certify that the recommendations in the approved acoustic report (and any addendums to the report) have been complied with and the desired acoustic performance achieved.

An *OC* must not be issued until the *PC* has verification that the certification above is to the satisfaction of Council’s Environmental Health Team.

83. All Services Provided

Certification that all services as required (eg water supply, gas, electricity, telephone, sewer), are available to the site, shall be submitted to the *PC* prior to issue of an *OC*.

84. Works Confined to Site

Prior to the issue of an *OC*, the *PC* must be satisfied that a survey certificate prepared by a registered surveyor must provide certification that the location of the building in relation to the boundaries of the allotment is consistent with the building location approved with the *DA*.

85. Finish of Excavated &/or Filled Areas Around Site

The excavated and/or filled areas of the site are to be stabilised and drained, to prevent scouring onto adjacent private or public property. The finished ground around the perimeter of the building is to be graded to prevent ponding of water, and to ensure the free flow of water away from the building and adjoining properties.

86. Lots to Be Consolidated

All allotments involved in this proposal must be consolidated into one allotment. Evidence of registration shall be submitted to Council or the Certifier prior to the issue of an *OC*.

87. Waste Management Plan

Prior to the issue of an *OC*, the *PC* must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

88. Waste Disposal

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

ONGOING USE

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

89. Plan of Management - Operational Procedure Requirements

All operational procedures as outlined in the amended Plan of Management (required in Condition No. 27 of this consent) are to be adhered to in perpetuity. The Plan of Management is to be reviewed on an annual basis.

90. Number of Employees

More than three (3) employees shall be at the premises at any one time on a Friday and Saturday night. Alternatively, where fewer staff are rostered on, regular security patrols (minimum of 1 per hour), shall occur to ensure the safety and security of staff and the premises.

A register shall be kept and made available on request detailing the number of staff rostered on or the frequency of security patrols undertaken and the time these occurred.

91. Submission of Annual Fire Safety Statement

An annual Fire Safety Statement must be given to Council and the New South Wales Fire Brigade commencing within twelve (12) months after the date on which the initial Interim / Final Fire Safety Certificate is issued.

92. Noise Complaints

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

93. Complaint/Incident Register Kept Onsite

Formulation and implementation of a complaints/incident handling register detailing the following (at a minimum):

- Name of the person responsible for the overall management of the site and their contact mobile phone number;

- Confirmation that the mobile phone of the person responsible for the overall management of the site will remain switched on during extended trading hours;
- Details of each complainant including name, address, contact details, time and nature of the complaint;
- Action undertaken to address the complaint;
- Follow up contact with the complainant to advise of outcome of action taken to address the complaint;
- All incidents of damage to property;
- All incidents involving criminal/antisocial behaviour on the site; and
- Implementation of any relevant actions to ensure similar issues do not re-occur.

In the event the register is updated, this is to be done within seven (7) days of the complaint / incident occurring.

The complaints handling register is to be kept on the site at all times, and made available to Council officers for inspection, if required.

94. Security Patrols

Implementation of a night security patrol service shall be implemented during the initial 12 months of operation. Where anti-social behavior or crime have been identified as an ongoing issue, regular security patrols shall be implemented and included in the Plan of Management as part of its annual review.

95. Management Responsibilities for Patron Behaviour

Management must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. Management is responsible for the control of noise and litter generated by patrons of the premises, and shall ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council.

96. Orderly Dispersal of Patrons

The proprietors of the venue are responsible at all times for the orderly dispersal of patrons from the venue.

97. Fuel Delivery and Waste Collection

Fuel deliveries and waste collection are restricted and must not occur outside the hours of 7.00am and 10.00pm.

98. Service Station – Operation of Onsite Treatment of Forecourt Runoff

- a. The Comprehensive Monitoring and Management Plan, must be implemented on an ongoing basis for the lifetime of the treatment system and updated regularly to maintain currency.

- b. Spills occurring in the forecourt area must be spot cleaned using a suitable absorbent material only. The forecourt is not to be hosed or washed to the forecourt or storm water drainage systems.

99. Service Station – Operation of Forecourt run-off Containment Vessel

- a. Wastewater generated in high contamination risk zone/s must be managed in accordance with Practice Note: Managing run-off from service stations forecourts (NSW Environment Protection Authority, 2019) and collected and appropriately stored for removal in an underground containment vessel as per the approved Detailed Design Specification [enter details to identify document].
- b. Wastewater from high contamination risk zone/s stored in an underground containment vessel is classified as liquid waste and must only be removed off site by a NSW Environment Protection Authority licenced contractor and disposed of at an appropriate facility.
- c. Records of removal and disposal by licenced contractor and disposal at an appropriate facility must be held either electronically or in hardcopy form that is accessible on-site, either as a dedicated document or as part of other site management procedures and must be made available to the Council or other Appropriate Regulatory Authorities when requested.
- d. Spills occurring in the forecourt area must be spot cleaned using a suitable absorbent material only. The forecourt is not to be hosed or washed to the forecourt or storm water drainage systems.

100. Underground Petroleum Storage System (UPSS): Remediation, Decommissioning & Validation

The UPSS Validation Report must be kept for seven years from the date of creation or decommissioning.

101. Waste Management

All waste and recycling storage are to be located wholly within the dedicated bin storage area.

Waste collection must be carried out at sufficient intervals to ensure that the facility is kept in a safe and healthy condition.

102. Underground Petroleum Storage System (UPSS): New or Modified Service Stations – Ongoing Use

- a. The Fuel System Operation Plan (FSOP) must be held either electronically or in hardcopy form, either as a dedicated document or as part of other site management procedures, and must be available to the Council or other Appropriate Regulatory Authorities when requested.
- b. Should repairs be required to the UPSS system during the operational phase, the system must not be recommissioned unless it satisfies the requirements outlined in the UPSS Regulation 2019.
- c. All reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.

103. Removal of Graffiti

The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within forty-eight (48) hours of its appearance.

104. Hours of Operation

Hours of operation relating to the proposed use are as follows:

Food and Drink Premises: 5am to 11pm, 7 days per week

Service Station/Convenience Store/Main control Building: 5am to 11pm, 7 days per week

Drive Thru, Service Station (fuel bowsers and night pay window only) and Car Wash: 24 hours per day, 7 days a week for the first 12 months and subject to Condition 2. Following the expiration of the 12 month period referred to in Condition 2, the approved hours of operation are 5:00am until 11pm, 7 days a week.

105. Loading to Occur on Site

All loading and unloading operations are to be carried out wholly within the site, and not from the footpath or roadway for the life of the development.

The loading dock must be used in connection with the approved use.

Tanker filling to be wholly on site and within an area linemarked for tankers while filling/unloading.

106. Approved Signage Maintenance

The approved signs must be maintained in a presentable and satisfactory state of repair.

The level of illumination and/or lighting intensity used to illuminate the sign/s is to be minimised to ensure that excessive light spill or nuisance is not caused to any nearby premises or the road reserve.

No A-frame signs or sandwich boards are to be used in associated with the occupancy, either on the street or on private property, without the consent of Council.

107. Outdoor Lighting

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

108. Maintenance of Landscaping

Landscaping shall be maintained in accordance with the approved plan in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the development.

If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

An annual report shall be submitted to Council, for the three (3) years following issue of the OC, certifying that the landscaping works have been satisfactorily maintained.

109. Night Pay Window

Transactions associated with the payment of fuel are to occur through the night pay window between the hours of 10.00pm and 5.00am.

110. Customer Ordering Displays

Customer ordering displays are to be continually set at the lower volume setting to minimise noise disturbance.

111. Litter Control

Management must ensure that the forecourt, car parking area and the surrounds of the building are to be kept clean and free of litter. Regular litter patrols are to be undertaken in accordance with the prescribed schedule contained in the Plan of Management.

112. Odour/Air Quality

Activities associated with the development are to be conducted in a manner so there is no interference to the existing and future amenity of residents and the neighbourhood in general.

113. Emissions

There is to be no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise", vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.

114. Storage of Hazardous Material

All hazardous material stored on the site is to be located above the Flood Planning Level.

115. Restricted Access to Car Park

The car parking area on the site (between the entry and fuel forecourt, and in front of the car wash facility - car parks 9 to 21) are to be blocked off overnight to encourage either drive-thru purchases or parking only directly in front of the convenience store building. A temporary barrier (e.g. removable bollards) are to be erected in the abovementioned parking areas between the hours of 12 midnight and 6am daily.

116. Acoustic Validation Assessment Report

An acoustic validation assessment report must be submitted to Council, and approved by Council's Environmental Health Team, within 28 days of the commencement of the use. The certificate must be prepared by an accredited acoustic consultant and must certify that noise emissions meet the relevant criteria as specified in the approved Acoustic Report, prepared by MAC Consulting dated August 2021. The report must

also confirm that all noise attenuation measures set out in the approved Acoustic Report have been implemented.

117. Food Premises

The food business is to be registered with Council. The business will be placed upon *Council's Regulatory Inspection Register* and will be subject to routine inspections

ADVISORY NOTES

A. Disability Inclusion Act

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Inclusion Act 2014*. The applicant/owner is responsible for ensuring compliance with this, and other, anti-discrimination legislation. The *Disability Inclusion Act 2014* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *AS 1428.1 - Design for Access and Mobility*. *AS1428 Parts 2, 3 & 4* provide the most comprehensive technical guidance under the *Disability Inclusion Act 2014* currently available in Australia.

B. "DIAL BEFORE YOU DIG" DIAL 1100

Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au

C. Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fences under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.

D. Other Approvals and Permits

The applicant shall apply to Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, and/or any other approvals under *Section 68 (Approvals)* of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

E. Responsibility for Other Consents/Agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

F. Site Contamination Issues During Construction

Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination, Council must be immediately notified by the applicant, and works must cease. Works must not recommence on site until approval is granted by Council.

G. Aboriginal Heritage

As required by the *National Parks and Wildlife Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from the Heritage Division of the OEH.

Note: The *National Parks and Wildlife Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and/or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

Yannis Commino	SLR Consulting	For	PE61/2022 - Development Application No. 8/2021/22142/1 proposing demolition of existing structures and construction of a food and drink premises (‘McDonalds’) to operate 24 hours a day, 7 days a week 217-219 Vincent Street, Cessnock	200	3 mins
-------------------	-------------------	-----	---	-----	--------

PLANNING AND ENVIRONMENT NO. PE61/2022

SUBJECT: DEVELOPMENT APPLICATION NO. 8/2021/22142/1 PROPOSING DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A FOOD AND DRINK PREMISES ('MCDONALDS') TO OPERATE 24 HOURS A DAY, 7 DAYS A WEEK

217-219 VINCENT STREET, CESSNOCK

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Dunn

1. That:

(i) Development Application No. 8/2021/22142/1 proposing the demolition of existing structures and construction of a food and drink premises ('McDonalds') to operate 24 hours a day, 7 days a week, at 217-219 Vincent Street, Cessnock, be approved pursuant to Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, subject to the conditions contained in this report and the following additional conditions:

- **The Plan of Management shall be amended to include the training of staff to appropriately manage the drive-thru lanes in order to ensure that traffic does not queue onto surrounding streets and/or impede the local surrounding road network, including Charlton Street and Snape Street.**
- **No queuing of traffic is permitted to occur in the surrounding local road network as a result of the operation of the site, including but not limited to the operation of the drive-thru facility. In addition, queuing traffic must not impede and/or impact the internal parking spaces and traffic circulation areas within the subject site.**

(ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:

- **The proposal is a permitted land use in the B4 zone under the *Cessnock Local Environmental Plan 2011*,**
- **The proposal is consistent with the objectives of the B4 zone under the *Cessnock Local Environmental Plan 2011*,**
- **The proposal is consistent with the relevant provisions contained within the relevant State Environmental Planning Policies,**
- **The proposal is generally compliant with the provisions of the Cessnock Development Control Plan 2010, and any variations are considered minor in nature,**
- **The proposal incorporates adequate measures to ensure the development will not result in any adverse impacts on the natural and built environments,**
- **The proposal incorporates adequate measures to ensure the development will not result in any adverse impacts on the social and economic locality,**

- The proposal is suited to the site, having regard to the prevailing character of development in the area, and
 - The proposal is consistent with the public interest.
- (iii) In considering community views, the following is relevant:
- Measures are able to be implemented to ensure the development does not result in any unacceptable impact as a result of behaviour, noise or odour,
 - Solutions are proposed to direct traffic to and from the site,
 - The subject land is considered suitable for the development; and
 - Sufficient information has been submitted to allow a full assessment of the proposed development.
- (iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the *Environmental Planning and Assessment Act 1979*.

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

7.07pm - Motion of Dissent

Councillor Olsen moved a Motion of Dissent against the Mayor's ruling regarding the Mayor making a statement during the debate of an item on the Agenda.

The Motion of dissent was **PUT** and **LOST**.

FOR	AGAINST
Councillor Paynter	Councillor Jackson
Councillor Olsen	Councillor Moores
Councillor Jurd	Councillor Dunn
	Councillor Burke
	Councillor Grine
	Councillor Sander
	Councillor Hill
	Councillor Hawkins
	Councillor Suvaal
Total (3)	Total (9)

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Dunn
 299
RESOLVED

1. That:

- (i) Development Application No. 8/2021/22142/1 proposing the demolition of existing structures and construction of a food and drink premises ('McDonalds') to operate 24 hours a day, 7 days a week, at 217-219 Vincent Street, Cessnock, be approved pursuant to Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, subject to the conditions contained in this report and the following additional conditions:

- The Plan of Management shall be amended to include the training of staff to appropriately manage the drive-thru lanes in order to ensure that traffic does not queue onto surrounding streets and/or impede the local surrounding road network, including Charlton Street and Snape Street.
 - No queuing of traffic is permitted to occur in the surrounding local road network as a result of the operation of the site, including but not limited to the operation of the drive-thru facility. In addition, queuing traffic must not impede and/or impact the internal parking spaces and traffic circulation areas within the subject site.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
- The proposal is a permitted land use in the B4 zone under the *Cessnock Local Environmental Plan 2011*,
 - The proposal is consistent with the objectives of the B4 zone under the *Cessnock Local Environmental Plan 2011*,
 - The proposal is consistent with the relevant provisions contained within the relevant State Environmental Planning Policies,
 - The proposal is generally compliant with the provisions of the Cessnock Development Control Plan 2010, and any variations are considered minor in nature,
 - The proposal incorporates adequate measures to ensure the development will not result in any adverse impacts on the natural and built environments,
 - The proposal incorporates adequate measures to ensure the development will not result in any adverse impacts on the social and economic locality,
 - The proposal is suited to the site, having regard to the prevailing character of development in the area, and
 - The proposal is consistent with the public interest.
- (iii) In considering community views, the following is relevant:
- Measures are able to be implemented to ensure the development does not result in any unacceptable impact as a result of behaviour, noise or odour,
 - Solutions are proposed to direct traffic to and from the site,
 - The subject land is considered suitable for the development; and
 - Sufficient information has been submitted to allow a full assessment of the proposed development.
- (iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the *Environmental Planning and Assessment Act 1979*.
2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

FOR

Councillor Jackson
 Councillor Moores
 Councillor Dunn
 Councillor Grine
 Councillor Sander
 Councillor Hill
 Councillor Hawkins
 Councillor Paynter
 Councillor Suvaal
Total (9)

AGAINST

Councillor Burke
 Councillor Olsen
 Councillor Jurd

Total (3)

CARRIED**CONDITIONS OF CONSENT****SCHEDULE 1****CONDITIONS OF CONSENT****1. General Terms of Approval**

All General Terms of Approval issued by Subsidence Advisory (Reference TBA21-04726 Dated 13 December 2021) shall be complied with prior, during and at the completion of the development, as required.

A copy of the General Terms of Approval is attached to this determination notice.

2. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2021/22142/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Site/Roof Plan, Project No. 2750, Drawing No. 0201, Issue I	Webber	20 September 2022
Demolition Plan, Project No. 2750, Drawing No. 0202, Issue F	Webber	20 September 2022
Site Parking and Setout, Project No. 2750, Drawing No. 0203, Issue J	Webber	20 September 2022
Landscape Plan, Project No. 2750, Drawing No. 0204, Issue H	Webber	20 September 2022
Floor Plan – Ground, Project No. 2750, Drawing No. 0302, Issue G	Webber	20 September 2022

West Elevation / East Elevation, Project No. 2750, Drawing No. 0401, Issue H	Webber	20 September 2022
South Elevation / North Elevation, Project No. 2750, Drawing No. 0402, Issue H	Webber	20 September 2022
Floor Plan – Site Signage, Project No. 2750, Drawing No. 0602, Issue E	Webber	20 September 2022
Floor Plan – COD Plan, Project No. 2750, Drawing No. 0603, Issue E	Webber	20 September 2022
Signage, Project No. 2750, Drawing No's. 0604, 605, 606, Issue E	Webber	20 September 2022

Document Title	Prepared By	Dated
Statement of Environmental Effects	SLR	November 2021
Access Report	Indesign Spaces	March 2022
Odour Assessment	Todoroski Air Sciences	April 2022
Plan of Management	SLR	April 2022
Traffic Report and Addendum	Colston Budd Rogers & Kafes Pty Ltd	October 2021 / April 2022
Waste Management Plan	McDonalds	Undated
Social Impact Assessment & Consultation Report	Mara Consulting	January 2021
Preliminary Site Investigation	Cardno	23 November 2020
Acoustic Report	MAC Consulting	January 2021

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

3. Time Limited Approval – 24 Hour Trading for Drive-Thru Component

- a. This consent authorises the extended operating hours of the drive-thru component of the food and drink premises for twenty four (24) hours per day, seven (7) days a week, subject to paragraphs (b) to (c) of this condition below and the other conditions contained in this development consent.
- b. Pursuant to Section 4.17 (1)(d) (cf previous s 80A) of the EP&A Act, 1979, this consent is limited to a period of 12 months from the date of commencement of the use authorised by this consent. Notice of the commencement date must be provided in writing to Council prior to the use commencing. At the expiration of the trial period, the operating hours of the drive-thru component shall revert to the same operating hours approved for the restaurant component of the development, being: (a) The drive-thru component of the food and drink premises shall operate between the hours of 5.00am until 12 midnight, seven days per week.
- c. Should the applicant wish to continue operating the drive-thru component of the development consistent with the extended operating hours beyond the approved 12 month period, an application must be submitted to Council for its consideration and approval prior to the expiration of the 12 month period that allows 24 hour trading but no earlier than a 6 month period from the date of commencement of operations under this consent. Council's consideration of the proposed continuation of the extended

operating hours will be based upon, amongst other things, the operator's compliance with the conditions of this development consent and any substantiated complaints received by the Council and/or NSW Police

4. CC, PC & Notice Requirements

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

- a) A *CC* has been issued by a Certifier (being Council or a registered certifier); and
- b) A *PC* has been appointed by the person having benefit of the development consent; and
- c) If Council is not the *PC*, notify Council no later than two (2) days before building work commences as to who is the appointed *PC*; and
- d) At least two (2) days before commencement of building work, the person having benefit of the development consent is to notify Council as to the intention to commence building work

5. BCA Compliance

Pursuant to Section 4.17(11) (cf previous s 80A) of the *EP&A Act 1979* all building work must be carried out in accordance with the requirements of the *BCA*.

6. Requirements of Electricity Supply Authority

The applicant shall comply with the requirements specified by the Electricity Supply Authority, Ausgrid as detailed within their correspondence dated 14 December 2021 Reference: 1900111572.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Certifier, prior to issue of a Construction Certificate

7. Local Traffic Committee Approval

Any application involving the installation of, or amendment to, regulatory signage, linemarking and/or traffic control devices, will require approval of the Council Local Traffic Committee. Full details shall be submitted to council for approval by the Council Local Traffic Committee, prior to the issue of a *CC*, and subsequent Section 138 Roads Act Approval.

8. Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a *CC*.

9. Security for Cost of Damage and Completion of Public Work

Prior to issue of a *CC* authorising the carrying out of any work in accordance with this development consent, the applicant must provide security to the Council for the payment of the cost of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which the consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,
- c) remedying any defects in any such public work that arise within six (6) months after the work is completed.

The security is to be for an amount that is the greater of \$5000 or 5% of the estimated cost of carrying out the development and may be provided by way of:

- a) cash deposit with the Council, or
- b) an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred above and on application being made to the Council by the person who provided the security, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the security within six (6) years of the date of issue of the Occupation Certificate or Subdivision Certificate for the development the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

10. Amended Plans Required – Access Compliance

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

- a) Compliance with the Compliance Report – Development Approval prepared by Indesign Spaces dated 15 March 2022,
- b) The Delivery area is to be provided with sufficient turning space, and
- c) The door to the Delivery area is to be provided with sufficient circulation space both internally and externally.

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

11. Cessnock Section 7.12 Levy Development Contributions Plans (2020)

A total monetary contribution of \$39,753.14 is to be paid to Council, pursuant to Section 7.12 of the *EP&A Act 1979*, such contribution is to be paid prior to the issue of any CC.

- i) This condition is imposed in accordance with the provisions of *Cessnock Section 7.12 Levy Contributions Plan 2017 (as amended)*. A copy of the document is available on Council's website at www.cessnock.nsw.gov.au or may be inspected at Councils' Customer Services Section, Administration Building, Vincent Street Cessnock.

- ii) The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be indexed at time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

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

12. Hoarding Application

A hoarding application for the erection of a Class A (fence type) or Class B (overhead type) hoarding along the street frontage complying with WorkCover requirements must be received by Council. The relevant application shall be submitted to Council with a footpath occupancy fee based on the area of footpath to be occupied. A Public Risk Insurance Policy with a minimum cover of twenty (20) million dollars in relation to the occupation of, and works within, Council's road reserve, for the full duration of the proposed works, must be obtained with a copy also provided to Council. The Policy is to note Council as an interested party and nominate the location of works. Hoardings shall not be erected until written approval has been received from Council. The copy is to be provided to Council prior to the issue of a CC.

13. Car Parking – Commercial/Industrial

The design of the vehicular access and off-street parking facilities must comply with, but not be limited to *AS 2890.1-2004 Parking Facilities – Off-Street Car Parking, AS 2890.2-2002 Parking Facilities – Off-Street commercial vehicles facilities, and AS 2890.3-1993 Parking Facilities – Bicycle parking facilities*. Details demonstrating compliance with these Standards are to be included on the plans submitted in association with a CC application.

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

14. Disabled Car Parking Spaces

One (1) car parking spaces for use by persons with a disability must be provided as part of the total car parking requirements.

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

- * *AS/NZS 2890.1:2004 Parking Facilities – Off street car parking*
- * *AS/NZS 1428.1:2009 Design for access and mobility – General requirements for access – New building work*
- * *AS/NZS 1428.4.1:2009 Design for access and mobility – Means to assist the orientation of people with vision impairment – Tactile ground surface indicators.*

15. Parking – Delivery Vehicles

A separate off-street loading/unloading facility with capacity to accommodate the largest delivery vehicle likely to deliver goods to and from the premises shall be provided for all loading and unloading of vehicles wholly within the property. Such facility shall be constructed clear of the car parking area and driveways.

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

16. Parking – Minimum Requirement

On-site car parking shall be provided for a minimum of 34 vehicles (including disabled car parking) and such being set out generally in accordance with Council's Development Control Plan.

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

17. Bicycle Storage to be Provided

The bicycle storage area must accommodate a minimum of four (4) bicycles and be design in accordance with *AS 2890.3:1993 Parking Facilities – Bicycle parking facilities*.

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

18. Road Works Required

The applicant must bear the cost of construction of the following works:

Stormwater Drainage connection to Council's drainage system in Snape Street in accordance with the approved plans.

Development Consent does not give approval to undertake any works on Council property. An application must be made to Council for a S138 Roads Act Approval to construct these works. Detailed engineering drawings (plans, sections and elevation views) and specifications of the works required by this Condition must accompany the application form.

The Roadworks Approval request / application must be submitted to, and approved by, Council prior to the issue of a CC.

These works must be constructed in accordance with the conditions of the Roadworks Permit and be completed prior to the issue of an OC.

Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.

19. Road – Fees

The applicant shall lodge payment of fees as follows:-

- a) Road fees - engineering plan checking
- b) Road fees – PC certification of works

Final fee amounts will be levied on accurate dimensions contained within the engineering plans.

The fees shall be payable prior to the issue of a CC / *Section 138* for the Civil Works and shall be in accordance with Council's adopted fees and charges current at the time of payment.

20. Road – Engineering Requirements

All driveways, access corridors and car parking areas are to be designed in accordance with AS2890.1 & AS2890.2 - Parking Facilities.

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

21. Road – Construct

The registered proprietors of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to the release of the S138 Roads Act Approval.

- (a) Construct CHR(s) intersection treatment on Snape Street at Snape and Charlton Street intersection
- (b) Construct median island on Snape Street prohibiting right turn movements to subject development
- (c) Install R2-14L, 'ALL TRAFFIC (LEFT SYMBOLIC) ONLY' sign on the median island
- (d) Place Asphalt overlay along site frontage on Snape Street and Charlton Street from subject site access to Charlton/Snape Street intersection. Extent of works to be determined in consultation with Council.
- (e) Construct 1.5 meters wide concrete footpath along subject site frontage from Vincent Street to Charlton Street
- (f) Construct a new pram ramp on western side of Charlton/Snape Street intersection and reconstruct the existing pram ramp on eastern side of Charlton/Snape Street intersection
- (g) Turf and top dress the footpath area.

22. Stormwater – Collection and Discharge Requirements

The registered proprietor of the land shall collect all roof and stormwater runoff from the site and discharge it to Council's stormwater drainage system in Snape Street in accordance with Council's 'Engineering Requirements for Development' (available at Council's Offices). Full details shall be submitted to, and approved by, the Certifier prior to the issue of a CC for the building/s.

23. Stormwater – Detailed Design Requirements

A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property, and connection to the existing drainage system in accordance with Council's 'Engineering Requirements for Development' (available at Council's offices). Such layout shall include existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development.

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

24. Flood Risk Management Report

A Flood Risk Management Report, prepared by a qualified practising Civil Engineer and satisfying all the following requirements must be provided to the Certifier prior to the issue of a CC. The report must be prepared / amended to make provision for the following:

The report must be generally in accordance with the Scenario F2 recommendation of the Flood Impact Assessment prepared by Cardno and dated 24/10/2021.

Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. The flood impacts on the site shall be assessed for the 100-year ARI storm event. The precautions shall include, but not be limited, to the following:

- i) Flood warning signs / depth indicators for areas that may be inundated
- ii) A flood evacuation strategy
- iii) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood planning level.

25. Flooding – Floor Level

The applicant shall ensure that the floor level of the proposed building is at or above RL70.24m Australian Height Datum (AHD).

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

26. Flooding – Hazardous Materials

All hazardous materials stored at the site, as defined in the Protection of the Environment Operations Act, 1997, shall be stored at a level not less than RL 70.74m AHD, or suitable bunding placed around such materials to a minimum of RL 70.74m AHD.

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

27. Flooding – Signage

Prior to the issue of an OC, a flood warning sign of durable material and permanently affixed shall be located in a prominent location within the building and car park. The sign shall advise occupants/patrons that the subject site is subject to inundation during times of flood.

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

28. Existing Street Tree Removal and Relocation

A street tree plan, indicating proposed removal or relocation of existing street trees impacted by the proposal, shall be submitted and approved prior to issue of CC. Existing street trees requiring removal and/or relocation are subject to Council's adopted fees and charges. All works must be undertaken by Cessnock City Council or Cessnock City Council approved contractors.

29. Food Premises

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

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

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

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

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

30. Mechanical Exhaust System

Details of any proposed mechanical exhaust systems, detailing compliance with the relevant requirements of Clause F4.12 of the BCA and *AS 1668 Parts 1 and 2* (including exhaust air quantities and discharge location points) are to be provided to the Certifier prior to the issue of a CC.

31. Air Conditions Units

Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997*.

Details demonstrating noise attenuation measures in this regard are to be submitted to the Certifier prior to the issue of a CC.

32. Acoustic Report and Acoustic Fencing

Prior to the issue of a CC, plans shall be submitted to, and approved by the Certifier confirming that the recommendations specified in the Acoustic Report prepared by MAC Consulting, dated January 2021, have been implemented in the final design of the proposed development.

Note: the fencing/barrier is to be constructed to an RL of 2.5m reducing to 1.5m at the proposed entry above the relative ground level of the drive-thru lane and consist of materials with a surface density of at least 10kg/m², and not contain any gaps (ie, colour bond, lapped and capped timber or equivalent). The plans submitted to, and approved by the Certifier shall demonstrate compliance with this requirement.

33. Outdoor Lighting

Prior to the issue of a CC, the Certifier must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises, adjacent dwellings and the road reserve, and that the outdoor lighting complies with the relevant provisions of *AS 1158.3:2005 Pedestrian area (Category P) lighting – Performance and design requirements* and *AS 4282:1997 Control of the obtrusive effects of outdoor lighting*.

34. Plan of Management

The Plan of Management (PoM) for the operation is to be amended to include the following noise considerations:

- A specific time period for collection of skip bins and other plant vehicles entering the site, ie: not before the hours of 7:00am nor on weekends, is to be documented within the PoM;
- Detail to ensure the *Customer Ordering Displays* remain at low volume settings;
- The nomination of a staff position/s, on each shift, responsible for noise management; and
- The processes/procedures and responsibility of the ventilation extraction system.

The PoM shall incorporate Crime Prevention by Environmental Design measures. The amended PoM shall be submitted to and approved by Council prior to the issue of a CC.

35. Smoke Free Premises

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

36. Garbage Room

Details and location of the proposed garbage room are to be provided to the Certifier prior to the issue of a CC. Rooms used for the storage of garbage, and rooms used for the washing and storage of garbage receptacles, are to be constructed of solid material, cement rendered and trowelled to a smooth even surface, and subject to the following requirements:

- a) The floor must be impervious material covered at the intersection with the walls, graded and drained to an approved floor waste within the room
- b) Garbage rooms must be vented to the external air by natural or mechanical ventilation

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

37. Detailed Hardscape Plan

A detailed Hardscape Plan prepared by a suitably qualified person, must be submitted and approved, prior to the issue of a CC. The plan must include:

- a) Location of all proposed and existing hardscape furniture, including but not limited to; retaining walls, fencing, bollards, signs, entrance features, monuments, playgrounds, seats, benches, shelters, BBQ's, amenities, lighting, bin cabinets, paving and footpaths, stairways, handrails
- b) A detailed specification which includes; proposed material, make/model, dimensions, quantities, colour scheme
- c) Details of installation procedure for each type of furniture
- d) The Hardscape is to be designed to:
 - Be low maintenance, and vandal proof
 - Be non-obstructive
 - Apply the principles of 'Crime Prevention Through Environmental Design' (CPTED)
 - Playgrounds are to adhere to current relevant Australian Standards for playground design and installation
- e) A maintenance schedule for the owner/occupier to administer over the determined time frame.

38. Photographic Archival Recording

Prior to the commencement of any works, including the dismantling of fabric or demolition, a simplified Photographic Archival Recording shall be undertaken of the interior and exterior of the existing building and submitted to the satisfaction of Council.

The Photographic Archival Recording shall be prepared and produced in a digital format and shall contain:

- a) A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken;
- b) A plan of the building and site marked up to indicate where the photographs were taken and the direction of the photograph;
- c) A complete set of digital image files saved as JPEG or TIFF files with associated metadata, and cross-referenced to catalogue sheets.

The Photographic Archival Recording shall be submitted to Council on a suitable portable electronic storage device (such as USB), or uploaded to a suitable file-sharing platform that is freely accessible. The digital version of the Photographic Archival Recording shall be arranged as a single parent folder containing the report, reference plans saved as individual PDF documents. All electronic image files shall be arranged by their file type and saved as individual files, grouped in separate sub-folders, as set out below:

- Photographic Archival Recording - [Property Address]
- Report and Reference Plans – [Property Address]
- Electronic Image Files – JPEG – [Property Address]

39. Section 50 – Hunter Water Act 1991

Evidence shall be submitted to Council that the registered proprietors of the land on whose behalf the application was made have complied with the requirements of Section 50 of the Hunter Water Act 1991. Such evidence shall be submitted to Council prior to the issue of the CC.

PRIOR TO THE COMMENCEMENT OF WORKS

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

40. Construction and Traffic Management Plan

The applicant must prepare a Construction Management and Traffic Management Plan incorporating the following matters. The plan must be submitted to and approved by the PC as satisfying these matters prior to the commencement of works.

- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane, concrete pump, truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An onsite parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer.

- b) During excavation, demolition and construction phases, noise generated from the site must be controlled.

- c) All site works must comply with the work health and safety requirements of SafeWork NSW.
- d) During excavation, demolition and construction phases, toilet facilities are to be provided on site, at the rate of one (1) toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.
- e) All traffic control plans must be in accordance with the TfNSW publication *Traffic Control Worksite Manual* and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of six (6) weeks prior to the proposed activity being undertaken.

41. Public Liability Insurance

Any person or contractor undertaking works on public property must take out Public Risk insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within, public property. The Policy is to note, and provide protection for Cessnock City Council as an interested party, and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property. The insurance shall also note the location and the risk.

42. Site is to be Secured

The site must be secured and fenced prior to works commencing. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property.

Separate approval is required to erect a hoarding or temporary fence on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed.

43. Erection of Signs

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

- a) the name, address and telephone number of the principal certifier for the work;

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

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

44. Section 138 Roads Act 1993 Approvals

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, or public road reserve be required, a S138 Roads Act Approval will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The S138 application is to be submitted to, and approved by, Council prior to works commencing.

45. Relocation of Services

The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. In the event that existing services are required to be relocated the proprietor shall make application to obtain any necessary approval from the relevant service authority prior to commencement of any works.

46. Road – Bonds

The applicant shall pay the following:-

- a) A performance and maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater. To be held by council for a period of 12 months.

It will be necessary for the applicant to submit evidence of the contract price of all construction works in order for Council to assess accurate bond amounts.

The bond shall be payable prior to the issue of a *Section 138* approval.

The bond may be used to meet any costs referred to above, and on application being made to the Council by the person who provided the bond, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the bond within 6 years of the date of issue of practical completion for the development, the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

47. Demolition Proposed

Consent is granted for the demolition of existing structures currently located on the property, subject to strict compliance with the following conditions:

- (a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.

- (b) Written notice is to be given to the Council prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours, contact telephone number, and licence number of the demolisher.
- (c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- (d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves, etc). Access to the site must be restricted to authorised persons only, and the site must be secured against unauthorised entry when work is not in progress, or the site is otherwise unoccupied.
- (e) Demolition is to be carried out in accordance with the relevant provisions of *AS 2601:2001: Demolition of structures*.
- (f) The hours of demolition work are limited to between 7.00am and 5.00pm on Monday to Saturday. No demolition work is to be carried out on Sundays and public holidays.
- (g) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of the WorkCover Authority and the Office of Environment and Heritage.
- (h) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- (i) During demolition, public property (footpaths, roads, reserves, etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition. No materials shall be stockpiled on footpaths or road carriageways.
- (j) All vehicles leaving the site with demolition materials must have their loads covered, and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves, etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- (k) The burning of any demolished material on site is not permitted, and offenders will be prosecuted.
- (l) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense.
- (m) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works, and must be maintained at all times.
- (n) Prior to demolition, a Work Plan must be prepared in accordance with the relevant provisions of *AS 2601:2001 Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance, and the disposal methods for hazardous materials.

- (o) If the building contains asbestos, an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
- (i) A SafeWork licensed contractor must undertake removal of all asbestos.
 - (ii) During the asbestos removal, a sign “DANGER ASBESTOS REMOVAL IN PROGRESS” is to be erected in a visible position on the site to the satisfaction of Council, and *AS 2601:2001: Demolition of structures*.
 - (iii) Waste disposal receipts must be provided to Council as proof of correct disposal of asbestos laden waste.
 - (iv) All removal of asbestos must comply with the requirements of the WorkCover Authority.

An asbestos clearance certificate prepared by a qualified occupational hygienist must be provided to Council at the completion of the demolition works.

48. Approval Required for Equipment in Road Reserve

An application for any of the following on public property (footpaths, roads, reserves) shall be submitted to, and approved by, Council prior to the commencement of works.

- a) Construction zone
- b) A pumping permit
- c) Mobile crane
- d) Skip bins

49. Nominated Location of Waste

The location and facilities for the collection, storage and disposal of waste generated within the premises shall be submitted to the *PC*, prior to the commencement of works.

50. Toilet Facilities

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

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

51. Shoring and Adequacy of Adjoining Property

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense:

- i. protect and support the building, structure or work on adjoining land from possible damage from the excavation; and
- ii. if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.

This condition does not apply if the person having the benefit of the development consent own the adjoining land or the owner of the adjoining land gives written consent to the condition not applying.

DURING WORKS

The following Conditions are to be complied with during works:

52. Acoustic Fencing

An impervious barrier along the western boundary of the drive-thru lane (as per Figure 3 within the Noise Assessment prepared by MAC Consulting and in accordance with the stamped approved plans) is to be constructed within the initial stages of *works*. The barrier is to be constructed as per the design specifications submitted to Council prior to CC, and as described within the MAC Noise Assessment.

The construction of the acoustic fencing shall be completed within 6 weeks from commencement of construction works on site, to maximise attenuation benefits to surrounding receivers.

53. Construction Hours

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. Work is not to be carried out on Sundays and public holidays.

54. Site is Securely Fenced

The site must be appropriately secured and fenced at all times during works.

55. Approved Plans Kept On Site

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

56. Excavation and Backfilling

All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a professional engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- a) Preserve and protect the building from damage
- b) If necessary, underpin and support the building in a manner certified by a professional engineer.
- c) Give at least seven (7) days' notice to the adjoining owner before excavating, of the intention to excavate

The principal contractor, owner builder, or any person who needs to excavate and undertake building work, must first contact "Dial Before You Dig" and allow a reasonable period of time for the utilities to provide locations of their underground assets.

