



12 July 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, 20 July 2022 at 6.30pm, for the purposes of transacting the undermentioned business.

AGENDA:

PAGE NO.

- (1) ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS**
- (2) OPENING PRAYER**
- (3) RECEIPT OF APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE**
- (4) CONFIRMATION OF MINUTES OF PREVIOUS MEETING**
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- (6) PETITIONS**
- (7) PUBLIC ADDRESS**
- (8) CONSIDERATION AND ADOPTION OF ALL REPORTS BY ENGLOBO**
- (9) NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL SESSION**
 - NI4/2022 Notice of Intention to Deal with matters in Confidential Session.
 - Report GMU16/2022 - Consideration of Final investigation
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(13) CORPORATE AND COMMUNITY

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(17) COUNCILLORS' REPORTS

(18) REPORT OF THE CONFIDENTIAL SESSION OF THE ORDINARY COUNCIL MEETING ON 20 JUL 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 16 September 2020. 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 s233A 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 and to refrain from being involved in any consideration or to vote on any such matter
2. Councillors must disclose any interest in any matter noted in the business paper prior to or at the opening of the meeting
3. The nature of the interest shall be included in the notification
4. Councillors shall immediately and during the meeting disclose any interest in respect of any matter arising during the meeting which is not referred to in the business paper
5. All declarations of interest shall be recorded by the General Manager
6. All disclosures of interest shall as far as is practicable be given in writing
7. Any member having a pecuniary or non-pecuniary significant conflict of interest shall leave the meeting and remain absent while the subject of the interest is being considered by Council
8. The meeting shall not discuss any matter in which a Councillor has a pecuniary or non-pecuniary significant conflict of interest while the Councillor is present at the meeting



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**MINUTES OF ORDINARY COUNCIL MEETING OF THE CESSNOCK CITY COUNCIL
HELD IN COUNCIL CHAMBERS ON WEDNESDAY, 15 JUNE 2022, COMMENCING AT
6.30PM**

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

IN ATTENDANCE: Acting General Manager (Director Corporate and Community Services)
Director Planning and Environment
Acting Director Corporate and Community Services (Human Resources Manager)
Director Works and Infrastructure
Development Services Manager
Strategic Planning Manager
Chief Finance Officer
Help Desk Support Officer x 2
Media & Communications Coordinator
Corporate Governance Officer

**APOLOGY & LEAVE
OF ABSENCE:**

MOTION

Moved: Councillor Hawkins
Councillor Sander

Seconded:

142

RESOLVED that the Leave of Absence previously submitted by Councillors Burke and Moores be noted.

That the apology tendered on behalf of Councillor Paynter be accepted.

FOR

AGAINST

Councillor Jackson
Councillor Dunn
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Watton
Councillor Olsen
Councillor Jurd
Councillor Suvaal
Total (10)

Total (0)

CARRIED UNANIMOUSLY

MINUTES:

MOTION

Moved: Councillor Hill
Seconded: Councillor Sander

143

RESOLVED that the Minutes of the Ordinary Meeting of Council held on 18 May 2022 and Extraordinary Meeting of Council held on 4 May 2022, as circulated, be taken as read and confirmed as a correct record.

FOR

AGAINST

Councillor Jackson
Councillor Dunn
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Watton
Councillor Olsen
Councillor Jurd
Councillor Suvaal

Total (10)

Total (0)

CARRIED UNANIMOUSLY

DISCLOSURES OF INTEREST

DISCLOSURES OF INTEREST NO. DI5/2022

SUBJECT: DISCLOSURES OF INTEREST

RECOMMENDATION

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

PE30/2022 – Section 4.55(1A) Application Proposing to Modify Development Consent No. 8/2020/20576/1 by amending condition No. 28 relating to roadworks – Councillor Dunn declared a Non Pecuniary Significant Conflict for the reason that he has an historic conflict. Councillor Dunn advised that he would leave the Chamber and take no part in discussion and voting.

PETITIONS

NIL

ADDRESS BY INVITED SPEAKERS

Councillor Dunn declared a Non Pecuniary Significant Conflict for the reason that he has an historic conflict. Councillor Dunn left the Chamber and took no part in discussion and voting.

Councillor Dunn left the meeting, the time being 6.35pm

The following person has been invited to address the meeting of Council:

Speakers	For / Against	Report	Page No.	Duration
David Pavey on behalf of owner	Against Recommendation	PE30/2022 - Section 4.55(1A) Application Proposing to modify Development Consent No. 8/2020/20576/1 by amending condition no. 28 relating to roadworks	64	3 mins

EXTENSION OF TIME

Moved:

Councillor Hawkins

Seconded:

Councillor Sander

144

RESOLVED

That an extension of 1 minute be granted to enable Mr Pavey to finalise his presentation.

FOR

Councillor Jackson
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Watton
Councillor Jurd
Councillor Suvaal

Total (8)

AGAINST

Councillor Olsen

Total (1)

CARRIED

PLANNING AND ENVIRONMENT NO. PE30/2022

SUBJECT: SECTION 4.55(1A) APPLICATION PROPOSING TO MODIFY DEVELOPMENT CONSENT NO. 8/2020/20576/1 BY AMENDING CONDITION NO. 28 RELATING TO ROADWORKS

MOTION

145

RESOLVED

Moved: Councillor Olsen

Seconded: Councillor Jurd

1. That Council approve the Section 4.55(1A) Application No. 8/2020/20576/2 to amend Condition 28 relating to roadworks to the following:

Condition 28 of Development Consent 8/2020/20576/1 be amended to:

The registered proprietors of the land shall construct the following within the unnamed lane prior to the issue of an OC.

Construct a road formation to include:

- a) *A 4-metre wide with 2 coat sealed pavement formation and with 2 by 1 m gravel shoulders, pipe drainage as required and associated grass swales from Mount View Road for approx. 65 metres,*
- b) *Road formation to be a minimum thickness of 150mm utilising approved DGB20 gravel.*
- c) *A 4 metre wide oneway crossfall, with 2 coat sealed pavement formation only for approximately 165 metres from the sealed extent a) above to the subject lot access crossover (ie no shoulder or grass swale)*

2. That Council remove the requirement for the BAR/BAL intersection works.

FOR

Councillor Jackson
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Watton
Councillor Olsen
Councillor Jurd

Total (8)

AGAINST

Councillor Suvaal

Total (1)

CARRIED

Councillor Dunn returned to the meeting, the time being 7.03pm

The speaker withdrew his request.