57. Construction Noise

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

It is recommended that the following additional measures be implemented:

- Toolbox and induction of personnel prior to shift to discuss noise control measures that may be implemented to reduce noise emissions to the community,
- Where possible construction personnel to use mobile screens or construction hording to act as barriers between construction works and receivers,
- All plant should be shut down when not in use. Plant to be parked/started at farthest point from relevant assessment locations,
- Plant shall be operated in a conservative manner (no over-revving),
- Selection of the quietest suitable machinery available for each activity,
- Avoidance of noisy plant/machinery working simultaneously where practicable;
- Minimisation of metallic impact noise,
- All plant shall utilise a broadband reverse alarm in lieu of the traditional high frequency type reverse alarm, and
- Letter box drops are to be undertaken to notify receivers of potential works.

58. Mechanical Plant Noise Attenuation

The mechanical AC plant and mechanical ventilation plant shall be located on the plant deck of the operation and surrounded by the roof parapet. The roof parapet is to extend a minimum of 300mm above the top of the highest plant item and is to block the line of sight to the top of the highest plant item.

59. Location of Council Pipes

During all phases of demolition, excavation and construction, it is the full responsibility of the applicant and their contractors to:

- a) Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works
- b) Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits
- c) Ensure dedicated overland flow paths are satisfactorily maintained through the site

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage, and the like). All proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

If the Council pipeline is uncovered during construction, all work must cease, and the *PC* and Council must be contacted immediately for advice. Any damage caused to the Council stormwater drainage system must be immediately repaired in full as directed, and at no cost to Council.

60. Construction Vehicles

Construction material and vehicles shall not be placed on public footpaths. The use of footpaths or roadways shall be undertaken in accordance with the prevailing kerbside restrictions, the Australian Road Rules and Council's Parking Code.

61. Erosion and Sediment Control

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's "Engineering Requirements for Development", and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks, and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

62. Contaminated Land

During earthworks, an *unexpected finds protocol* must be prepared and implemented if potentially contaminated materials are identified, to allow for their appropriate management. Any assessment and remediation of potentially contaminated materials must be undertaken by an appropriately qualified and experienced environmental professional.

Buildings and structures proposed for demolition must first be subjected to hazardous materials (HAZMAT) assessment. If hazardous materials are identified during building demolition, a clearance certificate is required for surface soils prior to construction commencing.

Any waste generated during the redevelopment, including demolition materials and excavated soil, must be assessed for potential offsite reuse/disposal opportunities in accordance with the NSW EPA *Waste Classification Guidelines (2014)* and current resource recovery exemptions/orders.

63. Protection of Existing Trees

No trees on public property (footpaths, road reserves, etc) are to be removed or damaged during construction, including for the erection of any fences, hoardings or other temporary works, unless specifically approved in this consent.

Damaged or removed street trees must be reinstated with approved street tree planting at the developer's cost prior to the final inspection being carried out.

64. Uncovering of Concealed Architectural Features or Detailing

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

65. Stormwater Runoff

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

66. Demolition

All demolition works are to be carried out in accordance with AS 2601-2001 "Demolition of structures", with all waste being removed from the site. Hazardous waste such as asbestos cement sheeting etc, should be handled, conveyed and disposed of in accordance with guidelines and requirements from NSW Workcover Authority. Disposal of asbestos material at Council's Waste Depot requires prior arrangement for immediate landfilling.

67. Floor Level Certification

The floor level of the proposed building shall be certified by a registered surveyor as being not less than the 100 year Average Recurrence Interval (ARI) flood level.

The floor level shall therefore be certified as being not less than RL 70.24m Australian Height Datum (AHD).

68. Road – Obstruction of Footpath Restriction

No obstruction is to be caused to Council's footpaths, roads and/or other public areas during construction of the development.

No spoil, building materials, excavated or demolition material from the site shall be stored or deposited on the public road, footpath, public place or Council owned property, without prior approval of Council.

69. Waste Management

Rubbish generated from the development is to be suitably contained on site at all times. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown off site.

70. Building Materials On Site

All building materials, plant and equipment are to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves, etc.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Certifier, prior to issue of an Occupation Certificate (as specified within the condition):

71. Roads – Concrete Crossing

The registered proprietors shall construct and maintain a concrete access crossing from the kerb and gutter in Snape Street and Charlton Street to the property boundary, in accordance with Council's "Engineering Requirements for Development" and AS 2890.1. A S138 Roads Act Approval is required from Council prior to any construction commencing within the road reserve. The access crossing is required to be constructed prior to the issue of an OC for the whole of the building. Where a Partial OC is issued the crossing shall be completed within six (6) months from the date of the Partial OC.

Construction of the crossing will require inspections to be undertaken by Council. The applicant shall pay Council engineering site supervision fees in accordance with Council's current Fees & Charges, prior to the inspections being undertaken.

The initial fee will facilitate approval of the application and one (1) construction inspection (steel and formwork inspection).

A final inspection will be required upon completion of the driveway and restoration of all disturbed footway areas. (A separate fee will be required to be paid when the final inspection is booked.) Should further inspections become necessary as a result of unsatisfactory or defective works, additional inspection fees will be charged in accordance with Council's current Fees & Charges.

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

72. Certification of Fire Services

The building must comply with the fire safety provisions applicable to the approved use. The applicant shall provide Council and the Fire Commissioner with a copy of the Final Fire Safety Certificate and the Fire Safety Schedule relating to the required fire safety measures, in accordance with Division 4 of the Environmental Planning and Assessment Regulation 2000 prior to occupation of the building or issue of an OC.

The Final Fire Safety Certificate and the Fire Safety Schedule are to be prominently displayed in the building.

73. All Services Provided

Certification that all services as required (eg water supply, gas, electricity, telephone, sewer), are available to the site, shall be submitted to the PC prior to issue of an OC.

74. Parking – Loading Facility Requirement

Loading/unloading facilities shall be constructed prior to the issue of an OC.

75. Disabled Access / Parking

The proposed development shall be provided with vehicular access and parking for the disabled in accordance with AS 1428.1 and AS 2890.6. The access shall be provided prior to issue of an OC.

76. Parking – Provision

Thirty-four (34) car parking spaces shall be provided prior to the issue of an OC.

77. Parking – Bicycle Parking

Bicycle parking racks to accommodate four (4) bicycles shall be provided prior to the issue of an OC.

78. Completion of the Car Park

Prior to the issue of an OC, the PC must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant AS and the following have been implemented within the property, where applicable:

- a) The car park has been completed, line marked and all signage relating to car parking erected;
- b) A notice has been clearly displayed at the Snape Street and Charlton Street frontage to indicate that visitor parking is available within the property, with access from Snape Street and Charlton Street;

- c) Sign(s) have been erected that clearly indicate to the drivers of vehicles, both on and off the property, which driveway they are to use to enter or leave the subject land;
- d) Sign(s) have been erected that clearly indicate to the drivers of vehicles, both on and off the property, the location and means of access to the car parking area(s).

Certification by a qualified practising Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance with the above and relevant AS's must be provided to the *PC* prior to the issue of an *OC*.

79. Reinstate Road Reserve Verge

The applicant shall construct/reconstruct the unpaved road reserve verge with grass - species and installation shall be approved by Council prior to issue of an *OC*

80. Completion of Road Works

Prior to the issue of an *OC*, the *PC* must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with Council's S138 Roads Act Approval.

Works-as-Executed plans of the extent of roadworks, including any component of the stormwater drainage system that is to revert to Council, certified by a registered surveyor, together with certification by a qualified practising Civil Engineer, to verify that the works have been constructed in accordance with the approved design and relevant AS, must be provided to Council prior to the issue of an *OC*.

The Works-as-Executed plan(s) must show the as-built details in comparison to those shown on the plans approved with the road works permit. All relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

81. Road – Removal of Redundant Infrastructure

All redundant vehicular accesses shall be removed, and the footpath, road shoulders and kerb and gutter, where applicable, restored to match existing conditions at no cost to Council, prior to use of the building or issue of an *OC*.

82. Drainage Works

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

83. Certification of Electrical Fittings

All electrical fittings and electrical outlets are to be installed and certified by a registered surveyor as being not less than 500mm above the 100 year Average Recurrence Interval flood level. The fittings / outlets are to therefore be installed at a level of RL 70.74m Australian Height Datum or higher. The certification shall be submitted to the *PC* prior to issue of an *OC*.

84. Flood Risk Management Plan

Prior to the issue of an *OC*, the *PC* is to receive from a suitably qualified and practising professional engineer, a certificate of compliance certifying that all aspects of the flood risk management plan have been completed in accordance with the approved design and relevant AS.

85. Food Premises

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

86. Acoustic Report Recommendations Complied with

A certificate must be submitted to and approved by the Certifier prior to the issue of an *OC* demonstrating that all measures detailed in the Acoustic Report prepared by MAC Consulting, dated January 2021, have been constructed/installed/completed.

The certificate must be prepared by an accredited acoustic consultant, and must certify that the recommendations in the approved acoustic report have been complied with and the desired acoustic performance achieved.

87. Completion of Landscape Works

All landscape works, including the removal of all noxious weed species, are to be undertaken in accordance with the approved landscape plan and conditions of Development Consent, prior to the issue of an *OC*.

88. Waste Management Plan

Prior to the issue of an *OC*, the *PC* must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

89. Waste Disposal

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

90. Trade Waste Disposal

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

91. Flooding – Evacuation Management Plan

The applicant shall prepare a flood emergency evacuation and management plan for the proposed development. The plan should advise occupants of flood evacuation procedures and emergency contact telephone numbers. The management plan should avoid the letting of the premises during periods of flood emergency or when flood warnings are issued. The applicant should contact Council and the State Emergency Service for advice in the preparation of the management plan.

The evacuation procedures should be permanently fixed to the building in a prominent location, and kept up to date at all times.

The management plan shall be submitted to, and approved by, Council prior to the issue of an *OC*.

92. Signage

Advisory signage shall be erected at strategic locations throughout the site, including but not limited to the entries/exits of the site and drive-thru facility, to communicate the following:

- Customers to have consideration for neighbouring residents and minimise noise whilst on site;
- No heavy vehicles (trucks and buses) are to be served at the drive-thru window;
- Signage installed to indicate car parking speed levels and to request customers reduce vehicle noise at all times.

ONGOING USE

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

93. Operational Procedure Requirements

All operational procedures as outlined in the approved Plan of Management (dated November 2021), are to be adhered to in perpetuity.

94. Plan of Management

The PoM shall be reviewed on an annual basis.

95. Number of Employees

More than three (3) employees shall be at the premises at any one time on a Friday and Saturday night. Alternatively, where fewer staff are rostered on, regular security patrols (minimum of 1 per hour), shall occur to ensure the safety and security of staff and the premises.

A register shall be kept and made available on request detailing the number of staff rostered on or the frequency of security patrols undertaken and the time these occurred.

96. Submission of Annual Fire Safety Statement

An annual Fire Safety Statement must be given to Council and the New South Wales Fire Brigade commencing within twelve (12) months after the date on which the initial Interim / Final Fire Safety Certificate is issued.

97. Access to Play Equipment

Access to the playground shall be closed off from public use between the hours of 10:00pm and 6:00am daily.

98. Removal of Graffiti

The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within forty-eight (48) hours of its appearance.

99. Hours of Operation

Hours of operation relating to the approved use, are as follows:

Restaurant: 5:00am until 12 midnight, 7 days a week.

Drive-thru 24 hours per day, 7 days a week for the first 12 months and subject to Condition 3. Following the expiration of the 12 month period referred to in Condition 3, the approved hours of operation are 5:00am until 12 midnight, 7 days a week.

100. Outdoor Lighting

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

101. Approved Signage Maintenance

The approved sign/s must be maintained in a presentable and satisfactory state of repair.

The level of illumination and/or lighting intensity used to illuminate the sign/s is to be minimised to ensure that excessive light spill or nuisance is not caused to any nearby premises or the road reserve.

102. Parking Areas to be Kept Clear

At all times, the loading area, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.

103. Driveways to be Maintained

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

104. Maintenance of Landscaping

Landscaping shall be maintained in accordance with the approved plan in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the development.

If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

An annual report shall be submitted to Council, for the three (3) years following issue of the OC, certifying that the landscaping works have been satisfactorily maintained.

105. Acoustic Validation Assessment Report

An acoustic validation assessment report must be submitted to Council, and approved by Council's Environmental Health Team, within 28 days of the commencement of the use. The certificate must be prepared by an accredited acoustic consultant and must certify that noise emissions meet the relevant criteria as specified in the approved Acoustic Report, prepared by MAC Consulting dated January 2021. The report must also confirm that all noise attenuation measures set out in the approved Acoustic Report have been implemented.

106. Noise Complaints

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

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

107. Customer Ordering Displays

Customer ordering displays are to be continually set at the lower volume setting to minimise noise disturbance.

108. Food Premises

The food business is to be registered with Council. The business will be placed upon *Council's Regulatory Inspection Register* and will be subject to routine inspections.

109. Odour/Air Quality

Activities associated with the development are to be conducted in a manner so there is no interference to the existing and future amenity of residents and the neighbourhood in general.

110. Emissions

There is to be no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise", vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.

111. Closure of Car Park

The eastern car parking area of the site, along Vincent Street, Cessnock is to be blocked off with a substantive temporary barrier during the drive-thru only operating periods (12:00am to 5:00am).

112. Litter Patrol

Litter patrols are to be carried out by staff from the premises along Snape Street to Charlton Street; along Aberdare Road to Cumberland Street ; and 70 metres either side of the premises boundary along Vincent Street, as follows:

- After sunrise,
- After breakfast period (approximately 11am),
- After lunch period (approximately 3pm),
- Before sunset,
- Additional patrol on Saturday and Sunday mornings.

113. Litter Control

Management must ensure that the forecourt, car parking area and the surrounds of the building are to be kept clean and free of litter.

114. Security Patrols

Implementation of a night security patrol service shall be implemented during the initial 12 months of operation. Where anti-social behavior or crime have been identified as an ongoing issue, regular security patrols shall be implemented and included in the Plan of Management as part of its annual review.

115. Complaint/Incident Register Kept Onsite

Formulation and implementation of a complaints/incident handling register detailing the following (at a minimum):

- Name of the person responsible for the overall management of the site and their contact mobile phone number;
- Confirmation that the mobile phone of the person responsible for the overall management of the site will remain switched on during extended trading hours;
- Details of each complainant including name, address, contact details, time and nature of the complaint;
- Action undertaken to address the complaint;
- Follow up contact with the complainant to advise of outcome of action taken to address the complaint;
- All incidents of damage to property;
- All incidents involving criminal/antisocial behaviour on the site; and
- Implementation of any relevant actions to ensure similar issues do not re-occur.

In the event the register is updated, this is to be done within seven (7) days of the complaint / incident occurring.

The complaints handling register is to be kept on the site at all times, and made available to Council officers for inspection, if required.

116. Orderly Dispersal of Patrons

The proprietors of the venue are responsible at all times for the orderly dispersal of patrons from the venue.

117. Management Responsibilities for Patron Behaviour

Management must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. Management is responsible for the control of noise and litter generated by patrons of the premises, and shall ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council.

ADVICE

(a) Disability Inclusion Act

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Inclusion Act 2014*. The applicant/owner is responsible for ensuring compliance with this, and other, anti-discrimination legislation. The *Disability Inclusion Act 2014* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *AS 1428.1 - Design for Access and Mobility*. *AS1428 Parts 2, 3 & 4* provide the most comprehensive technical guidance under the *Disability Inclusion Act 2014* currently available in Australia.

(b) “DIAL BEFORE YOU DIG” DIAL 1100

Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au

(c) Other Approval and Permits

The applicant shall apply to Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, and/or any other approvals under *Section 68 (Approvals)* of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

(d) Site Contamination Issues during Construction

Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination, Council must be immediately notified by the applicant, and works must cease. Works must not recommence on site until approval is granted by Council.

(e) Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Relics

If any archaeological relics are uncovered during the course of the work, all works shall cease immediately in that area, and the OEH Heritage Branch shall be contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *NSW Heritage Act 1977*, may be required before further works can continue in that area.

(f) Aboriginal Heritage

As required by the National Parks and Wildlife Act 1974 and the Heritage Act 1977, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the Heritage Act 1977 to obtain the necessary approvals/permits from the Heritage Division of the OEH.

Note: The National Parks and Wildlife Act 1974 and the Heritage Act 1977 impose substantial penalty infringements and/or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

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

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Burke
300

RESOLVED

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

GMU26/2022	Hunter Valley Destination Management Plan 2022 - 2030.....	116
GMU27/2022	Visitor Economy Grants and Sponsorship Program 2022 Round 1 Applications.....	121
PE64/2022	Community Participation Plan Review	283
CC80/2022	Minutes of the Aboriginal and Torres Strait Islander Advisory Committee Meeting of the Cessnock City Council held 23 September 2022.....	287
CC82/2022	Rates Subsidy Policy Review	298
‡ CC83/2022	Annual Unreasonable Customer Conduct Report.....	301
‡ CC84/2022	Investment Report - September 2022.....	306
‡ CC85/2022	Resolutions Tracking Report	313
WI66/2022	Pedestrian Access - Elizabeth Street, Abermain – Outcome of Community Consultation	320
WI68/2022	Minutes of Local Traffic committee Meeting held 19 September 2022.....	330
WI69/2022	Minutes of the Roads Review Committee meeting held on 14 September 2022.....	334

Council adopt the recommendations as printed for those items.

FOR**AGAINST**

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

Total (0)

CARRIED UNANIMOUSLY

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

NOTICE OF INTENTION NO. NI6/2022

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

**REPORT WI70/2022 - LARGE SITES ELECTRICITY CONTRACT
IMPACTS**

**REPORT GMU28/2022 - CONSIDERATION OF FINAL
INVESTIGATION REPORT - CODE OF CONDUCT COMPLAINT**

**REPORT GMU29/2022 - CONSIDERATION OF FINAL
INVESTIGATION REPORT - CODE OF CONDUCT COMPLAINT**

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Dunn
301
RESOLVED

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

Report WI70/2022 – Large Sites Electricity Contract Impacts as the report deals with advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

GMU28/2022 - Consideration of Final Investigation Report - Code of Conduct Complaint and GMU29/2022 - Consideration of Final Investigation Report - Code of Conduct Complaint as the reports contain alleged contraventions of any code of conduct requirements applicable under Section 440.

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

FOR	AGAINST
Councillor Jackson	Councillor Paynter
Councillor Moores	Councillor Olsen
Councillor Dunn	Councillor Jurd
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Suvaal	
Total (9)	Total (3)

CARRIED

MAYORAL MINUTES

NIL

MOTIONS OF URGENCY

MOTIONS OF URGENCY NO. MOU10/2022

SUBJECT: MOTIONS OF URGENCY

RECOMMENDATION

That Councillors now indicate if there are any matters of urgency which they believe should be conducted at this meeting of Council.

Councillor Olsen

When the Mayor is performing his duties in another role other than Mayor of Cessnock, the Mayoral Car is passed onto the Deputy Mayor to fulfil the roles required as Deputy Mayor.

The Mayor ruled that the Motion is not Urgent.

GENERAL MANAGER'S UNIT

GENERAL MANAGER'S UNIT NO. GMU25/2022

SUBJECT: APEX PARK MASTERPLAN

MOTION **Moved:** Councillor Sander **Seconded:** Councillor Hill
302
RESOLVED

1. That Council adopts the Apex Park Masterplan as detailed with the amendments outlined in this report subject to the following conditions.
 - A) That construction will not proceed if flood modelling of the detailed construction designs show impacts to surrounding areas
 - B) that a fence be added to the design preventing pedestrians from crossing Allandale Road except via the traffic lights.
2. That the General Manager contacts Hunter Water Corporation requesting the technical, financial and project management support to complete the drainage channel naturalisation portion of the Apex Park Masterplan.

FOR	AGAINST
Councillor Jackson	Councillor Paynter
Councillor Moores	Councillor Olsen
Councillor Dunn	Councillor Jurd
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Suvaal	
Total (9)	Total (3)

CARRIED

GENERAL MANAGER'S UNIT NO. GMU26/2022

SUBJECT: HUNTER VALLEY DESTINATION MANAGEMENT PLAN 2022 - 2030

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

303

RESOLVED

1. That Council places draft Hunter Valley Destination Management Plan 2022 - 2030 and draft Hunter Valley Destination Management Plan Situational Analysis 2022 on public exhibition for a period of 28 days.
2. That a further report outlining any public submissions received be prepared for Council's consideration following the exhibition.

FOR

AGAINST

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

Total (0)

CARRIED UNANIMOUSLY

GENERAL MANAGER'S UNIT NO. GMU27/2022

**SUBJECT: VISITOR ECONOMY GRANTS AND SPONSORSHIP PROGRAM 2022
ROUND 1 APPLICATIONS**

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Burke
304

RESOLVED

1. That Council notes the Visitor Economy Grants and Sponsorship Program 2022 Round 1 applications.
2. That Council endorses the following funding bids to attract events under the Council Visitor Economy Grants and Sponsorship Program.
 - a. HELMSBRISCOE Annual Transport Conference \$10,000
 - b. HELMSBRISCOE Annual Supplier Conference \$7,500
 - c. Kurri Kurri Speedway - Centenary of Speedway Event \$3,000
 - d. 2023 Hunter Valley Airshow \$20,000
 - e. Royal Australasian College of Surgeons Annual Conference \$5,000
 - f. Plan Your Event Hunter Website \$8,000

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT

PLANNING AND ENVIRONMENT NO. PE62/2022

SUBJECT: PLANNING PROPOSAL 18/2020/3/1 - COMPREHENSIVE LEP REVIEW - RECREATION ZONES

MOTION

Moved: Councillor Hill

Seconded: Councillor Sander

305

RESOLVED

1. That Council notes the outcome of consultation with public agencies and the community in relation to the Recreation Land Planning Proposal.
2. That Council endorses the Planning Proposal as an amendment to the Cessnock Local Environmental Plan 2011, subject to the following amendment:
 - Map Amendment No. 44 – The SP2 Infrastructure Zone is to be applied to that part of Aberdare Street Weston that bisects the former rail corridor.
3. That the General Manager notify those persons who made submissions of Council's decision.

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT NO. PE63/2022

SUBJECT: PLANNING PROPOSAL 18/2021/4 MOLLY WORTHINGTON NETBALL COURTS - UPDATE

Councillor Jurd left the meeting, the time being 7.44pm

Councillor Jurd returned to the meeting, the time being 7.45pm

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Grine
306

RESOLVED

1. That Council advise the Department of Planning and Environment that it wishes to withdraw the Planning Proposal.
2. That the future land use of the Molly Worthington Netball Courts be considered at a future meeting of the Strategic Property and Community Facilities Committee.

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT NO. PE64/2022

SUBJECT: COMMUNITY PARTICIPATION PLAN REVIEW

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Burke
307
RESOLVED

1. That Council place the draft Community Participation Plan on public exhibition for a minimum period of 28 days.
2. That Council receive a further report following public exhibition of the draft Community Participation Plan.

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY

CORPORATE AND COMMUNITY NO. CC80/2022

SUBJECT: MINUTES OF THE ABORIGINAL AND TORRES STRAIT ISLANDER ADVISORY COMMITTEE MEETING OF THE CESSNOCK CITY COUNCIL HELD 23 SEPTEMBER 2022

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Burke
308
RESOLVED

1. That the Minutes of the Aboriginal and Torres Strait Islander Advisory Committee meeting held on 23 September 2022 be adopted as a resolution of Ordinary Council.
2. That Council adopt the Aboriginal and Torres Strait Islander Advisory Committee Charter.
3. In reviewing the Draft Consultation Protocol for the Referral of Matters to the Cessnock City Council Aboriginal and Torres Strait Islander Advisory Committee the General Manager consider preparing a briefing to the Aboriginal and Torres Strait Islander Advisory Committee on Development Applications and consultation.

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC81/2022

**SUBJECT: CESSNOCK PERFORMING ARTS CENTRE REFURBISHMENT
(QUOTE NUMBER 2022-113)**

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Dunn
309

RESOLVED

1. That Council accepts the tender from North Construction & Building Pty Ltd in the lump sum amount of \$2,465,775.53 (includes GST) for the Cessnock Performing Arts Centre Refurbishment (Quote Number 2022-113).
2. That Council notes \$2,475,060 (excludes GST) has been secured for Cessnock Performing Arts Centre refurbishment construction works.

FOR	AGAINST
Councillor Jackson	Councillor Jurd
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Suvaal	
Total (11)	Total (1)

CARRIED

CORPORATE AND COMMUNITY NO. CC82/2022

SUBJECT: RATES SUBSIDY POLICY REVIEW

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Burke
310
RESOLVED

1. That Council places the revised Rates Subsidy Policy on public exhibition for a period of 28 days.
2. If there are no public submissions received that the Rates Subsidy Policy be automatically adopted at the end of the exhibition period.

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC83/2022

SUBJECT: ANNUAL UNREASONABLE CUSTOMER CONDUCT REPORT

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Burke
311
RESOLVED

That Council notes the Annual Unreasonable Customer Conduct report for the period 1 October 2021 to 30 September 2022, and that two individuals were deemed to have displayed unreasonable behaviour as defined in the Policy.

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC84/2022

SUBJECT: INVESTMENT REPORT - SEPTEMBER 2022

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Burke
312
RESOLVED

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

- **Investments are held in accordance with Council's Investment Policy, which is in accordance with the Ministerial Investment Order.**
- **Council's month end cash and investments balance was \$85,050,255.**

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC85/2022

SUBJECT: RESOLUTIONS TRACKING REPORT

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Burke
313
RESOLVED

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

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE

WORKS AND INFRASTRUCTURE NO. WI65/2022

SUBJECT: 174 - 178 LANG STREET, KURRI KURRI

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

314

RESOLVED

1. That Council authorise the Common Seal of Cessnock City Council to be affixed to the Land Owners Consent letter;
2. That Council authorise the Mayor and the General Manager to execute the Plan of Road re-alignment if required;
3. That following the determination of the proposed DA and associated consent conditions relating to the proposed closed road and the land vesting in Council, Council grant to the General Manager delegated authority to negotiate the sale (based on an independent valuation) by private treaty with the adjoining landowner.

FOR	AGAINST
Councillor Jackson	Councillor Jurd
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Suvaal	
Total (11)	Total (1)

CARRIED

WORKS AND INFRASTRUCTURE NO. WI66/2022

**SUBJECT: PEDESTRIAN ACCESS - ELIZABETH STREET, ABERMAIN -
OUTCOME OF COMMUNITY CONSULTATION**

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

315

RESOLVED

1. That Council notes that the physical space available under the viaduct on Elizabeth Street, Abermain precludes safe simultaneous use by pedestrians, cyclists and motorists.
2. That Council maintains the existing sign posted prohibition of pedestrian access under the viaduct on Elizabeth Street, Abermain.

FOR

AGAINST

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

Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI67/2022

SUBJECT: CESSNOCK POOL DISABILITY ACCESS IMPROVEMENT AND SOLAR ENERGY FOR PUBLIC POOLS

MOTION **Moved:** Councillor Sander **Seconded:** Councillor Grine

316

RESOLVED

That Council notes the information contained within the report.

FOR	AGAINST
------------	----------------

Councillor Jackson

Councillor Moores

Councillor Dunn

Councillor Burke

Councillor Grine

Councillor Sander

Councillor Hill

Councillor Hawkins

Councillor Paynter

Councillor Olsen

Councillor Jurd

Councillor Suvaal

Total (12)

Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI68/2022

SUBJECT: MINUTES OF LOCAL TRAFFIC COMMITTEE MEETING HELD 19 SEPTEMBER 2022.

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Burke
317
RESOLVED

That the Minutes of the Cessnock Local Traffic Committee Meeting of 19 September 2022 be adopted as a resolution of the Ordinary Council.

- **TC34/2022 - That Council authorises the temporary regulation of traffic on Broke Road, McDonalds Road, Gillards Road, Halls Road and Wine Country Drive, Pokolbin for Hope Estate Concert events in accordance with Various Roads Pokolbin _ Hope Estate Events Traffic Control Plans.**
- **TC35/2022 - That Council authorises the installation of regulatory signage and line marking on Moorebank Drive, Ridgeview Drive and Colombard Street, Cliftleigh, in accordance with the Moorebank Drive Cliftleigh_ Signage & Line Marking Diagram.**
- **TC36/2022 - That Council authorises the installation of regulatory signage and line marking on Averys Lane, Balgownie Circuit and Loch Lomond Avenue, Heddon Greta, in accordance with the Averys Lane Heddon Greta_ Signage & Line Marking Diagram.**

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI69/2022

SUBJECT: MINUTES OF THE ROADS REVIEW COMMITTEE MEETING HELD ON 14 SEPTEMBER 2022

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

318

RESOLVED

That the Minutes of the Roads Review Committee Meeting held on 14 September 2022 be adopted as a resolution of the Ordinary Council.

FOR	AGAINST
------------	----------------

Councillor Jackson

Councillor Moores

Councillor Dunn

Councillor Burke

Councillor Grine

Councillor Sander

Councillor Hill

Councillor Hawkins

Councillor Paynter

Councillor Olsen

Councillor Jurd

Councillor Suvaal

Total (12)

Total (0)

CARRIED UNANIMOUSLY

BUSINESS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN

BUSINESS WITH NOTICE NO. BN28/2022

SUBJECT: PENSIONER RATE DISCOUNTS FOR DVA'S PENSIONERS

Councillor Jackson left the meeting, the time being 8.04pm

MOTION **Moved:** Councillor Olsen **Seconded:** Councillor Hill
319

RESOLVED

Council notes that Pensioner Concession rebates on Council Rates are provided in accordance with the criteria set by the NSW Government. Department of Veterans Affairs (DVA) income support recipients are eligible for the Pensioner Concession where the DVA verifies that the individual is also a Pensioner Concession Card holder. Residents who are having difficulty in obtaining the Pensioner Concession Card from DVA and Centrelink are encouraged to contact their local Federal Member of Parliament for assistance.

FOR	AGAINST
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (11)	Total (0)

CARRIED UNANIMOUSLY

BUSINESS WITH NOTICE NO. BN29/2022

**SUBJECT: FOOTPATH FROM MULBRING STREET TO COLLIERY STREET,
ABERDARE**

MOTION **Moved:** Councillor Olsen **Seconded:** Councillor Burke

320

RESOLVED

That the General Manager brings a report back to Council with costs for a concrete footpath on the North Side of Aberdare Road from Mulbring Street to Colliery Street Aberdare.

Councillor Jackson returned to the meeting, the time being 8.07pm

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

BUSINESS WITH NOTICE NO. BN30/2022

SUBJECT: BRIEFING WITH GENERAL MANAGER

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

The General Manager organise a briefing session with Councillors before Christmas to outline his plans and direction, he has for Cessnock Local Government Area which is to include:-

1. How the General Manager plans to ensure all budgeted works will be completed annually.
2. What plans the General Manager has for the staffing structure of Council.
3. Explain any changes to how Council will repair and build our roads.
4. How Council can improve our customer services.
5. How the General Manager wants Councillors to operate in the system, ie continue as we do now or do you have a better option.
6. Council improvements that can assist applicants with DA's.

AMENDMENT **Moved:** Councillor Hill **Seconded:** Councillor Grine

That Council notes:

1. That it is the Councillors who set the strategic direction for Council through the Delivery Program and Operation Plan.
2. The Organisational Structure review and setting of the General Manager's Key Performance Indicators will be presented to a future meeting of the Organisational and General Manager's Performance Review Committee.

FOR	AGAINST
Councillor Jackson	Councillor Moores
Councillor Dunn	Councillor Paynter
Councillor Burke	Councillor Olsen
Councillor Grine	Councillor Jurd
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Suvaal	
Total (8)	Total (4)

The Amendment was **PUT** and **CARRIED** and as such became the Motion.

The Motion was then **PUT** and **CARRIED**.

MOTION

Moved: Councillor Hill

Seconded: Councillor Grine

321

RESOLVED

That Council notes:

1. **That it is the Councillors who set the strategic direction for Council through the Delivery Program and Operation Plan.**
2. **The Organisational Structure review and setting of the General Manager's Key Performance Indicators will be presented to a future meeting of the Organisational and General Manager's Performance Review Committee.**

FOR

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

AGAINST

Councillor Moores
Councillor Paynter
Councillor Olsen
Councillor Jurd

Total (4)

CARRIED

CORRESPONDENCE

CORRESPONDENCE NO. CO19/2022

SUBJECT: MM12/2022 - TESTERS HOLLOW AND BUCHANAN ROAD

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Paynter
322
RESOLVED

That Council notes the correspondence received from Jenni Aitchison MP, Shadow Minister for Regional Transport and Roads.

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORRESPONDENCE NO. CO20/2022

SUBJECT: BN24/2022 - AIR B&B'S

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Paynter
323
RESOLVED

That Council notes the correspondence received from Felicity Greenway, Acting Deputy Secretary Planning Policy, on behalf of the Hon. Anthony Roberts MP, Minister for Planning and Minister for Homes.

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

COUNCILLOR'S REPORTS

The Mayor advised that this would be the final Council meeting for the Director of Works and Infrastructure, Mr David Molony as he is moving on to another role and would like to, on behalf of Council, thank him for his efforts and contribution to Council during his time in Cessnock and wish him all the best.

8.29PM

Confidential reports (closed session)

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Dunn
324

RESOLVED

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

FOR	AGAINST
Councillor Jackson	Councillor Olsen
Councillor Moores	Councillor Jurd
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Suvaal	
Total (10)	Total (2)

CARRIED

During discussion and debate on Reports Numbered GMU28/2022 and GMU29/2022 - Consideration of Final Investigation Report – Code of Conduct Complaint all staff left the Chambers:

Councillors Olsen and Hawkins left the Chamber and was not involved in debate or voting on GMU28/2022 - Consideration of Final Investigation Report – Code of Conduct Complaint.

Councillor Olsen and the Mayor left the Chamber and as not involved in debate or voting on GMU29/2022 – Consideration of Final Investigation Report – Code of Conduct Complaint.

9.53PM

Open Session

That the meeting moved back into open session and the Mayor reported on the outcomes.

GENERAL MANAGER'S UNIT NO. GMU28/2022

SUBJECT: CONSIDERATION OF FINAL INVESTIGATION REPORT - CODE OF CONDUCT COMPLAINT

This matter is considered to be confidential under the report contains alleged contraventions of any code of conduct requirements applicable under section 440

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Sander
325
RESOLVED

1. That the investigation report into the Code of Conduct matter concerning Councillor Olsen provided by separate confidential enclosure be received and noted.
2. That the oral submission from Councillor Olsen addressing the investigators recommendation be received and noted.
3. That Council adopt the recommendation made by the investigator in the investigation report.
4. That Councillor Olsen be formally censured in accordance with clause 440G of the Local Government Act for breaching clauses 3.1(a) and (b); clause 3.19; and clause 3.21 of the Cessnock City Council Code of Conduct and that the matter be referred to the Office of Local Government for further action under the misconduct provisions of the Local Government Act.
5. That the Mayor write to the Office of Local Government outlining the reasons for referral.

FOR	AGAINST
Councillor Jackson	Councillor Jurd
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Suvaal	
Total (10)	Total (1)

CARRIED

GENERAL MANAGER'S UNIT NO. GMU29/2022

SUBJECT: CONSIDERATION OF FINAL INVESTIGATION REPORT - CODE OF CONDUCT COMPLAINT

This matter is considered to be confidential under the report contains alleged contraventions of any code of conduct requirements applicable under section 440

MOTION

Moved: Councillor Hill

Seconded: Councillor Sander

326

RESOLVED

1. That the investigation report into the Code of Conduct matter concerning Councillor Olsen provided by separate confidential enclosure be received and noted.
2. That the oral submission from Councillor Olsen addressing the investigators recommendation be received and noted.
3. That Council adopt the recommendation made by the investigator in the investigation report.
4. That Councillor Olsen be formally censured in accordance with clause 440G of the Local Government Act for breaching clauses 3.1(a), (c), (e) and (g); clause 3.2; clause 3.6; clause 3.8 and clause 3.21 of the Cessnock City Council Code of Conduct and the Cessnock City Council Social media Policy and that the matter be referred to the Office of Local Government for further action under the misconduct provisions of the Local Government Act.
5. That the Deputy Mayor write to the Office of Local Government outlining the reasons for referral.

FOR

Councillor Paynter
Councillor Moores
Councillor Dunn
Councillor Burke
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins

Total (8)

AGAINST

Councillor Jurd

Total (1)

CARRIED

WORKS AND INFRASTRUCTURE NO. WI70/2022

SUBJECT: LARGE SITES ELECTRICITY CONTRACT IMPACTS

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

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Dunn
327

RESOLVED

That Council note this impact of the cancellation of the electricity contract by MOJO Power East and steps taken to mitigate the impact.

FOR	AGAINST
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

The Meeting Was Declared Closed at 9.57pm

CONFIRMED AND SIGNED at the meeting held on 16 November 2022

.....CHAIRPERSON

.....GENERAL MANAGER

**MINUTES OF EXTRAORDINARY COUNCIL MEETING OF THE CESSNOCK CITY
COUNCIL HELD IN COUNCIL CHAMBERS ON WEDNESDAY, 12 OCTOBER 2022,
COMMENCING AT 5.15PM**

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

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

**APOLOGY/LEAVE
OF ABSENCE:**

MOTION

Moved: Councillor Hil
Seconded: Councillor Jurd

249

RESOLVED that the apology tendered on behalf of Councillor Olsen for unavoidable absence be accepted.

FOR

AGAINST

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

Total (0)

CARRIED UNANIMOUSLY

DISCLOSURES OF INTEREST

DISCLOSURES OF INTEREST NO. PPD16/2022

SUBJECT: DISCLOSURES OF INTEREST

NIL

WORKS AND INFRASTRUCTURE

WORKS AND INFRASTRUCTURE NO. WI64/2022

SUBJECT: MINUTES OF LOCAL TRAFFIC COMMITTEE MEETING HELD 6 OCTOBER 2022.

MOTION **Moved:** Councillor Sander **Seconded:** Councillor Burke
250

RECOMMENDATION

That the Minutes of the Cessnock Local Traffic Committee Meeting of 15 August 2022 be adopted as a resolution of the Ordinary Council.

- **TC37/2022** - That Council authorises the temporary regulation of traffic on Broke Road, McDonalds Road, Gillards Road, Halls Road, Lovedale Road and Wine Country Drive, Pokolbin for the Grapevine Gathering in accordance with Various Roads Pokolbin _ Hope Estate Events Traffic Control Plans.
- **TC38/2022** - That Council authorises the temporary regulation of traffic on Broke Road, McDonalds Road, Palmers Lane and Wine Country Drive, Pokolbin for A Day on the Green in accordance with Various Roads Pokolbin _ A Day on the Green Traffic Control Plans.

FOR	AGAINST
Councillor Suvaal	
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Burke	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Jurd	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

The Meeting Was Declared Closed at 5.19....pm

CONFIRMED AND SIGNED at the meeting held on 16 November 2022

.....CHAIRPERSON

.....GENERAL MANAGER

Disclosures Of Interest

Report No. DI10/2022

Corporate and Community Services



SUBJECT: DISCLOSURES OF INTEREST

RESPONSIBLE OFFICER: Chief Financial Officer - Matthew Plumridge

RECOMMENDATION

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

SUMMARY

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

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

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

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

ENCLOSURES

There are no enclosures for this report.

Mayoral Minute

Report No. MM15/2022

General Manager's Unit



SUBJECT: *ANZ BRANCH CLOSURE - CESSNOCK*

RESPONSIBLE OFFICER: *Councillor - Jay Suvaal*

RECOMMENDATION

1. That Council condemns the decision by ANZ to close its Cessnock Branch in April 2023;
2. That Council notes the significant impact this will have on their customers in the Cessnock LGA, especially the elderly and disabled;
3. That Council calls on ANZ to reverse this decision and commit to keeping the Cessnock Branch open;
4. That Council writes to ANZ notifying them of this request; and
5. That Council writes to Dan Repacholi MP, Federal Member for Hunter, seeking advice on what more can be done to stop big banks from closing branches in regional communities.

That Council notes the closure of the Cessnock Branch of the ANZ Bank on Wednesday 19 April 2023.

This closure will see jobs gone from our community while the bank's customers will be forced to travel further afield to do their banking in person.

The Cessnock community has long supported the ANZ Bank. I am calling on the ANZ to support the people of Cessnock by urgently reversing its decision and committing to keeping our local branch open.

ENCLOSURES

There are no enclosures for this report.

Motions of Urgency

Report No. MOU11/2022

Corporate and Community Services



SUBJECT: *MOTIONS OF URGENCY*

RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

RECOMMENDATION

That Councillors now indicate if there are any matters of urgency which they believe should be conducted at this meeting of Council.

SUMMARY

Under Clause 10.5 of Council's Code of Meeting Practice, business may be transacted at a meeting of Council even *though* due notice of the business has not been given to the Councillors. This can only happen if a motion is passed to have the business transacted at the meeting, the Mayor rules that the business is of great urgency and the business notified in the agenda for the meeting has been disposed of.

Only the mover of such a motion can speak to the motion before it is put.

ENCLOSURES

There are no enclosures for this report.

General Manager's Unit
Report No. GMU30/2022
General Manager's Unit



SUBJECT: *AUDIT AND RISK COMMITTEE ANNUAL REPORT 2021-22*
RESPONSIBLE OFFICER: *Internal Auditor - Arun Varghese*

SUMMARY

This report provides information to Council on the Audit and Risk Committee's activities during the period from 1 July 2021 to 30 June 2022.

RECOMMENDATION

That Council receives and notes the Audit and Risk Committee's Annual Report for the period from 1 July 2021 to 30 June 2022.

BACKGROUND

The Audit and Risk Committee Charter requires the Chair to report annually to Council. This report covers the period from 1 July 2021 to 30 June 2022.

REPORT/PROPOSAL

The Audit and Risk Committee (Committee) provides structured and systematic guidance to Council's governance, risk management and internal control practices. The Committee assists Council and management by providing advice and guidance on the adequacy, and effectiveness, of Council's initiatives for:

1. Values and ethics;
2. Governance structure;
3. Risk management;
4. Internal control framework;
5. Oversight of internal audit, external audit and other providers of assurance; and
6. Financial statements and public accountability reporting.

As required by the Committee Charter, the Chair has prepared an annual report (*Enclosure 1*) covering Committee's work for the period from 1 July 2021 to 30 June 2022.

The following are the highlights for 2021/22:

- Reviewed and endorsed the Annual Internal Audit Plan 2022-23;
- Reviewed reports from eight internal audits;
- Monitoring of management action plans from both internal and external audits;
- Reviewed External Audit Engagement Plan (2021-22), Interim Management Letter (2020-21) and Final Management Letter (2020-21);
- Received and endorsed the draft and audited Financial Statements for the year ended 30 June 2021;
- Received and endorsed the Quarterly Budget Review Statements for September 2021, December 2021 and March 2022;
- Received updates on risk management; and

General Manager's Unit

Report No. GMU30/2022

General Manager's Unit



- Reviewed reports on gifts and benefits, compliance management register 2020-21, IT risk reduction initiatives, Work Health and Safety, etc.

Representatives from the New South Wales Audit Office attended the Committee meetings with regard to the external audit process.

OPTIONS

Nil

CONSULTATION

- Audit and Risk Committee Chair
- Governance Team

STRATEGIC LINKS

a. Delivery Program

The Audit and Risk Committee is a crucial part of the organisation's governance framework. This support the Community's desired outcome of: "*Civic Leadership and Effective Governance.*"

b. Other Plans

Nil

IMPLICATIONS

a. Policy and Procedural Implications

This Annual Report meets the requirements of the Audit and Risk Committee Charter to report annually to the Council

b. Financial Implications

Nil

c. Legislative Implications

Nil

d. Risk Implications

Nil

e. Environmental Implications

Nil

General Manager's Unit
Report No. GMU30/2022
General Manager's Unit



f. Other Implications

Nil

CONCLUSION

The Audit and Risk Committee Charter requires the Chair to report annually to the Council. This report covers the activities of the Committee for the period 1 July 2021 to 30 June 2022.

ENCLOSURES

[1](#) Audit and Risk Committee - Annual Report by the Chair

General Manager's Unit
Report No. GMU31/2022
General Manager's Unit



SUBJECT: *MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD 27 OCTOBER 2022*

RESPONSIBLE OFFICER: *Internal Auditor - Arun Varghese*

RECOMMENDATION

That the Minutes of the Audit and Risk Committee Meeting held 31 August 2022 be adopted as a resolution of the Ordinary Council.

MINUTES OF EXTRAORDINARY AUDIT & RISK COMMITTEE MEETING OF CESSNOCK CITY COUNCIL HELD IN GMMR OR VIA TEAMS ON THURSDAY, 27 OCTOBER 2022, COMMENCING AT 3.30PM

PRESENT: Jennifer Hayes – Independent Chair (via Teams)
William Middleton – Independent Member (via Teams)
Damien Connor – Independent Member (via Teams)
Mayor Suvaal
Councillor Paynter

IN ATTENDANCE: Ken Liddell – General Manager
Robert Maginnity – Director Corporate & Community Services
Peter Mickleson – Director Planning & Environment (via Teams)
Arun Varghese – Internal Auditor
Matthew Plumridge – Chief Finance Officer
Councillor Grine
Furqan Yousuf – Audit NSW (via Teams)
Cameron Hume – External Auditor – RSM Australia (via Teams)
Robyn Keegan – Minute Taker

INVITEES: Kim Fatcher – Management Accountant (via Teams)
Kelly McGowan – Finance Operations & Administration Coordinator

ACKNOWLEDGEMENT OF COUNTRY

The Independent Chair delivered an Acknowledgement of Country.

APOLOGIES

Mr Cameron Clark – Acting Director Works & Infrastructure (Infrastructure Manager)
Ms Darrylen Allan – Human Resources Manager

General Manager's Unit
Report No. GMU31/2022
General Manager's Unit



DISCLOSURES OF INTEREST

COMMITTEE DISCLOSURE OF INTEREST NO. ACCDI5/2022

SUBJECT: DISCLOSURES OF INTEREST

NIL

LISTED MATTERS

LISTED MATTERS - COMMITTEE NO. ACCLM29/2022

SUBJECT: FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2022

MOTION Moved: Bill Middleton **Seconded:** Jenni Hayes

RESOLVED

That the Audit and Risk Committee receives and endorses the audited Annual Financial Statements for the year ended 30 June 2022 for presentation to Council and the public at the Ordinary Council Meeting of 16 November 2022.

CARRIED UNANIMOUSLY

The Chair recognised the Financial Team for their good work in providing the Financial Statements.

The Meeting Was Declared Closed at 4.19pm

CONFIRMED AND SIGNED at the meeting held on 8 November 2022.

.....**CHAIRPERSON**

.....**GENERAL MANAGER**

ENCLOSURES

There are no enclosures for this report.

Planning and Environment

Report No. PE65/2022

Planning and Environment



SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2022/113/1
PROPOSING ALTERATIONS AND ADDITIONS TO THE
'BELLBIRD HOTEL'*

388 WOLLOMBI ROAD, BELLBIRD

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2022/113/1
PROPOSAL:	Alterations and Additions to the 'Bellbird Hotel'
PROPERTY DESCRIPTION:	Lot: 4 Section: F DP: 6264 and Lot: 200 DP: 1243053
PROPERTY ADDRESS:	388 Wollombi Road, Bellbird
ZONE:	B1 Neighbourhood Centre
OWNER:	The Trustee for Please Yourself Family Trust
APPLICANT:	The Trustee for Please Yourself Family Trust

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2022/113/1 proposing alterations and additions to the 'Bellbird Hotel' at 388 Wollombi Road, Bellbird, be approved pursuant to Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, subject to the conditions contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is a permitted land use in the B1 zone under the *Cessnock Local Environmental Plan 2011*,
 - The proposal is consistent with the objectives of the B1 zone under the *Cessnock Local Environmental Plan 2011*,
 - The proposal is consistent with the relevant provisions contained within the relevant State Environmental Planning Policies,

- The proposal is generally compliant with the provisions of the Cessnock Development Control Plan 2010,
 - The proposal incorporates adequate measures to ensure the development will not result in any adverse impacts on the natural and built environments,
 - The proposal incorporates adequate measures to ensure the development will not result in any adverse impacts on the social and economic locality,
 - The proposal is suited to the site, having regard to the prevailing character of development in the area, and
 - The proposal is consistent with the public interest.
- (iii) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the *Environmental Planning and Assessment Act 1979*.

REASON FOR REPORT

Development Application No. 8/2022/113/1 is being referred to Council for determination as a variation is proposed; and it is considered that such variation represents a 'significant variation' of Council's planning controls in accordance with the provisions of 'Development Practice Note – Operation of the Development Assessment Unit (DAU) and Determination of Applications under Delegated Authority'.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2022/113/1 seeking approval for alterations and additions to the 'Bellbird Hotel' at 388 Wollombi Road, Bellbird.

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

The Development Application was publicly exhibited for a period of 14 days, during which no submissions were received.

The application proposes additions and internal alterations to the existing 'Bellbird Hotel' which has operated on the site since 1914. Changes to the building have occurred over the intervening years; however, the use of the premises has remained unchanged.

The application seeks to vary the requirements of Chapter C.1 Parking and Access of the Cessnock Development Control Plan (DCP) 2010. Specifically, the application seeks to increase the gross floor area of the premises, thereby requiring the provision of an additional

Planning and Environment

Report No. PE65/2022

Planning and Environment



42 on-site car parking spaces. However, no additional on-site car parking has been proposed. Accordingly, the application seeks a 100% variation to the requirements of the DCP.

Despite the non-compliance referred to above, it is acknowledged that the proposed development will facilitate the continued use of the building which is listed as an item of local heritage. In this regard, the proposed development will ensure the ongoing maintenance and protection of the heritage listed item for the community to enjoy and appreciate both now and into the future.

In addition, it is acknowledged that Council has made two (2) recent decisions whereby on-site car parking requirements have been varied. Specifically, these matters relate to Development Application No. 8/2022/149/1 proposing alterations and additions to an existing centre-based childcare facility at 112 Lang Street, Kurri Kurri; and Development Application No. 8/2020/20441/1 proposing alterations and additions to the 'Australian Hotel'. In both of these cases, the development applications were approved without requiring any additional on-site parking to be provided. It is noted that the proposed development is not inconsistent with the principle of these decisions made by Council.

Finally, whilst the application does not propose the establishment of any additional on-site parking, it is acknowledged that the application proposes to seal Waratah Street, which will result in the provision of an additional nine (9) on-street parking spaces within the locality.

In consideration of the above, the proposed variation to the car parking requirements; whilst numerically significant, is considered to have merit. Based on the assessment, it is recommended that the Development Application be approved subject to the conditions of consent included in this report.



LOCATION MAP



AERIAL



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 388 Wollombi Road, Bellbird; and is legally described as Lot: 4 Section: F DP: 6264 and Lot: 200 DP: 1243053.

The subject site is located on the north-western side of Wollombi Road. The site has a frontage of 45.5m to Wollombi Road, a frontage of 49.9m to Waratah Street, a depth of 40.2m and an overall site area of 1,984.3m². Vehicular access to the site is available from the Waratah Street frontage.

The subject site is currently occupied by the heritage listed building known as the 'Bellbird Hotel'.

The below photographs depict the site:



Figure 1: Photograph of the site taken from Wollombi Road



Figure 2: View of Waratah Street take from the corner of Waratah and Abbotsford Streets

Planning and Environment

Report No. PE65/2022

Planning and Environment



The surrounding properties are characterised by commercial development to the north-east and residential development to the east, south and west.

Relevant development consents issued in relation to the property include:

Development Consent Reference No.	Date development consent issued	Description of approved development
BA/DA 7/1996/3076/1	14 January 1997	Additions and renovations to the 'Bellbird Hotel'
DA 5/1993/80238/1	6 October 1996	Illuminated sign
DA 5/1993/80031/1	5 February 1993	Illuminated sign
BA 6/1989/338/1	27 April 1989	Replace timber floor with RC floor

HISTORY

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

Date	Action
17 February 2022	Application lodged.
21 February 2022	Application referred internally to Development Engineer and Ecologist for comments.
1 March 2022	Application referred to Environmental Health, Community Planning, Traffic Engineer and Heritage Advisor for comment.
4 March 2022	Development Engineering comment received requesting additional information.
10 March 2022	Ecology comments received; application supported subject to conditions. Comments received from Environmental Health; additional information required.
11 March 2022	Application referred to Traffic for comment.
13 March 2022	Community Planning comments received.
15 March 2022	Heritage Advisor comments received requesting additional information. Application referred to Transport for NSW for comment.
28 March 2022	Transport for NSW comments received; no concerns raised.
4 April 2022	Traffic Engineering comments received; plans required for upgrade to Waratah Street.
7 April 2022	Heritage Advisor comments received; additional information required.
13 April 2022	Additional information requested.
28 April 2022	Application commences public exhibition period.
12 May 2022	Public exhibition period concludes with no submissions received.
7 June 2022	Application referred back to Development Engineer, Environmental Health and Traffic to consider additional information.
8 June 2022	Additional information in response to information request formally lodged through the Planning Portal.
15 June 2022	Application referred back to Heritage Advisor to consider additional information.
16 June 2022	Development Engineering comment received requesting additional information. Environmental Health referral received; conditions provided.
23 June 2022	Traffic Engineering comments received; upgrade to Waratah Street proposing angle parking not supported.
18 July 2022	Additional information requested in relation to heritage. Matters in respect to traffic to be conditioned.

Planning and Environment

Report No. PE65/2022

Planning and Environment



5 August 2022	Additional information submitted in response to request for information.
12 August 2022	Application referred back to Heritage Advisor to consider additional information.
6 September 2022	Heritage Advisor comments received.
8 September 2022	Application referred to Development Assessment Unit (DAU) to consider variation to Chapter C1 Section 1.2 of the Cessnock DCP 2010 in relation to on-site car parking.
21 September 2022	Application considered by DAU and Development Services Manager, with the following outcome: The application is required to be referred to Council for determination given the variation to the DCP is considered to represent a significant variation to the planning controls.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2022/113/1 seeks approval for alterations and additions to Bellbird Hotel.

Specifically, the proposed development involves:

- Ground floor alterations within the main building:
 - New toilet facilities within an unused front room,
 - Alterations to the bar area and improved access between the pub area, front entrance, and main dining space to the rear,
 - Increased size and functionality of the gaming room,
 - Renovation of the kitchen to create a larger commercial kitchen, and
 - Alteration of the private dining room to create a cool room and freezer space as well as a children's play space.
- Outdoor ground floor additions:
 - Relocated and updated outdoor children's play area,
 - Extended outdoor dining area and theatre space, and
 - Beer garden alterations including bar.
- A new access driveway and parking area along the northern boundary of the site including the sealing of Waratah Street.

ASSESSMENT

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Section 4.14 Consultation and development consent – certain bush fire prone land

S4.14 of the *Environmental Planning and Assessment Act 1979*, prescribes that development consent cannot be granted to the carrying out of development for certain purposes, unless the

consent authority is satisfied that the matters outlined in s4.14(1)(a) and (b) have been adequately addressed.

Part of the site is identified as being bushfire prone, as depicted in the below map:

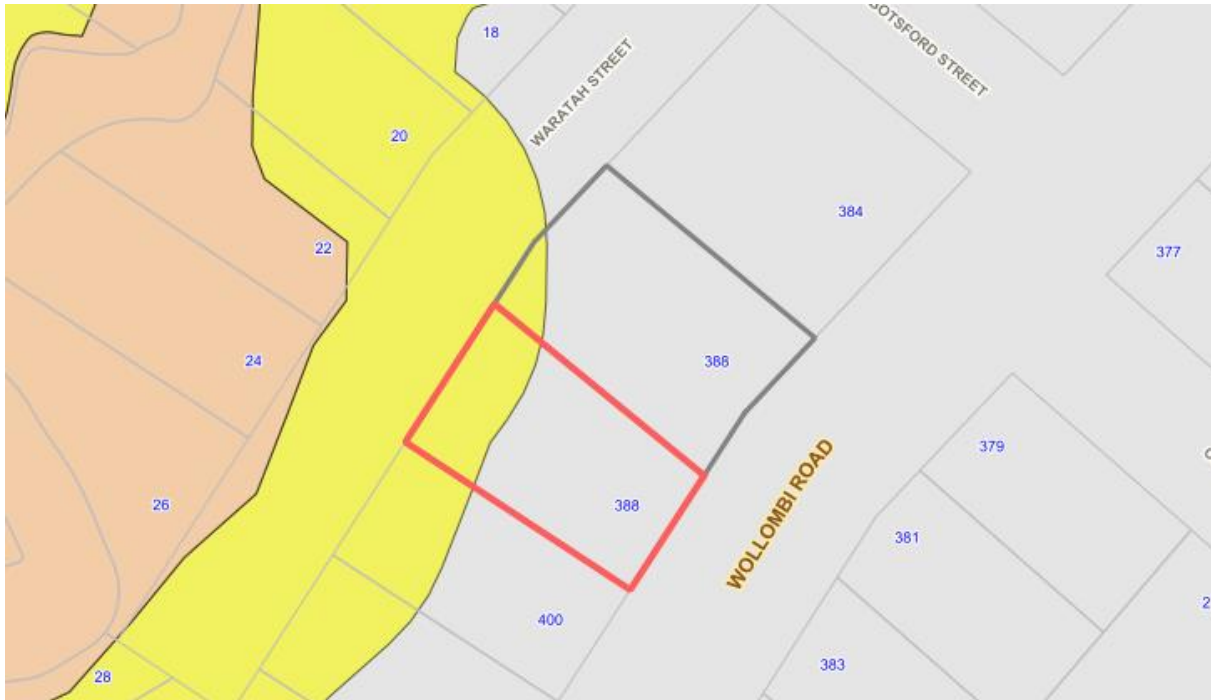


Figure 3: Bushfire Prone Land Map

The proposed development is not defined as ‘*subdivision of land that could lawfully be used for residential or rural residential purposes, or development for a special fire protection purpose*’, and therefore, separate approval from the NSW Rural Fire Service is not required to be obtained.

The applicant has submitted a Bushfire Report prepared by Newcastle Bushfire Consulting in support of the proposed development.

The Bushfire Report has been reviewed and the following conclusions reached:

- *The proposed building works shall comply with National Construction Code 2019 Structural Fire Safety requirements.*
- *At the commencement of building works and in perpetuity, the entire property shall be managed as an inner protection area (IPA) as outlined within Appendix 4 of Planning for Bush Fire Protection 2019 and the NSW Rural Fire Service's document Standards for Asset Protection Zones.*
- *Water, electricity and gas are to comply with Planning for Bush Fire Protection (2019) Section 7.*
- *Landscaping is to be undertaken in accordance with Planning for Bush Fire Protection (2019) Appendix 4 and managed and maintained in perpetuity.*

Planning and Environment

Report No. PE65/2022

Planning and Environment



- *An Emergency/Evacuation Plan is to be prepared consistent with the NSW Rural Fire Service document Guidelines for the Preparation of Emergency/Evacuation Plan, with the new building works incorporated in the plan.*

On the basis of the above, it is considered that the proposed development satisfies the provisions of s4.14, and relevant conditions of consent have been included in the draft notice of determination contained in this report.

Section 4.15 Evaluation

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

4.15(1)(a)(i) The provisions of any environmental planning instrument

The environmental planning instruments that relate to the proposed development are:

1. *State Environmental Planning Policy (Resilience and Hazards) 2021*
2. *State Environmental Planning Policy (Transport and Infrastructure) 2021*
3. *Cessnock Local Environmental Plan 2011*

An assessment of the proposed development under the environmental planning instruments is provided below:

1. State Environmental Planning Policy (Resilience and Hazards) 2021

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Section 4.6 of the SEPP, is relevant to the assessment of this Development Application.

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

The subject site has historically been used for a pub. No evidence of contamination was observed during inspection of the site. The site is considered suitable for the proposed development in its current state.

2. State Environmental Planning Policy (Transport and Infrastructure) 2021

In accordance with Section 2.118, the application was referred to Transport for NSW (TfNSW) as the subject land has a frontage to a classified road (Wollombi Road MR181).

While Wollombi Road is a classified road, it is a classified regional road managed by Council. As such Council is the roads authority in this instance. TfNSW raised no objection to the proposed development.

3. Cessnock Local Environmental Plan 2011

3.1 Permissibility

The subject site is zoned B1 Neighbourhood Centre under the provisions of the *Cessnock Local Environmental Plan (CLEP) 2011*, as depicted in the below map:



Figure 4: Zoning map CLEP 2011

The proposed development is categorised as alterations and addition to existing pub. A pub is a permissible land use under CLEP 2011, and is defined as follows:

pub means licensed premises under the Liquor Act 2007 the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

Note—

Pubs are a type of food and drink premises—see the definition of that term in this Dictionary.

The proposed development remains consistent with the definition of a pub under the CLEP 2011, proposing internal alterations to the existing premise, relocated and updated outdoor children's play area, extended outdoor dining area and theatre space and beer garden alterations.

Accordingly, the proposed development is permitted with consent, in the B1 Neighbourhood Centre zone.

3.2 Objectives

The objectives of the B1 zone, and a response to each, are identified in the following table:

Objective	Comment
<i>To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood</i>	<p>The 'Bellbird Hotel' has operated from the site since 1914. The development provides a gathering place for local residents, selling food and drink primarily for consumption on site.</p> <p>While the site is located within close proximity to residential development, the adoption of mitigation measures contained within the Acoustic Report will ensure that the development remains compatible with the locality, and does not exacerbate any adverse impacts with respect to noise.</p>
<i>To provide services to tourists and visitors at the Greta Migrant Camp</i>	This objective is not related to the subject land or proposed development.

3.3 Relevant Clauses

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

- *Clause 2.7 Demolition requires development consent*

In accordance with Clause 2.7, demolition works require consent. The application seeks consent to demolish internal walls in order to facilitate the proposed development.

All demolition are required to be undertaken in accordance with the relevant Australian Standard/s.

The proposed development is consistent with this clause.

- *Clause 5.10 Heritage conservation*

The subject land is identified in Schedule 5 Environmental Heritage and shown on the Heritage Map as containing the heritage item, known as the 'Bellbird Hotel'.

Development consent is sought to make structural changes to the interior of the building, and to construct building works at the rear of the existing development.

The Statement of Significance for the 'Bellbird Hotel' from the citation on the NSW State Heritage Inventory Database is reproduced below:

'One of a group of intact pubs which distinguish the towns of the City of Cessnock local government area, and which are closely associated with the development of those towns, their mines and their economy. The most prominent building in the town, located on the main road through to Cessnock.'

Before granting consent to development to which this clause relates, the consent authority is required to be satisfied that the development will not impact upon the heritage significance of the item. A Statement of Heritage Impact prepared by Contemporary Heritage was submitted

Planning and Environment

Report No. PE65/2022

Planning and Environment



with the application and reviewed by Council's Consultant Heritage Advisor. The Statement of Heritage Impact makes the following conclusions:

- *The proposal provides a positive outcome to ensure the longevity and ongoing success of the Bellbird Hotel. Pub buildings are important as representatives of the history of development of the towns that they occupy but are also significant socio-cultural elements of the past, present and future and as such need to evolve in a considered manner to ensure ongoing use by the community.*
- *The design has been thoughtfully considered and provides contemporary alterations and additions to the building whilst retaining significant features.*

The proposal has been extensively considered by Council's Consultant Heritage Adviser with additional information required to be submitted by the applicant throughout the assessment process. Council's Consultant Heritage Adviser has advised as follows:

The building is considered a prominent and aesthetically distinctive element within the locality, having local landmark qualities. The building retains a high degree of design integrity both externally and internally, having a remarkably intact front façade and with much original detailing to the interior extant. In this regard, the building is considered to have a high degree of sensitivity to further changes. The proposal involves a series of alterations and additions to the interior and exterior. The proposed additions to the rear of the building and site, being the internal changes to the existing non-original and non-significant bistro, together with the external works for the new children's play area, outdoor dining area and beer garden, are all generally acceptable and will not involve material changes to significant fabric. These works are considered to have an acceptable heritage impact and are supported accordingly.

Any alterations and additions to the interior must respect significant detailing and fabric, and ensure the retention of and the continued ability to read the original configuration of spaces. Following consideration of the internal modification, the following information was requested:

- a. Detailed section plans showing all penetrations, modifications and removal of fabric to:
 - i. The proposed wall to the cellar stair inclusive of the stair opening.
 - ii. The proposed wall including glazed upper portion between kids play area and cool room.
 - iii. The hallway adjoining the main entry stairs and pub seating areas.
- b. Amended plans showing the retention of the features listed in point 9 above.

Amended plans were submitted by the applicant. Following consideration by Council's Consultant Heritage Advisor, the amended plans adequately addressed the matters raised above, with internal changes supported from a heritage perspective.

The proposed development is acceptable from a heritage perspective; and is therefore consistent with this clause.

- *Clause 5.20 Standards that cannot be used to refuse consent – playing and performing music*

Planning and Environment

Report No. PE65/2022

Planning and Environment



In accordance with this clause, the consent authority must not refuse consent to development in relation to a licensed premises on the grounds of noise associated with playing or performing music, provided noise can be managed to an acceptable level.

A Noise Impact Assessment (NIA) prepared by Reverb Acoustics, dated June 2022, was submitted in support of the application. The NIA demonstrates that with the implementation of mitigation measures, the new outdoor area is able to operate within or below the noise impact assessment criteria. The mitigation measures prescribed in the NIA relate to the construction methodology of the ceiling/roof/wall of the outdoor area; along with the construction of acoustic fencing along the north-west boundary (Waratah Street) and the south-west boundary (adjacent lot). In addition, the NIA prescribes requirements for mitigating noise emissions resulting from the use of mechanical plant, including air conditioning/exhaust plant/refrigeration plant.

The NIA states that no amplified music/entertainment is proposed to be played in the outdoor area. This has been imposed as a condition of consent on the draft notice of determination.

Accordingly, the proposed development is able to operate within an acceptable level in accordance with this clause, subject to the implementation of the mitigation measures outlined above.

- *Clause 7.2 Earthworks*

Clause 7.2 seeks to ensure that any earthworks do not result in an adverse impact on the environment, neighbouring properties or heritage items.

Earthworks proposed are considered to be minor/reasonable and will not result in any detrimental impact upon the surrounding environment or heritage listed item. Accordingly, the proposed development is consistent with this clause.

4.15(1)(a)(ii) The provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

Environmental Planning and Assessment Regulation 2021

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

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

3 Applications submitted before 1 March 2022

The 2000 Regulation continues to apply instead of this Regulation to the following applications submitted but not finally determined before 1 March 2022—

(a) a development application,

Planning and Environment

Report No. PE65/2022

Planning and Environment



- (b) an application for a complying development certificate,
- (c) a modification application,
- (d) an application to modify a complying development.

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

4.15(1)(a)(iii) The provisions of any development control plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant numerical standards in the Cessnock Development Control Plan 2010. Discussion of any variations to the standards is provided after the compliance table:

Part C: General Guidelines
Chapter 1: Parking and Access

In accordance with Chapter C1 of the DCP, the following parking rates are applicable to the proposed additions:

Land use	DCP requirement	Proposed/Provided	Complies?
Outdoor dining room (considered as restaurant)	1 space per 7.0m ² of gross floor area OR 1 space per 3 seats In consideration of the above, 22 additional on-site parking spaces are required to be provided.	Nil	No
Outdoor beer garden	1 space per 4.0m ² of licensed floor area, PLUS 1 space per 6.5m ² of auditorium, dining room and recreation area In consideration of the above, 20 additional on-site parking spaces are required to be provided.	Nil	No

As outlined above, an additional 42 on-site car parking spaces are required to be provided in accordance with the DCP. The development application does not propose the construction of any additional on-site parking.

It is accepted that there is a historical parking deficiency related to the existing development, and that no formalised parking is currently provided on-site, other than seven (7) parking spaces that are currently provided informally.

The application proposes to formalise the 7 spaces referred to above in conjunction with this DA, however those spaces have been provided on-site via an informal arrangement for many years and are considered to relate to the existing development.

A Traffic Report prepared by Intersect Traffic was submitted with the application. While on-street parking cannot be considered in the calculation of parking spaces provided as a result of the proposed development, the traffic report outlines that Waratah Street is proposed to be formalised in conjunction with this DA, and as a result of this, an additional nine (9) on-street parking spaces will be provided within Waratah Street. A concept roadworks and drainage plan was submitted in conjunction with the application, and demonstrates the construction of nine (9) on-street parking spaces, as shown in the figure below:



Figure 5: Concept roadworks and drainage plan – Waratah Street

In summary, having regard to the proposed alterations and additions, it is considered that an additional 42 parking spaces are required for the addition. The seven (7) spaces able to be formalised onsite have not been incorporated into the parking calculation as these have been attributed to the existing development. In this instance, the application seeks to vary the requirements of Chapter C.1, Section 1.2. A 100% variation to the requirements of the DCP is sought.

In justifying the non-compliance with the requirements of the DCP; the following was provided by the applicant:

- *The Bellbird Hotel has no formal parking area and consequently has a historical parking deficiency which Council recognised in the Pre DA lodgement meeting. Patrons visiting the pub park in the surrounding street. Peak times for the operation of the pub are*

Planning and Environment

Report No. PE65/2022

Planning and Environment



Friday and Saturday evenings/nights. There is no parking issues or problems whatsoever in this commercial area of Bellbird.

- *Both indoor and outdoor areas of the Bellbird Hotel have been, and continue to be, licensed, and used as part of the operation of the hotel.*
- *The proposal results in a reduction of the external licensed public areas of the pub due to the proposed introduction of the driveway and carparking.*
- *Given the useable external area reduces under the proposal, and that there is a historical deficiency of carparking on the site, the actual carparking generation reduces under the proposal. Put another way, given the historical carparking deficiency reduces, there is no nexus for the provision of carparking by the proposal.*
- *Given the point above, the issue of carparking generation is therefore, redundant. Notwithstanding, it has been established through previous DA's and associated carparking surveys that the carparking rates for pub's/hotel's, as required by the Cessnock DCP, are excessive.*
- *Finally, there is nowhere on the site to provide additional carparking.*

In addition, the Traffic Report identifies the following alternative transport modes:

- Rover Motors provides bus services Monday to Friday, Saturday, Sunday and Public Holidays known as Route 168. The nearest bus stops are located on each side of Wollombi Road at the frontage of the development site.
- Pedestrians are provided with a concrete footpath across the frontage of the site and a new path in Abbotsford Street.

Whilst numerically significant, it is acknowledged that the proposed development will facilitate the continued use of the building, thereby ensuring ongoing maintenance and protection of the heritage listed item for the community to enjoy and appreciate both now and into the future.

In addition, it is acknowledged that Council has made two (2) recent decisions whereby on-site car parking requirements have been varied. Specifically, these matters relate to the following development applications:

- DA 8/2022/149/1 proposing alterations and additions to an existing centre-based childcare facility at 112 Lang Street, Kurri Kurri.

This application was considered by Council at their meetings of 20 July 2022 (application deferred) and 17 August 2022 (application approved).

The approval of this application permitted up to 120 children to be cared for at the centre-based childcare facility, without requiring any on-site parking to be provided.

- DA 8/2020/20441/1 proposing alterations and additions to the 'Australian Hotel' comprising internal changes to the kitchen and dining area, beer garden with pergola and associated fencing.

This application was approved by Council at its meeting of 19 May 2021.

The approval of this application permitted the additions to be constructed, without requiring an additional 20 car parking spaces to be provided on-site.

Planning and Environment

Report No. PE65/2022

Planning and Environment



In consideration of the above, it is noted that the proposed development is not inconsistent with previous variations approved by Council.

Finally, whilst the application does not propose the establishment of any additional on-site parking, it is noted that the application proposes to construct Waratah Street, which will result in the provision of an additional nine (9) on-street parking spaces within the locality.

On the basis of the above, the proposed variation to the car parking requirements; whilst numerically significant, is considered to have merit.

Part C: General Guidelines

Chapter 5: Waste Management and Minimisation

In accordance with the DCP, a waste management plan was submitted in conjunction with the application addressing the removal of waste from the site during demolition, construction and operations. Demolition will be required to be undertaken in accordance with relevant standards. All materials will be disposed of at an appropriate facility. A private waste contractor will continue to service the site.

The application is considered to be consistent with the requirements of this part of the DCP.

Part C: General Guidelines

Chapter 8: Social Impact Assessment and Crime Prevention through Environmental Design Guidelines (CPTED) for Proposed Development

In accordance with this section of the DCP, a Social Impact Comment (SIC) is required. The Statement of Environmental Effects and SIC prepared by Insite Planning provided comments on the potential social impact of the proposed development.

An assessment of the proposal and the SIC was undertaken by Council's Community Planner, who considered that the submitted SIC was in accordance with the requirements of the Cessnock Development Control Plan, Part C General Guidelines, Chapter 8, 'Social Impact Assessment & Crime Prevention through Environmental Design Guidelines for a Proposed Development'.

The proposal is supported from a Community Planning perspective, with the following points noted:

- *No change to existing approved hours,*
- *The proposal is a refreshment of existing indoor and outdoor spaces that improve access and comfort,*
- *A Plan of Management that considers safety has been prepared and included as part of the documentation lodgement .*

Having regard to the above, the proposal is considered to satisfy the requirements of Council's DCP.

Part D: Specific Guidelines

Chapter 12: Heritage Conservation and Design Guidelines

This section of the DCP aims to provide controls and guidance for development proposals involving heritage items and buildings within a conservation area. Chapter D.12 aims to conserve the heritage of the LGA; conserve the significance of heritage items; conserve archaeological sites; and conserve places of Aboriginal heritage significance. Section 12.7 provides specific guidelines for alterations and additions.

A Statement of Heritage Impact prepared by Contemporary Heritage was submitted in support of the application.

An assessment of the Statement of Heritage Impact was undertaken by Council's Consultant Heritage Advisor. During the consideration of the application, requests for additional information were made to ensure that the heritage significance of the building was maintained. Following the submission of amended plans, Council's Consultant Heritage Advisor provided the following comments considering the specific provisions of Section 12.7 General Requirements for Alterations and Additions:

- *The building is considered a fine and representative example of its style and class. In this manner, the building is considered to have a high degree of sensitivity to further changes.*
- *The proposal involves a series of alterations and additions to the interior and exterior. The proposed additions to the rear of the building and site, being the internal changes to the existing non-original and non-significant bistro, together with the external works for the new children's play area, outdoor dining area and beer garden, are all generally acceptable and will not involve material affectation to significant fabric. These works are considered to have an acceptable heritage impact and are supported accordingly.*

Following submission of amended plans and changes to the internal configuration, internal alterations are also supported, resulting in an acceptable development.

On the basis of the amended plans, the application is supported on heritage grounds and is consistent with Chapter D.12 of the DCP.

4.15(1)(a)(iiia) *The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4*

No such agreement has been proposed in conjunction with this application.

4.15(1)(a)(iv) *The provisions of the regulations*

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

Planning and Environment

Report No. PE65/2022

Planning and Environment



4.15(1)(b) *The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality*

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

It is noted that the proposed development will result in a positive impact in terms of the retention and conservation of a locally significant heritage item, considered to be a prominent and aesthetically distinctive element within the locality, having local landmark qualities. The building is considered a fine and representative example of its style and class.

It is acknowledged that the application does not propose the establishment of any additional on-site parking. This issue has been addressed in detail, previously in this report.

4.15(1)(c) *The suitability of the site for the development*

As demonstrated by the above assessment, the site is considered to be suitable for the proposed development. Specifically, the proposed development is compatible with surrounding land uses and will not result in any unreasonable impact/s on the surrounding locality.