Speakers	For/Against Recommendation	Report	Page No.	Duration
Mr Shane Boslem	For	PE31/2022 – Hydro Kurri Kurri Planning Proposal	100	3 mins

PLANNING AND ENVIRONMENT NO. PE31/2022

SUBJECT: 18/2015/2/1 HYDRO KURRI KURRI PLANNING PROPOSAL

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Sander
146

RESOLVED

1. That Council notes the outcome of consultation with public agencies and the community in relation to the Hydro Kurri Kurri Planning Proposal.
2. That Council endorses the Planning Proposal as an amendment to the Cessnock Local Environmental Plan 2011.
3. That the General Manager notify those persons who made submissions of Council's decision.

FOR

Councillor Jackson
Councillor Dunn
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Watton
Councillor Suvaal

Total (8)

AGAINST

Councillor Olsen
Councillor Jurd

Total (2)

CARRIED

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

MOTION
147

Moved: Councillor Dunn

Seconded: Councillor Sander

RESOLVED that having read and considered the report in the agenda related to items:

GMU14/2022	Work Health and Safety Policy Statement - Review	55
GMU15/2022	Risk Management Policy Statement - Review	59
CC45/2022	Tender T112223HUN Road Safety Barrier Systems.....	189
CC46/2022	Draft Code of Meeting Practice 2022.....	197
CC48/2022	Controlled Document Review 2022 - Revocation of Policies	204
CC49/2022	Minutes of the Strategic Property & Community Facilities Committee meeting held 1 June 2022	207
CC51/2022	Investment Policy	217
CC53/2022	Notice of Intention to Deal with Matters in Confidential Session ... Supp Agenda	
WI37/2022	Tender 10048971 (Public Works) Kurri Kurri CBD Section 1.3 Construction	280
WI38/2022	Tender T2022 - 09 Kline Street Weston Bridge Project	289
WI40/2022	Financial Assistance for the Disposal of Waste (charitable and not for profit organisations) Policy	311
WI43/2022	Minutes of the Cessnock Local Traffic Committee Meeting held 16 May 2022	333
‡ CO8/2022	PE16/2022 - Cessnock City Council Companion Animal Management Plan 2022 - 2026	350

Council adopt the recommendations as printed for those items.

FOR

Councillor Jackson
Councillor Dunn
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Watton
Councillor Olsen
Councillor Jurd
Councillor Suvaal

Total (10)

AGAINST

Total (0)

CARRIED UNANIMOUSLY

NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL SESSION

NOTICE OF INTENTION NO. NI3/2022

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

**REPORT CC53/2022 - LARGE SITE ELECTRICITY CONTRACT
STATUS**

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
148
RESOLVED

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

Report CC53/2022 – Large Sites Electricity Contract Status as the report deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.
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 Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

MAYORAL MINUTES

MAYORAL MINUTES NO. MM10/2022

SUBJECT: PARKING ADVOCACY - AMENDMENT TO RULE 197 OF THE ROAD RULES 2014

MOTION **Moved:** Councillor Suvaal
149

RESOLVED

That Council write to the Hon David Elliott MP, Minister of Transport, and Clayton Barr MP, Member for Cessnock, requesting an addition of an “exemption” to Rule 197 of the NSW Road Rules 2014 allowing participating Councils to provide for parking on nature strips.

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

MOTIONS OF URGENCY

MOTIONS OF URGENCY NO. MOU5/2022

SUBJECT: MOTIONS OF URGENCY

NIL

GENERAL MANAGER'S UNIT

GENERAL MANAGER'S UNIT NO. GMU13/2022

SUBJECT: MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD 10 MAY 2022

MOTION **Moved:** Councillor Olsen **Seconded:** Councillor Hill
150
RESOLVED

That the Minutes of the Audit and Risk Committee Meeting held 10 May 2022 be adopted as a resolution of the Ordinary Council.

FOR	AGAINST
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Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	

Total (10)

Total (0)

CARRIED UNANIMOUSLY

GENERAL MANAGER'S UNIT NO. GMU14/2022

SUBJECT: WORK HEALTH AND SAFETY POLICY STATEMENT - REVIEW

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
151

RESOLVED

That Council adopts the Work Health and Safety Policy Statement.

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

GENERAL MANAGER'S UNIT NO. GMU15/2022

SUBJECT: RISK MANAGEMENT POLICY STATEMENT - REVIEW

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
152
RESOLVED

That Council adopts the Risk Management Policy Statement.

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT

PLANNING AND ENVIRONMENT NO. PE32/2022

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

MOTION **Moved:** Councillor Sander **Seconded:** Councillor Grine
153
RESOLVED

1. That Council endorses the responses to the additional information sought by the Department of Planning and Environment outlined within the report.
2. That Council forwards an amended planning proposal to the Department of Planning and Environment and request a Gateway determination for the Planning Proposal pursuant to the *Environmental Planning and Assessment Act 1979*.

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT NO. PE33/2022

**SUBJECT: 18/2021/7 PLANNING PROPOSAL FOR THE CESSNOCK
COMMERCIAL PRECINCT**

MOTION **Moved:** Councillor Sander **Seconded:** Councillor Hill
154

RESOLVED

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.

FOR

Councillor Jackson
Councillor Dunn
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Suvaal
Total (7)

AGAINST

Councillor Watton
Councillor Olsen
Councillor Jurd

Total (3)

CARRIED

PLANNING AND ENVIRONMENT NO. PE34/2022

**SUBJECT: DRAFT AMENDMENT TO CESSNOCK CITY WIDE
INFRASTRUCTURE CONTRIBUTIONS PLAN - REPORT ON
EXHIBITION**

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

1. **The Council adopt the Cessnock City Wide Infrastructure Contributions Plan 2020.**
2. **That the General Manager notifies those persons who made submissions of Council's decision.**

[illegible]

RESOLVED

That the report be deferred to the next Ordinary Council meeting.