4.15(1)(d) *Any submissions made in accordance with this Act or the regulations*

The Development Application was publicly exhibited between 28 April and 12 May 2022. No submissions were received.

4.15(1)(e) *The public interest*

The public interest is served through the detailed assessment of this Development Application under the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is consistent with the public interest. The public interest is served through the ongoing use and protection of a heritage item considered to be '*a fine and representative example of its style and class*'. The ongoing use of the site for the purposes of a pub will allow the building to be enjoyed and appreciated both now and into the future.

SECTION 7.12 CONTRIBUTIONS

Section 7.12 Contributions are payable for the proposal.

In the event the application is approved, Section 7.12 Contributions totalling \$7,500.00 would be payable in accordance with the Cessnock Section 7.12 Levy Contributions Plan 2017.

Planning and Environment

Report No. PE65/2022

Planning and Environment



INTERNAL REFERRALS

The Development Application was referred to the following Council officers for comment:

Officer	Comment
Development Engineer	Following submission of additional information, application supported subject to conditions.
Ecologist	Application supported subject to conditions.
Environmental Health	Following submission of additional information, application supported subject to conditions.
Community Planner	Application supported, no conditions recommended.
Heritage Advisor	Following submission of additional information, application supported subject to conditions.
Traffic Engineer	Following submission of additional information, application supported subject to conditions.

EXTERNAL REFERRALS

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

Agency	Comment or concurrence?	Outcome
Transport for NSW	Comment	Advice provided and considered by Council's Development Engineer in relation to traffic and access, with recommendations incorporated and suitable conditions imposed.

CONCLUSION

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

The development application seeks approval for alterations and additions to the 'Bellbird Hotel' which is listed as an item of local heritage in the *Cessnock Local Environmental Plan 2011*. Development proposed by this application consists of internal alterations, relocated and updated outdoor children's play area, extended outdoor dining area, theatre space and beer garden alterations.

The application seeks to vary the requirements of Chapter C.1 Parking and Access of the DCP. Although the variation is numerically significant, the variation is supported on the basis that the proposed alterations and additions will ensure the ongoing use of the heritage item; that the proposal is consistent with recent decisions made by Council in respect of development applications involving a variation to the on-site parking requirements prescribed in the DCP;

Planning and Environment

Report No. PE65/2022

Planning and Environment



and that the construction of Waratah Street will result in the provision of nine (9) additional on-street parking spaces within the locality.

Based on the assessment, it is recommended that Development Application No. 8/2022/113/1 be approved, subject to the conditions of consent included in this report.

ENCLOSURES

[1](#) Architectural Plans

.

CONDITIONS OF CONSENT

CONDITIONS OF CONSENT

1. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2022/122/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Ground Floor Plan, Project No. 649, Drawing No. DD201, Revision 10	Skelcon	26/07/2022
First Floor Plan, Project No. 649, Drawing No. DD202, Revision 5	Skelcon	26/07/2022
Elevations – Sheet 1, Project No. 649, Drawing No. DD300, Revision 4	Skelcon	26/07/2022
Elevations – Sheet 2, Project No. 649, Drawing No. DD301, Revision 4	Skelcon	26/07/2022
Sections – Sheet 1, Project No. 649, Drawing No. DD400, Revision 4	Skelcon	26/07/2022
Kitchen Elevations, Project No. 649, Drawing No. DD401, Revision 4	Skelcon	26/07/2022
Bar Area, Project No. 649, Drawing No. DD402, Revision 3	Skelcon	26/07/2022
TAB, Project No. 649, Drawing No. DD403, Revision 3	Skelcon	26/07/2022
Corridor, Project No. 649, Drawing No. DD404, Revision 3	Skelcon	26/07/2022
Bistro, Project No. 649, Drawing No. DD405, Revision 3	Skelcon	26/07/2022
Kitchen, Project No. 649, Drawing No. DD406, Revision 3	Skelcon	26/07/2022
Kids Play, Project No. 649, Drawing No. DD407, Revision 3	Skelcon	26/07/2022
Bistro Hallway, Project No. 649, Drawing No. DD408, Revision 1	Skelcon	26/07/2022
Landscape Plan L02, Project No. GSP210297-DA, Revision C	GSP	January 2022
Plant Schedule, Project No. GSP210297-DA, Revision C	GSP	January 2022

Planning and Environment

Report No. PE65/2022

Planning and Environment



Document Title	Prepared By	Dated
Statement of Environmental Effects	Insite	06/06/2022
Noise Impact Assessment	Reverb Acoustics	June 2022
Statement of Heritage Impact	Contemporary Heritage	May 2022
Waste Management Plan	Insite	10/01/2022
Traffic and Parking Assessment	Intersect Traffic	December 2021
Plan of Management	Bellbird Hotel	December 2021
BCA Report	SureScope Building Certifiers	-
Bushfire Assessment Report	Newcastle Bushfire Consulting	25/01/2022
Access Report	Lindsay Perry Access	16/12/2021

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

2. CC, PC & Notice Required

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

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

3. Compliance with the BCA

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

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

4. BCA Compliance

Pursuant to Section 4.17(11) (cf previous s 80A) of the *EP&A Act 1979* all building work must be carried out in accordance with the requirements of the *BCA*.

5. Bushfire Protection

The development shall be constructed/completed in accordance with the Bushfire Assessment Report prepared by Newcastle Bushfire Consulting dated 25 January 2022 which forms part of this consent.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Certifier, prior to issue of a Construction Certificate.

6. Local Traffic Committee Approval

Any application involving the installation of, or amendment to, regulatory signage, linemarking and/or traffic control devices, will require approval of the Council Local Traffic Committee. Full details shall be submitted to council for approval by the Council Local Traffic Committee, prior to the issue of a CC, and subsequent Section 138 Roads Act Approval.

7. Amended Plans Required

Details and location of the proposed garbage room are to be provided to the Certifier prior to the issue of a CC. Rooms used for the storage of garbage, and rooms used for the washing and storage of garbage receptacles, are to be constructed of solid material, cement rendered and trowelled to a smooth even surface, and subject to the following requirements:

- a) The floor must be impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room
- b) Garbage rooms must be vented to the external air by natural or mechanical ventilation

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

8. Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a CC.

9. Cessnock Section 7.12 Levy Development Contributions Plan

A total monetary contribution of \$7,500.00 is to be paid to Council, pursuant to Section 7.12 of the *EP&A Act 1979*, such contribution is to be paid prior to the issue of any CC.

- i) This condition is imposed in accordance with the provisions of *Cessnock Section 7.12 Levy Contributions Plan 2017 (as amended)*. A copy of the document is available on Council's website at www.cessnock.nsw.gov.au or may be

Planning and Environment

Report No. PE65/2022

Planning and Environment



inspected at Councils' Customer Services Section, Administration Building, Vincent Street Cessnock.

- ii) The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be indexed at time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

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

10. Car Parking – Commercial/Industrial

The design of the vehicular access and off street parking facilities must comply with, but not be limited to *AS 2890.1-2004 Parking Facilities – Off-Street Car Parking*, *AS 2890.2-2002 Parking Facilities – Off-Street commercial vehicles facilities*, and *AS 2890.3-1993 Parking Facilities – Bicycle parking facilities*. Details demonstrating compliance with these Standards are to be included on the plans submitted in association with a CC application.

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

11. Disabled Car Parking Spaces

A total of one (1) car parking spaces for use by persons with a disability must be provided as part of the total car parking requirements.

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

- * AS/NZS 2890.1:2004 Parking Facilities – Off street car parking
- * AS/NZS 1428.1:2009 Design for access and mobility – General requirements for access – New building work
- * AS/NZS 1428.4.1:2009 Design for access and mobility – Means to assist the orientation of people with vision impairment – Tactile ground surface indicators.

12. Parking – Delivery Vehicles

A separate off-street loading/unloading facility with capacity to accommodate the largest delivery vehicle likely to deliver goods to and from the premises shall be provided for all loading and unloading of vehicles wholly within the property. Such facility shall be constructed clear of the car parking area and driveways.

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

13. Parking – Minimum Requirement

Onsite car parking shall be provided for a minimum of seven (7) vehicles and such being set out generally in accordance with Council's Development Control Plan.

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

14. Road – Fees

The applicant shall lodge payment of fees as follows:-

- a) Road fees - engineering plan checking
- b) Road fees – PC certification of works

Final fee amounts will be levied on accurate dimensions contained within the engineering plans.

The fees shall be payable prior to the issue of a CC / Section 138 for the Construction Works and shall be in accordance with Council's adopted fees and charges current at the time of payment.

15. Road – Road Widening Requirement

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by Council prior to issue of a CC / Section 138 for the civil works.

- a) Construct 8.5 metre wide road pavement within Waratah Street reserve from Abbotsford Street to subject Lot 200 DP: 1243053 for approx. 138 metres
- b) Construct rolled kerb and gutter
- c) Construct a minimum of 8.5 metre radius turning head at the termination of Waratah Street
- d) Place Asphalt on new works
- e) Construct indented parking bays along Lot 100 DP 1243811 frontage
- f) Construct drainage works as necessary
- g) Construct necessary concrete vehicular access crossovers to property boundary
- h) Construct concrete footpath 1.2 metre wide, 100mm thick with SL72 reinforcement from Abbotsford Street to subject Lot 200 DP: 1243053
- i) All new works to neatly merge with existing infrastructure

- j) Topdress and turf footpath

16. OSD System

A stormwater drainage design, incorporating on site stormwater retention / detention facilities, prepared by a qualified practising Civil Engineer must be provided to the Certifier prior to the issue of a CC. The design must be prepared / amended to make provision for the following:

- a) The design must be generally in accordance with the stormwater drainage concept plan SY21-038, prepared by SKY Engineering & Project Management and dated 05/05/2022
- b) Comply with Council's Engineering Requirements for Development.
- c) All plumbing within the site must be carried out in accordance with *AS 3500.3.2003 Plumbing and Drainage – Stormwater Drainage*
- d) Overflow pipeline(s) must be provided for any rainwater tank(s) to discharge by gravity to the Council drainage system. Where OSD facilities are required by this consent, the overflow pipelines must be discharged by gravity to the OSD storage tank(s)
- e) An inspection opening or stormwater pit must be installed inside the property adjacent to the boundary for all stormwater outlets
- f) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- g) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system
- h) Stormwater must be discharged by gravity to the kerb and gutter of a public road or to Council's piped drainage system
- i) Stormwater must be discharged by gravity directly into Council's piped drainage system
- j) All redundant stormwater pipelines within the footpath area must be removed, and the footpath and kerb reinstated
- k) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm

Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.

17. Stormwater – Detailed Design Requirements

A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property, and connection to the existing drainage system in accordance with Council's 'Engineering Requirements for Development' (available at Council's offices). Such layout shall include existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development.

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

18. Stormwater – Detention Requirement

The registered proprietor of the land is to provide a stormwater detention facility within the boundaries of the site to reduce the peak stormwater discharge from the developed lot to that of the peak stormwater discharged from the undeveloped lot for all storm events from the 1 in 1 year to the 1 in 100 year Average Recurrence Interval (ARI) storm event. A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property. Details shall include onsite storage, the method of controlled release from the site, and connection to an approved drainage system in accordance with Council's 'Engineering Requirements for Development'.

Detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development, shall be prepared by an engineer suitably qualified and experienced in the field of hydrology and hydraulics. The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

19. Food Premises

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

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

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

Planning and Environment

Report No. PE65/2022

Planning and Environment



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

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

20. Building works to comply with BCA - Heritage Buildings or Buildings Within Conservation Area

Any building works required to ensure compliance with the BCA or new building standards not specified in the submitted/approved plan must not damage existing fabric and building features.

If such upgrading works will potentially impact on existing fabric and features, details of the works must be submitted and approved by Council's Heritage Advisor prior to issue of a Construction Certificate.

21. External colour scheme for heritage building

The external colour scheme is to be both sympathetic and appropriate to the architectural style and period of the building.

Prior to the issue of any Construction Certificate, a schedule of colours is to be submitted to and approved by Council's Heritage Advisor.

22. Retention of original detail and fabric

The existing original door opening and associated brick archway (inclusive of the lintel bar, bricks, profile, timber jamb and opening dimensions) to the new hallway (i.e. situated between the existing internal stairs and the proposed bar extension), shall be retained.

Prior to the issue of any Construction Certificate, amended plans demonstrating compliance with this condition shall be submitted to the satisfaction of Council's Heritage Advisor.

23. Acoustic Report and Acoustic Fencing

Prior to the issue of a CC, plans and documentation shall be submitted to, and approved by the Certifier confirming that the recommendations specified in the Acoustic Report prepared by Reverb Acoustics, dated June 2022, have been implemented in the final design of the proposed development.

PRIOR TO COMMENCEMENT OF WORKS

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

24. Construction and Traffic Management Plan

The applicant must prepare a Construction Management and Traffic Management Plan incorporating the following matters. The plan must be submitted to and approved by the PC as satisfying these matters prior to the commencement of works.

- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane, concrete pump, truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An onsite parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer.

Planning and Environment

Report No. PE65/2022

Planning and Environment



- b) During excavation, demolition and construction phases, noise generated from the site must be controlled.
- c) All site works must comply with the work health and safety requirements of SafeWork NSW.
- d) During excavation, demolition and construction phases, toilet facilities are to be provided on site, at the rate of one (1) toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.
- e) All traffic control plans must be in accordance with the TfNSW publication *Traffic Control Worksite Manual* and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of six (6) weeks prior to the proposed activity being undertaken.

25. Demolition Proposed

Consent is granted for the demolition, subject to strict compliance with the following conditions:

- (a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.
- (b) Written notice is to be given to the Council prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours, contact telephone number, and licence number of the demolisher.
- (c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- (d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves, etc). Access to the site must be restricted to authorised persons only, and the site must be secured against unauthorised entry when work is not in progress, or the site is otherwise unoccupied.
- (e) Demolition is to be carried out in accordance with the relevant provisions of AS 2601:2001: Demolition of structures.
- (f) The hours of demolition work are limited to between 7.00am and 5.00pm on Monday to Saturday. No demolition work is to be carried out on Sundays and public holidays.

Planning and Environment

Report No. PE65/2022

Planning and Environment



- (g) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of the WorkCover Authority and the Office of Environment and Heritage.
- (h) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- (i) During demolition, public property (footpaths, roads, reserves, etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition. No materials shall be stockpiled on footpaths or road carriageways.
- (j) All vehicles leaving the site with demolition materials must have their loads covered, and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves, etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- (k) The burning of any demolished material on site is not permitted, and offenders will be prosecuted.
- (l) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense.
- (m) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works, and must be maintained at all times.
- (n) Prior to demolition, a Work Plan must be prepared in accordance with the relevant provisions of AS 2601:2001 Demolition of structures by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance, and the disposal methods for hazardous materials.
- (o) If the building contains asbestos, an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
- (i) A SafeWork licensed contractor must undertake removal of all asbestos.
 - (ii) During the asbestos removal, a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" is to be erected in a visible position on the site to the satisfaction of Council, and AS 2601:2001: Demolition of structures.
 - (iii) Waste disposal receipts must be provided to Council as proof of correct disposal of asbestos laden waste.
 - (iv) All removal of asbestos must comply with the requirements of the WorkCover Authority.

An asbestos clearance certificate prepared by a qualified occupational hygienist must be provided to Council at the completion of the demolition works.

Planning and Environment

Report No. PE65/2022

Planning and Environment



26. Site is to be Secured

The site must be secured and fenced prior to works commencing. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property.

Separate approval is required to erect a hoarding or temporary fence on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed.

27. Erection of Signs

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

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

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

28. Public Liability Insurance

Any person or contractor undertaking works on public property must take out Public Risk insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within, public property. The Policy is to note, and provide protection for Cessnock City Council as an interested party, and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property. The insurance shall also note the location and the risk.

29. Road Opening Permit

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, public road reserve, or public reserve (open space) be required, a "Road Opening Permit" will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The Permit application is to be submitted to, and approved by, Council prior to works commencing.

30. S138 Roads Act Approvals

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, or public road reserve be required, a S138 Roads Act Approval will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The S138 application is to be submitted to, and approved by, Council prior to works commencing.

31. Relocation of Services

The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. In the event that existing services are required to be relocated the proprietor shall make application to obtain any necessary approval from the relevant service authority prior to commencement of any works.

32. Toilet Facilities

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

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

33. Road - Bonds

The applicant shall pay the following:-

- a) A performance and maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater. To be held by council for a period of 12 months.

It will be necessary for the applicant to submit evidence of the contract price of all construction works in order for Council to assess accurate bond amounts.

The bond shall be payable prior to the issue of a *Section 138* approval.

The bond may be used to meet any costs referred to above, and on application being made to the Council by the person who provided the bond, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the bond within 6 years of the date of issue of practical completion for the development, the Council may pay the balance to the Chief Commissioner of State Revenue under the *Unclaimed Money Act 1995*.

34. Inspection of Vegetation to be Removed

No more than one week prior to tree removal, trees are to be inspected to ensure that there are no nests or hollows present. If nests or hollows are present, a qualified and experienced ecologist is to inspect the nest/hollow before tree removal to determine if it is active.

35. Removal of Street Trees

Any works associated with tree removal and/or relocation must be approved and undertaken by Council or its approved contractors. Any such works are subject to additional fees and charges in accordance with Council's adopted fees and charges.

36. Heritage site induction ('toolbox talks')

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

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

- i) The site contains an item of heritage significance.
- ii) All conservation works to the heritage item are to be undertaken in accordance with the Schedule of Conservation Works and undertaken by suitably qualified tradesmen.
- iii) There are statutory obligations under the *National Parks and Wildlife Act 1974* and *Heritage Act 1977* for all works to cease and Council notified of any unexpected built archaeological or Aboriginal archaeological finds during works.

37. Photographic Archival Recording

Prior to the commencement of any works, including the dismantling of fabric or demolition, a Photographic Archival Recording shall be undertaken of the interior and exterior of the building and submitted to Council.

Written confirmation must also be obtained from Council's Heritage Advisor, confirming that the Photographic Archival Recording is of an acceptable quality that satisfies the requirements of this condition.

The Photographic Archival Recording shall be prepared in accordance with the guidelines "*Archival Recording of Heritage Items Using Film or Digital Capture*" published by the Heritage Council of NSW.

One complete copy of the Photographic Archival Recording shall be submitted to Council and should contain (for digital projects):

- a) A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken. The report may also address the limitations of the photographic record and may make recommendations for future work;

Planning and Environment

Report No. PE65/2022

Planning and Environment



- b) Plans of the building marked up to indicate where the photographs were taken and the direction of the photograph;
- c) The report should include all technical details including camera and lenses, image file size and format, technical metadata associated with the images, and colour information;
- d) Catalogue sheets, photographic plan, supplementary maps;
- e) Colour thumbnail image sheets (e.g. A4 page with six images by six images) showing images and reference numbers. The thumbnail sheets should be processed with archivally stable inks on archivally acceptable photographic paper and cross referenced to catalogue sheets;
- f) One full set of 10.5x14.8cm (A6) colour prints OR, if a large project, a representative set of selected images processed with archivally stable inks on archivally acceptable photographic paper.
- g) A CD or DVD containing electronic image files saved as RAW and JPEG files with associated metadata, and cross-referenced to catalogue sheets.

The report should be presented on archival quality paper in a suitable archival binder and slipcase, and all storage of individual components must be in archival quality packaging suitable for long term storage.

DURING WORKS

The following conditions are to be complied with during works.

38. Construction Hours

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. Work is not to be carried out on Sundays and public holidays.

39. Site is Securely Fenced

The site must be appropriately secured and fenced at all times during works.

40. Approved Plans Kept On Site

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

41. Construction Noise

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

42. Road – Obstruction of Footpath Restriction

No obstruction is to be caused to Council's footpaths, roads and/or other public areas during construction of the development.

Planning and Environment

Report No. PE65/2022

Planning and Environment



No spoil, building materials, excavated or demolition material from the site shall be stored or deposited on the public road, footpath, public place or Council owned property, without prior approval of Council.

43. Erosion and Sediment Controls

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's "Engineering Requirements for Development", and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks, and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

44. Stormwater Runoff

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

45. Waste Management

Rubbish generated from the development is to be suitably contained on site at all times. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown off site.

46. Building Materials on Site

All building materials, plant and equipment are to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves, etc.

47. Demolition

All demolition works are to be carried out in accordance with AS 2601-2001 "Demolition of structures", with all waste being removed from the site. Hazardous waste such as asbestos cement sheeting etc, should be handled, conveyed and disposed of in accordance with guidelines and requirements from NSW Workcover Authority. Disposal of asbestos material at Council's Waste Depot requires prior arrangement for immediate landfilling.

48. Clearing of Development Footprint

Vegetation must be cleared from the periphery of vegetated areas first, progressing from east to west, to enable any resident fauna to relocate to adjacent areas of retained vegetation.

49. Ecologist Onsite

If the trees to be cleared contain any active nests or hollows then a qualified and experienced ecologist must supervise the clearing of the tree to ensure that the tree is lowered slowly to the ground and care is given to any fauna present.

50. Reduction of Rising Damp and Salt Attack in Buildings Constructed Prior to 1920

To avoid potential damage caused by rising damp and migrating salt, no concrete slab is to be laid directly on the ground either within the building or external to the building directly adjacent to the exterior walls.

51. Conservation works to be overseen by Heritage Consultant

A Heritage Consultant experienced in conserving buildings of significance is to be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project.

The Heritage Consultant is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The Heritage Consultant is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

Evidence and details of the above commission on the above terms are to be provided to Council's Heritage Advisor prior to commencement of work on site. The heritage consultant must sign off the completed project and submit a final report to Council's Heritage Advisor specifying how the heritage conditions are satisfied prior to the issue of an Occupation Certificate or the commencement of the use, whichever is earlier.

52. General Heritage

- (a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing heritage item.
- (b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction.
- (c) All conservation and adaptation works are to be in accordance with the Articles of the Australia ICOMOS Burra Charter (2013).
- (d) New services are to be surface mounted rather than chased-in to existing walls to minimise impact on significant heritage fabric.
- (e) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.

53. No Demolition of Extra Fabric

Alterations to, and demolition of, the existing building shall be limited to that documented on the approved plans (by way of notation) or conditioned in this consent.

No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Should any portion of the existing building which is indicated on the approved plans to be retained, be damaged for whatever reason, all the works in the area of this damaged portion are to cease and written notification given to Council.

No work is to resume until the written approval of Council is obtained. Failure to comply with the provisions of this condition may result in the Council instituting legal proceedings.

54. Uncovering of Concealed Architectural Features or Detailing

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

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of an Occupation Certificate (as specified within the condition):

55. Roads – Concrete Crossing

The registered proprietors shall construct and maintain a concrete access crossing from the kerb and gutter in Waratah Street to the property boundary, in accordance with Council's "Engineering Requirements for Development" and AS 2890.1. A S138 Roads Act Approval is required from Council prior to any construction commencing within the road reserve. The access crossing is required to be constructed prior to the issue of an OC for the whole of the building. Where a Partial OC is issued the crossing shall be completed within six (6) months from the date of the Partial OC.

Construction of the crossing will require inspections to be undertaken by Council. The applicant shall pay Council engineering site supervision fees in accordance with Council's current Fees & Charges, prior to the inspections being undertaken.

The initial fee will facilitate approval of the application and one (1) construction inspection (steel and formwork inspection).

A final inspection will be required upon completion of the driveway and restoration of all disturbed footway areas. (A separate fee will be required to be paid when the final inspection is booked.) Should further inspections become necessary as a result of unsatisfactory or defective works, additional inspection fees will be charged in accordance with Council's current Fees & Charges.

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

56. Certification of Fire Services

The building must comply with the fire safety provisions applicable to the approved use. The applicant shall provide Council and the Fire Commissioner with a copy of the Final Fire Safety Certificate and the Fire Safety Schedule relating to the required fire safety measures, in accordance with Division 4 of the Environmental Planning and Assessment Regulation 2000 prior to occupation of the building or issue of an OC.

The Final Fire Safety Certificate and the Fire Safety Schedule are to be prominently displayed in the building.

57. Parking – Completion

Car parking areas shall be completed prior to the issue of an OC.

58. Parking – Loading Facility Requirement

Loading/unloading facilities shall be constructed prior to the issue of an OC.

59. Disabled Access/Parking

The proposed development shall be provided with vehicular access and parking for the disabled in accordance with AS 1428.1 and AS 2890.6. The access shall be provided prior to issue of an OC.

60. Parking – Kerb/Dwarf Wall

Kerbing or dwarf walls, having a minimum height of 100mm, shall be constructed along the edge of all garden areas, or lawn areas adjacent to driveways and parking bays, sufficient to discourage the encroachment of vehicles thereon.

Construction shall be completed prior to the issue of an OC.

61. Parking – Maintenance

All parking and loading bays shall be permanently marked out on the pavement surface, prior to issue of an OC. All loading bays and visitor parking facilities shall be clearly indicated by signs.

62. Completion of Car Park

Prior to the issue of an OC, the PC must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant AS and the following have been implemented within the property, where applicable:

- a) The car park has been completed, line marked and all signage relating to car parking erected

Planning and Environment

Report No. PE65/2022

Planning and Environment



- b) A notice has been clearly displayed at the Wollombi Road and Waratah Street frontage to indicate that visitor parking is available within the property, with access from Waratah Street
- c) Sign(s) have been erected that clearly indicate to the drivers of vehicles, both on and off the property, which driveway they are to use to enter or leave the subject land
- d) Sign(s) have been erected that clearly indicate to the drivers of vehicles, both on and off the property, the location and means of access to the car parking area(s)

Certification by a qualified practising Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance with the above and relevant AS's must be provided to the *PC* prior to the issue of an *OC*.

63. Completion of Road Works

Prior to the issue of an *OC*, the *PC* must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with Council's S138 Roads Act Approval.

Works-as-Executed plans of the extent of roadworks, including any component of the stormwater drainage system that is to revert to Council, certified by a registered surveyor, together with certification by a qualified practising Civil Engineer, to verify that the works have been constructed in accordance with the approved design and relevant AS, must be provided to Council prior to the issue of an *OC*.

The Works-as-Executed plan(s) must show the as-built details in comparison to those shown on the plans approved with the road works permit. All relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

64. Completion of Landscape Works

All landscape works, including the removal of all noxious weed species, are to be undertaken in accordance with the approved landscape plan and conditions of Development Consent, prior to the issue of an *OC*.

65. Positive Covenant – OSD

Prior to the issue of an *OC*, a positive covenant must be created under Section 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to maintain the onsite detention and onsite retention/re-use facilities on the property.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

- a) The proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the onsite stormwater detention facilities ("OSD").
- b) The proprietor shall have the OSD inspected annually by a competent person.

Planning and Environment

Report No. PE65/2022

Planning and Environment



- c) The Council shall have the right to enter upon the land referred to above, at all reasonable times, to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures which comprise the OSD, or which convey stormwater from the said land, and recover the costs of any such works from the proprietor.
- d) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD, or failure to clean, maintain and repair the OSD.

The proprietor, or successor, must bear all costs associated with the preparation of the subject 88E instrument. Proof of registration with the NSW Department of Lands must be submitted to, and approved by, the *PC* prior to the issue of an *OC*.

66. New Stormwater System Proposed

Prior to the issue of an *OC*, the *PC* must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant *AS*.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a licensed plumber or qualified practising civil engineer, that the drainage system has been constructed in accordance with the approved design and relevant *AS*, must be provided to the *PC* prior to the issue of an *OC*.

67. Works-As-Executed Plan

Two (2) copies of a *WAE* plan prepared by a registered surveyor (both marked up in red), must be submitted to, and approved by, the *PC*, clearly showing all aspects of the constructed drainage and / or OSD. The plan must include:

- a) Sufficient levels and dimensions to verify the constructed storage volumes
- b) Location and surface levels of all pits
- c) Invert levels of the tanks, internal drainage line, orifice plates fitted, and levels within the outlet control pit
- d) Finished floor levels of all structures and driveways
- e) Verification that trash screens and/or GPTs have been installed
- f) Locations and levels of any overland flow paths
- g) The *WAE* plan information should be shown on a stamped copy of the approved civil works drawings
- h) Surface levels of pits and surrounding ground levels
- i) Levels of spillways and surrounding kerb
- j) Floor levels of buildings, including garages

Planning and Environment

Report No. PE65/2022

Planning and Environment



- k) Top of kerb levels at the front of the lot
- l) Dimensions of stormwater basins and extent of inundation
- m) Calculation of actual detention storage volume provided

The plan shall be accompanied by a report from the designer stating the conformance or otherwise of the as-constructed basins in relation to the approved design.

The WAE plan and report shall be submitted to and approved by PC prior to the issue of an OC.

68. Compliance with Acoustic Report

Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Reverb Acoustics Pty Ltd, dated June 2022.

Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Certifier prior to the issue of an Occupation Certificate.

Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.

ONGOING USE

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

69. Operational Procedure Requirements

All operational procedures as outlined in the approved Plan of Management (dated December 2021), are to be adhered to in perpetuity.

70. Submission of Annual Fire Safety Statement

An annual Fire Safety Statement must be given to Council and the New South Wales Fire Brigade commencing within twelve (12) months after the date on which the initial Interim / Final Fire Safety Certificate is issued.

71. Outdoor Lighting

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

Planning and Environment

Report No. PE65/2022

Planning and Environment



72. No painting or rendering of masonry or stone

No painting or rendering shall be permitted to masonry or stone surfaces which have not previously been painted or rendered

73. Loading to Occur on-site

All loading and unloading operations are to be carried out wholly within the site, and not from the footpath or roadway for the life of the development.

The loading dock must be used in connection with the approved use.

All loading and unloading operations must be carried out via the entrance in Waratah Street.

74. Noise Complaints

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

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

75. Hours of Operation

The use of the outdoor dining area/beer garden is subject to the following hours of operation:

- Monday to Sunday: 7:00am to midnight

76. Plan of Management

The Plan of Management is to be a working document which is required to be reviewed on an annual basis.

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

77. Complaint/Incident Register Kept Onsite

Formulation and implementation of a complaints/incident handling register detailing the following (at a minimum):

- Name of the person responsible for the overall management of the site and their contact mobile phone number;

Planning and Environment

Report No. PE65/2022

Planning and Environment



- Confirmation that the mobile phone of the person responsible for the overall management of the site will remain switched on during extended trading hours;
- Details of each complainant including name, address, contact details, time and nature of the complaint;
- Action undertaken to address the complaint;
- Follow up contact with the complainant to advise of outcome of action taken to address the complaint;
- All incidents of damage to property;
- All incidents involving criminal/antisocial behaviour on the site; and
- Implementation of any relevant actions to ensure similar issues do not re-occur.

In the event the register is updated, this is to be done within seven (7) days of the complaint / incident occurring.

The complaints handling register is to be kept on the site at all times, and made available to Council officers for inspection, if required.

78. Orderly Dispersal of Patrons

The proprietors of the venue are responsible at all times for the orderly dispersal of patrons from the venue.

79. Management Responsibilities for Patron Behaviour

Management must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. Management is responsible for the control of noise and litter generated by patrons of the premises, and shall ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council.

80. No Amplified Music/Entertainment in Outdoor Area

No amplified music/entertainment is permitted to be played in the outdoor area.

ADVISORY NOTES

(a) Disability Inclusion Act

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Inclusion Act 2014*. The applicant/owner is responsible for ensuring compliance with this, and other, anti-discrimination legislation. The *Disability Inclusion Act 2014* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *AS 1428.1 - Design for Access and Mobility*. *AS1428*

Planning and Environment

Report No. PE65/2022

Planning and Environment



Parts 2, 3 & 4 provide the most comprehensive technical guidance under the *Disability Inclusion Act 2014* currently available in Australia.

(b) “DIAL BEFORE YOU DIG” DIAL 1100

Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au

(c) Other Approval and Permits

The applicant shall apply to Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, and/or any other approvals under *Section 68 (Approvals)* of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

(d) Site Contamination Issues during Construction

Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination, Council must be immediately notified by the applicant, and works must cease. Works must not recommence on site until approval is granted by Council.

(e) Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Relics

If any archaeological relics are uncovered during the course of the work, all works shall cease immediately in that area, and the OEH Heritage Branch shall be contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *NSW Heritage Act 1977*, may be required before further works can continue in that area.

(f) Aboriginal Heritage

As required by the *National Parks and Wildlife Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from the Heritage Division of the OEH.

Note: The *National Parks and Wildlife Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and/or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

Planning and Environment

Report No. PE66/2022

Planning and Environment



SUBJECT: ***OUTCOME OF PUBLIC EXHIBITION - PLANNING PROPOSAL 18/2021/6 TO AMEND CESSNOCK LEP CONSERVATION ZONES***

RESPONSIBLE OFFICER: ***Strategic Planning Manager - Martin Johnson***

SUMMARY

The purpose of this report is to advise Council of the outcome of public and agency consultation carried out in relation to the Conservation Zones Planning Proposal and seek Council's endorsement for the finalisation of this amendment to Cessnock LEP.

RECOMMENDATION

- 1. That Council endorses the Planning Proposal as an amendment to the Cessnock Local Environmental Plan 2011.**
- 2. That the General Manager notify submission makers of Council's decision.**

BACKGROUND

The *Cessnock Local Environmental Plan 2011* is Council's primary planning instrument and came into force on 23 December 2011. The LEP 2011 contains provisions that manage development on land in the Cessnock Local Government Area (LGA); however, the instrument has not been comprehensively reviewed since 2011.

Council's Strategic Planning Team is carrying out a comprehensive review of the LEP 2011, which involves reviewing the instrument to ensure it:

- is current and accurate;
- is responsive to emerging forms of development and market trends;
- reflects the objectives contained in the Draft Hunter Regional Plan 2036 and Greater Newcastle Metropolitan Plan 2036; and
- addresses the outcomes of endorsed local strategies, such as the Cessnock 2027 Community Strategic Plan (CSP) and Local Strategic Planning Statement (LSPS) 2036.

Due to the overall complexity of the project, the comprehensive LEP review is progressing in seven themes, as follows:

- employment land;
- conservation land;
- residential land;
- recreation land;

Planning and Environment

Report No. PE66/2022

Planning and Environment



- rural land;
- special purpose land; and
- miscellaneous matters

Each theme will be subject to one or more planning proposal, which will examine and make recommendations regarding amendments to relevant zone objectives, permissible land uses, clauses and land use mapping. Relevant sections of the Cessnock Development Control Plan (DCP) 2010 will also be amended concurrently, where possible.

The Conservation zones Planning Proposal implements the recommendations of the Cessnock City Council Environmental Zoning Framework adopted by Council in 2021. The Environmental Zones Planning Proposal was reported to Council for consideration on 17 November 2021 under Report PE53/2021. At the meeting, Council resolved to obtain a Gateway determination from DPE in respect of the proposal and then place the proposal on public exhibition. A Gateway determination was requested by Council staff on 14 December 2021 and was subsequently issued by DPE on 31 May 2022.

Please note: after this report was considered by Council in 2021, the DPE changed the name of the then Environmental zones, to Conservation zones. This change applies across NSW.

Consultation occurred with government agencies between 1 September and 14 October 2022. The proposal was publicly exhibited between 31 August and 26 October 2022.

Exhibition resulted in one submission and one response from a State government agency. These are addressed at **Enclosure 1**.

REPORT/PROPOSAL

The Planning Proposal (**Enclosure 1**) relates to the 'Conservation land' theme of the comprehensive LEP 2011 review. The Planning Proposal recommends various amendments to the Cessnock **C2 Environmental Conservation Zone**, **C3 Environmental Management Zone** and **C4 Environmental Living Zone** objectives and land use tables (permissibility of land uses). A separate planning proposal is being prepared for Conservation zone mapping amendments in 2023.

Changes to original proposal, as required by Department of Planning and Environment (DPE)

In order for any planning proposal to proceed, the DPE carries out a preliminary assessment and issues conditions which must be met in what is known as a Gateway determination. The Gateway determination issued by DPE for this planning proposal required the removal of some changes to the permissibility of 'extensive agriculture' which had previously been included in the draft proposal originally considered by Council. These changes were made prior to public exhibition.

Planning and Environment

Report No. PE66/2022

Planning and Environment



Proposed LEP 2011 Amendments

The C2, C3 and C4 Zone land use tables list the various forms of development that are considered to be compatible with the objectives of these zones and therefore permitted with or without consent. The land use tables also list development that is not compatible with the objectives of the zones and these are listed as prohibited development.

NSW legislation mandates certain land uses as permissible or prohibited in each zone across the state. Additional land uses may be included if, in Council's opinion, the mandated uses do not satisfactorily address the local intent of the zone.

The Conservation zones Planning Proposal implements the recommendations of the Cessnock City Council Environmental Zoning Framework adopted by Council in 2021 (**Enclosure 2**) and achieves the following:

1. Amend the C2 Conservation Zone objectives to include the following additional objectives:
 - To protect, manage and restore Aboriginal cultural heritage, threatened ecological communities, key threatened species habitat, biodiversity corridors and important ecosystems.
 - To encourage activities that meet the conservation objective of the zone.
2. Amend the C3 Environmental Management Zone objectives to include the following additional objectives:
 - To protect, manage and restore Aboriginal cultural heritage, water quality, riparian and estuarine vegetation, biodiversity corridors and important ecosystems
 - To recognise lands with environmental hazards in order to protect community and environmental health
 - To provide for low impact agricultural land uses on land with productive value.
3. Amend the C4 Environmental Living Zone objectives to include the following additional objective:
 - To protect, manage and restore biodiversity corridors and facilitate species movement.
4. Amend the C2 Environmental Conservation Zone Land Use Table as follows:

Permit with consent:

Bed and breakfast accommodation, Building identification signs, Business identification signs, Community facilities, Eco-tourist facilities, Emergency services facilities, Flood mitigation works, Home businesses, Home Occupations.

Prohibit:

Home based childcare, Secondary Dwellings, Tourist and Visitor Accommodation.