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT NO. PE35/2022

SUBJECT: REVIEW OF SITE INSPECTION PROTOCOL

MOTION **Moved:** Councillor Hawkins **Seconded:** Councillor Watton
155

RESOLVED

That the General Manager continue discussions with Councillors about the most appropriate time to hold site inspections and reducing the number of Councillors required to accept to three.

FOR	AGAINST
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Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	

Total (10)

Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT NO. PE36/2022

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

MOTION **Moved:** Councillor Olsen **Seconded:** Councillor Hill
156
RESOLVED

That Council receives and notes the Development Performance Monitoring Report for the March quarter 2021/22.

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY

CORPORATE AND COMMUNITY NO. CC45/2022

SUBJECT: TENDER T112223HUN ROAD SAFETY BARRIER SYSTEMS

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
157
RESOLVED

1. That Council accepts the Regional Procurement panel tender Road Safety Barriers (T112223HUN) for the period from 1 July 2022 to 31 March 2023, in no order of preference from the following suppliers;
 - A1 Highways Pty Ltd
 - Destraz Pty Ltd t/a D&P Fencing Contractors
 - Guardrail Infrastructure Pty Ltd t/a Guardrail Installations Australia
 - Western Safety Barriers t/a Western Safety Barriers Group Pty Ltd
2. That the General Manager be delegated authority to extend by 12 months based on satisfactory supplier performance.

FOR	AGAINST
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Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	

Total (10)

Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC46/2022

SUBJECT: DRAFT CODE OF MEETING PRACTICE 2022

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
158
RESOLVED

1. That Council adopts the Code of Meeting Practice following the conclusion of the Public Exhibition period.
2. That the General Manager progress the implementation of a rotating roster system which provides religious organisations in the Local Government Area an opportunity to conduct the prayer at the commencement of Ordinary meetings of Council.

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC47/2022

SUBJECT: DONATIONS UNDER SECTION 356 - RATES RELIEF

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Sander
159
RESOLVED

1. That Council accept the application from Weston Masonic Centre and grant a Rates Subsidy for the 2022-23 rating year.
2. That the General Manager writes to the applicant advising of Council's decision according to the Rates Subsidy Policy.

FOR

Councillor Jackson
Councillor Dunn
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Watton
Councillor Suvaal

Total (8)

AGAINST

Councillor Olsen
Councillor Jurd

Total (2)

CARRIED

CORPORATE AND COMMUNITY NO. CC48/2022

SUBJECT: CONTROLLED DOCUMENT REVIEW 2022 - REVOCATION OF POLICIES

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
160
RESOLVED

That Council revokes the following Controlled Documents.

- **Alcohol and Other Drugs Operational Policy (2017)**
- **Smoke Free Workplace Policy (2014)**
- **Abandoned or Unattended Shopping Trolley Policy (2020)**
- **Cessnock LGA Tidy Town Program Policy (2013)**

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC49/2022

**SUBJECT: MINUTES OF THE STRATEGIC PROPERTY & COMMUNITY
FACILITIES COMMITTEE MEETING HELD 1 JUNE 2022**

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
161
RESOLVED

That the Minutes of the Strategic Property and Community Facilities Committee of 1 June 2022 be adopted as a resolution of the Ordinary Council.

FOR	AGAINST
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Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	

Total (10)

Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC50/2022

SUBJECT: INVESTMENT REPORT - MAY 2022

Councillor Jackson left the meeting, the time being 7.42pm

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Dunn
162
RESOLVED

That Council receives the Investment Report for May 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 \$81,697,154.**

Councillor Jackson returned to the meeting, the time being 7.46pm

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC51/2022

SUBJECT: INVESTMENT POLICY

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
163
RESOLVED

That the Council approves the updated Investment Policy.

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC52/2022

SUBJECT: RESOLUTIONS TRACKING REPORT

MOTION **Moved:** Councillor Olsen **Seconded:** Councillor Hill
164
RESOLVED

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

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE

WORKS AND INFRASTRUCTURE NO. WI37/2022

SUBJECT: TENDER 10048971 (PUBLIC WORKS) KURRI KURRI CBD SECTION 1.3 CONSTRUCTION

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
165
RESOLVED

1. Council declines to accept the tender and 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 in accordance with Part 7, Division 4, Clause 178 of the Local Government (General) Regulation 2005 (Acceptance of tenders) 3e, due to:
 - the assessed financial capacity of the tenderer
 - Council is satisfied that having undertaken a tender process there would be little benefit gained in inviting fresh tenders as it will negatively impact the project program, grant funding timeframes and perceived reputation within the community.
2. That Council authorise the General Manager to accept a tender and enter into a contract for the Kurri Kurri Town Commercial Centre Upgrade in whole or separable parts.

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI38/2022

SUBJECT: TENDER T2022 - 09 KLINE STREET WESTON BRIDGE PROJECT

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
166
RESOLVED

1. That Council rejects all tenders for the Kline Street Weston Bridge project (T2022 – 09) and in accordance with Part 7, Division 4, Clause 178 of the *Local Government (General) Regulation 2021* (Acceptance of tenders) 3e, to 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, due to:
 - insufficient funding.
 - the Council is satisfied that having undertaken a tender process there would be little benefit gained in inviting fresh tenders.
 - subject to securing additional funding, the Council believes that through negotiation a positive outcome can be achieved.
2. That Council authorise the General Manager to accept a tender and enter into a contract for the Kline Street Weston Bridge project in whole or separable parts.
3. That Council authorise the General Manager, to seek additional funding from TfNSW and the Department of Infrastructure, Transport, Regional Development and Communications, to facilitate the ability to award a contract for the replacement of Kline Street Weston Bridge.

FOR

AGAINST

Councillor Jackson
Councillor Dunn
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Watton
Councillor Olsen
Councillor Jurd
Councillor Suvaal

Total (10)

Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI39/2022

SUBJECT: WASTE VOUCHER PROPOSED IMPROVEMENTS AND AMENDMENT TO WASTE MANAGEMENT POLICY

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Sander
167
RESOLVED

1. That Council amend clause 4.4.7viii of the adopted Waste Management Policy 2020 – 25 allowing any household to contract transport of bulk waste with a voucher for disposal from 1 July 2022 to:

“Eligible businesses may be approved to bring waste materials on behalf of residents upon submitting the relevant application.”