Planning and Environment

Report No. PE66/2022

Planning and Environment



5. Amend the C3 Environmental Management Zone Land Use Table as follows:

Remove from *permitted without consent*:

Environmental Protection Works

Permit with consent:

Bed and breakfast accommodation, Building identification signs, Business identification signs, Camping grounds, Community facilities, Eco-tourist facilities, Emergency services facilities, Environmental protection works, Extensive agriculture, Farm buildings, Farm stay accommodation, Home businesses; Roadside stalls, Tourist and Visitor Accommodation

Prohibit:

Backpackers' accommodation, Hotel or motel accommodation, Serviced apartments.

6. Amend the C4 Environmental Living Zone Land Use Table as follows:

Remove from *permitted without consent*:

Environmental Protection Works, Home based child care.

Permit with consent:

Eco Tourist Facilities, Environmental Protection Works.

Prohibit:

Animal boarding or training establishments, Camping grounds; Caravan parks; Centre-based child care facilities; Community facilities; Emergency services facilities; Environmental facilities; Farm buildings; Home based child care; Information and education facilities; Landscaping material supplies; Neighbourhood shops; Passenger transport facilities; Plant nurseries; Research stations; Respite day care centres; Secondary dwellings.

OPTIONS

Council has the following options:

1. Council resolve to support the recommendations of this report and submit the Planning Proposal to the Department of Planning, Industry and Environment for finalisation.
This is the recommended option.
2. Request changes to the Planning Proposal.
This option may delay the proposed amendments.
3. Not support the recommendation of this Report for the following reasons:

(To be provided by Council).

CONSULTATION

This Conservation zones Planning Proposal implements the recommendations of the Cessnock City Council Environmental Zoning Framework adopted by Council in 2021. In developing the Environmental Zoning Framework recommendations, Council staff considered community values, community and stakeholder feedback and NSW planning and legislative requirements. Extensive community and stakeholder engagement was undertaken, including:

Planning and Environment

Report No. PE66/2022

Planning and Environment



- Have your say webpage;
- Community reference groups (3 workshops held);
- Councillors workshops/briefings (3 workshops/briefings);
- Community values survey;
- Interactive map; and
- Targeted stakeholder consultation.

Workshops were held with Council's Strategic Planning Team and Development Services Team in late April 2021. On the 11 May 2021, a workshop was held with the Community Reference Group on the draft environmental zoning framework. On 12 May 2021, Councillors were briefed on the draft Framework.

The draft Framework was placed on exhibition from 28 June to 6 August, 2021. Copies of the documents were available on Council's website, at the Cessnock and Kurri Kurri Libraries, and at Council's Administration Office. Community drop-in sessions were held at Kurri Kurri Library and Wollombi Community Hall with 16 people attending. A forum for the development industry was held with 10 attendees and a session was held with the Young Parents Group at CYCOS. Council also made telephone session available so that the community could speak to a planner one-on-one about the draft Framework. Council staff also offered to meet with key stakeholders during the exhibition process.

The community were notified that the Framework was on exhibition via a range of communication methods, including:

- Media release;
- Digital advertisement in Cessnock Advertiser received 14,640 impressions;
- Article in Cessnock City News Rates Newsletter;
- Cessnock City eNews article;
- Social media posts, including:
 - Advertising via Facebook and Instagram received 58,878 impressions
 - Facebook – 2 posts with 6,211 reached and 212 post engagements
 - Instagram – 120 accounts reached
 - Twitter – 141 accounts reached
- Email/letters to stakeholder groups, including:
 - Community Reference Group Members;
 - Local Aboriginal Land Councils;
 - Individuals that signed up for updates;
 - Development Industry;
 - Chambers of Commerce;
 - Community, Environmental and Heritage Groups;
 - Cessnock Youth Ambassadors; and
 - State Government Agencies.

Planning and Environment

Report No. PE66/2022

Planning and Environment



Consultation on the Current Planning Proposal

This Planning Proposal was publicly exhibited in accordance with the Gateway determination and Council's Community Participation Plan. Exhibition included a media release, social media notices, newspaper advertisement in the Cessnock Advertiser, posters at villages and exhibition page on Council's website with the option of contacting the project officer or FAQs for input or additional information. Printed copies of the exhibition material were also available at the Cessnock Council administration building and Cessnock and Kurri Kurri Libraries.

Consultation occurred with government agencies between 1st September and 14th October 2022. The proposal was publicly exhibited between 31st August and 26th October 2022. One public submission was received in response to the exhibition period. A summary of issues raised in the submission and a response to these concerns is included at **Enclosure 3** to this report.

One response to the Planning Proposal consultation was received from a state government agency. A summary of agency feedback is provided at **Enclosure 3** to this report.

STRATEGIC LINKS

a. Delivery Program

The Planning Proposal is consistent with the following themes and objectives of the Cessnock 2027 Community Strategic Plan (CSP):

- Objective 3.1 – Protecting and enhancing the natural environment and rural character of the area
- Objective 5.2 – involving more community participation in decision making

Objective 3.1 of the CSP focus on the conservation and preservation of the natural environment while balancing the impact of development to ensure a sustainable and healthy community.

Objective 5.2 of the CSP focuses on involving the community in decision making processes affecting their future. Consultation is an important component of the Planning Proposal process and ensures outcomes align with the community's expectations in relation to environmental lands and the environment.

b. Other Plans

Hunter Regional Plan 2036

The Hunter Regional Plan (HRP) provides the overarching strategic framework to guide development, investment and planning within the Hunter region to 2036. The HRP sets the following regionally focused goals:

- The leading regional economy in Australia
- A biodiversity-rich natural environment
- Thriving communities

Planning and Environment

Report No. PE66/2022

Planning and Environment



- Greater housing choice and jobs

The Planning Proposal seeks to make amendments to the Cessnock LEP to add zone objectives and amend land use tables for the C2 Environmental Conservation, C3 Environmental Management and C4 Environmental Living zones which will facilitate a biodiversity rich natural environment consistent with the Hunter Regional Plan. In particular the amendments are consistent with the following Directions in the Regional Plan:

- Direction 14 - Protect and connect natural areas;
- Direction 16 - Increase resilience to hazards and climate change.

Greater Newcastle Metropolitan Plan

The Greater Newcastle Metropolitan Plan (GNMP) sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens, which together make up Greater Newcastle. The plan also helps to achieve the vision set in the Hunter Regional Plan 2036 for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart.

The Planning Proposal is consistent with the following strategies and/or actions of the Greater Newcastle Metropolitan Plan:

- Strategy 12 – Enhance the Blue and Green Grid and the urban tree canopy
- Strategy 14 – Improve resilience to natural hazards
- Strategy 18 – Deliver well-planned rural residential housing areas

Cessnock Local Strategic Planning Statement 2036 (LSPS)

The Cessnock Local Strategic Planning Statement 2036 (LSPS) establishes a 20-year vision for land use planning in the Cessnock LGA. The LSPS sets out the important character and values, which are to be preserved and establishes planning principles to manage land use planning in the future.

The following planning priorities and principles are relevant to the proposal:

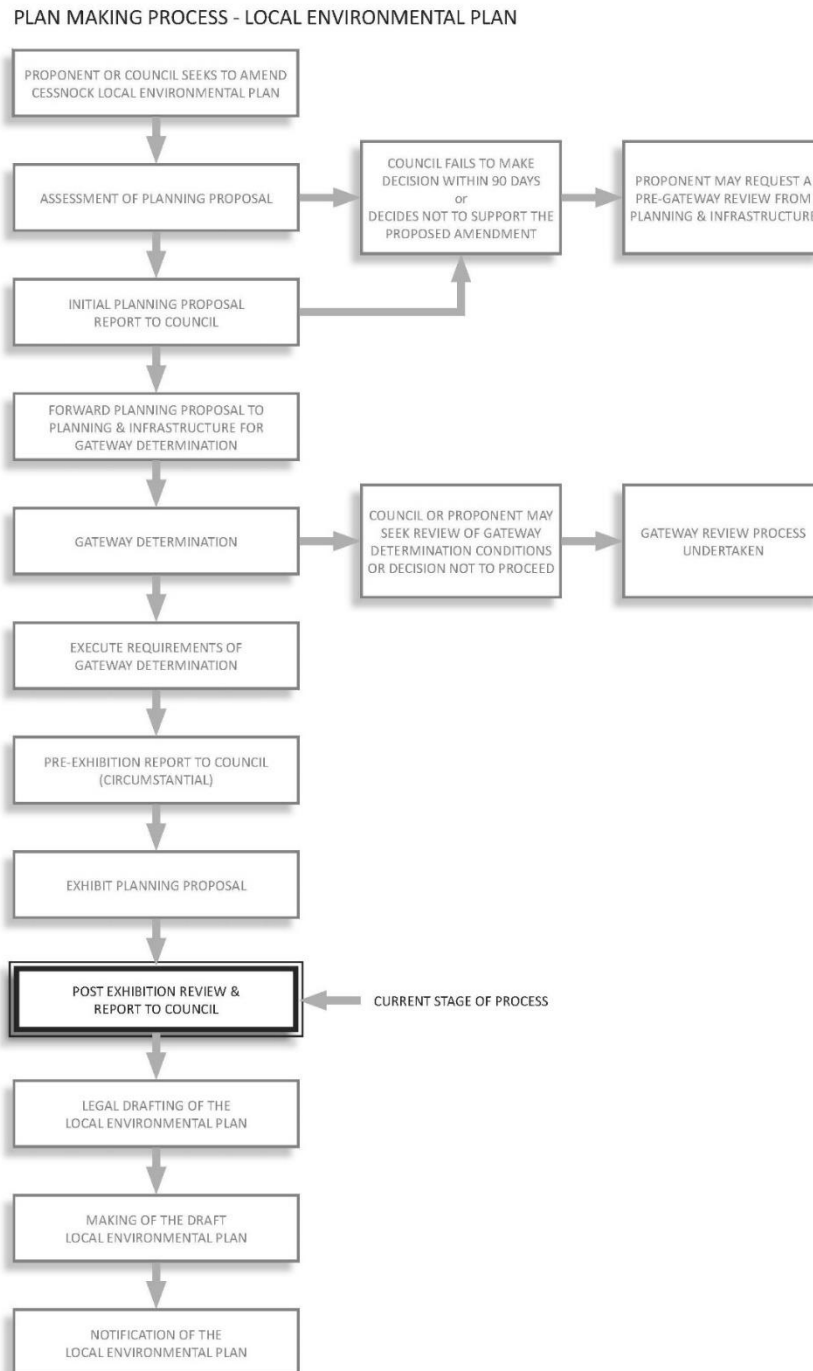
- Planning Priority 6: Rural residential, large lot residential development and environmental living are considered in limited and appropriate locations.
- Planning Priority 10: Our City encourages a variety of niche tourism opportunities.
- Planning Priority 17: Our lands of environmental value are protected and enhanced.
- Planning Priority 18: Our areas of biodiversity and biodiversity corridors are enhanced and protected.
- Planning Priority 19: Our waterways are healthy, and water quality and water security are improved.



IMPLICATIONS

a. Policy and Procedural Implications

The status of the Planning Proposal is identified in the following process flow chart:



Planning and Environment

Report No. PE66/2022

Planning and Environment



b. Financial Implications

Nil

c. Legislative Implications

The Planning Proposal has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the Department of Planning Industry and Environment's Guide to Preparing a Planning Proposal.

d. Risk Implications

N/A

e. Environmental Implications

Many of the proposed amendments contained in the Planning Proposal relate to land that contains important environmental characteristics, including significant vegetation, threatened species or endangered ecological communities. To this land, the Planning Proposal is seeking to apply appropriate planning controls, consistent with Council's comprehensive environmental zone review – the Environmental Zoning Framework adopted by Council in 2021.

f. Other Implications

N/A

CONCLUSION

This report and the associated planning proposal relate to the conservation land theme of the comprehensive LEP 2011 review. The Planning Proposal recommends various amendments to the Cessnock C2 Environmental Conservation Zone, C3 Environmental Management Zone and C4 Environmental Living Zone objectives and land use tables. It is recommended to forward the Planning Proposal to the Department of Planning and Environment (DPE) to finalise the LEP.

ENCLOSURES

- [1](#) ⇨ Planing Proposal _ Cessnock Environmental Zones
- [2](#) ⇨ Cessnock Environmental Zoning Framework
- [3](#) ⇨ Summary of submissions

Planning and Environment

Report No. PE67/2022

Planning and Environment



SUBJECT: *URBAN GROWTH MANAGEMENT PLAN - INTERIM REVIEW*

RESPONSIBLE OFFICER: *Strategic Planning Manager - Martin Johnson*

SUMMARY

At its meeting of 17 August 2022 Council resolved:

- 1. To exhibit the Urban Growth Management Plan – Interim Review for a period of 28 days.**
- 2. That a report be brought back to Council outlining any submissions received during the exhibition period.**

The Urban Growth Management Plan (UGMP) – Interim Review was exhibited for 28 days between 31 August – 28 September 2022.

Two submissions were received during the exhibition period. A minor change to the plan is proposed. It is now considered ready to adopt.

RECOMMENDATION

- 1. That Council notes and adopt the issues raised in the submissions received during the exhibition period.**
- 2. That Council notes and adopts the Urban Growth Management Plan.**

BACKGROUND

Council began drafting the first Cessnock Urban Growth Management Plan (UGMP) in March 2020. At that time, the COVID-19 Pandemic had only just commenced and there was anecdotal evidence that growth figures were higher than the 300-400 dwellings per annum originally forecasted by the Department of Planning and Environment (DPE) and by SGS Economics. By the time the UGMP was adopted in March 2021, the DPE had revised up their projections to 460 dwellings per annum and Council adopted 450 dwellings per annum as the basis for the UGMP.

The UGMP 2021 was a 5-year plan with annual monitoring reporting; however, it anticipated an interim review because at the time it was uncertain about the ways recent events would disrupt growth and if those trends would be sustained. There is still a high level of uncertainty about the endurance of these higher growth rates given the hiatus in the pandemic, return-to-work policies, inflation and the higher interest rates. However, the UGMP is a dynamic plan that is monitored annually. It provides a mechanism to accommodate increased or reduced land uptake in any one year.

REPORT/PROPOSAL

Two submissions were received during the exhibition period and relate to the following areas:

Planning and Environment

Report No. PE67/2022

Planning and Environment



Regrowth – Kurri Kurri (formerly Hydro)

One submission requested the removal of the reference to the Hydro Development and Southern Gillieston Heights Urban Release Area in relation to the Priority Advancement Site at 504, 528 and 532 Main Road.

This has been done and replaced with the following generic statement:

“There is overwhelming merit for these to commence investigation because of:

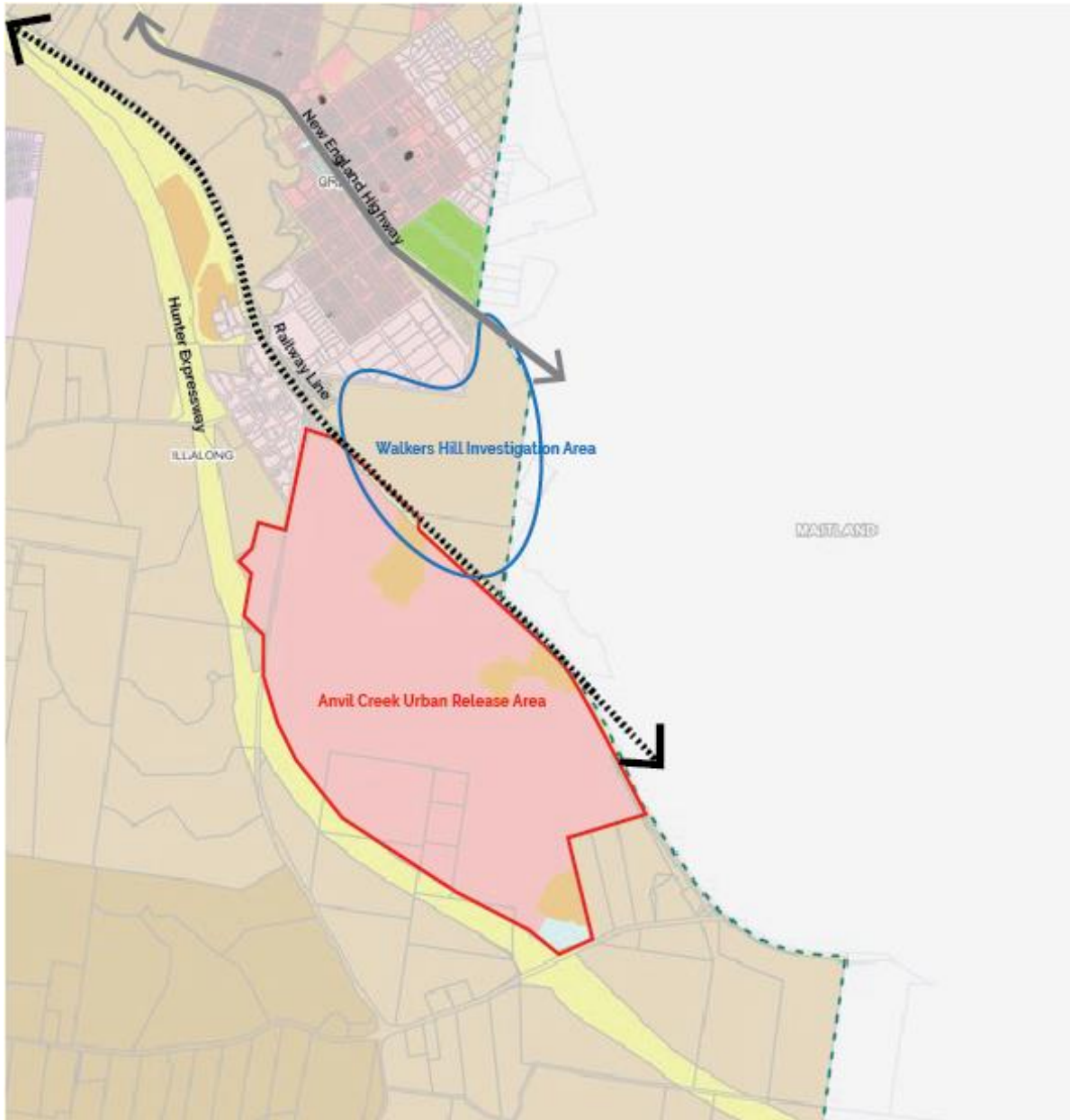
- the activity that is occurring in the Main Road corridor,
- the infrastructure that exists and is being provided in the area; and
- the need to plan and secure satisfactory access arrangements to Main Road.”

The submission also identified an error on the map whereby the investigation area boundary included part of the Hydro development that is currently in the later stage of being rezoned. This has been amended and the submitter has advised that they support the proposed amendments.

Walkers Hill Investigation Area

A submission was received in relation to the Anvil Creek Urban Release Area (URA) and the Walkers Hill Urban Investigation Area.

The Walkers Hill Urban Investigation Area is located immediately north of the Anvil Creek URA and separated by the Hunter Railway line.



Anvil Creek is an Urban Release Area that is already zoned for urban purposes. It is currently limited to 1364 dwellings by clause 7.10 of the Cessnock Local Environmental Plan 2011. The landowners have commenced investigations to remove this limitation and to reconfigure the zoning of the URA. If supported, it is likely to lead to significantly higher yields including a transport-oriented, mixed used development around a potential new train station.

Walkers Hill is nominated as an investigation area in the Commuter Urban Category. The supply threshold (as at June 2022) in the Commuter Urban Category is 17 years. Therefore, the investigation of the Walkers Hill Urban Investigation Area is not supported at this stage. The submission includes various arguments to advance the timing of the Walkers Hill Precinct.

The submission argues that the Walkers Hill Investigation Area is not a new development front but rather an extension to the Anvil Creek Urban Release Area.

Planning and Environment

Report No. PE67/2022

Planning and Environment



Response: Walkers Hill adjoins the Anvil Creek Urban Release Area but it is greenfield land that is not zoned and separated by the rail corridor. Regardless of its proximity to Anvil Creek URA, it is an investigation area for the purposes of the UGMP. Many of the investigation areas adjoin existing urban areas. They have been nominated because they generally adjoin serviced land so infrastructure can be extended into these areas in a sequential and logical manner.

The submission notes that Hunter Regional Plan 2041 is imminent and it is likely to designate the corridor between Anambah and Branxton as a regionally significant growth corridor. It argues that this contributes to the strategic merit of the Walkers Hill Precinct.

Response: The site is nominated as an investigation area in the UGMP. Council has already confirmed the merit of investigating this area for future urban purposes. When the supply threshold reaches 15-years, the investigation of the Walkers Hill area will be supported.

The submission argues that planning can only be done properly if land on both sides of the railway are considered in tandem and that State Government commitment to develop a new train station would be greatly improved if a planning proposal was underway.

Response: One of the most important objectives of the UGMP is to provide certainty to the market and the development industry about when and where development will occur. Advancing the investigation of the Walkers Hill Urban Investigation Area undermines the UGMP and the certainty it provides.

The UGMP nominates the Walkers Hill area as an investigation area, meaning that when the threshold is reached, Council will support the investigation and future rezoning of the investigation area. Maintaining a robust policy framework around the future development of land resources across Cessnock should reinforce the state government confidence that a future development outcome will result. Undermining that policy framework will undermine that confidence.

The landowners and their representatives can plan for the development of both the Anvil Creek and Walkers Hill; however, the formal process of investigation and rezoning Walkers Hill will only occur when the threshold has been reached.

The submission argues that a new road connection from the New England Highway across the railway will be made feasible by including the Walkers Hill Precinct and that there would be improved connectivity and circulation.

Response: The UGMP supports the future investigation of the Walkers Hill Precinct. Once the supply threshold is met, the site can be investigated and the rezoned. Anvil Creek has other points of access and the future investigation of the Walkers Hill will not undermine the future connectivity and connection through the areas and to New England Highway.

The submission argues that the preparation of water and sewer servicing strategies in particular will be easier to prepare if both sites are considered concurrently.

Response: Hunter Water are very effective at planning for future water and sewer services. They will anticipate the eventual rezoning of Walkers Hill because of Council's clear signalling and plan for it accordingly.

Planning and Environment

Report No. PE67/2022

Planning and Environment



The submission argues that there are many reasons why land identified for future supply may not progress to market or why assumed yields are not realised. Likewise, there are many reasons why planning processes associated with urban release areas do not progress as quickly as anticipated.

Response: The argument that rezoning more land to compensate for supplies that may not progress to market or improve the speed of delivery is flawed. One of the main drivers behind the UGMP is to allow Council to actively work at overcoming issues in bringing existing, zoned land online and to ensure that there are adequate resources to investigate future supplies. An active supply pipeline is a more effective means to guarantee market supply than rezoning copious amounts of land and hoping that the market responds.

Conclusion

The UGMP puts in place a policy framework that allows Council to monitor its land supply on an annual basis and responds to changes in the demand and supply.

The primary principle of the UGMP is to support the progress of the investigation areas when the supply in the corresponding lifestyle category falls below 15-years. This has several benefits. Firstly, it provides certainty to the market about when and where development is expected to occur. Secondly, it allows Council to allocate resources to bring existing and identified land online. Thirdly, it encourages the sequential and logical provision of infrastructure.

Walkers Hill is nominated as an investigation area in the Commuter Urban Category. The supply threshold as of 30 June 2022 is 17-years of supply. In the 2022-2023 reporting period this is likely to increase because the former Hydro site will be included next year; however, this may be tempered by the continued high demand. When the supply in the corridor reaches 15 years Council will support the investigation and rezoning of Walkers Hill.

OPTIONS

Nil

CONSULTATION

Extensive consultation was undertaken on the original UGMP and the plan was generally well received. This interim review was exhibited for a period of 28 days in accordance with Council's Community Participation Plan between 31 August – 28 September 2022.

Two submissions were received during the exhibition period. A minor change to the plan is proposed. It is now considered ready to adopt.

Planning and Environment

Report No. PE67/2022

Planning and Environment



STRATEGIC LINKS

a. Delivery Program

Cessnock 2036 Community Strategic Plan

The UGMP aligns to the following objectives of the CSP:

- Objective 1.1: Promoting social connections
- Objective 1.2: Strengthening community culture
- Objective 2.1: Diversifying local business options
- Objective 2.2: Achieving more sustainable employment opportunities
- Objective 3.1: Protecting & enhancing the natural environment & the rural character of the area
- Objective 4.1: Better transport links

Local Strategic Planning Statement 2036

The UGMP is an action of the LSPS and align to the following planning priorities of the LSPS:

- Planning Priority 1: Our urban areas are compact.
- Planning Priority 2: Housing is diverse, adaptable and affordable and our urban areas facilitate affordable living
- Planning Priority 3: The character and vitality of our town centres and villages is protected and enhanced.
- Planning Priority 5: Infrastructure and services meet the needs of our community and are appropriately funded.
- Planning Priority 6: Rural residential, large lot residential development and environmental living are considered in limited and appropriate locations
- Planning Priority 7: Urban development is encouraged in areas with existing infrastructure.
- Planning Priority 8: Our rural land is protected from incompatible development.
- Planning Priority 13: Our industrial land is developed in an orderly manner and meets future development needs.
- Planning Priority 17: Our lands of environmental value are protected and enhanced.
- Planning Priority 21: Developments minimise environmental impacts and respond to site environmental characteristics and natural hazards.
- Planning Priority 22: Our rural landscape is retained and enhanced.
- Planning Priority 30: Growth of our villages occurs in a way that protects their character and setting in the rural and environmental landscape and responds to risk of bushfire and flooding.

b. Other Plans

Draft Hunter Regional Plan 2041

The draft Hunter Regional Plan 2041 (HRP 2041) is the latest iteration of strategic planning for the Hunter, Mid Coast and Central Coast. The Department's regional vision for the Hunter is: "The leading regional economy in Australia, connected to and caring for Country, with a vibrant metropolitan city and sustainable program that adopts the 15-year land supply threshold. The UGMP provides a means to manage land delivery in Cessnock.

Planning and Environment

Report No. PE67/2022

Planning and Environment



The HRP 2041 requires place-strategies (structure plans) for certain thresholds of development. These place-strategies are similar to clause 6.3 of the Standard Instrument LEP that applies to Urban Release Areas and which is already accommodated in Council's UGMP.

The Cessnock LGA is within the "Greater Newcastle District" and the "Hinterland District". The draft HRP 2041 includes targets for infill development. In the Greater Newcastle District these are 80% infill and in the Hinterland District, 60%.

Hunter Regional Plan 2036

The Hunter Regional Plan 2036 (HRP 2036) provides the overarching strategic framework to guide the NSW Government's land use planning priorities and decisions in the Hunter Region. The NSW Government's vision for the Hunter is, "the leading regional economy in Australia with a vibrant new metropolitan city at its heart." To achieve this vision the Government has set four goals for the region:

1. The leading regional economy in Australia
2. A biodiversity-rich natural environment
3. Thriving communities
4. Greater housing choice and jobs.

The HRP 2036 includes directions on housing diversity and the release of land. Direction 22 requires Councils to include guidance in local land use strategies for expanding rural villages and rural-residential development. Direction 25 seeks to monitoring housing and employment supply through an Urban Development Program.

Greater Newcastle Metropolitan Plan

The Greater Newcastle Metropolitan Plan 2036 (GNMP) sets out strategies and actions to capitalise on investment in aviation, transport, education, health and tourism that will drive sustainable growth across the Greater Newcastle. The plan also helps achieve the HRP's vision to be a leading regional economy in Australia.

The GNMP contains directions around land supply and housing. Direction 9.12 of the GNMP requires Greater Newcastle councils to prepare a local strategy that identifies new residential release areas if there is less than 15-year supply of land to meet dwelling projections.

IMPLICATIONS

a. Policy and Procedural Implications

The interim review UGMP will replace the current UGMP as the local policy framework to deliver land for future urban development.

b. Financial Implications

NIL

Planning and Environment

Report No. PE67/2022

Planning and Environment



c. Legislative Implications

The UGMP will be a matter for consideration for any planning proposal seeking to rezone greenfield land across Cessnock under Part 3 of the *Environmental Planning and Assessment Act 1979*.

d. Risk Implications

The UGMP provides a clear signal to the Development and Housing Industries about when and where development will occur. It reduces risk to these industries by providing greater certainty.

e. Environmental Implications

NIL

f. Other Implications

NIL

CONCLUSION

The UGMP provides a framework to advance the investigation of land for future development. It provides a clear signal about where and when development should occur. Land supply thresholds are calculated and reported annually through the Annual Monitoring Report. This ensures that land supplies are responsive to growth and that Council can continue to deliver adequate land supplies to meet the needs of the growing community.

The UGMP – Interim Review has been amended to address the concerns of submission 1. The submission relating to the Walkers Hill Investigation Area seeks to bring forward the investigation of Walkers Hill based on various arguments. None of these are justification for considering the investigation outside the policy framework. Walkers Hill is nominated as an investigation area in the UGMP. When the supply threshold reaches 15-years, Council will support the investigation and rezoning of the area.

ENCLOSURES

- [1](#) Revised Urban Growth Mangement Plan

Planning and Environment

Report No. PE68/2022

Planning and Environment



SUBJECT: *HUNTLEE PLANNING AGREEMENT DRAFT DEED OF VARIATION 3*

RESPONSIBLE OFFICER: *Strategic Planning Manager - Martin Johnson*

SUMMARY

The purpose of this report is to seek Council's endorsement to publicly notify, for 28 days, the Draft Third Deed of Variation to the existing Planning Agreement for Huntlee Stage 1. The Planning Agreement is between Cessnock City Council and Huntlee Pty Ltd ('the Developer'). The objective of the Draft Third Deed of Variation is to align the Planning Agreement with the Stage 1 Major Project Approval for Huntlee (MP10-0137) as modified, ensure Council is receiving an appropriate level of development contributions for the development, and address various issues identified in the Planning Agreement since the document was first executed by the parties in November 2015.

RECOMMENDATION

- 1. That Council publicly notify the Draft Third Deed of Variation to the Planning Agreement for Huntlee Stage 1 for a minimum period of 28 days.**
- 2. That Council delegate authority to the General Manager to execute the Deed of Variation unless unresolved written objections are received during the notification period.**

BACKGROUND

On 16 August 2010, the Huntlee New Town Site (Huntlee) was declared a potential State Significant Site. Subsequently, the Minister for Planning gazetted an amendment to Schedule 3 of the *State Environmental Planning Policy (Major Development) 2005* on 31 December 2010 to include Huntlee.

An application under Part 3A of the *Environmental Planning and Assessment Act 1979* was lodged with the then Department of Planning and Infrastructure on 28 October 2010 seeking approval for Stage 1 of Huntlee, known as the Stage 1 Project Application.

The application for subdivision and infrastructure works for Huntlee Stage 1, covering an area of 355.8 hectares, was approved by the Planning Assessment Commission on 24 April 2013 and encompassed:

- subdivision to create 1,473 residential allotments, 14 super lots, 1 allotment for a primary school; landscaped areas, drainage, public open space and recreation areas;
- associated bulk earthworks; and
- infrastructure, including roads, drainage works and utility services provision.

Council adopted a Planning Agreement for Huntlee Stage 1 on 18 February 2015. The Planning Agreement was subsequently executed and made effective on 18 November 2015.

Planning and Environment

Report No. PE68/2022

Planning and Environment



The First Deed of Variation to the Planning Agreement was adopted by Council on 2 August 2017 and executed on 28 September 2017. The First Deed of Variation involved a minor amendment to the Stage 1 boundary to comply with condition 8 of Modification 5 of the Huntlee Major Project Approval, to include an additional 3.1ha of developable land, an extension of the existing road network and amendments to the plans which were approved under Ministerial delegation by the Planning and Assessment Commission.

On 5 April 2017, Council resolved to support the embellishment of planted medians and verges in Wine Country Drive at Huntlee Town Centre and to amend the Huntlee Planning Agreement to incorporate a five year maintenance period.

A Second Deed of Variation to the Planning Agreement was adopted by Council on 13 December 2017 and executed on 23 March 2018. The Second Deed of Variation was carried out to bring about Council's resolution of 5 April 2017, relating to the embellishment of planted medians and verges in Wine Country Drive, and to amend the timing triggers for the delivery of infrastructure identified in Schedule 2 of the Planning Agreement. The amendment was carried out to align the timing of the plan more closely with the growth in population and corresponding demand for the facilities at Huntlee.

REPORT/PROPOSAL

The Draft Third Deed of Variation to the Huntlee Planning Agreement (see **Enclosures 1 and 2**) was initiated by Council and the Developer to align the Planning Agreement with the Stage 1 Major Project Approval for Huntlee, as amended. The Draft Third Deed of Variation has also been prepared to ensure Council is receiving an appropriate level of contributions in relation to the modified development and to address various issues identified in the Planning Agreement since the document was first executed by the parties in November 2015.

Since 28 October 2010, the Stage 1 Major Project Approval for Huntlee has been modified by the NSW State government 16 times at the request of the Developer. An additional two modifications are currently under assessment by the state government, being Modification 14 and Modification 20. As a result of the modifications that have occurred since the Major Project was first approved, aspects of the Planning Agreement have become inconsistent with the Major Project Approval and need be updated to align the plans and ensure Council is receiving an appropriate level of contributions in relation to the development.

The Draft Third Deed of Variation to the Huntlee Planning Agreement seeks to amend the document to:

- reflect modifications to the Huntlee Major Project Approval, which have occurred since the agreement was originally entered into;
- permit certain infrastructure, listed as Development Contribution Items 5, 6, 7, 8, 9, 12 and 15 in Schedule 2 of the Agreement, to be constructed and dedicated to Council as discrete items, rather than collectively in project substages;
- reflect legislative changes that have occurred since the Agreement was first entered into by the Developer and Council;
- clarify certain definitions in the Planning Agreement;
- include a new clause permitting (as an option) the developer to deliver the Community Hub in lieu of the monetary contribution for that item;

Planning and Environment

Report No. PE68/2022

Planning and Environment



- clarify that the maximum monetary contribution amount specified in Schedule 2 must be indexed in accordance with the Consumer Price Index (CPI), as defined in the Planning Agreement;
- clarify that allotments listed in Schedule 5 of the Planning Agreement are wholly excluded from the payment of section 7.12 contributions in accordance with the original intent of the agreement; and
- update Schedule 2 of the Planning Agreement to reflect the outcome of negotiations between the developer and Council and reflect an increase in development contributions resulting from a rise in lot yield over successive modifications to the Major Project Approval (from 1473 lots to 1919 lots).

The amendments contained in the Third Deed of Variation to the Huntlee Planning Agreement have been negotiated with the proponent and further details of this negotiation are provided in the Consultation Section of this report. A copy of the amended Draft Planning Agreement is **provided under separate cover**.

OPTIONS

1. That Council publicly notify the Draft Third Deed of Variation to the Planning Agreement for Huntlee Stage 1 for a minimum period of 28 days; and

That Council delegate authority to the General Manager to execute the Deed of Variation unless unresolved written objections are received during the notification period.

This is the recommended option.

2. Not adopt the recommendation and take no further action.

CONSULTATION

Consultation occurred with LWP Group Pty Ltd to determine the content of the Draft Third Deed of Variation. As per the requirements of the *Environmental Planning and Assessment Act, 1979*, the Deed will need to be publicly notified for 28 days.

In negotiating the Third Deed of Variation to the Huntlee Planning Agreement, consultation has occurred with Council's Community and Cultural Engagement Team and Open Space and Community Facilities Team.

Planning and Environment

Report No. PE68/2022

Planning and Environment



Summary of Negotiated Amendments

Negotiated Amendments	Details
<u>Definitions</u>	
Definition, Individual WIK Component	New definition included at the request of the Developer to allow for certain infrastructure to be constructed and dedicated to Council as discrete items, rather than collectively in project substages, as set out in the existing Planning Agreement. Council staff do not object to the proposed amendment, which will enable a more timely dedication of the Schedule 2 works and monetary contributions to Council.
Definition, Security Amount	Definition amended by both parties to clarify that the value of the security amount for Schedule 2 works is to be calculated using the estimated or tendered construction cost, rather than the value specified in Schedule 2 of the Planning Agreement. Council staff do not object to the proposed amendment on the basis that an estimated or tendered construction cost is often more reliable than the values listed in Schedule 2 for those works.
Clause 7.2 - Delivery of Community Hub in lieu of monetary contribution	Clause amended at the request of the Developer to enable the Developer (as an option) to deliver the Community Hub on behalf of Council in lieu of the monetary contribution for that item. Council staff do not object to the proposed amendment on the basis the Developer benefits from an economy of scale at Huntlee and is likely able to deliver the Community Hub for less than it would cost Council. The proposed amendment is also at no risk to Council.
Clause 7.3(d) - Clarification of CPI adjustment for Schedule 2 monetary contributions	Clause amended at the request of Council staff to clarify that the monetary contributions for the Schedule 2 works are subject to CPI.
Clause 9 and Schedule 1 – Application of sections 7.11 and 7.12	Clause amended at the request of Council staff to clarify the original intent of the original clause.
Schedule 2 – Development Contributions	
• Item 1 – Community Building	Item removed at the request of Council staff. Works in kind contribution of \$1.25M transferred to Item 2, Community Hub. The amendment reflects Council’s preference for community facilities to be co-located within multi-purpose centres.
• Item 2 – Community Hub	Community Hub redefined as library (1,127m ²), multi-purpose centre (1,100m ²) and neighbourhood centre (500m ²) at the request of Council staff. Monetary contribution increased from \$5,455,000 to \$8,570,312. The monetary contribution includes \$1.25M transferred from Item 1, Community Building, and \$1.2M transferred from Item 14, Childcare / Government Pre-schools.