2. That Council amend the current voucher system from 1 July 2023 to be issued twice per year, with each allocation to provide:

- Two (2) general waste vouchers of 250kg each and,
- Four (4) resource recovery vouchers (for recycling, organics and recoverable resources, etc.) of 250kg each.

Councillor Jurd left the meeting, the time being 7.57pm

Councillor Jurd returned to the meeting, the time being 7.59pm

FOR	AGAINST
Councillor Jackson	Councillor Olsen
Councillor Dunn	Councillor Jurd
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Suvaal	
Total (8)	Total (2)

CARRIED

WORKS AND INFRASTRUCTURE NO. WI40/2022

**SUBJECT: FINANCIAL ASSISTANCE FOR THE DISPOSAL OF WASTE
(CHARITABLE AND NOT FOR PROFIT ORGANISATIONS) POLICY**

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
168
RESOLVED

**That Council adopts the revised Financial Assistance for the Disposal of Waste
(charitable and not for profit organisations) Policy.**

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

Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	

Total (10)

Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI41/2022

SUBJECT: 2021/22 OUTDOOR POOL SEASON REVIEW

MOTION **Moved:** Councillor Hawkins **Seconded:** Councillor Dunn
169
RESOLVED

1. That Council notes the information in the report with regard to ongoing program options at Council's aquatic facilities.
2. That the General Manager provide a further report to Council with costs, funding sources and other impacts of Council:
 - a) Issuing a free family pass entry voucher to all children completing the NSW Department of Education intensive learn to swim program and including information on the options to expand this free pass to include any other learn to swim programs run at Council pools.
 - b) Holding a free entry and community celebration for the launch of the Splash Pad at Cessnock Pool for 3 days from 1-3 October 2022.
 - c) Holding a free entry and community Australia Day Celebration and BBQ at Cessnock, Branxton and Kurri Kurri Pools on 26 January 2023.

Councillor Hill left the meeting, the time being 8.08pm

Councillor Hill returned to the meeting, the time being 8.10pm

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI42/2022

SUBJECT: KURRI KURRI RUGBY LEAGUE SPORTING GROUND

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Sander
170

RESOLVED

That Council notes the information in the report in regards to the current operational maintenance and the preparation of an updated Kurri Kurri Central Sporting Facility Masterplan as part of the 2022/23 Operational Plan.

FOR	AGAINST
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Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	

Total (10)

Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI43/2022

**SUBJECT: MINUTES OF THE CESSNOCK LOCAL TRAFFIC COMMITTEE
MEETING HELD 16 MAY 2022**

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
171
RESOLVED

That the Minutes of the Cessnock Local Traffic Committee Meeting of 16 May 2022 be adopted as a resolution of the Ordinary Council.

- 1. TC19/2022 - That Council note the advice of the Local Traffic Committee regarding the Technical Review of a proposed shared zone in Church Street, Branxton as shown in the Church Street Branxton _ Shared Zone Signage Diagram.**
- 2. TC20/2022 - That Council note the advice of the Local Traffic Committee regarding the Technical Review of a proposed Shared Zone in Charlton Street, Cessnock as shown in the Charlton Street Cessnock _ Shared Zone Signage Diagram.**
- 3. TC21/2022 - That Council note the advice of the Local Traffic Committee regarding the Technical Review of a proposed 40 km/h High Pedestrian Activity Area on Wollombi Road, Wollombi as shown in the Wollombi Road Wollombi _ High Pedestrian Activity Area Diagram.**
- 4. TC22/2022 - That Council note the advice of the Local Traffic Committee regarding the Technical Review of proposed temporary regulation of traffic on various roads within Pokolbin, in accordance with the Various Roads Pokolbin _ Port 2 Port Traffic Guidance Schemes.**

FOR	AGAINST
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Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	

Total (10)

Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI44/2022

**SUBJECT: MINUTES OF THE CESSNOCK LOCAL TRAFFIC COMMITTEE
MEETING HELD 20 SEPTEMBER 2021**

MOTION **Moved:** Councillor Olsen **Seconded:** Councillor Hill
172
RESOLVED

That the Minutes of the Cessnock Local Traffic Committee Meeting of 20 September 2021 be adopted as a resolution of the Ordinary Council, as amended.

1. **TC40/2021 - That Council authorises the removal of Bus Zone signage on Barton Street, Kurri Kurri, to be replaced with a 2 Hour Timed Parking zone, in accordance with the Barton Street Kurri Kurri _ Signage Diagram.**
2. **TC41/2021 - That Council does not endorse the works outlined in TC41/2021.**

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

Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	

Total (10)

Total (0)

CARRIED UNANIMOUSLY

Councillor James Hawkins left the meeting, the time being 8.21pm

BUSINESS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN

BUSINESS WITH NOTICE NO. BN19/2022

SUBJECT: PRIORITISING ROADWORKS

MOTION **Moved:** Councillor Jurd **Seconded:** Councillor Olsen
173
RESOLVED

1. That the General Manager investigate and report back to the Roads Review Committee on Assets Funding including current funding level, any additional funding and options on how to address any underfunding.
2. That the General Manager also report on how we prioritise on roadworks.

Councillor James Hawkins returned to the meeting, the time being 8.22pm

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

BUSINESS WITH NOTICE NO. BN20/2022

**SUBJECT: ADDRESSING HOMELESSNESS AND BASIC SERVICES FOR THE
NEEDY IN CESSNOCK LGA**

MOTION **Moved:** Councillor Olsen **Seconded:** Councillor Hawkins
174
RESOLVED

That the report be deferred.

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

Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

COUNCILLOR'S REPORTS

Councillor Watton left the meeting, the time being 08:37 PM

Councillor Jackson

Lower Hunter Bush Fire Management Committee

Councillor Jackson attended the above meeting and reported as follows:-

The meeting was chaired by Peter Tarjani of the Forestry Corporation.

We discussed the BFCC (Bush Fire Coordinating Committee) stance on retardant type and usage, which is ongoing.

It was determined that Forestry is the responsible party for the Convict Bridge on Watagan Creek Rd. in Laguna, not CCC.

It was also confirmed that Kurri Kurri Hospital as a Neighbourhood Safer Place (NSP) is a health issue and not the responsibility of CCC.

We were informed of the Fuel Management Register. I have a copy which I will hand over to the Mayor, who can forward it to the appropriate department.

A majority of the meeting was spent with the various agencies and councils in attendance reporting on the progress of their respective hazard reductions in anticipation of the upcoming fire season, which could be busy thanks to all the rain creating so much fuel load.

I have a copy of the Fuel Management Plan for 2022-2023 which I will hand over to the Mayor, who can forward it to the appropriate department.

Hunter Water Customer and Community Advisory Group

Councillor Jackson attended the above meeting and reported as follows:-

The Managing Director, Darren Cleary, gave us an update on our water storage, COVID-19 procedures, and the Hunter Water scorecard. Chichester Dam which supplies Cessnock LGA, is 100% full, as are all the other dams - Grahamstown Dam, Tomago Sandbeds, and Anna Bay Sandbeds.

We were updated on the adoption of the Lower Hunter Water Security Plan and the next steps for implementation, and Hunter Water's water conservation and leakage targets and programs.

The LHWSP is available here:

hunterwater.com.au/waterfuture

Keep an eye out for a "Respect the Throne" campaign.

<https://www.hunterwater.com.au/news/respect-the-throne-receives-highly-commended-for-best-covid-19-response>

Hunter Water's sustainability strategy, goals, and objectives, including carbon reduction goals, were also discussed. All the information is on their website:

<https://www.hunterwater.com.au/our-water/sustainability>

And lastly, a regulatory update was presented on the Hunter Water's Operating Licence and the next price path, which comes into effect on 1 July and is governed by IPART (Independent Pricing And Regulatory Tribunal).

<https://www.ipart.nsw.gov.au/Home/Industries/Water/Reviews/Licensing-Hunter-Water-Corporation/Hunter-Water-Operating-Licence-Review-2021>

CORRESPONDENCE

CORRESPONDENCE NO. CO8/2022

SUBJECT: PE16/2022 - CESSNOCK CITY COUNCIL COMPANION ANIMAL
MANAGEMENT PLAN 2022 - 2026

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Sander
175
RESOLVED

That Council notes the correspondence received from the Minister for Local Government, the Hon Wendy Tuckerman MP, regarding the review of the Companion Animals Act 1998 and the Companion Animals Regulation 2018.

FOR	AGAINST
Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

Councillor Watton returned to the meeting, the time being 8.40pm

8.40PM

Confidential reports (closed session)

MOTION **Moved:** Councillor Sander **Seconded:** Councillor Grine
176

RESOLVED

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

FOR	AGAINST
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Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	

Total (10)

Total (0)

CARRIED UNANIMOUSLY

9.12PM

Open Session

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

CORPORATE AND COMMUNITY NO. CC53/2022

SUBJECT: LARGE SITES ELECTRICITY CONTRACT STATUS

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

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Grine
177

RESOLVED

1. That Council notes that Council's current Large Sites Electricity provider intends to cease supply of Electricity to Council effective 17 June 2022.
2. That Council notes the Acting General Manager has written to the provider seeking clarification regarding the reasons for wishing to cease the contract.
3. That Council delegates authority to the Acting General Manager to negotiate electricity supply contracts due to the limited timeframe.
4. That a report to Council be provided on the outcome of the electricity supply contract.

Councillor Jackson left the meeting, the time being 8.54pm

Councillor Jackson returned to the meeting, the time being 8.57pm

FOR	AGAINST
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Councillor Jackson	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Watton	
Councillor Olsen	
Councillor Jurd	
Councillor Suvaal	

Total (10)

Total (0)

CARRIED UNANIMOUSLY

The Meeting Was Declared Closed at 9.16pm

CONFIRMED AND SIGNED at the meeting held on 20 July 2022

.....**CHAIRPERSON**

.....**GENERAL MANAGER**

**MINUTES OF EXTRAORDINARY COUNCIL MEETING OF THE CESSNOCK CITY
COUNCIL HELD IN COUNCIL CHAMBERS ON WEDNESDAY, 29 JUNE 2022,
COMMENCING AT 5.00PM**

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

IN ATTENDANCE: Acting General Manager (Director Corporate and Community Services)
Director Planning and Environment
Acting Director Corporate and Community Services (Chief Finance Officer)
Director Works and Infrastructure
Finance Operations and Administration Coordinator
Corporate Governance Officer

**APOLOGY & LEAVE
OF ABSENCE:**

MOTION

Moved: Councillor Hill
Seconded: Councillor Dunn

178

RESOLVED that the Leave of Absence previously submitted by Councillor Burke be noted.

That the apology tendered on behalf of Councillor Hawkins be accepted.

FOR

AGAINST

Councillor Suvaal
Councillor Jackson
Councillor Moores
Councillor Dunn
Councillor Grine
Councillor Hill
Councillor Paynter
Councillor Olsen
Councillor Jurd

Total (9)

Total (0)

CARRIED UNANIMOUSLY

DISCLOSURES OF INTEREST

DISCLOSURES OF INTEREST NO. PPD13/2022

SUBJECT: DISCLOSURES OF INTEREST

NIL

ADDRESS BY INVITED SPEAKERS

The following person has been invited to address the meeting of Council:

Councillor Watton attended the meeting, the time being 5.05pm

Speakers	For / Against	Report	Page No.	Duration
Karen Graham	Against Recommendation	CC54/2022 - Adoption of Community Strategic Plan 2022-2032, Delivery Program 2022-2026, incorporating the Operational Plan 2022-2023, Budget, Revenue Policy and Fees & Charges 2022-2023	5	3 mins

CORPORATE AND COMMUNITY

CORPORATE AND COMMUNITY NO. CC54/2022

SUBJECT: **ADOPTION OF COMMUNITY STRATEGIC PLAN 2022-2032, DELIVERY PROGRAM 2022-2026, INCORPORATING THE OPERATIONAL PLAN 2022-2023, BUDGET, REVENUE POLICY AND FEES & CHARGES 2022-2023**

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Grine
179
RESOLVED

1. That Council having considered all submissions received from the community following public exhibition of the draft documents adopts the:
 - Community Strategic Plan Cessnock 2036
 - Delivery Program 2022-2026 incorporating the Operational Plan 2022-2023, including the budget and Revenue Policy
 - Resourcing Strategy incorporating the Long Term Financial Plan and Workforce Strategy
 - Fees and Charges for 2022-2023
2. That the General Manager advises the authors of external submissions of Council's decision.