Planning and Environment

Report No. PE68/2022

Planning and Environment



- The increased contribution also reflects the rise in development lot yield over successive modifications to the Major Project Approval (from 1473 lots to 1919 lots).
- Item 4 – Local Sports Fields
Item removed at the request of Council staff. Works in kind contribution of \$3,444,600 transferred evenly between Item 6, District Parks, and Item 12, District Sports Field. The amendment reflects the direction of Council’s adopted Recreation and Open Space Strategic Plan (ROSSP) that “no additional Local Sportsgrounds are supported in the future due to the overall surplus across the LGA and their high establishment and maintenance cost relative to their recreational value”.
 - Item 5 – Core Riparian Zones
Item amended at the request of the Developer to permit works to be constructed and dedicated to Council as discrete items, rather than collectively in project substages. The works in kind contribution associated with Item 5 has also been increased from \$2,253,800 to \$2,505,289 to reflect a rise in development lot yield over successive modifications to the Major Project Approval (from 1473 lots to 1919 lots).
 - Item 6 – District Parks
The number of District Parks to be provided by the Developer has been increased from 2 to 3 at the request of Council and the total area of land to be dedicated to Council for district parks has been reduced from 8.28ha to 6.79ha. The amendment aligns with Council’s adopted ROSSP, which outlines that the minimum size of a district park is to be 2ha of usable land. The works in kind contribution associated with Item 6 has been increased from \$5,179,125 to \$6,901,425. The increase is a result of \$1,722,300 having been transferred from Item 4, Local Sports Fields.
 - Item 7 – Local Parks
The number of local parks to be provided by the Developer has been reduced from 8 to 7 at the request of Council. The anticipated Huntlee Stage 1 population is 6,787. Council’s ROSSP requires 1 local park per 1000 people. Therefore 7 parks are required in Huntlee Stage 1. The total area of land to be dedicated to Council for district parks has been reduced from 4.67ha to 3.44ha. The value of the works in kind contribution has not been changed and remains \$3,482,900. The amendment generally aligns with Council’s adopted ROSSP, which outlines that the minimum size of a local park is to be 0.5ha of usable land.
 - Item 11 – Regional Recreation Facilities
The monetary contribution associated with Item 11 has been increased from \$1M to \$1,121,964 to reflect a rise in development lot yield over successive modifications to the Major Project Approval (from 1473 lots to 1919 lots).

Planning and Environment

Report No. PE68/2022

Planning and Environment



- Item 12 – Regional Sports Field
At the request of Council, the requirement for one Regional Sports Field is to be replaced with a requirement for two district sports fields and the total area of land to be dedicated to Council for district parks has been reduced from 10 to 9.63ha. The monetary contribution associated with Item 12 has been increased from \$2,275,588M to \$2,553,122 to reflect a rise in development lot yield over successive modifications to the Major Project Approval (from 1473 lots to 1919 lots). A works in kind contribution of \$1,722,300 has also been transferred from Item 4, Local Sports Fields. The first District Sports Field is to be provided at the 1,500th lot and the second at the 2,500th lot.

- Item 14 – Childcare / Government Pre-schools
Item removed at the request of Council staff. Works in kind contribution of \$1,200,000 transferred to Item 2, Community Hub. Council is no longer involved in the management and operation of childcare centres or government pre-schools.

- Item 15 – Wine Country Drive Planted Median Maintenance
Item amended at the request of the Developer to acknowledge dedication of the planted medians (0.25ha) to Council.

- Schedule 2, Land Dedication
Staging Plan updated included to clarify the location of Individual WIK components, as defined in the Planning Agreement.

- Schedule 5 – Land wholly excluded from the application of section 7.12 of the Act
Schedule 5 included to clarify allotments that are wholly excluded from the payment of section 7.12 contributions.

STRATEGIC LINKS

a. Delivery Program

The Huntlee Stage 1 Planning Agreement, in which the Draft Third Deed of Variation seeks to amend, will contribute positively to the desired outcomes of the Community Strategic Plan and Delivery Programs aligning with the following objectives of the Cessnock 2027 Community Strategic Plan:

- 1.1 – Promoting Social Connections;
- 1.2 – Strengthening Community’s Culture;
- 1.3 – Promoting Safe Communities;
- 1.4 – Fostering an Articulate and Creative Community;
- 2.3 – Increasing Tourism Opportunities and Visitation in the Area; and
- 3.2 – Better Utilisation of Existing Open Space.

b. Other Plans

Not Applicable

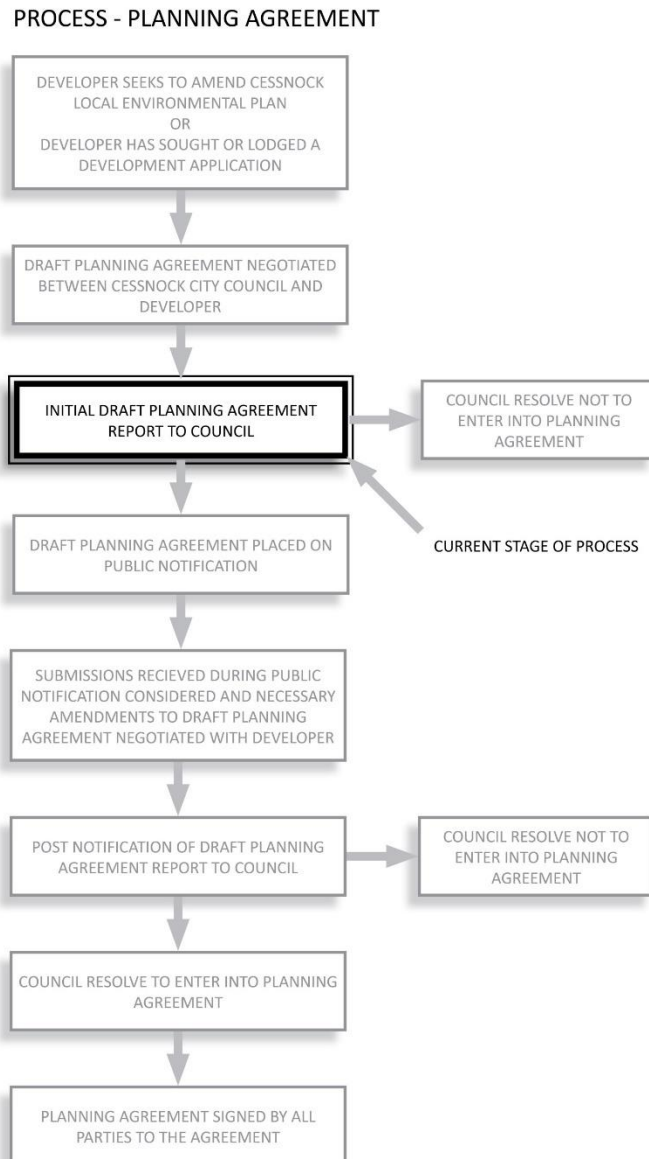


IMPLICATIONS

a. Policy and Procedural Implications

The Draft Third Deed of Variation has been prepared in accordance with the Huntlee Stage 1 Planning Agreement and relevant legislation under the *Environmental Planning and Assessment Act 1979*.

As an amendment to an existing Planning Agreement, the Draft Third Deed of Variation follows the same procedures as a Planning Agreement. Accordingly, the current status of the Draft Third Deed of Variation is identified in the following flow chart.



Planning and Environment

Report No. PE68/2022

Planning and Environment



b. Financial Implications

In accordance with clause 19 of the Huntlee Stage 1 Planning Agreement, the Developer agrees to bear all costs, including Council's costs, associated with reviewing, preparing, negotiating, amending, executing and stamping the Planning Agreement and any document related to the Planning Agreement. This Draft Third Deed of Variation to the Huntlee Stage 1 Planning Agreement relates directly to the Huntlee Stage 1 Planning Agreement, therefore all costs to Council in association with the Deed will be borne by the developer.

c. Legislative Implications

This Report and the Draft Third Deed of Variation (**included under separate cover**) have been prepared with regard to the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

d. Risk Implications

It is considered that there are minimal risk implications associated with the Draft Second Deed of Variation to the Huntlee Stage 1 Planning Agreement. The developer is still required to deliver all the same infrastructure required by the community, with only the timing of the delivery to be altered.

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

The Draft Third Deed of Variation to the Huntlee Planning Agreement was initiated by Council and the Developer to align the Planning Agreement with the Huntlee Stage 1 Major Project Approval MP10-0137. The Draft Third Deed of Variation has also been prepared to ensure Council is receiving an appropriate level of contributions in relation to the modified development and to address various issues identified within the Planning Agreement since the document was first executed by the parties in November 2015.

It is recommended that Council publicly notify the Draft Third Deed of Variation to the Planning Agreement for Huntlee Stage 1 for a minimum period of 28 days and delegate authority to the General Manager to execute the Deed of Variation, unless unresolved written objections are received during the notification period.

ENCLOSURES

- 1 ➡ Deed of Variation 3 to the Huntlee VPA
- 2 ➡ Deed of Variation 3 to the Huntlee VPA (Annexure A)

Planning and Environment

Report No. PE69/2022

Planning and Environment



SUBJECT: *AGRITOURISM PLANNING REFORMS*

RESPONSIBLE OFFICER: *Strategic Planning Manager - Martin Johnson*

SUMMARY

The purpose of this report is to provide an update to the planning reforms relating to agritourism. It seeks Council's endorsement to exclude exempt and complying development for agritourism land uses from the RU4 Primary Production Small Lots zone.

RECOMMENDATION

1. That Council advise the Department of Planning and Environment that Council:
 - (a) confirms the inclusion of "agritourism" as a permissible land use within the RU2 Rural Landscape and RU4 Primary Production Small Lots zones within *Cessnock Local Environmental Plan 2011*;
 - (b) no longer seeks to incorporate optional Clause 5.24 within *Cessnock Local Environmental Plan 2011*; and
 - (c) seeks the entirety of the RU4 Primary Production zone to be mapped on the Agritourism and Farm Stay Accommodation Exempt and Complying Development Map to prohibit exempt and complying development for the purposes of Agritourism within the zone.

BACKGROUND

In April 2022, Council considered a report which outlined planning reforms proposed by the Department of Planning and Environment (DP&E) that proposed to make it easier for farmers to undertake complementary agritourism activities on their farms.

These amendments included the establishment of a new land use term, *agritourism*, with sub-group terms including:

- *farm gate premises* (e.g. fruit picking, cellar door premises, cafes, restaurants etc.);
- *farm experience premises* (e.g. horse riding, weddings, functions, group tours etc.)
- *farm stay accommodation* (where visitors can stay in buildings or moveable dwellings such as tents or caravans).

Exempt and complying development for each of these sub-group land use terms were also proposed by the reforms.

Council was given the opportunity to identify whether it wished for these uses (under the group term *agritourism*), to be permitted within the RU2 Rural Landscape and RU4 Primary Production Small Lots zones. Council was also requested to identify whether it wished to "opt in" to two new optional clauses relating to *farm stay accommodation* and *farm gate premises*.

Planning and Environment

Report No. PE69/2022

Planning and Environment



At its meeting of 20 April 2022, Council resolved to support the inclusion of *agritourism* as a permitted use with consent within the RU2 Rural Landscape and the RU4 Primary Production Small Lots zones.

Further, Council resolved to adopt the optional clause relating to farm gate premises, so long as *cellar door premises* was removed from the operation of the clause. This was in order to ensure that cellar doors within the RU4 Primary Production Small Lots zone would not be restricted in terms of size or number of patrons, given their economic contribution to the region.

At this same meeting, Council also resolved to progress a Planning Proposal in respect of the Vineyards District, relating to land zoned RU4 Primary Production Small Lots.

REPORT/PROPOSAL

The DP&E has advised of the implementation of the agritourism reforms, some of which will commence on 1 December 2022, including those relating to exempt development.

Some aspects of the reforms are discussed below.

Exempt and Complying development

Farm gate premises, farm experience premises and farm stay accommodation will become permissible as exempt development in the RU2 Rural Landscape and RU4 Primary Production Small Lots zones and those zones which permit extensive agriculture, or intensive plant or livestock agriculture. This includes the RU5 Village, R5 Large Lot Residential, C2 Environmental Conservation and the C4 Environmental Living zones. It will also be permissible in the C3 Environmental Management zone as per the changes proposed through the Environmental Zoning Framework.

Additionally, development for the purposes of rebuilding farm buildings damaged by natural disasters, roadside stalls and agritourism signage will also be permissible as exempt development within the same zones.

For the above purposes, exempt development may be undertaken on any land within these zones, provided it is ancillary to a commercial farm (with some limited exclusions e.g. land which contains heritage items etc.). A commercial farm is a farm which is categorised as “farmland” for rating purposes, or, has Primary Production status for taxation purposes. There are approximately 1,500 parcels within the LGA within the permissible exempt zones that are rated as “farmland”.

Farm gate premises and farm experience premises (including their sub-group land use terms) and farm stay accommodation will become permissible as complying development in the RU2 Rural Landscape and RU4 Primary Production Small Lots zones, where agritourism is permissible.

In the case of both exempt and complying development the land uses, buildings or structures must generally not be located within:

- 50m of a property boundary or waterway;
- 250m of residential accommodation on neighbouring land (including land separated by a road); or

Planning and Environment

Report No. PE69/2022

Planning and Environment



- 250m of active land uses (such as forestry, intensive livestock or plant agriculture, extractive industries etc.)

Other development standards for exempt and complying development for farm gate premises, farm experience premises and farm stay accommodation are summarised in **Enclosure 1**.

The above land uses, along with the exempt and complying development standards have been further considered, with the view to informing the suitability of alternative approval pathways for each use, as outlined below.

Farm Stay Accommodation

Under the provisions, farm stay accommodation comprising up to six moveable dwellings (such as caravans and/or tents) on commercial farms of 15 hectares or greater will be permissible without any consent. There are no restrictions in relation to this use occurring on flood or bushfire prone land.

The provisions will enable this type of development for the first time within the Vineyards District. This conflicts with feedback from the Vineyards District working group that identified that caravans and/or camping grounds are not a desired form of tourist accommodation in the locality.

Further, as exempt development, there is no opportunity for assessment of the visual impacts related to the siting or placement of such structures, nor in relation to building materials. Both are important considerations within the draft local character statement within the Vineyards District Planning Proposal. Similar concerns relate to enabling this use through the complying development pathway.

It is therefore recommended that the RU4 Primary Production Small Lots zone be excluded from application of exempt and complying development. This can be achieved by mapping the RU4 Primary Production Small Lots zone on the Agritourism and Farm Stay Accommodation Exempt and Complying Development Map.

Farm stay accommodation will still be able to be undertaken subject to development consent from Council.

The mapping is recommended to be restricted to the RU4 Primary Production Small Lots zone, and not expanded to the RU2 Rural Landscape zone, nor other zones which will permit farm stay accommodation as exempt development. It is unlikely that such a request will be supported by the DP&E.

Farm Gate Premises and Farm Experience Premises

Similar concerns to enabling exempt and complying development pathways to provide farm gate premises and farm experience premises exist, particularly in relation to potential impacts on local character and scenic landscape preservation, but to a lesser extent.

These uses are already permissible in the RU4 Primary Production Small Lots zone. And whilst function centres (a form of farm gate premises) are proposed to be prohibited through the Rural Lands Planning Proposal in the RU2 Rural landscape zone, the smaller scale uses enabled as exempt and complying development through these reforms are consistent with the

Planning and Environment

Report No. PE69/2022

Planning and Environment



initial justification for adoption of the optional clause mooted initially by the reforms (see discussion below).

However, if Council resolve to map the RU4 Primary Production Small Lots zone on the Agritourism and Farm Stay Accommodation Exempt and Complying Development Map, farm gate premises, farm experience premises, roadside stalls, agritourism signage, and rebuilding farm buildings damaged by natural disasters will not be able to be undertaken as exempt or complying development in that zone.

Optional Clause - Farm gate premises

The optional clause relating to farm gate premises has been amended to remove the numerical standards originally proposed.

These standards, along with minimum setback requirements, have been incorporated as standards for exempt and complying development.

The primary intent for the adoption of this clause was to limit the scale of farm gate premises in the RU2 Rural Landscape zone, to ensure that the impacts to the rural landscape would be minimal. As the development standards have been incorporated as exempt and complying development standards, it has little work to do that is not already undertaken by matters for consideration for a development application under the *Environmental Planning and Assessment Act, 1979*.

It is therefore recommended that Council no longer adopt this optional clause within CLEP 2011.

IMPLICATIONS

a. Policy and Procedural Implications

This report has regard to the provisions of the *Environmental Planning and Assessment Act 1979* and associated Regulations. The report also has regard to the provisions of the *Standard Instrument (Local Environmental Plans) Order 2006* and the CLEP 2011.

b. Financial Implications

Nil

c. Legislative Implications

Agritourism, including sub-group terms will become permissible with consent in the RU2 Rural Landscape and RU4 Primary Production Small Lots zones when the reforms are implemented in full.

Additionally, agritourism, including sub-group terms will become permissible as exempt or complying development within the RU2 Rural Landscape, RU5 Village, R5 Large Lot Residential, C2 Environmental Conservation and the C4 Environmental Living zones. In future, it will also be permissible in the C3 Environmental Management zone as exempt or complying development.

Planning and Environment

Report No. PE69/2022

Planning and Environment



Should Council resolve to adopt the recommendations of this report, agritourism, including sub-group terms, will not be able to be undertaken as exempt or complying development within the RU4 Primary Production Small Lot zone.

They will remain as permissible land uses within the RU2 rural Landscape and RU4 Primary Production Small Lots zones but subject to assessment and approval of a development consent.

d. Risk Implications

Nil

e. Environmental Implications

The exclusion of the RU4 Primary Production Small Lots zone from exempt and complying development approval pathways will help to ensure the Vineyards District character is retained and enhanced and that impacts to lands of environmental value are minimised.

f. Other Implications

Nil

CONCLUSION

This report outlines the implications of reforms relating to Agritourism. It identifies that without intervention, there is potential for exempt and complying development to be undertaken within the Vineyards District that is incompatible with the existing and desired future character of the locality. To mitigate against this, it is recommended that Council request the DP&E to include the RU4 Primary Production Small Lots Agritourism and Farm Stay Accommodation Exempt and Complying Development Map.

ENCLOSURES

- [1](#) Agritourism and small-scale agriculture development - Information sheet

SUBJECT: *ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2022*

RESPONSIBLE OFFICER: *Chief Finance Officer – Matthew Plumridge*

SUMMARY

The purpose of this report is to present the audited financial statements for the year ended 30 June 2022 to Council and the public in accordance with Section 419 of the *Local Government Act 1993*.

RECOMMENDATION

1. That the Annual Financial Statements, incorporating the Auditor's Reports for the year ended 30 June 2022, be received and the information be noted.
2. That Council notes the Audit Office of NSW issued a qualified audit opinion with respect to the year ended 30 June 2022 due to Council not recognising Rural Fire Service fleet assets in the General Purpose Financial Statements, which aligns to the existing Policy Position and Council resolution relating to this matter
3. That Council reaffirms its position in regards to not recognising RFS fleet assets; that RFS fleet assets are not controlled by Council; that rural firefighting equipment is vested in, under the control of and the property of the State and notes the significant sector wide campaign on this issue.
4. That Council reaffirms its complete support of and commitment to local RFS brigades and that Councils position in regards to asset recognition does not impact on that support or the volunteers within the LGA.

BACKGROUND

Section 413(1) of the *Local Government Act 1993* requires Council to prepare General Purpose Financial Reports for the financial year ending 30 June. Following audit, the Annual Financial Statements for 2021-22 are required to be presented to Council and the community.

REPORT

Following audit finalisation, the financial statements are now presented to the Council for information. (Annual Financial Statements 2021-22 including Audit Reports are included as an enclosure and are available on Council's website).

The draft Financial Statements were presented to the Council on 7 September 2022 (Report No. CC70/2022) and Council formally referred the statements for audit. The Statement by Councillors and Management was signed in accordance with that resolution by the Mayor, the Deputy Mayor, the General Manager and the Responsible Accounting Officer.

Corporate and Community

Report No. CC86/2022

Corporate and Community Services



Following audit, the Annual Financial Statements for 2021-22, the Engagement Closing Report and Report on the Conduct of the Audit are presented to the Council for information. The Statements were lodged with the Office of Local Government prior to the 31 October 2022 lodgement deadline.

As anticipated, the Audit Office of NSW has issued a qualified audit opinion with respect to the year ended 30 June 2022 due to Council not recognising Rural Fire Service assets in the General Purpose Financial Statements, which aligns to the existing Policy Position and Council resolution relating to this matter. The full Auditor's Report are contained within the financial statements.

Audit and Risk Committee

The Annual Financial Statements and Audit Reports were presented for review to the Audit and Risk Committee at its meeting on 27 October 2022. Following review and discussion with management and the external auditors regarding the statements and changes since the draft version, the Committee has made the following recommendations:

That the Audit and Risk Committee receives and endorses the audited Annual Financial Statements for the year ended 30 June 2022 for presentation to Council and the public at the Ordinary Council Meeting of 16 November 2022.

Summary of changes since draft Statements

Since the draft financial statements were provided to Council on 7 September 2022 there have been a number of changes made resulting in a movement of the Net Operating Result from \$3.0m to \$0.6m including the following:

Corporate and Community

Report No. CC86/2022

Corporate and Community Services



Item	Note	Note Description	Change	Initiated By	Impact Net Result \$'000
Net Operating Result (excluding capital grants and contributions) in draft statements					\$3,009
1	B3-2 C1-3	Restricted cash, cash equivalents and investments	Write off Greta Tfer Station Petty Cash (\$100)	Council	\$0
2	B3-5 C1-2 G4-1	Other expenses Financial investments Changes in accounting policy	Write off arrangement with Arrow Collaborative Services Ltd	Council Auditors	-\$383
3	SOCE B3-5 C4-1	Statement of Changes in Equity Other expenses Nature and purpose of reserves	Adjust TCorpIM Growth Fund movements through operating statement/accumulated surplus Remove Financial Asset Reserve	Auditors	-\$423
4	B3-5 C3-5 B5-1	Other expenses Provisions Material budget variations	Adjust provision for former landfill sites remediation estimates	Auditors	- \$2,210
5	SOCE B3-4 C1-8 E2-1 G4-2	Statement of Changes in Equity Depreciation Infrastructure, Property, Plant, Equipment Fair value measurement Correction of errors	Adjust prior period error for tip asset into current year, bring reversal of depreciation into current year	Auditors	\$625
Net Operating Result (excluding capital grants and contributions) in final statements					\$618

Corporate and Community

Report No. CC86/2022

Corporate and Community Services



The below table includes changes that have not affected the operating result (other than typographical and reference corrections):

Item	Note	Note Description	Description of Change	Initiated By
6	A1-1	Basis of preparation	Minor typographical changes to align with the Code and add transparency	Auditors
7	B1-1	Functions or activities	Adjustments related to all of above	Auditors
8	B2-4	Grants and Contributions	Contributions - remove lines with no data and consolidate	Auditors
9	B2-4	Developer contributions	Correct disclosures between s7.4 and s7.11 income	Council
10	B2-5	Interest and investment income	Itemise distributions from managed funds as dividends at FVTPL rather than amortised cost	Auditors
11	B5-1	Material budget variations	Revisions to commentary related to any applicable changes above	Council
12	C1-2	Financial investments	Reallocate Tcorp managed fund from amortised cost to FVTPL	Auditors
13	C1-4	Receivables	Provision for doubtful debts: strengthen Covid message re community hardship support Remove movement in provision for impairment as not required by the Code	Audit & Risk C'tee Auditors
14	C1-5	Inventories	Remove movements in other disclosures as not required by the Code	Auditors
15	C1-8	Infrastructure, Property, Plant, Equipment	Removed current year impairments being nil	Auditors
16	C1-8	Infrastructure, Property, Plant, Equipment	Depreciation/useful lives on swimming pools aligned between notes	Auditors
17	C1-8 C1-7a	Infrastructure, Property, Plant, Equipment Non-current assets held for sale	Transfer held for sale land to IPPE as auditors advised not immediately available for sale	Auditors
18	C1-8 E2-1 SOCE	Infrastructure, Property, Plant, Equipment Fair Value Measurement Statement of Changes in Equity	Apply indexation to operational land, community land and land under roads	Auditors
19	C2-1	Leases	Hide nil references to buildings and vehicles	Auditors
20	C3-1	Payables	Move Prepaid rates from Accrued Expenses to line within Payables	Auditors
21	C3-2	Contract Liabilities	Notes - (ii) Remove Note as not relevant	Auditors
22	C3-5 E2-1 E3-1 2(ii)	Provisions Fair value measurement Contingencies	Expand commentary for orphan sites with "continuing to investigate"	Audit & Risk C'tee
23	D1-1	Interests in joint arrangements	Remove last line in accounting policy	Auditors
24	G2-1	Commitments	Remove lines not required	Auditors

Corporate and Community

Report No. CC86/2022

Corporate and Community Services



Item	Note	Note Description	Description of Change	Initiated By
25	G5-3	Developer Plans	Plan - Averys Village Heddon Greta - Interest Income corrected from Other to Transport (\$5k)	Council
26	H1-1	Statement of Performance Measures	Change commentary to include Natural Disaster Funding received that would lower the Own Source Operating Revenue ratio	Council
27	H1-3	Council information	Update General Manager	Auditors

As per previous Statements, Council continues the practice of recognising Rural Fire Service land and buildings which are owned by Council but not recognising Rural Fire Service plant and equipment within Council's financial accounts. As reported and accepted by Council in CC58/2002 on 20 July 2022, this is as in Council's opinion the criteria for recognition of the RFS assets per the AASB Accounting Standards is not met. Council's opinion remains that it does not have control of Rural Fire Service plant and equipment, a position that is wide spread across the local government sector.

Financial Report Requirements

The financial statements set out the financial performance, financial position and cash flows of Council at each year ending 30 June. The financial statements are supported by detailed notes to the financial statements.

Council is required under Section 413(1) of the *Local Government Act 1993* to prepare financial reports each year and refer them for audit. The financial reports must include a general purpose financial report, any other matter prescribed by the regulations and a statement in the approved form by the Council as to its opinion on the general purpose financial reports. These financial reports are also required to be lodged with the Office of Local Government by 31 October 2022.

The Statement by Councillors and Management was authorised by a resolution of Council on 7 September 2022 and was signed in accordance with that resolution by the Mayor, a Councillor, the General Manager and the Responsible Accounting Officer.

Financial Report Summary

The Income Statement shows a Net Operating Surplus of \$50.4m compared to a surplus of \$36.6m in 2020-21. The Net Operating Result before Capital Grants and Contributions shows a surplus of \$0.6m compared to a deficit of \$9.9m in 2020-21.

The change in the result from the prior year was attributable to a number of factors including the sale of Vineyard Grove, additional 25% prepayment of the Financial Assistance Grant and natural disaster funding; offset by additional accounting provision made for remediation of former landfill sites, write-off of previously recognised equity in Arrow Collaborative Services Ltd and write-off of unrealised losses on TCorp managed fund for 2021-22. Furthermore, the operating result has once again been impacted by losses on disposal of infrastructure assets due to renewal prior to end of effective lives.

Corporate and Community

Report No. CC86/2022

Corporate and Community Services



The Auditor's Report on the Conduct of the Audit also provides commentary on the factors contributing to the financial result.

Cash and Investments (Restricted Assets)

Cash and investments closed strong at 30 June 2022 totalling \$73.9m, an increase of \$19.2m compared to \$54.8m at 30 June 2021. Details around the level of investments held and reasons for fluctuations are provided within the monthly investment report provided to Council.

Restrictions on cash and investments are divided into externally restricted assets where the funds are restricted in their use by externally imposed requirements, and internally restricted assets where the funds are restricted in their use by resolution or policy of Council.

Full disclosure of the restricted assets held and balances are shown in Note C1-3 of the financial statements.

Statement of Financial Position (Balance Sheet)

Current assets recorded at \$92.8m at 30 June 2022, increasing from \$72.3m in 2020-21.

Infrastructure, property, plant and equipment increased to \$1,149.3m in 2020-21 from \$1,041.8m as a result of investment into Council's infrastructure and the indexation of assets, refer Note C1-8. There were no comprehensive revaluations undertaken during the year.

Liabilities also increased on prior year to \$55.2m from \$49.6m predominantly as a result of an increase to the provision for landfill remediation as well as increased contract liabilities driven by grants.

Net total assets have increased during the year to \$1,186.9m from \$1,064.9m.

Full disclosure of the Statement of Financial Position (Balance Sheet) is shown in Notes C1 to D1 of the financial statements.

TCorp Performance Measures

Performance Measure	2021-22 \$'000's	2020-21 \$'000's	Benchmark	2021-22 Result
Operating Performance Ratio	3.42%	(5.19%)	>0.00%	✓
Own Source Operating Revenue Ratio	55.60%	54.75%	>60.00%	✗
Unrestricted Current Ratio	3.74x	3.84x	>1.50x	✓
Debt Service Cover Ratio	10.93x	5.45x	>2.00x	✓
Rates and Annual Charges Outstanding Percentage	6.86%	5.63%	<10.00%	✓
Cash Expense Cover Ratio	10.23 mths	8.18 mths	>3.00 mths	✓

Corporate and Community

Report No. CC86/2022

Corporate and Community Services



Although Council's Net Operating Result (before capital grants and contributions income) for the year ended 30 June 2022 is a modest surplus of \$0.6m, the following factors should be considered when reviewing the key performance measures, particularly the Operating Performance ratio and the Own Source Operating Revenue ratio:

- Council was successful in receiving many grants and contributions during the year for both operating and capital purposes. In accordance with Australian Accounting Standards, this income is to be classified as operating or capital depending on the purpose for which it was received, and not on the purpose for which it is spent. This leads to a mismatch between income and expenditure in the net operating result, particularly related to capital income, where not all capital project costs can be capitalised. Also common is a mismatch between timing of income recognition and expenditures which can often be in different financial years.
- Further to the above, due to the large amounts of grants available for specific projects or necessary upgrades, some items of infrastructure, property, plant and equipment were disposed and renewed before reaching the end of their useful lives. This contributed to a higher loss on disposal of assets ultimately materially affecting the Operating Performance ratio (refer to Note B4-1).
- Council was also successful in receiving funding during the financial year to recoup costs associated with declared natural disaster events from the prior financial year, current financial year and as a prepayment for the July 2022 event.
- Financial Assistance Grant income is annually recurrent and untied, meaning it is general purpose income to be applied to Council's delivery of essential services to the community. Although this income is ongoing and not subject to specific requirements, it is excluded from the Own Source Operating Revenue ratio. If included it would improve Council's fiscal flexibility.
- The Unrestricted Current ratio is well above benchmark and demonstrates Council's strong liquidity with stable levels of cash and investments, despite increased balances in grants and developer contributions.
- The Rates and Annual Charges Outstanding Percentage is still excellent despite the increase, which represents Council's lack of formal debt recovery efforts and increased hardship support due to the COVID-19 pandemic. Council has commenced more direct debtor management to reduce this balance in conjunction with a considered approach with ratepayers to increase affordable payment arrangements and improve education regarding payment of overdue balances.

Budget Variations

Note B5-1 of the General Purpose Financial Statements provide commentary on significant budget variations for the year. This highlights variations to original budget not to the revised budget adopted by Council each quarter.

Corporate and Community

Report No. CC86/2022

Corporate and Community Services



Comments on material variances (greater than 10%) compared to original budget are provided below:

- User charges and fees – favourable due to additional tipping fees and additional contract work for Transport for NSW, specifically works on John Renshaw Drive, included in Quarterly Budget Review Statements, offset by additional costs in materials and services with margins lower than expected.
- Other revenues – unfavourable in fines and legal fees due to lack of enforcement activity as impacts to COVID-19 continued throughout the financial year.
- Operating grants and contributions – additional grants for roads, natural disaster events and a higher prepayment of the financial assistance grant.
- Capital grants and contributions – attributed to developer contributions as a result of the development growth in the Local Government Area.
- Interest and investment revenue – favourable due to an increase of interest accruing on overdue rates coupled with lower recoveries, as well as higher returns on investments compared to prior year.
- Materials and services – unfavourable due to additional costs associated with works for Transport for NSW as well as recognition of operational costs that could not be capitalised in the capital works program.
- Borrowing costs – below budget due to the deferral of new loans from 2021-22 to 2022-23.
- Other expenses – (if adjusted with items reclassified in the Code into materials and services) unfavourable due to unplanned increase to landfill remediation provision, the write-off of unrealised losses associated with the TCorp Managed Fund investment and the write-off of Arrow Collaborative Services.
- Net losses from disposal of assets – although favourable due to the sale of Vineyard Grove, this was extinguished by recurrent losses on disposal of infrastructure renewed prior to end of effective lives.

Public Notice

A summary of Council's financial statements will be published on Council's website giving notice that the financial statements and auditor reports will be presented to the Ordinary Council Meeting to be held 16 November 2022. This is in accordance with Office of Local Government Circular 20-12/17 April 2020 / A696830 which removes the requirement to publish in newspapers. The financial statements will be made available for public inspection on Council's website and at Council's offices. Written submissions on the financial statements may be lodged up until 4.00 pm Wednesday 23 November 2022.

Corporate and Community

Report No. CC86/2022

Corporate and Community Services



CONSULTATION

Senior Finance Staff
Asset Management Staff
Audit and Risk Committee
RSM Australia
The Audit Office of NSW

IMPLICATIONS

Policy / Procedural / Financial / Legislative / Risk Implications

Council's General Purpose Financial Reports have been prepared in accordance with Section 413 of the *Local Government Act 1993*.

This report supports meeting Council's statutory obligations in accordance with provisions of *Local Government Act 1993* for the presentation of the financial statements and auditors reports to Council (Section 419), the public notice of the presentation (Section 418) and time for preparation and submission of audited financial statements (Section 416).

The Annual Financial Statements for the year ended 30 June 2022 including auditor reports were lodged with the Office of Local Government when due on 31 October 2022.

OPTIONS

N/A

CONCLUSION

Following audit, Council's Annual Financial Statements for 2021-22 are required to be lodged with the Office of Local Government and presented to Council and the community.

ENCLOSURES

[1](#) 2021-22 Financial Statements

SUBJECT: *ANNUAL REPORT 2021-22*
RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

SUMMARY

The purpose of this report is to present the *Cessnock City Council Annual Report 2021-22* in accordance with Section 428(1) of the *Local Government Act 1993* which requires Council to prepare an Annual Report within five months of the end of the financial year.

RECOMMENDATION

1. That Council receives and notes the Annual Report for 2021-22.
2. That Council notes the Annual Report has been posted on Councils website.
3. That Council notes the link to the Annual Report has been forwarded to the Minister for Local Government as required by Section 428 of the *Local Government Act 1993*.

BACKGROUND

The contents of the Annual Report are specified in Sections 428 and 428A of the *Local Government Act 1993* and in clauses 132 and 217(1) of the *Local Government (General) Regulation 2021*.

In addition, there are a number of other requirements in associated legislation that are required to be incorporated in the Annual Report, including *Privacy and Personal Information Protection Act 1998*, *Government Information (Public Access) Act 2009* and matters relating to planning agreements.

REPORT/PROPOSAL

It is a requirement of the *Local Government Act 1993* that within five months after the end of each financial year, a council must prepare a report (its annual report) for that year.

Council's Annual Report has been prepared in accordance with the statutory requirements.

A copy of the Annual Report will be posted on Council's website and the link forwarded to the Minister prior to the 30 November deadline, as required by the *Local Government Act 1993*.

OPTIONS

N/A

Corporate and Community

Report No. CC87/2022

Corporate and Community Services



CONSULTATION

Information in the report is sourced from the quarterly reports on the Delivery Program and staff from across the organisation provided information for inclusion in the Annual Report. The Executive, managers and staff provided feedback and reviewed on the draft the Annual Report.

STRATEGIC LINKS

a. Delivery Program

The annual report is part of Council's governance framework contributing towards the community's desired outcome of: *Civic Leadership and Effective Governance*.

b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

Under the provisions of Division 2 of Part 3 (Financial Management) of the *Local Government Act 1993*, Council's audited financial reports and the auditor's reports for the year 2020-21 were presented to Council and the public on 17 November 2021. These are required to be included as part of the Annual Report.

c. Legislative Implications

The preparation of the Annual Report is a statutory requirement under Section 428 of the *Local Government Act 1993*.

d. Risk Implications

N/A

e. Other Implications

N/A

CONCLUSION

The Annual Report for the 2021-22 financial year will be submitted to the Minister for Local Government as required by the *Local Government Act 1993*.

ENCLOSURES

- 1 ⇨ Annual Report 2021-22 - Provided Under Separate Cover

Corporate and Community

Report No. CC87/2022

Corporate and Community Services



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

RESPONSIBLE OFFICER: *Chief Finance Officer – Matthew Plumridge*

SUMMARY

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

RECOMMENDATION

- 1. That Council notes the progress in implementing the 2022-26 Delivery Program as at 30 September 2022.**
- 2. That Council approves changes to the Operational Plan actions and targets as outlined in the report.**

BACKGROUND

Section 404(5) of the *Local Government Act 1993* requires the General Manager to provide regular progress reports to Council with respect to progress against the principal activities detailed in its Delivery Program with reports to be provided at least every six months.

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

Council adopted the 2022-26 Delivery Program and the incorporated Operational Plan 2022-23 in June 2022. The Delivery Program outlines the activities that Council will undertake to implement the strategies identified in the Community Strategic Plan and is the single point of reference for all principal activities undertaken by an elected Council during its term in office.

At the end of each quarter a report is prepared to assess Council's progress against 2022-26 Delivery Program actions and the Capital Works Program.

REPORT/PROPOSAL

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

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

- Eight Advance Greater Cessnock Partners projects were funded under the Economic Development Grants and Sponsorship Program. Council also funded the Around Hermitage Business Showcase networking event held on 6 July 2022.

Corporate and Community

Report No. CC88/2022

Corporate and Community Services



- On 8 September the Hunter Valley Visitors Information Centre received a successful accreditation review and maintains Level 1 Accreditation from NSW Accredited Visitor Information Centres.
- The Bushland Festival, held on the weekend of 11 September 2022, included a series of bushwalks and spotlighting events, with an estimated attendance of between 500-800 people. Discussions with partner organisations has commenced to acquire funding to ensure this event can be bigger and better in 2023.
- In September recruitment was completed to appoint a new Regional Illegal Dumping officer to investigate illegal dumping and commence community engagement activities.
- Council Rangers continued with a program of enforcement targeting illegal and unsafe parking. During the month of September 71 School Zone patrols were conducted.
- The Youth Centre refurbished kitchen was officially opened, with the Samaritans Coalfields Healthy Heartbeat Service delivering a 4-week healthy eating program.
- Construction of the splash pad at Cessnock Pool was completed in time for the October long weekend, with free entry to the pool to celebrate its launch. The splash pad incorporates slides, fountains, tipping buckets, soft fall, shade and seating.
- Under the Carmichael Park Masterplan a contractor was engaged for the construction of Cessnock Regional BMX Facility. Works are anticipated to commence in early 2023, with construction works due to commence on the multipurpose court/hit up wall and cricket practice nets in October 2022.
- Monthly 'Support Local' competitions, ad campaigns and business stories under Bushfire Recovery Funding received were held. One business networking event was held for 100 local business contacts. Two more events are scheduled in next quarter.
- Face to face community engagement undertaken during the Quarter included Recovery Access points in partnership with Resilience NSW, a number of Flood Recovery events, Traffic and Transport community information sessions and Kurri Kurri Town Centre community events.

2022-26 Delivery Program

At the conclusion of the First Quarter 19 (11%) of the 174 Actions from the 2022-23 Operational Plan) was Completed with 136 (78%) currently In Progress. The 'In Progress' Actions will continue to be monitored and reported as part of the quarterly review process. There were no Actions at Risk, 3 (2%) Not Progressing and 19 (11%) which are Not Due to Start at the time of reporting.



Table 1 shows the overall status of actions at 30 September 2022.

Table 1

	A connected, safe, and creative community	A sustainable and prosperous economy	A sustainable and healthy environment	Accessible infrastructure, services and facilities	Civic leadership and effective governance	Total	%
Not Due to Start	1	0	7	2	9	17	11
In Progress	42	23	29	14	28	136	78
Not Progressing	0	0	3	0	0	3	2
Complete	4	1	6	2	2	15	9
At Risk	0	0	0	0	0	0	0
	48	24	45	18	39	174	100

7

2022-26 DELIVERY PROGRAM



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

Proposed additions to the 2022-23 Operational Plan:

Action 3.2.1.d – Implement actions from the Public Amenities Review and Open Space Guideline. Target: Implement key action items in line with available resources.

Corporate and Community

Report No. CC88/2022

Corporate and Community Services



Proposed amendments to 2022-23 Operational Plan targets:

Action	Current	Proposed
3.2.4.b Building assets to be revalued to inform the Building Asset Management Plan	None	Building assets to be revalued by 30 June 2023
3.2.1.a Continue implementation of the recommendations from the Recreation & Open Space Strategic Plan 2019	None	Development of a Tennis Strategy by 30 June 2023

2022-23 Capital Works Program

At 30 September 2022, 3 of the 218 projects from the 2022-23 Capital Works Program were Completed, 0 were Not Progressing, 127 were On Track and 88 projects are Not Due to Start.

Table 2 shows a summary the overall status of projects at 30 September 2022.

Table 2

Program	Complete	On track	Carry forward/Not Progressing	Not due to Start	Total
Community Buildings Construction (CBC/WDC)	-	1	-	1	2
Bridge Construction Program (CBS)	-	5	-	6	11
Drainage Construction Program (CDR)	-	4	-	14	18
Cemeteries Facilities Construction (CFC)	-	2	-	1	3
Recreation Facilities Construction (CFR)	1	10	-	6	17
Traffic Facilities Program (CFT)	-	8	-	2	10
Waste Facilities Construction (CFW)	-	3	-	1	4
Library Books (CL)	-	1	-	-	1
Pathway Construction (CPW)	-	10	-	10	20
Local Road Construction (CRL)	-	3	-	2	5
Safer Roads (CRR/CLS)	-	5	-	1	6
Signage/Vineyard Roads (CRV)	-	1	-	-	1
Kurri Kurri Town Centre (CTK)	-	1	-	2	3
Pre-Construction Design (DCP)	-	2	-	-	2
Other Fixed Assets (OFA)	-	1	-	1	2
Airport Construction (PCA)	1	5	-	1	6
Plant and Fleet Acquisition (PFA)	-	2	-	-	2
Floodplain Management (PMF)	-	10	-	3	13
Airport Renewal (PRA)	-	1	-	-	1
Cultural and Community Buildings (RBC)	-	9	-	8	17
Recreation Buildings Renewal (RBR)	-	2	-	12	14
Cessnock Civic Revitalisation (RCC)	-	1	-	-	1
Pools Facilities Renewal (RFP)	-	1	-	-	1
Recreation Facilities Renewal (RFR)	-	6	-	3	11
Recreation Pre-Construction Design (RPC)	-	1	-	-	1
Gravel Rehab & Re-sheeting (RRG)	-	1	-	-	1
Local Road Renewal (RRL)	-	24	-	8	32
Regional Road Renewal (RRR)	1	5	-	4	10
Recreation Services Administration (RSA)	-	1	-	-	1
Waste Plant Management (WPM)	-	-	-	2	2
Total	3	127	0	88	218

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

OPTIONS

N/A

CONSULTATION

The General Manager, Directors, Managers and Coordinators provided the information for this report and its enclosures.

STRATEGIC LINKS

a. Delivery Program

This report is part of the organisation's governance framework – providing feedback on the progress against the key plans adopted by Council. This is in line with the community's desired outcome of: "*Civic Leadership and Effective Governance.*"

b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

The quarterly budget review forecasts are reported separately to Council.

c. Legislative Implications

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

d. Risk Implications

N/A

e. Other Implications

N/A

Corporate and Community

Report No. CC88/2022

Corporate and Community Services



CONCLUSION

The review of the 2022-26 Delivery Program against the Operational Plan 2022-23, for the Quarter ended 30 September 2022, is submitted for Council's consideration.

ENCLOSURES

- [1](#) ⇨ Quarter 1_Action Progress Report _Council meeting 16.11.2022
- [2](#) ⇨ Quarter 1_September 2022_Capital Works Program_Council meeting 16.11.2022v2

SUBJECT: *QUARTERLY BUDGET REVIEW STATEMENT -
SEPTEMBER 2022*

RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

SUMMARY

The purpose of this report is to present the Quarterly Business Report September 2022 containing the Quarterly Budget Review Statements (QBRS) for Council's consideration and approval.

RECOMMENDATION

1. That Council receives the September 2022 Quarterly Budget Review Statement in accordance with Clause 203 of the Local Government (General) Regulation 2021.
2. That Council notes that the September 2022 Quarterly Budget Review Statement reflects a forecast operating surplus for the year of \$39.7m or \$14,393 excluding capital income.
3. That Council notes that the September 2022 Quarterly Budget Review Statement reflects a forecast capital expenditure budget of \$73.5m.
4. That Council approves proposed changes to the 2021-22 operating and capital budgets as presented in the Quarterly Business Report September 2022.
5. That Council notes that the Quarterly Budget Review Statement forecasts five of the six key performance indicators will exceed Office of Local Government benchmarks.

BACKGROUND

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

The Quarterly Business Report for September 2022 is presented to Council for consideration and contains all necessary Quarterly Budget Review Statements.

REPORT/PROPOSAL

The budget review process involved responsible cost centre managers reviewing income and expenditure patterns and, after consultation with finance staff, proposing any required changes. Changes may have been from unforeseen circumstances or elements beyond the control of Council, additional funding opportunities, or from Council resolutions.

Corporate and Community

Report No. CC89/2022

Corporate and Community Services



General Budget Commentary

The QBRS is provided to the Council at **Enclosure 1** and shows a projected operating surplus of \$39.7m for the year ending 30 June 2023, or a modest net operating surplus of \$14,393 excluding capital grants and contributions income.

The QBRS also shows a revised capital works program forecasting changes that increase the original program from \$59.8m to \$73.5m.

For details on all proposed budget changes, including carry forwards, revotes, and approvals separate to the QBRS process, please refer to the notes in the QBRS and briefing provided to Councillors on 9 November 2022.

Key Performance Indicators

Council's QBRS forecasts that five out of six key performance indicators will exceed OLG benchmarks. Due to the continuing success of Council obtaining grant funds, specifically for recovery of costs associated with natural disaster events, the Own Source Operating Revenue Ratio is anticipated to be slightly less than benchmark at 58.5%. A listing of the key performance indicators (ratios) is included in the QBRS suite of reports.

Responsible Accounting Officer Statement

Section 203 (2) of the *Local Government (General) Regulation 2021* requires that the budget review statement include, or be accompanied by, a report from the Responsible Accounting Officer. This report is required to indicate whether the Responsible Accounting Officer believes that the statement indicates that the financial position of the Council is satisfactory, having regard to the original estimate of income and expenditure, and, if that position is unsatisfactory, recommendations for remedial action.

CONSULTATION

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

- Directors
- Managers
- Senior finance staff

Due to timing issues with finalisation of this report and the Audit and Risk Committee schedule of the meeting, the QBRS was presented to the Audit & Risk Committee on 8 November 2022 and any recommendation from the committee was unable to be included in this report.

STRATEGIC LINKS

a. Delivery Program

This report is a crucial part of the organisation's governance framework – providing feedback on the progress against the budget adopted by Council. This is in line with the community's desired outcome of: *Civic Leadership and Effective Governance.*"

Corporate and Community

Report No. CC89/2022

Corporate and Community Services



b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

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

c. Legislative Implications

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

d. Risk Implications

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

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

Furthermore, the achievement of the planned operating result will most likely be impacted by changes to the early prepayment of the Financial Assistance Grant. Over recent years, approximately 50% of the Financial Assistance Grant has been prepaid early in the year prior to which it relates and this consistent process has resulted in a smoothing of the payments each financial year. Council's budget assumptions are consistent with this trend however 75% was prepaid in 2021-22. Should these prepayments cease or return to a 50% prepayment arrangement, then the gap year will suffer a reduction to income.

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

e. Environmental Implications

N/A

Corporate and Community

Report No. CC89/2022

Corporate and Community Services



f. Other Implications

N/A

CONCLUSION

The Quarterly Budget Review Statement for September 2022 is submitted for council's approval.

ENCLOSURES

1 ➡ September 2022 Quarterly Budget Report

SUBJECT: *SCHEDULE OF ORDINARY MEETINGS OF COUNCIL FOR 2023*
AUTHOR: *Chief Financial Officer - Matthew Plumridge*

SUMMARY

This report outlines the proposed schedule of Ordinary Meetings of Council for the 2023 calendar year as required by section 365 of the *Local Government Act 1993* (the Act).

RECOMMENDATION

That Council adopts the schedule of Ordinary Meetings of Council for 2023:

15 February 2023	15 March 2023	19 April 2023
17 May 2023	21 June 2023	19 July 2023
16 August 2023	20 September 2023	18 October 2023
15 November 2023	13 December 2023	

BACKGROUND

For planning purposes and under legislative requirement Council is required to set scheduled dates for the Ordinary Meetings of Council for the forthcoming year.

REPORT

Council is required to adopt a schedule of meeting dates every year and the Act requires a council to meet a minimum of 10 times per year, each time in a different month.

Under Part 3 of the Code of Meeting Practice meetings are scheduled on the third Wednesday of each month commencing at 6:30pm, with the exception that there is no scheduled meeting in January. Council can amend the frequency and/or times of meetings if required or make an amendment to the schedule by changing its Code of Meeting Practice.

Council needs to set the meeting dates for 2023, and the recommendation to this report sets out the dates proposed for the monthly meetings. Should there be urgent business arising outside of any scheduled calendar of meetings, and that business is outside the delegations of the General Manager and Mayor, an Extraordinary Council Meeting can be called.

The 2023 LGNSW Annual Conference has been scheduled for 12-14 November 2023 and is being hosted by Parramatta City Council, with the event to be held at Rosehill. As per the Code of Meeting Practice the scheduled meeting for November 2023 would be Wednesday 15 November 2023, the day after the conference concludes. Council may wish to give consideration to this meeting date, and determine its preference in regards to the timing of the Council meeting, with options to retain the date or move the meeting back by one week to the following Wednesday, 22 November 2023.

Corporate and Community

Report No. CC90/2022

Corporate and Community Services



To assist Councillors in management of the monthly meeting cycle the agenda preparation process was modified with the agenda being distributed to Councillors and the public on the Wednesday the week prior to the meeting, rather than the Friday as the prescribed minimum period for notification under the Act. This allows Councillors additional time for preparation and review prior to the monthly Council meeting. Additionally, a Councillor agenda review with the Executive is held on the Wednesday prior to scheduled Ordinary meetings.

OPTIONS

1. Adopt the schedule of meeting dates as provided by the Code of Meeting Practice.

As per the recommendation.

2. Alter the schedule of meeting dates to account for the LGNSW Annual Conference which is scheduled to be held 12-14 November 2023.

That Council adopts the schedule of Ordinary Meetings of Council for 2023:

15 February 2023	15 March 2023	19 April 2023
17 May 2023	21 June 2023	19 July 2023
16 August 2023	20 September 2023	18 October 2023
22 November 2023	13 December 2023	

CONSULTATION

Director Corporate and Community Services
Corporate Governance Officer

STRATEGIC LINKS

a. Delivery Program

This report is linked to the objectives of *Encouraging More Community Participation in Decision Making* and *Civic Leadership and Effective Governance*.

b. Other Plans

N/A

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

Clause 3.1 of the Code of Meeting Practice deals with the number and timing of meetings.

b. Financial Implications

N/A

Corporate and Community

Report No. CC90/2022

Corporate and Community Services



c. Legislative Implications

Under section 365 of the Act, Council is required to meet at least 10 times each year, each time in a different month unless the Minister has approved a reduction in the number of times that a Council is required to meet each year under section 365A. Under section 9(1) of the Act, Council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings.

d. Risk Implications

N/A.

e. Other Implications

N/A

CONCLUSION

This report seeks Council's consideration of the meeting schedule for 2023 and meets legislative requirements for the number and timing of meetings.

ENCLOSURES

There are no enclosures for this report.

SUBJECT: *WARD BOUNDARIES - VARIATION IN ENROLMENTS - UPDATE*

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

SUMMARY

The purpose of this report is to provide information to Council in regards to Ward Boundaries and electoral numbers in each ward.

RECOMMENDATION

1. That Council acknowledges that an elector enrolment variation of greater than 10% currently exists with the variation as at 20 September 2022 being 18.82%.
2. That Council keeps the elector enrolment variation under review and if the variation still exists at the end of the first year of the new Council term (December 2022) Council then commence the process to alter the ward boundaries for effect at the 2024 Council election.

BACKGROUND

Section 211 of the *Local Government Act 1993* requires council's to keep ward boundaries under review and if, during a term of office, the Council becomes aware that an elector enrolment variation of greater than 10% exists, and the difference remains at the end of the first year of the following term of office, the Council must alter the ward boundaries so that each ward contains a number of electors that does not vary by more than 10% from the number of electors in each other ward.

The last Ward Boundary alterations were made in 2012. Council considered ward boundaries in November 2019 prior to the scheduled 2020 elections (Report CC95/2019) and resolved to note the variation and keep enrolments under review.

Contact has been made with the NSW Electoral Commission (NSWEC) who have recommended holding off on commencing the formal review process until mid-2023, as it will allow ward boundaries to be formulated on the most up to date data possible. Consultation with Councillors is planned for April/May 2023, prior to the formal public consultation commencing around June 2023.

REPORT/PROPOSAL

Cessnock Local Government Area (LGA) is currently divided for election purposes into four Wards, with each Ward represented by three Councillors. The LGA has a popularly elected Mayor, elected for a four-year term. The next election is due in September 2024.

Officers periodically review the ward enrolment figures and current variations continue to exceed the specified 10% variation, and with the first term of this Council term now nearing completion the second legislative requirement under Section 211 is also satisfied.

Corporate and Community

Report No. CC91/2022

Corporate and Community Services



The legislation allows Council to note the variation and only if the variation still exists 12 months after the next election, Council must then make any necessary adjustments to the ward boundaries.

Details of Ward enrolments and reported variations are shown below.

Ward	2 Oct 2018	19 Mar 2019	26 Aug 2019	26 Sep 2019	21 July 2022	20 Sep 2022
A	10,969	11,048	11,237	11,241	12,026	12,005
B	10,002	10,036	10,019	9,988	10,336	10,306
C	10,838	11,015	11,198	11,231	12,644	12,695
D	9,985	10,111	10,303	10,326	11,560	11,594
Total	41,794	42,210	42,757	42,786	46,566	46,600
Highest	10,969	11,048	11,237	11,241	12,644	12,695
Lowest	9,985	10,036	10,019	9,988	10,336	10,306
Vary	984	1,012	1,218	1,253	2,308	2,389
%	8.97%	9.16%	10.84%	11.15%	18.25%	18.82%

Note percentage is calculated as variation / highest enrolment as per OLG guidance

NSWEC requirements in regards to ward boundary adjustments require a Council resolution of the proposed adjustments, legislated public submissions period of 42 days and submission of the proposed adjustment to the NSWEC for consideration and final authorisation. For the 2024 Council election the process needs to be completed by December 2023 to allow for those changes to be effective for the 2024 election.

Prior to public exhibition of any proposed changes a Councillor workshop would be held detailing the process and the proposed changes to align the existing variations and allow consideration of the growth areas of the LGA so that any boundary adjustments would not only bring variations under 10 per cent, but would also future proof the wards from electoral increases being driven by development.

The NSWEC website provides information on Ward Boundary review and process for change.

https://roll.elections.nsw.gov.au/lq/index.htm#Ward_Boundaries
<https://roll.elections.nsw.gov.au/lq/ex35>

OPTIONS

N/A

CONSULTATION

NSW Electoral Commission

STRATEGIC LINKS

a. Delivery Program

This report is linked to the Community's desired outcome under the Community Strategic Plan of *Civic Leadership and Effective Governance*.

b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

Nil

b. Financial Implications

Nil

c. Legislative Implications

Section 211 of the *Local Government Act 1993* requires Council's to keep the ward boundaries under review and to consult with the Electoral Commission NSW in regards to proposed ward boundary adjustments.

d. Risk Implications

Nil

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

This report recommends acknowledgment that there is a variation of more than 10% in ward enrolments and that as the variation exists at the end of the first year of the new Council term, Council must then resolve to alter the ward boundaries prior to the next general election.

Council can note the variation now and undertake the ward boundary adjustments and consultation process during 2023, however any alterations needs to be in accordance with NSWEC requirements, and must completed by December 2023 to be effective for the 2024 local government elections.

ENCLOSURES

There are no enclosures for this report.

Corporate and Community

Report No. CC92/2022

Corporate and Community Services



SUBJECT: *MINUTES OF THE STRATEGIC PROPERTY & COMMUNITY FACILITIES COMMITTEE MEETING HELD 26 OCTOBER 2022*

RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

RECOMMENDATION

1. That the Minutes of the Strategic Property and Community Facilities Committee of 26 October 2022 be adopted as a resolution of the Ordinary Council.
2. That Council enters into an in-principle agreement expiring 31 December 2023 to sell lots 14, 15 and 16 in DP15069 to the proponent subject to the successful grant funding submission by the proponent.
3. That Council defer the sale of properties in Cessnock Street, Aberdare to allow for further discussion around affordable housing options.
4. That the General Manager provide a report to the Strategic Property & Community Facilities Committee outlining the options and funding opportunities to provide affordable housing on Council owned land within the Cessnock Local Government Area.
5. That Council subject to completion of any action detailed in the report to Strategic Property & Community Facilities Committee to prepare property for sale, authorise the sale by private treaty of the following land:
 - Lot 8 DP 255269 - 10 Redgrove Court East Branxton;
 - Lot 9 DP 253077 - 1A Lee-ann Crescent Cessnock;
 - Lot 1 DP 38256810 - Embelton Street Weston;
 - Lot 20 Sec D DP 1846 - 45 Yates Street East Branxton.
6. That authority is granted to the General Manager to negotiate the sale of Lot 8 DP 255269 - 10 Redgrove Court East Branxton; Lot 9 DP 253077 - 1A Lee-ann Crescent Cessnock; Lot 1 DP 38256810 - Embelton Street Weston; and Lot 20 Sec D DP 1846 - 45 Yates Street East Branxton, for not less than 95% of a current market valuation prepared by a certified practicing valuer and execute all relevant documentation to effect the transaction.
7. That the net proceeds of the sales of Lot 8 DP 255269 - 10 Redgrove Court East Branxton; Lot 9 DP 253077 - 1A Lee-ann Crescent Cessnock; Lot 1 DP 38256810 - Embelton Street Weston; and Lot 20 Sec D DP 1846 - 45 Yates Street East Branxton are to be credited to the Property Investment Fund and allocated in accordance with the Property Investment & Development Policy.

Corporate and Community

Report No. CC92/2022

Corporate and Community Services



**MINUTES OF THE STRATEGIC PROPERTY & COMMUNITY FACILITIES COMMITTEE
OF CESSNOCK CITY COUNCIL HELD IN CHAMBERS ON WEDNESDAY, 26 OCTOBER
2022, COMMENCING AT 3.30PM**

PRESENT: His Worship the Mayor, Councillor J Suvaal (in the Chair) and Councillors Dunn (via Teams), Paynter, Sander and Burke (Alternate) and the General Manager

IN ATTENDANCE: Councillors Grine, Hill, Jackson and Hawkins (arrived at meeting 4.15pm)
Director Corporate & Community Services
Acting Director Works and Infrastructure (Infrastructure Manager)
Chief Finance Officer
Community & Cultural Development Manager
Open Space and Community Facilities Manager
Principal Property Specialist
Senior Property Officer
Corporate Governance Officer (Minute Taker)

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

RECOMMENDED that the Minutes of the Strategic Property & Community Facilities Committee held on 16 August 2022, as circulated, be taken as read and confirmed as a correct record.

CARRIED UNANIMOUSLY

DISCLOSURES OF INTEREST

COMMITTEE DISCLOSURE OF INTEREST NO. SPCDI1/2022

SUBJECT: DISCLOSURES OF INTEREST

NIL

OFFICER'S REPORTS

OFFICER'S REPORTS NO. SPOR9/2022

SUBJECT: AUTHORISATION FOR SALE OF SURPLUS COUNCIL LAND

RECOMMENDATION

That the Committee recommend to Council that:

1. Subject to completion of any action detailed in the report to prepare a property for sale, authorise the sale by private treaty of the following land:
 - Lot 8 DP 255269 - 10 Redgrove Court East Branxton;
 - Lot 9 DP 253077 - 1A Lee-ann Crescent Cessnock;
 - Lot 1 DP 38256810 - Embelton Street Weston;
 - Lot 20 Sec D DP 1846 - 45 Yates Street East Branxton.
2. Authority is granted to the General Manager to negotiate the sale with reference to a current market valuation prepared by a certified practicing valuer and execute all relevant documentation to effect the transaction.
3. Net proceeds of the sale are to be credited to the Property Investment Fund and allocated in accordance with the Property Investment & Development Policy.

MOTION **Moved:** Councillor Sander **Seconded:** Councillor Dunn

RECOMMENDATION

That Report No. SPOR9/2022 be deferred to later in the meeting.

CARRIED UNANIMOUSLY

OFFICER'S REPORTS NO. SPOR11/2022

SUBJECT: 11 DOVER STREET CESSNOCK - PROPOSAL FOR GIFTING OF COUNCIL LAND

This matter is considered to be confidential under Section 10A(2) (c) of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

MOTION **Moved:** Councillor Sander **Seconded:** Councillor Dunn

RECOMMENDATION

1. That the Committee receives and notes the briefing from proponent; and
2. That the Committee recommends to Council to offer lots 14, 15 and 16 in DP15069 for sale to the proponent.

CARRIED UNANIMOUSLY

OFFICER'S REPORTS NO. SPOR12/2022

SUBJECT: AFFORDABLE HOUSING IN CESSNOCK LGA

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Paynter

RECOMMENDATION

1. That Council defer the sale of properties in Cessnock Street, Aberdare to allow for further discussion around affordable housing options.
2. That the General Manager provide a report to the Strategic Property Committee outlining the options and funding opportunities to provide affordable housing on Council owned land within the Cessnock Local Government Area.

CARRIED UNANIMOUSLY

OFFICER'S REPORTS NO. SPOR9/2022

SUBJECT: AUTHORISATION FOR SALE OF SURPLUS COUNCIL LAND

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

RECOMMENDATION

That the Committee recommend to Council that:

1. Subject to completion of any action detailed in the report to prepare a property for sale, authorise the sale by private treaty of the following land:
 - Lot 8 DP 255269 - 10 Redgrove Court East Branxton;
 - Lot 9 DP 253077 - 1A Lee-ann Crescent Cessnock;
 - Lot 1 DP 38256810 - Embelton Street Weston;
 - Lot 20 Sec D DP 1846 - 45 Yates Street East Branxton.
2. Authority is granted to the General Manager to negotiate the sale with reference to a current market valuation prepared by a certified practicing valuer and execute all relevant documentation to effect the transaction.
3. Net proceeds of the sale are to be credited to the Property Investment Fund and allocated in accordance with the Property Investment & Development Policy.

CARRIED UNANIMOUSLY

Corporate and Community

Report No. CC92/2022

Corporate and Community Services



OFFICER'S REPORTS NO. SPOR10/2022

SUBJECT: STRATEGIC PROPERTY REVIEW UPDATE - OCTOBER 2022

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

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

RECOMMENDATION

That the Committee note the progress of implementing strategy recommendations of the Strategic Property Review project and information provided regarding Council's Property Investment Fund.

CARRIED UNANIMOUSLY

The Meeting Was Declared Closed at 4.59pm

ENCLOSURES

There are no enclosures for this report.

Corporate and Community

Report No. CC93/2022

Corporate and Community Services



SUBJECT: *INVESTMENT REPORT - OCTOBER 2022*

RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

SUMMARY

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

RECOMMENDATION

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

- Investments are held in accordance with Council's Investment Policy, which is in accordance with the Ministerial Investment Order.
- Council's month end cash and investments balance was \$79,515,632.

BACKGROUND

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

REPORT

Statement by the Responsible Accounting Officer

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

General Investment Commentary

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

Following assessment of projected cash flow requirements, surplus funds are invested in accordance with Council's Investment Policy. Investment returns of the portfolio to the end of October 2022 are exceeding full year budget forecasts already and also exceeding the benchmark. As older term deposits mature and new term deposits are invested, yields are increasing compared to the last few years as demonstrated on Table 1 below.

Interest rates have started to increase compared to previous unprecedented low levels of the past 2 years. The official cash rate of the Reserve Bank of Australia (RBA) was increased to 2.85% during a scheduled RBA Board meeting held on 1 November 2022. This is an increase of 0.25% from earlier rate of 2.65% in October 2022, the seventh increase in as many months.

Corporate and Community

Report No. CC93/2022

Corporate and Community Services



The cash rate was previously held at 0.10% since November 2020. Returns will continue to be monitored and any adjustment to budgeted income will be reported in future quarterly budget reviews.

Investment Portfolio Information

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

Invest No	Financial Institution Investment Held With	Invest Type	Interest Coupon Term	Maturity / Next Coupon Date	Current Coupon Rate	Par Value \$'000
	Commonwealth Bank	CASH			2.25%	7,230
	Commonwealth Bank	At Call			2.35%	41
1243	AMP Bank	At Call			0.50%	501
1410b	National Australia Bank	TD	442	15-Dec-22	0.40%	1,000
1437a	National Australia Bank	TD	435	15-Dec-22	0.42%	1,000
1472	AMP Bank	TD	735	14-Sep-23	0.75%	1,000
1474	Westpac Bank	TD	448	12-Jan-23	0.42%	4,000
1475	Westpac Bank	TD	462	09-Feb-23	0.50%	4,000
1476	Westpac Bank	TD	476	16-Mar-23	0.56%	4,000
1477	National Australia Bank	TD	490	13-Apr-23	0.80%	4,000
1478	Suncorp Bank	TD	518	15-Jun-23	0.90%	3,000
1479	Commonwealth Bank	TD	282	10-Nov-22	0.59%	3,000
1480	Commonwealth Bank	TD	441	11-May-23	1.05%	3,000
1481	AMP Bank	TD	490	13-Jul-23	1.35%	4,000
1483	Commonwealth Bank	TD	533	12-Oct-23	2.81%	4,000
1484	Suncorp Bank	TD	504	21-Sep-23	2.85%	4,000
1485	Bank Of Queensland	TD	236	31-Jan-23	3.15%	5,000
1486	Commonwealth Bank	TD	365	08-Aug-23	3.98%	5,000
1487	Commonwealth Bank	TD	323	27-Jun-23	3.86%	5,000
1488	Commonwealth Bank	TD	158	23-Jan-23	3.28%	2,000
1489	Westpac Bank	TD	365	27-Sep-23	4.66%	4,000
1490	Westpac Bank	TD	729	25-Sep-24	4.91%	4,000
1491	National Australia Bank	TD	84	29-Dec-22	3.40%	3,000
1463	Treasury Corporation	Growth Fund				3,744
TOTAL						79,516

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

Financial Institution	Credit Rating	Institution Maximum	Amount \$'000	% of Portfolio
Commonwealth Bank	AA-	40%	22,000	30.66%
Westpac Bank	AA-	40%	20,000	27.88%
National Australia Bank	AA-	40%	9,000	12.54%
Suncorp Bank	A+	40%	7,000	9.76%
AMP Bank	BBB	5%	5,000	6.97%
Bank Of Queensland	BBB+	10%	5,000	6.97%
Treasury Corporation	Unrated	10%	3,744	5.22%
TOTAL			77,744	100.00%

Corporate and Community

Report No. CC93/2022

Corporate and Community Services



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

In November 2021, AMP Bank's rating was downrated. In error, Council still was treating these investments at their previous rate.

As per our Investment Policy, Council can now only hold 5% of our portfolio in AMP investments nor for any longer than 12 months. The current investments are covered by the grandfathering provisions of the Policy with no more investments able to be made at this level of rating.

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

Investment in NSW Treasury Corporation (TCorp)

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

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

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

Each month Council processes returns based on statements from TCorp. The preliminary October unrealised return was an increase of \$76,616 or 2.09%, bringing the Year to Date (YTD) returns to \$77,215 or 2.11%. Rates of return will fluctuate each month and possibly be negative from time to time with the medium-term investment horizon.

The fund performance summary as at 30 September 2022 is provided below. The October summary was not available at the time of preparing this report. The benchmark used by TCorp is CPI + 2.00% p.a. (over rolling 7 years).

Table 3 NSW Treasury Corporation Performance Summary

	10 year (% pa)	7 year (% pa)	3 year (% pa)	1 year %	FYTD %	1 month %
TCorpIM Medium Term Growth Fund	4.36	3.14	0.09	(7.47)	0.02	(1.93)
Benchmark: CPI + 2.0% p.a. (over rolling 7 years)	4.33	4.31	5.13	7.56	1.93	0.64
Return above benchmark p.a.	0.03	(1.17)	(5.04)	(15.03)	(1.91)	(2.57)

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

Investment Type	Risk Assessment		Amount	% of
	Capital	Interest	\$'000	Portfolio
Term Deposits	Low	Low	68,000	85.44%
Cash/At Call Deposits	Low	Low	7,772	9.76%
Capital Growth Fund	Medium	Medium	3,744	4.80%
TOTAL			79,592	100.00%

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

Performance Measures	This Year	Last Year
Investment Portfolio Average Interest Rate (year to date)	1.39%	0.43%
BBSW Average Interest Rate (year to date) *	0.76%	0.20%
Actual Investment Interest Earned (for the current month)	\$145,025	\$47,018
Actual Investment Interest Earned (year to date)^	\$427,071	\$70,360
Budget Investment Interest (year to date)	\$126,707	\$70,000
Original Budget Investment Interest (annual)	\$380,122	\$210,000
TCorp unrealised movement (year to date)	2.11%	(1.55%)

Investment and Cash Balances (Par Value) #	This Year	Last Year
Opening Balance as at 1 July	\$73,415,666	\$54,388,548
Closing Balance as at 31 October	\$79,592,248	\$60,894,645

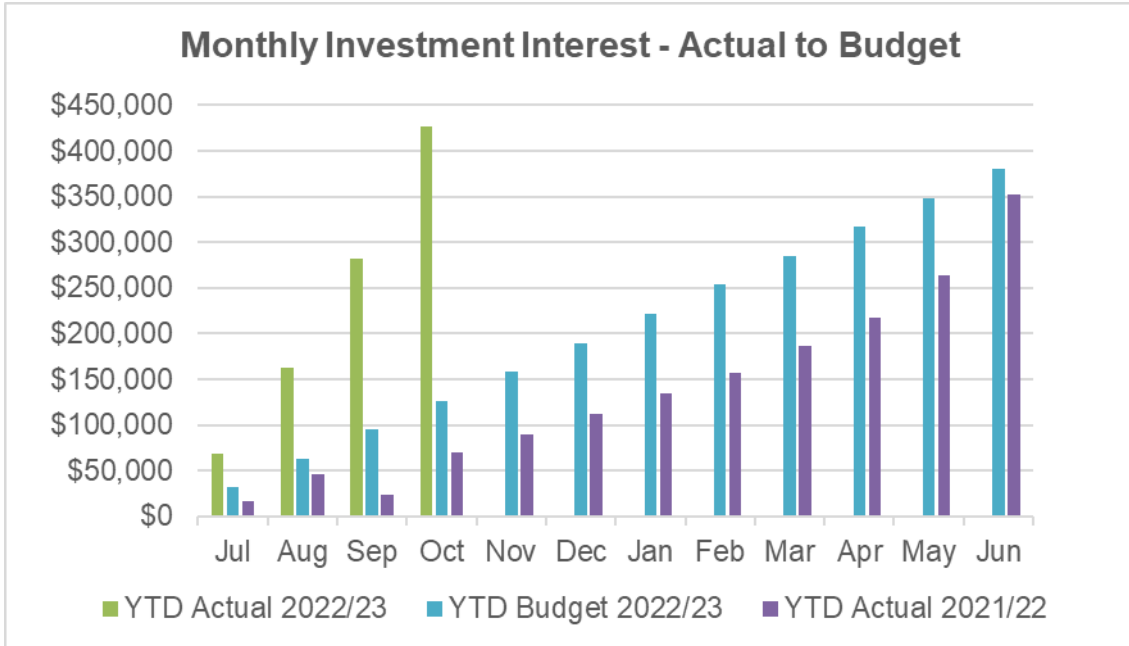
* BBSW 90 day Bank Bill Reference Rate (performance measure as per Council's Investment Policy)

^ Excludes TCorp unrealised returns

Excludes Section 355 Committee cash held



Graph 1 Actual interest earned compared to budget for this year and last year



Corporate and Community

Report No. CC93/2022

Corporate and Community Services



Table 6 Internal and external restrictions over cash and investments held

Month End Totals \$'000	October 2022	September 2022	August 2022	July 2022	June 2022*	May 2022
Developer contributions	24,540	24,493	24,151	20,590	23,699	25,226
Committed developer contributions	3,373	3,296	3,197	2,961	2,733	904
RMS contributions	332	366	416	634	624	809
Specific purpose unexpended grants	7,390	7,785	7,311	8,386	7,332	9,363
Domestic waste management reserve	430	430	430	430	430	430
Stormwater management	915	928	912	824	825	606
External Restrictions	36,980	37,298	36,417	33,825	35,643	37,338
Month End Totals \$'000	October 2022	September 2022	August 2022	July 2022	June 2022*	May 2022
Plant and vehicle replacement	3,471	3,442	3,768	3,768	3,714	2,979
Employees leave entitlement	2,446	2,446	2,446	2,840	2,446	2,840
Carry over works	1,102	1,127	1,519	427	2,267	462
Bridge replacement	467	467	470	519	455	706
Insurance provisions	1,282	1,282	1,282	1,282	1,282	1,282
Miscellaneous and property	805	805	805	425	805	185
Grant Fund Leverage	90	90	91	112	115	94
Operations and programs	428	400	318	343	318	343
Property investment fund	3,136	3,150	3,164	3,199	3,199	3,211
Civil Works	1,409	1,650	1,482	1,736	1,515	2,121
Waste depot and rehabilitation	9,454	9,454	9,454	9,454	9,454	6,833
Unexpended loan funds	-	-	-	-	-	85
Committed projects (SRV)	1,831	1,831	1,849	1,872	1,345	1,609
Security deposits and bonds	4,098	4,020	3,652	3,546	3,551	3,734
Financial Assistance Grant in Advance	-	-	-	-	6,115	6,115
Internal Restrictions	30,019	30,164	30,694	29,523	36,581	32,599
Unrestricted	12,593	17,588	12,891	12,298	1,227	11,760
Total Cash & Investments	79,592	85,050	80,002	75,646	73,451	81,697

*Figures for June 2022 represent final audited balances.

External and internal restricted funds have remained stable between September and October.

Unrestricted funds have decreased by \$5m aligned to a corresponding reduction in the overall balance of cash and investments held, due to net costs associated with delivery of services.

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

Corporate and Community

Report No. CC93/2022

Corporate and Community Services



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

CONSULTATION

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

STRATEGIC LINKS

a. Delivery Program

Investment returns are an integral part of funding sources for future services and community expectations within the Delivery Program and Operational Plan. This report is a part of the organisation's governance framework – providing feedback on the progress against the investment policy and budget adopted by Council. This is in line with the community's desired outcome of: "*Civic Leadership and Effective Governance*" and more specifically links to strategic direction:

- 5.3.2: Our Council's processes are efficient and transparent
- 5.3.3: Our Council is financially sustainable.

IMPLICATIONS

a. Policy and Procedural Implications

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

b. Financial Implications

Investment returns are included in Council's Delivery Program and Operational Plan. Amendments are effected through the Quarterly Budget Review process. Investment portfolio performance is detailed within the report with comparisons to prior year and budget.