FOR	AGAINST
Councillor Suvaal	Councillor Olsen
Councillor Jackson	Councillor Jurd
Councillor Moores	
Councillor Dunn	
Councillor Grine	
Councillor Hill	
Councillor Paynter	
Councillor Watton	
Total (8)	Total (2)

CARRIED

CORPORATE AND COMMUNITY NO. CC55/2022

SUBJECT: MAKING THE RATE 2022-23

Councillor Sander attended the meeting, the time being 5.21pm

Councillor Olsen moved a Motion of Dissent against the Mayor's ruling to allow the Mayor to speak to the matter.

MOTION

180

RESOLVED

That the Mayor's ruling be upheld.

FOR	AGAINST
Councillor Suvaal	Councillor Paynter
Councillor Jackson	Councillor Watton
Councillor Moores	Councillor Olsen
Councillor Dunn	Councillor Jurd
Councillor Grine	
Councillor Sander	
Councillor Hill	
Total (7)	Total (4)

CARRIED

Councillor Olsen left the meeting, the time being 5.25pm

MOTION

Moved: Councillor Dunn

Seconded: Councillor Grine

181

RESOLVED

That Council make the following rates and charges for the year commencing 1 July 2022 to 30 June 2023:

1. Ordinary Rates

The following Ordinary Rates now be made for the year commencing 1 July 2022.

Category	Sub Category	Ad-valorem Amount Cents in \$	Base Amount \$	Base % of Total Rate
Residential		0.471418	430.00	34.04%
Residential	Rural	0.389098	430.00	20.39%
Farmland		0.330590	430.00	15.61%
Farmland	Mixed Use	0.850264	535.00	6.90%
Farmland	Business Rural	0.850264	535.00	9.27%
Business		1.808720	535.00	12.36%
Mining		3.890614	1,500.00	0.51%

2. Waste Charges

Council do hereby prescribe and order under Section 496 of the *Local Government Act 1993* for rateable land categorised for rating purposes as residential or farmland and situated within the area in which a Domestic Waste Management Service is able to be provided, that the following waste charges be now made for the year commencing 1 July 2022.

Domestic Waste Management Service Charge

Domestic Waste Management Availability Charge ¹	\$76.00
Domestic Waste Management Service Charge ²	\$645.00
Additional Domestic Waste Management Service Charge ³	\$645.00
Additional Domestic Waste Management Service Charge – Recycling	\$82.20
Additional Domestic Waste Management Service Charge – Organics	\$82.20

1. Charge applies to vacant rateable land situated within the area in which a Domestic Waste Management Service is able to be provided.
2. Each premise is entitled to one approved mobile waste bin mixed waste service per week, one fortnightly collection of recyclable material and one fortnightly collection of organic material for each Domestic Waste Management Service Charge.
3. Each premise is entitled to one approved mobile waste bin mixed waste service per week for each Additional Domestic Waste Management Service Charge.

Council do hereby prescribe and order under Section 501 of the *Local Government Act 1993*, for land not categorised for rating purposes as residential or farmland and situated within the area in which a Waste Management Service is able to be provided, that the following waste charges be now made for the year commencing 1 July 2022.

Waste Management Service Charge

Waste Management Service Charge ¹	\$787.00
Additional Waste Management Service Charge ²	\$787.00
Additional Waste Management Service Charge - Recycling	\$82.20
Additional Waste Management Service Charge - Organics	\$82.20

1. Each premise is entitled to one approved mobile waste bin mixed waste service per week and one fortnightly collection of recyclable material for each Waste Management Service Charge. Each premise is also entitled to one fortnightly collection of organic material for each Waste Management Service Charge upon request and justification of needs.
2. Each premise is entitled to one approved mobile waste bin mixed waste service per week for each Additional Waste Management Service Charge.

3. Stormwater Management Services Charges

Council do hereby prescribe and order under Section 496A of the *Local Government Act 1993*, for land situated within the designated stormwater area, that the following stormwater charges be now made for the year commencing 1 July 2022.

Stormwater Management Service Charge

Stormwater Management Service Charge - Residential	\$25.00
Stormwater Management Service Charge - Residential Strata	\$12.50
Stormwater Management Service Charge - Business	\$25.00 per 350m ² (or part thereof) to a maximum \$500

4. Interest on Overdue rates and Charges

Council do hereby determine and order, in accordance with Section 566 of the *Local Government Act 1993*, that if rates and charges are unpaid at the due date, the amount shall be increased by a sum calculated at:

- six per cent (6%) per annum, simple interest, calculated daily for the period 1 July 2022 to 30 June 2023.

5. Hunter Local Land Services

Council, in accordance with Clauses 36 and 40, Part 4, of the *Local Land Services Regulation 2014*, prescribes that the rate for the year commencing 1 July 2022 shall be the rate gazetted by the Minister for the Hunter Catchment Contribution for the period 1 July 2022 to 30 June 2023 inclusive being 0.00977 of a cent in the dollar of rateable land value.

FOR	AGAINST
Councillor Suvaal	Councillor Jurd
Councillor Jackson	
Councillor Moores	
Councillor Dunn	
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Paynter	
Councillor Watton	
Total (9)	Total (1)

CARRIED

The Meeting Was Declared Closed at 5.26pm

CONFIRMED AND SIGNED at the meeting held on

.....**CHAIRMAN**

.....**GENERAL MANAGER**

Disclosures Of Interest

Report No. DI6/2022

Corporate and Community Services



SUBJECT: *DISCLOSURES OF INTEREST*

RESPONSIBLE OFFICER: *Chief Finance Officer - Matthew Plumridge*

RECOMMENDATION

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

SUMMARY

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

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

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

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

ENCLOSURES

There are no enclosures for this report.

Notice of Intention to Deal With Matters in Confidential Session

Report No. NI4/2022

Corporate and Community Services



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

REPORT GMU16/2022 - CONSIDERATION OF FINAL INVESTIGATION REPORT - CODE OF CONDUCT COMPLAINT

RESPONSIBLE OFFICER: *Chief Finance Officer - Matthew Plumridge*

RECOMMENDATION

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

Report GMU16/2022 – Consideration of Final Investigation Report - Code of Conduct Complaint as the report contains 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.

SUMMARY

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

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

ENCLOSURES

There are no enclosures for this report.

Mayoral Minute

Report No. MM11/2022

General Manager's Unit



MAYORAL MINUTE No. MM11/2022

SUBJECT: FLOOD EVENT APPRECIATION

RECOMMENDATION

1. That Council notes the impacts and devastation the recent flood event has had across our region, as well as it being the second natural disaster declaration within 4 months.
2. That Council acknowledges the service and commitment of Council Staff, NSW SES Units, VRA Rescue NSW, NSW Police and all emergency services for the work in keeping the community safe during this recent flood event.
3. That Council write to these organisations to outline our appreciation of everyone's efforts and contributions during this challenging time.
4. That Council thanks the community for their understanding as Council works to assess and repair the damage caused by the floods.

REPORT/PROPOSAL

All Councillors have appreciated the tireless work of our council staff and emergency and support services throughout our local government area and in the best interests of the community I feel it is appropriate for Council to acknowledge their service.

ENCLOSURES

There are no enclosures for this report.

Mayoral Minute

Report No. MM12/2022

General Manager's Unit



MAYORAL MINUTE No. MM12/2022

SUBJECT: TESTERS HOLLOW AND BUCHANAN ROAD

RECOMMENDATION

1. That Council write to Transport for NSW, the NSW Minister for Regional Transport and Roads, the Hon. Sam Faraway MLC, and the NSW Shadow Minister for Regional Transport and Roads, Jenny Aitchison MP requesting they consider amending the new road design for Testers Hollow to make it flood free by raising the new road height given the current height was below the recent flood level.
2. That Council request, that due to recent population and traffic growth, Transport for NSW keep the current road at Testers Hollow open, which would make it 4 lanes (2 each way) with the ability to run contra flow on the new road in the event of future flood events.
3. That Council request the Transport for NSW take on Buchanan Road / Mount Vincent Road as a State road, noting the increased traffic from the Hunter Expressway, access to the new Maitland Hospital and local development, as well as it being the major thoroughfare when Testers Hollow is closed.
4. That Council contact Maitland Council to arrange a joint delegation then request a meeting with the NSW Minister for Regional Transport and Roads regarding the issues above.
5. That a copy of these letters and requests be sent to the State Member, Mr Clayton Barr MP, with a request for him to make representations to the NSW Minister for Regional Transport and Roads, on Council's behalf, in regard to these urgent issues.

REPORT/PROPOSAL

Due to the recent flooding of Main Road Cliftleigh, the road is currently closed. There is a need to reassess the flood mitigation options with increased housing proposals on both Cessnock and Maitland sides of Testers Hollow greater pressure is predicted for this major transport link.

The height of the road needs to be raised above the flood level. School children who normally travel to Maitland are denied transport with Rover Coaches, who recently cancelled services, due to the flooding of Testers Hollow where the road was closed for more than a week. This is an ongoing concern every time there is a major flood event.

With significant housing developments planned for the region and increased population growth it is essential that infrastructure matches the development for our fast growing community.

Mayoral Minute

Report No. MM12/2022

General Manager's Unit



Buchanan Road / Mount Vincent Road has also increased in traffic volumes with the opening of the Hunter Expressway as well as it now being the main route to the new Maitland Hospital and should meet the requirements of a State road. Additionally, the closure of the Main Road at Testers Hollow leads to a significant increase in traffic volume on Buchanan Road which effectively becomes the main flood free access to Maitland.

Given these issues impact both Cessnock and Maitland LGA residents it would be appropriate to organise a joint delegation to meet with the Minister to discuss them.

ENCLOSURES

There are no enclosures for this report

Motions of Urgency

Report No. MOU6/2022

Corporate and Community Services



SUBJECT: *MOTIONS OF URGENCY*

RESPONSIBLE OFFICER: *Chief Finance Officer - Matthew Plumridge*

RECOMMENDATION

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

SUMMARY

As per Clause 9.3 of Council's Code of Meeting Practice, business may be considered at a meeting of Council even though due notice of the business has not been given to the Councillors if:

- a) a motion is passed to have the business considered at the meeting, and
- b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by Council before the next scheduled ordinary Council meeting.

Only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put. A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b)

ENCLOSURES

There are no enclosures for this report.

Planning and Environment

Report No. PE37/2022

Planning and Environment



SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2021/22147/1
PROPOSING TO REBUILD AN EXISTING SERVICE
STATION AND CONVENIENCE SHOP, AND CONTINUED
OPERATION 24 HOURS PER DAY 7 DAYS A WEEK*

289 - 293 CESSNOCK ROAD, ABERMAIN

RESPONSIBLE OFFICER: *Development Services Manager – Janine Maher*

APPLICATION NUMBER:	8 2021 22147 1
PROPOSAL:	Rebuild an existing service station and convenience shop, and continued operation 24 hours per day 7 days a week
PROPERTY DESCRIPTION:	Lots 13 and 21, Section 1, DP 758004
PROPERTY ADDRESS:	289 - 293 Cessnock Road, Abermain
ZONE:	R2 Low Density Residential
OWNER:	Kerai Investments Pty Ltd & Jeshani Pty Ltd
APPLICANT:	Chris Jones

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2021/22147/1 proposing to rebuild an existing service station and convenience shop and continued operation 24 hours per day 7 days a week at 289 - 293 Cessnock Road, Abermain, 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 proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instrument(s), being the *Cessnock Local Environmental Plan 2011, State Environmental Planning Policy*

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(Resilience and Hazards) 2021 and State Environmental Planning Policy (Transport and Infrastructure) 2021.