A portion of the portfolio and its associated investment income is restricted as it relates to funds from developer contributions, payments in advance for grant projects, Domestic Waste Management, and stormwater management income to be applied to specific purposes and not available for general operational projects.

c. Legislative Implications

This report meets Council's statutory obligations under the *Local Government (General) Regulation 2021* and the *Local Government Act 1993*.

d. Risk Implications

Investment risks are detailed within this report.

Corporate and Community

Report No. CC93/2022

Corporate and Community Services



e. Other Implications

There are no environmental, community, consultative or other implications to this report.

CONCLUSION

The report details investments held at month end and meets Councils reporting obligations.

ENCLOSURES

There are no enclosures for this report.

Corporate and Community
Report No. CC94/2022
Corporate and Community Services



SUBJECT: *RESOLUTIONS TRACKING REPORT*
RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

SUMMARY

The enclosure contains pending actions from previous meetings as well as completed actions for period 12 October 2022 to 7 November 2022.

RECOMMENDATION

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

ENCLOSURES

- 1 ➡ Completed Actions
- 2 ➡ Outstanding Actions

SUBJECT: *TENDER T2023-05 CAMP ROAD GRETA - ROAD CONSTRUCTION*

RESPONSIBLE OFFICER: *Acting Infrastructure Manager - Jules Bosco*

SUMMARY

Evaluation and selection of tender for Tender No. T2023-005 – Camp Road Greta Road Construction.

RECOMMENDATION

1. That Council declines to accept any Tender for the construction of 410m of Camp Road Greta.
2. That Council notes the proposed adjustment of the pavement design that will allow the works to be delivered internally providing the most cost effective outcome based on the approved project budget.

BACKGROUND

Camp Road is a main access route between Greta and the Hunter Express Way via Lovedale Road and the wineries in Central Pokolbin vineyards area. The road is used extensively by local and tourist, commuters travelling to the upper Hunter and heavy vehicles carrying freight for the local transport industry.

The nature of the road presents particular hazards for all road users particularly at night with narrow road shoulders and vegetation within the clear zone or hazard corridor alignment.

The scope of required work comprises of construction for the upgrade of a 1.42km section of Camp Road between Mansfield Street (Northern end) and the Hunter Express Way underpass (Southern end). The section undergoing construction is Ch450 to Ch860

REPORT

The Request for Tender (RFT) documents were prepared by Council Officers, and reviewed by the Tender Audit Panel (TAP) before tenders were called. The form of contract selected was MW21. The RFT called for a lump sum tender for road construction of 410m

Invitation

Tenders were invited on 15 September 2022 on Council's e-tender portal, Vendorpanel and advertised in the following publications:

Table 1 - Advertisements

Publication:	Day:	Date:
Newcastle Herald	Saturday	16 September

Works and Infrastructure

Report No. WI71/2022

Works and Infrastructure



Addenda

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

Table 2 - Addenda

No.	Date:	Description:
1	19 September 2022	The design drawing provided
2	20 September 2022	A response to the request for an extension has been made, but the request has not been granted.
3	20 September 2022	Clarification has been provided for the commencement of construction, and it has been confirmed that the commencement would be on 1 November 2022.
4	27 September 2022	The subsoil drainage has been clarified, and it has been established that fine concrete cannot be utilised as backfill.

Closure

Tenders closed 2pm Tuesday 04 October 2022. **Evaluation of Tenders**

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

- Design Engineer, Infrastructure
- Team Leader Contract and Tendering, Finance
- Principal Engineer, Infrastructure

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

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

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

Works and Infrastructure

Report No. WI71/2022

Works and Infrastructure



1. Assessment of Receipt

Tenders were received and assessed against the first threshold criteria:

Table 3 – Threshold Criteria

Threshold Criteria:	
Criterion 1	Submission on time

The following tenders were received:

Table 4 – Tenders Received

No.	Tenderer:	Business Address:	Criterion 1:
1	Gleeson Civil Engineering Pty Ltd	34 - 38 Robert St Wickham, New South Wales 2293	On time

2. Assessment of Conformance

The tender being received on time was assessed for conformance with the remaining threshold criteria:

Table 5 – Threshold Criteria

Threshold Criteria:	
Criterion 2	Conformance with Request for Tender Documents
Criterion 3	Safety, Environmental and Quality Management Performance
Criterion 4	Financial capacity

Gleeson Civil Engineering (GCE) was the only Tender received and was assessed as conforming.

3. Shortlisting

Shortlisting was not necessary as there was only 1 submission for the weighted evaluation.

4. Weighted Evaluation

Tenders were to be evaluated using the following weighted evaluation criteria:

Table 6 - Weighted Criteria

Weighted Criteria	
Criterion 5	Lump sum tender amount
Criterion 6	Design
Criterion 7	Contract program
Criterion 8	Experience, past performance, management and staff resources offered
Criterion 9	Safety, environmental and quality management performance
Criterion 10	Aesthetic contribution

Works and Infrastructure

Report No. WI71/2022

Works and Infrastructure



To assess tenders against the evaluation criteria was not required as the Tender was the only submission and priced over the available funds and a TET was not formed. The submission was assessed by the project Manager (Design Engineer) using information obtained from the tender documents.

5. Due Diligence

Due to the recommendation to decline the tender, reference checks and financial assessments were not conducted.

6. Evaluation Result

N/A

7. Independent Review

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

TIME FRAME

N/A

LOCAL CONTENT

N/A

OPTIONS

N/A

CONSULTATION

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

- Tender Audit Panel (TAP)
- Principal Engineer Design & Project Management (Infrastructure)
- Principal Engineer Environment (Infrastructure)
- Principal Engineer Road (Infrastructure)
- Principal Engineer Traffic & Transport (Infrastructure)
- Manager Infrastructure
- Director Works & Infrastructure

Works and Infrastructure

Report No. WI71/2022

Works and Infrastructure



STRATEGIC LINKS

a. Delivery Program

Delivery Program 2022-2026: Acceptance of option 2 will contribute to achieving the following objective:

- Objective 4.2 Improving Road Network
 - Objective 4.2.1: Develop prioritised capital works programs in line with adopted asset management plans

b. Other

Operational Plan 2022-23: Acceptance of Option 2 will contribute to achieving the following objective:

- Local Road Renewal RRL-2020-014 Camp Road Greta (Mansfield to CH1320)

STATUTORY IMPLICATIONS

c. Policy and Procedural Implications

The tender process has been carried out in accordance with:

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

d. Financial Implications

The works, including a suitable contingency, is funded as shown below.

Table – Funding Source

Source	Amount
Cessnock City Council	
• General Funds	\$274,860
• R2R	\$ 59,584
• SRV	\$238,375
• Committed Funds	(\$369,441)
Sub Total	\$203,378
Australian Government	
• HVSPP	\$626,400
TOTAL	\$829,778

e. Legislative Implications

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

- *Local Government Act 1993*
- *Local Government (General) Regulation 2021*

Works and Infrastructure

Report No. WI71/2022

Works and Infrastructure



In particular, reference is made to Part 7, Division 4, Clause 178 of the *Local Government (General) Regulation 2021* (Acceptance of tenders):

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

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

Works and Infrastructure

Report No. WI71/2022

Works and Infrastructure



f. Risk Implications

Financial Risk: To minimise Council's exposure to business risks, the RFT required:

- Satisfactory financial capacity, and
- Adequate levels of insurances.

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

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

In addition, the authenticity of the Contractor's certificates of currency for the following insurance policies will be verified:

- Workers Compensation
- Public Liability (\$20M or greater)
- Comprehensive Motor Vehicle
- Professional Indemnity, and
- Insurance of the Works.

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

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

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

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

g. Other Implications

Safety: The new road surface will be of structural integrity of 25yr life design as per current design life and Austroad guidelines.

Environmental: The new road surfacing will provide improved road user comfort and stability.

Financial: The long-term financial performance for Council will be improved by reducing the amount of resources allocated for maintenance of the road.

Works and Infrastructure

Report No. WI71/2022

Works and Infrastructure



Social: The provision of a road surface will improve opportunities for active transport encouraging healthy lifestyle and use of public transport to Greta train Station. Additionally, the new road may be considered by the community as confirmation that Greta is considered an area worthy of significant investment by Council.

CONCLUSION

Recommends declining the Tender submission as it exceeds approved budget funds.

ENCLOSURES

There are no enclosures for this report.

Works and Infrastructure

Report No. WI72/2022

Corporate and Community Services



SUBJECT: *NOTES OF THE INQUORATE COMMUNITY ENGAGEMENT, AWARDS AND GRANTS COMMITTEE MEETING HELD 20 OCTOBER 2022*

RESPONSIBLE OFFICER: *Community & Cultural Development Manager - Natalie Drage
Open Space and Community Facilities Manager - Kate Harris*

RECOMMENDATION

1. That the notes from the inquorate meeting of the Community Engagement, Awards and Grants Committee held on 20 October 2022 be noted.
2. That the Dollar for Dollar Grant Scheme Guidelines be reviewed in preparation for the 2023-2024 funding round and to be considered includes in-kind contributions and application funding amount limits.
3. That Council provides funds through the Community Facilities - Dollar for Dollar Grant Scheme to:
 - Abermain Plaza Hall Section 355 Committee in the amount of \$6,522
 - Branxton Community Hall Section 355 Committee in the amount of \$186
 - Coalfields Local History Association Inc. in the amount of \$886
 - Crawfordville Community Hall, Millfield Section 355 Committee in the amount of \$3,000.
 - Wollombi Valley Progress Association in the amount of \$1,047
4. That Council advertises a second round of the Community Facilities Dollar for Dollar Grant Scheme in early 2023 with the surplus funding of \$18,359.
5. That Council provides funds through the Sporting Facilities - Dollar for Dollar Grant Scheme to:
 - Cessnock Dog Club in the amount of \$3,474
 - Cessnock Rugby League Football Club in the amount of \$9,091
 - Greta Branxton Colts Rugby League Football Club in the amount of \$3,636
 - Wollombi Valley Pony Club in the amount of \$3,636
 - Wollombi Valley Tennis & Sports Association in the amount of \$2,553
6. That Council advertises a second round of the Sporting Facilities - Dollar for Dollar Grant Scheme in early 2023 with the surplus funding of \$7,610

Works and Infrastructure

Report No. WI72/2022

Corporate and Community Services



7. That Council provides funds through the Community and Cultural Development - Dollar for Dollar Grant Scheme to:
 - Central Hunter Community Broadcasters (2CHR) in the amount of \$1,400
 - The Spirit of Giving Fundraising Hub Inc in the amount of \$3,000
 - Rotary Club of Cessnock in the amount of \$2,111.14
 - Cessnock Seniors Citizens Association in the amount of \$800
 - Cessnock District Rescue Squad in the amount of \$2,836.37
 - Early Links Inclusion Support Service in the amount of \$1,467.27
 - Abermain Eisteddfod Society in the amount of \$3,000
 - Richmond Vale Railway Museum in the amount of \$900
 - Sculpture in the Vineyards in the amount of \$3,000
8. That the remaining \$15,170.22 funds from the Community and Cultural Development - Dollar for Dollar Grant Scheme be allocated at the next Quarterly Budget Review to Council's 2022-2023 community and cultural development programs supporting for example Seniors Festival, NAIDOC Week, Youth Week, Reconciliation Week, Carols in the Park.
9. That the Committee undertake a review of the Dollar for Dollar Grant Scheme Guidelines for Community and Cultural Development to enhance opportunities for local community groups to make an application for project funding.
10. That the General Manager writes to all applicants advising them of the outcome of their application and thanking them for their contribution, ongoing support and commitment to the enhancement of community facilities, sporting facilities, community, arts and culture, in the Cessnock Local Government Area.

As the meeting was inquorate the discussions and consensus points on the items in the agenda are presented to Council as a information.

NOTES OF THE INQUORATE COMMUNITY ENGAGEMENT, AWARDS AND GRANTS COMMITTEE MEETING OF THE CESSNOCK CITY COUNCIL HELD IN ANTE ROOM ON THURSDAY, 20 OCTOBER 2022, COMMENCING AT 1.00PM

PRESENT: The Mayor, Councillor Suvaal (via Teams)
Councillor Jackson (via Teams)
Councillor Burke
Councillor Grine (non-voting member)

IN ATTENDANCE: Kate Harris – Open Space and Community Facilities Manager
Nathan Eveleigh – Recreation and Community Facilities Coordinator
Kate Hicks – Recreation & Community Liaison Officer
Natalie Drage – Community and Cultural Development Manager
Ellen Murphy – Community and Cultural Development Officer
Tricia Donnelly – Environment and Sustainability Coordinator
Daniela Gambotto (via Teams) – Sustainability Officer
Robyn Larsen – Corporate Governance Officer (Minute Taker)

Works and Infrastructure

Report No. WI72/2022

Corporate and Community Services



APOLOGIES

Councillor Sander
Councilor Moores

ACKNOWLEDGEMENT OF COUNTRY

The meeting was chaired by Mayor Suvaal.

CONFIRMATION OF MINUTES

MINUTES:

The Minutes of the Community Engagement, Awards and Grants Committee held on 6 April 2022 were made available to Committee members.

DISCLOSURES OF INTEREST

COMMITTEE DISCLOSURE OF INTEREST NO. DOLCDI1/2022

SUBJECT: DISCLOSURES OF INTEREST

NIL

Works and Infrastructure

Report No. WI72/2022

Corporate and Community Services



LISTED MATTERS

LISTED MATTERS - COMMITTEE NO. DOLCLM6/2022

SUBJECT: DOLLAR FOR DOLLAR GRANT SCHEME GUIDELINES

MEETING NOTES

The Dollar for Dollar Grant Scheme Guidelines be reviewed in preparation for the 2023-2024 funding round and to be considered includes in-kind contributions and application funding amount limits.

Commentary:

The Dollar for Dollar Guidelines (the Guidelines) were last comprehensively reviewed in 2017 by the now abolished Dollar for Dollar Grants Committee. Currently the Grant Scheme does not allow for in-kind contributions and requires applicants to match the funds being sought. Many of the groups that make application to a number of the Grant Scheme program areas are not for profit volunteer community groups and do not have a strong income stream to match the requested funds. Some have also experienced a diminishing number of people volunteering to facilitate for example fundraising opportunities and/or deliver income raising programs. Over recent years, it has been the case that some of the Grant Scheme program areas have been undersubscribed and has necessitated additional rounds being held and/or a consideration that funds be re-allocated to other program areas.

Works and Infrastructure

Report No. WI72/2022

Corporate and Community Services



LISTED MATTERS - COMMITTEE NO. DOLCLM7/2022

SUBJECT: 2022-23 COMMUNITY FACILITIES - DOLLAR FOR DOLLAR GRANTS

MEETING NOTES

The Dollar for Dollar Committee discussed the recommendations as listed in the Meeting Agenda:

1. That Council provides funds through the Community Facilities - Dollar for Dollar Grant Scheme to:
 - Abermain Plaza Hall Section 355 Committee in the amount of \$6,522.
 - Branxton Community Hall Section 355 Committee in the amount of \$186.
 - Coalfields Local History Association Inc. in the amount of \$886.
 - Crawfordville Community Hall, Millfield Section 355 Committee in the amount of \$3,000.
 - Wollombi Valley Progress Association in the amount of \$1,047.
2. That Council advertises a second round of the Community Facilities Dollar for Dollar Grant Scheme in early 2023 with the surplus funding of \$18,359.
3. That the General Manager writes to all applicants advising them of the outcome of their application and thanking them for their ongoing support and commitment to the enhancement of Council's community facilities.

Commentary:

To be awarded funding, applications are assessed in accordance with the Dollar for Dollar Grant Scheme Guidelines and prior to the Inquorate Meeting the above applications had been assessed by Council Officers and deemed to be eligible for funding.

Works and Infrastructure

Report No. WI72/2022

Corporate and Community Services



LISTED MATTERS - COMMITTEE NO. DOLCLM8/2022

SUBJECT: 2022-23 SPORTING FACILITIES - DOLLAR FOR DOLLAR GRANTS

MEETING NOTES

The Dollar for Dollar Committee discussed the recommendations as listed in the Meeting Agenda:

1. That Council provides funds through the Sporting Facilities - Dollar for Dollar Grant Scheme to:
 - Cessnock Dog Club in the amount of \$3,474.
 - Cessnock Rugby League Football Club in the amount of \$9,091.
 - Greta Branxton Colts Rugby League Football Club in the amount of \$3,636.
 - Wollombi Valley Pony Club in the amount of \$3,636.
 - Wollombi Valley Tennis & Sports Association in the amount of \$2,553.
2. That Council advertises a second round of the Sporting Facilities - Dollar for Dollar Grant Scheme in early 2023 with the surplus funding of \$7,610.
3. That the General Manager writes to all applicants advising the outcome of their application and thanking them for their ongoing support and commitment to the enhancement of Council's sporting facilities.

Commentary:

To be awarded funding, applications are assessed in accordance with the Dollar for Dollar Grant Scheme Guidelines and prior to the Inquorate Meeting the above applications had been assessed by Council Officers and deemed to be eligible for funding.

LISTED MATTERS - COMMITTEE NO. DOLCLM9/2022

**SUBJECT: COMMUNITY AND CULTURAL DEVELOPMENT DOLLAR FOR
DOLLAR GRANT SCHEME 2022/23**

MEETING NOTES

The Dollar for Dollar Committee discussed the recommendations as listed in the Meeting Agenda:

1. That Council provides funds through the Community and Cultural Development Dollar for Dollar Grant Scheme to:
 - Central Hunter Community Broadcasters (2CHR) in the amount of \$1,400
 - The Spirit of Giving Fundraising Hub Inc in the amount of \$3,000
 - Rotary Club of Cessnock in the amount of \$2,111.14
 - Cessnock Seniors Citizens Association in the amount of \$800
 - Cessnock District Rescue Squad in the amount of \$2,836.37
 - Early Links Inclusion Support Service in the amount of \$1,467.27
 - Abermain Eisteddfod Society in the amount of \$3,000
 - Richmond Vale Railway Museum in the amount of \$900
 - Sculpture in the Vineyards in the amount of \$3,000
2. That the remaining \$15,170.22 funds be allocated at the next Quarterly Budget Review to Council's 2022-2023 community and cultural development programs supporting for example Seniors Festival, NAIDOC Week, Youth Week, Reconciliation Week, Carols in the Park.
3. That the Committee undertake a review of the Dollar for Dollar Grant Scheme Guidelines for Community and Cultural Development to enhance opportunities for local community groups to make an application for project funding.
4. That the General Manager writes to all applicants advising them of the outcome of their application and thanking them for their contribution to the development of community, arts and culture in the Cessnock Local Government Area.

Commentary:

To be awarded funding, applications are assessed in accordance with the Dollar for Dollar Grant Scheme Guidelines and prior to the Inquorate Meeting the above applications had been assessed by Council Officers and deemed to be eligible for funding.

The inquorate Meeting Was Declared Closed at 1.39pm

ENCLOSURES

There are no enclosures for this report

Works and Infrastructure

Report No. WI73/2022

Works and Infrastructure



SUBJECT: *MINUTES OF LOCAL TRAFFIC COMMITTEE MEETING HELD 17 OCTOBER 2022.*

RESPONSIBLE OFFICER: *Acting Infrastructure Manager - Jules Bosco*

RECOMMENDATION

That the Minutes of the Cessnock Local Traffic Committee Meeting of 17 October 2022 be adopted as a resolution of the Ordinary Council.

- **TC39/2022** - That Council authorises the temporary regulation of traffic on Broke Road, McDonalds Road, Palmers Lane and Wine Country Drive, Pokolbin for A Day on the Green in accordance with Various Roads Pokolbin _ A Day on the Green Traffic Control Plans.
- **TC40/2022** - That Council authorises the installation of One-Way traffic flow, children's crossing, kerb extensions, and associated signage and line marking on Wickham Street, Stanford Merthyr in accordance with the Wickham Street Stanford Merthyr _ Signage & Line Marking Diagram.
- **TC41/2022** - That Council authorises installation of regulatory parking and intersection controls on various roads within Huntlee, in accordance with Various Roads Huntlee Stages 32 – 33 – 34 - 42 _ Signage & Line Marking Diagrams.
- **TC42/2022** - That Council authorises installation of regulatory parking and intersection controls on various roads within Huntlee, in accordance with Various Roads Huntlee Stage 4 _ Signage & Line Marking Diagrams.

MINUTES OF LOCAL TRAFFIC COMMITTEE MEETING OF THE CESSNOCK CITY COUNCIL HELD IN COUNCIL ANTE ROOM ON MONDAY, 17 OCTOBER 2022.

OPENING: The meeting was opened at 9.39am

PRESENT: Councillor James Hawkins (in the Chair)
Senior Constable Amy Sweeney – NSW Police
Ms Linda Makejev – Transport for NSW

IN ATTENDANCE: Mrs Tracey Cocking – Senior Business Support Officer
Mr Nathan Goodbun – Engineering Officer Traffic & Transport
Mr Richard Ingall – Rover Coaches
Ms Alison Shelton – Road Safety Officer
Mr Glenn Swan – Huntlee Developer

Works and Infrastructure

Report No. WI73/2022

Works and Infrastructure



APOLOGIES

RESOLVED that the apologies tendered for unavoidable absence be accepted on behalf of:

Mr C Barr MP – NSW State Member

CONFIRMATION OF MINUTES

NOTED that the Minutes of the Local Traffic Committee held on 19 September 2022 and 6 October 2022, as circulated, were previously confirmed as a true and correct record.

DISCLOSURES OF INTEREST

TC40/2022 – Installation of One-Way traffic flow, children’s crossing, kerb extensions, and associated signage and line marking on Wickham Street, Stanford Merthyr in accordance with the Wickham Street Stanford Merthyr _ Signage & Line Marking Diagram. – Councillor Hawkins declared a Non-pecuniary Interest for the reason that he is a landowner in Stanford Merthyr and the works may impact his property. Councillor Hawkins advised that he would leave the meeting and take no part in discussion or voting on this item.

BUSINESS ARISING FROM PREVIOUS MINUTES

Nil

MOTIONS OF URGENCY

Nil

Works and Infrastructure

Report No. WI73/2022

Works and Infrastructure



LISTED MATTERS

SUBJECT: **VARIOUS ROADS, POKOLBIN
TEMPORARY REGULATION OF TRAFFIC
A DAY ON THE GREEN**

REPORT NO.: **TC39/2022**

REFERENCE.: **46 2022 4 1**

MATTER

Council has received an application for the temporary regulation of traffic in connection with an existing development approval for A Day on the Green, and has assessed the application along with the associated Traffic Management Plan (TMP) and Traffic Control Plans (TCP's).

Consent is sought under Section 116 of the *Roads Act 1993*, to regulate traffic on various roads in Cessnock in connection with this application.

DISCUSSION: The matter was described as per the report, and discussed as follows:

- It was noted that traffic generation for the events do not require NSW Police to control the intersections of Wine Country Drive/Broke Road and Wine Country Drive/McDonalds Road, however the intersections are monitored by Police personnel.
- No concerns have been raised regarding traffic management arrangements for past events.
- Alternate wet weather plans are available and are already being considered for upcoming events.
- A NSW Police request for review of the event TMP will be commenced upon expiry of the approval for the current events.

RECOMMENDATION

That Council authorises the temporary regulation of traffic on Broke Road, McDonalds Road, Palmers Lane and Wine Country Drive, Pokolbin for A Day on the Green in accordance with Various Roads Pokolbin _ A Day on the Green Traffic Control Plans.

SUPPORT: Unanimous

Councillor Hawkins declared a Non-pecuniary Interest for the reason that he is a landowner in Stanford Merthyr and the works may impact his property. Councillor Hawkins advised that he would leave the meeting and take no part in discussion or voting.

Councillor Hawkins left the meeting, the time being 9.49am, Senior Constable Amy Sweeney assumed the Chair.

Works and Infrastructure

Report No. WI73/2022

Works and Infrastructure



SUBJECT: WICKHAM STREET, STANFORD MERTHYR
CHILDRENS CROSSING

REPORT NO.: TC40/2022

REFERENCE.: DOC2021/076640

MATTER: On 12 October 2021, Council was advised by Transport for NSW of its success in gaining grant funding under the School Zone Infrastructure Program, for the installation of a children's crossing and associated kerb extensions on Wickham Street Stanford Merthyr, to service the Stanford Merthyr Infants School.

DISCUSSION: The matter was described as per the report, and discussed as follows:

- The one-way treatment on Wickham Street has been proposed to reduce rat-running, and address poor driver behavior in the immediate vicinity of the school.
- The proposed treatment would increase travel distances for northbound movements by approximately 120m.
- The proposed STOP controls on Wickham Street are to address reduced sight distances to the west due to numerous street trees.
- The reduced NO STOPPING zone on departure from the children's crossing can be facilitated as sight distances are not compromised due to the one-way traffic flow.

RECOMMENDATION

That Council authorises the installation of One-Way traffic flow, children's crossing, kerb extensions, and associated signage and line marking on Wickham Street, Stanford Merthyr in accordance with the Wickham Street Stanford Merthyr _ Signage & Line Marking Diagram.

SUPPORT: Unanimous

Councillor Hawkins returned to the meeting, the time being 10.10am and resumed as Chair.

Works and Infrastructure

Report No. WI73/2022

Works and Infrastructure



SUBJECT: **VARIOUS ROADS, HUNTLEE
REGULATORY PARKING & INTERSECTION CONTROLS
STAGES 32, 33, 34 & 42**

REPORT NO.: **TC41/2022**

REFERENCE.:

MATTER: At its meeting of July 2022, the Committee considered an approval for the installation of regulatory parking, line marking, and intersection controls, in association with the ongoing Huntlee development.

The committee recommendation, and subsequent Council resolution was *“That the submitted plans be returned to the developer for amendments to cycle paths and the inclusion of road widths and proposed bus routes”*.

The matters raised by the Transport for NSW representative related only to the Stage 4 (Town Centre) plans and not those submitted for Stages 32, 33, 34 & 42, however the resolution included all submitted plans.

Accordingly, approval is sought for installation of regulatory parking, line marking, and intersection controls, in association with Stages 32, 33, 34 & 42 of the ongoing Huntlee development.

DISCUSSION: The matter was described as per the report without further discussion.

RECOMMENDATION

That Council authorises installation of regulatory parking and intersection controls on various roads within Huntlee, in accordance with Various Roads Huntlee Stages 32 – 33 – 34 - 42 _ Signage & Line Marking Diagrams.

SUPPORT: Unanimous

Works and Infrastructure

Report No. WI73/2022

Works and Infrastructure



SUBJECT: **VARIOUS ROADS, HUNTLEE
REGULATORY PARKING & INTERSECTION CONTROLS
STAGE 4**

REPORT NO.: **TC42/2022**

REFERENCE.:

MATTER: At its meeting of July 2022, the Committee considered an approval for the installation of regulatory parking, line marking, and intersection controls, in association with the ongoing Huntlee development.

The committee recommendation, and subsequent Council resolution was *“That the submitted plans be returned to the developer for amendments to cycle paths and the inclusion of road widths and proposed bus routes”*.

The developer has provided comment regarding the matters raised by the Committee (see Enclosure 2), which are detailed below.

Accordingly, approval is sought for installation of regulatory parking, line marking, and intersection controls, in association with Stage 4 of the ongoing Huntlee development.

DISCUSSION: The matter was described as per the report. Huntlee Development Manager, Glenn Swan addressed the meeting and confirmed that as per the comments he previously provided by email; the Developer will provide Council with details of the proposed infrastructure treatments relevant to the new school, upon design plans becoming available. These matters will be reported to a subsequent LTC meeting in due course.

RECOMMENDATION

That Council authorises installation of regulatory parking and intersection controls on various roads within Huntlee, in accordance with Various Roads Huntlee Stage 4 _ Signage & Line Marking Diagrams.

SUPPORT: Unanimous

CLOSURE

The Meeting was declared closed at 10.20am.

ENCLOSURES

- 1 ➡ Wickham Street Stanford Merthyr _ Signage & Line Marking Diagram
- 2 ➡ Various Roads Huntlee Stages 32 - 33 - 34 - 42 _ Signage & Line Marking Diagrams
- 3 ➡ Various Roads Huntlee Stage 4 _ Signage & Line Marking Diagrams

Notices Of Motion

Report No. BN31/2022

General Manager's Unit



NOTICES OF MOTION No. BN31/2022

SUBJECT: *GROWING TEMPORARY EVENTS*

COUNCILLOR: *Jessica Jurd*

MOTION

1. **That the General Manager investigate options for how Council can safely and efficiently grow small, medium and large events through changes to planning controls, after considering:**
 1. **The existing development approvals for major events within the Cessnock LGA;**
 2. **The definition of a minor event (500 or less) and major event (greater than 500) and if a medium sized event category should be incorporated;**
 3. **How the renewal of expired development approvals can be streamlined;**
 4. **The approval time risk to event organisers when planning to hold events;**
 5. **The financial cost to event organisers when applying for development approval;**
2. **That the General Manager report back to Council options on how events can be grown through changes to planning controls.**

It is my intention to move the above motion at the next Ordinary Meeting of Council on 16 November 2022.

RATIONALE

Cessnock City Council Development Control Plan 2010 - Part D8 Temporary Events sets an event limit of 500 people before a major event development application is required. Council requests that a development application be submitted at least three months before the event, which removes flexibility, adds costs and adds uncertainty. These restrictions are preventing some events from proceeding, especially events between 500 and 2,000 people in size.

By making amendments to planning controls Council may be able to facilitate more local events, grow local markets, create jobs, provide more community entertainment and reduce the workload of planning department staff.

SOURCE OF FUNDING:

Not required.

Notices Of Motion

Report No. BN31/2022

General Manager's Unit



DELIVERY PROGRAM:

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

This Notice of Motion aligns with the following Delivery Program 2022 – 2026 actions:

1. A Sustainable and Prosperous Economy;
 1. 2.1 Diversifying and growing our local economy;
 2. 2.2 Achieving more sustainable employment opportunities; and
 3. 2.3 Increasing tourism opportunities & visitation.

Sgd: Jessica Jurd

Date: 21 October 2022

ENCLOSURES

There are no enclosures for this report

Notices Of Motion

Report No. BN32/2022

General Manager's Unit



NOTICES OF MOTION No. BN32/2022

SUBJECT: *MAYORAL CAR*

COUNCILLOR: *Ian Olsen*

MOTION

When the Mayor is performing his duties in another role other than Mayor of Cessnock, the Mayoral Car is passed onto the Deputy Mayor to fulfil the roles required as Acting Mayor.

It is my intention to move the above motion at the next Ordinary Meeting of Council on 16 November 2022.

RATIONALE

The Mayoral Car is provided for the Duties of Mayor of Cessnock and as our Mayor has employment where he spends days in Canberra and travelling around to fulfil that role others are stepping up to cover for him. If the car is so important to do your role as Mayor then it is common sense that it is left for the Deputy Mayor.

SOURCE OF FUNDING:

Not required

DELIVERY PROGRAM:

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

Sgd: Ian Olsen

Date: 19 October 2022

ENCLOSURES

There are no enclosures for this report

Notices Of Motion

Report No. BN33/2022

General Manager's Unit



NOTICES OF MOTION No. BN33/2022

SUBJECT: ***PERMANENT SECURITY CCTV CAMERAS - HUNTLEE DISTRICT PARK***

COUNCILLOR: ***Daniel Watton***

MOTION

That the General Manager:

- 1. Liaise, support and work alongside LWP (Huntlee), to install a fully operational, CCTV Security Camera System within the new Huntlee District Park (similar to Bridges Hill Park);**
- 2. Research appropriate, relevant grants that may be able to assist in further protecting this community asset with said surveillance technology**

It is my intention to move the above motion at the next Ordinary Meeting of Council on 16 November 2022.

RATIONALE

Huntlee's new District Park One has become a major attraction for many families within our community, offering a wide variety of activities and entertainment. Very unfortunately, this park has also recently been the target of vandalism since it's opening on the 16th of October, which has resulted in significant, ongoing repair costs and labour. In comparison, Bridges Hill Park, which was opened in March of 2021 has suffered very minimal, if any vandalism since it's opening. Bridges Hill Park is also monitored by ongoing CCTV surveillance, which appears to be a major factor in deterring antisocial, criminal behaviour.

Considering the above, I believe its imperative for Council to work alongside key staff members from LWP to ensure this amazing asset is well kept for future generations – while also ensuring that ongoing costs and repairs are kept to a minimum.

SOURCE OF FUNDING:

To be determined after research of relevant grants, or other potential funding avenues

Notices Of Motion

Report No. BN33/2022

General Manager's Unit



DELIVERY PROGRAM:

1.2.2 – Collaborate with the community to develop and deliver services

1.3.1 – Participate in collaborative partnerships to prevent crime

3.2.4 – Provide and maintain recreation facilities, streetscapes and public open spaces

Sgd: Daniel Watton

Date: 7 November 2022
November 2022

ENCLOSURES

There are no enclosures for this report

Correspondence

Report No. CO21/2022

Corporate and Community Services



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

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

RECOMMENDATION

That Council notes the correspondence received from the Hon. Wendy Tuckerman MP, Minister for Local Government and Jamie Parker, MP – Greens Spokesperson for Local Government, in response to Council's request to support NSW Councils' call to amend the *Rural Fires Act 1997*.

At its Ordinary Meeting of 20 July 2022 Council considered CC58/2022 – Accounting Treatment – Rural Fire Service Fleet and resolved:

1. That Council write to the State Member for Cessnock Clayton Barr MP, the Treasurer the Hon. Matt Kean MP, Minister for Emergency Services and Resilience the Hon. Stephanie Cook MP and the Minister for Local Government The Hon. Wendy Tuckerman MP:
 - Expressing Council's objection to the NSW Government's determination on ownership of Rural Fire Service (RFS) assets;
 - Advising of the impact of the Government's position on Council finances of this accounting treatment;
 - Informing that Council will not carry RFS asset stocktakes on behalf of the NSW Government and will not record RFS assets in Council's financial statements;
 - Calling on the NSW Government to take immediate action to permanently clear up inequities and inconsistencies around the accounting treatment of RFS assets by acknowledging that rural firefighting equipment is vested in, under the control of and the property of the RFS; and
 - Amending s119 of the *Rural Fires Act 1997* so that the effect is to make it clear that RFS assets are not the property of councils.

2. That Council write to the Shadow Treasurer Daniel Mookhey MLC, the Shadow Minister for Emergency Services Jihad Dib MP, the Shadow Minister for Local Government Greg Warren MP, the Greens Spokesperson for Local Government Jamie Parker MP and the leaders of the Shooters, Fishers and Farmers, Animal Justice and One Nation parties Robert Borsak MLC, Emma Hurst MLC and Mark Latham MLC:
 - Advising Members of Council's position, including providing copies of correspondence to NSW Government Ministers; and
 - Seeking Members' commitment to support NSW Councils' call to amend the *Rural Fires Act 1997* as set in correspondence.

Correspondence

Report No. CO21/2022

Corporate and Community Services



3. That Council write to the Auditor General advising that notwithstanding any overtures of future qualified audits, Council will not carry out RFS stocktakes on behalf of the NSW Government and will not record RFS assets in Council's financial statements, noting that the State Government's own Local Government Accounting Code of Practice and Financial Reporting provides for councils to determine whether or not they record RFS assets as council assets.
4. That Council promotes these messages via its digital and social media channels and via its network.
5. That Council reaffirms its complete support of and commitment to local RFS brigades noting that Council's action is entirely directed towards the NSW Government's nonsensical position that rather than being owned and controlled by local brigades, RFS assets are somehow controlled by councils, which Council consider to be a cynical financial sleight of hand abdicating the NSW Government's responsibilities at the cost of local communities.
6. That Council affirms its support to Local Government NSW (LGNSW) and requests that LGNSW continue advocating on Council's behalf to get clarification finally from the State Government about the accounting treatment of RFS assets.

Further correspondence has been received from the Greens Spokesperson for Local Government, Jamie Parker MP noting a response has yet to be received in response to representations made to the Minister for Local Government on this matter.

Correspondence has also been received from the Hon. Wendy Tuckerman MP, Minister for Local Government.

Copies of the correspondence are attached to this report.

Council has previously noted correspondence in relation to this matter as follows:

- Council Meeting 21 September 2022:
 - o Greg Warren, MP – Shadow Minister for Local Government
 - o Jamie Parker, MP – Greens Spokesperson for Local Government
 - o Geoff Provest, MP – Parliamentary Secretary for Police & Emergency Services on behalf of Stephanie Cooke, Minister for Emergency Services & Resilience and Minister for Flood Recovery

ENCLOSURES

- 1 ➡ Jamie Parker MP
- 2 ➡ The Hon. Wendy Tuckerman MP

Correspondence

Report No. CO22/2022

Corporate and Community Services



SUBJECT: *BN21/2022 - ADDRESSING HOMELESSNESS AND BASIC SERVICES FOR THE NEEDY IN CESSNOCK LGA*

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

RECOMMENDATION

That Council notes the correspondence received from the Hon Natasha Maclaren-Jones MLC, Minister for Families and Communities, Disability Services.

At its Ordinary Meeting of 20 July 2022 Council considered BN21/2022 - Addressing Homelessness and Basic Services for the Needy in Cessnock LGA and resolved:

That Council writes to the Minister for Families and Communities, Disability Services the Hon Natasha Maclaren-Jones MLC and the State Member for Cessnock, Mr Clayton Barr MP advocating for the State Government to invest in provision of laundry and showering facilities for the homeless within the Cessnock Local initially on a trial basis, in an appropriate location.

Correspondence has been received from the Hon Natasha Maclaren-Jones MLC, Minister for Families and Communities, Disability Services advising that the homelessness program and services budget is fully committed at this time and is unable to provide funding to support the establishment of shower and laundry facilities in the Cessnock LGA.

A copy of the correspondence is attached to this report.

Council has previously noted correspondence in relation to this matter from Clayton Barr MP, State Member for Cessnock, as part of Report CC71/2022 at the 21 September 2022 meeting.:

ENCLOSURES

[1](#) Response _ The Hon Natasha Maclaren-Jones