- The proposed development is, subject to the recommended conditions, consistent with the objectives and provisions of the Cessnock Development Control Plan 2010 (DCP).
- Subject to the recommended conditions, the proposed development will be provided with adequate essential services.
- The proposed development is considered to be of an appropriate scale and form for the site, and is consistent with the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site, and its approval 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. 8/2021/22147/1 is being referred to Council for determination as it has been called-up by three (3) Councillors in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2021/22147/1 seeking approval to rebuild an existing service station and convenience shop, and continued operation 24 hours per day 7 days a week, at 289 - 293 Cessnock Road, Abermain.

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

The Development Application was publicly exhibited and no submissions were received.

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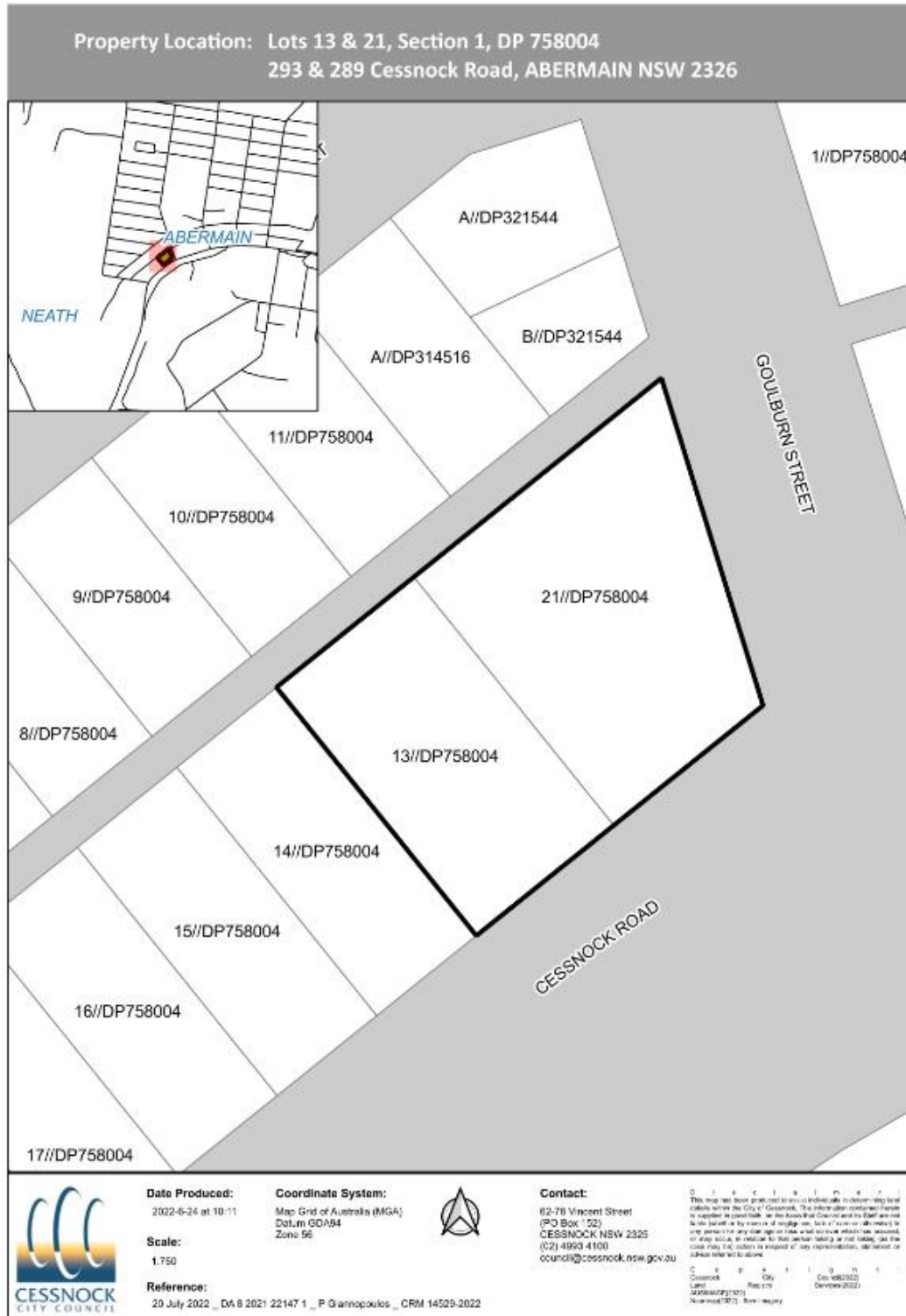


The existing service station operates on a 24 hour per day/7 days per week basis. Whilst the configuration of the site layout will change, ultimately the site will continue to operate as per the current operating hours and customer usage pattern/s. The application demonstrates that the proposal for 24 hour operation of the service station will not result in unacceptable adverse amenity impacts on the surrounding residential development. Notwithstanding, it is considered that a 12 month trial of the 24 hour operation should be imposed as a precautionary measure given the residential nature of the direct locality.

The application has been referred to NSW Police who have raised no objection to the proposed development. In addition, Council officers have stated that the proposal does not raise either social or noise impact concerns.

Based on the assessment, it is recommended that the Development Application be approved subject to a 12 month trial period and the conditions of consent contained in this report.

LOCATION MAP



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AERIAL



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 289 - 293 Cessnock Road, Abermain and is legally described as Lots 13 and 21, Section 1, Deposited Plan 758004.

The subject site is located on the north-west corner of Cessnock Road and Goulburn Street Abermain. The site is irregular in shape with a frontage of 57.9m to Cessnock Road; 54.1m to Goulburn Street; and 77.8m to a laneway to the north-west. The depth of site is 50.3m, and the overall site area is 3,416m². Vehicular access to the site is available from Cessnock Road via two existing crossovers, with a further crossover from the Goulburn Street frontage. A bus stop is situated on the road verge between the two crossovers in Cessnock Road, near the eastern crossover.

The subject site is currently occupied by a service station that includes a convenience store, trailer hire, and is intermittently used to operate a mobile food/flower van. The service station currently operates 24 hours per day, seven days a week. The service station is located towards the centre of the site with fuel bowsers and a canopy. The development is cut into the slope which would, in its natural state, fall from the north-east to the south-west. A grassed earth mound exists near the rear of the site, adjacent to the laneway. It is also noted that informal access appears to be gained to the service station from the laneway.

The below photographs depict the site:

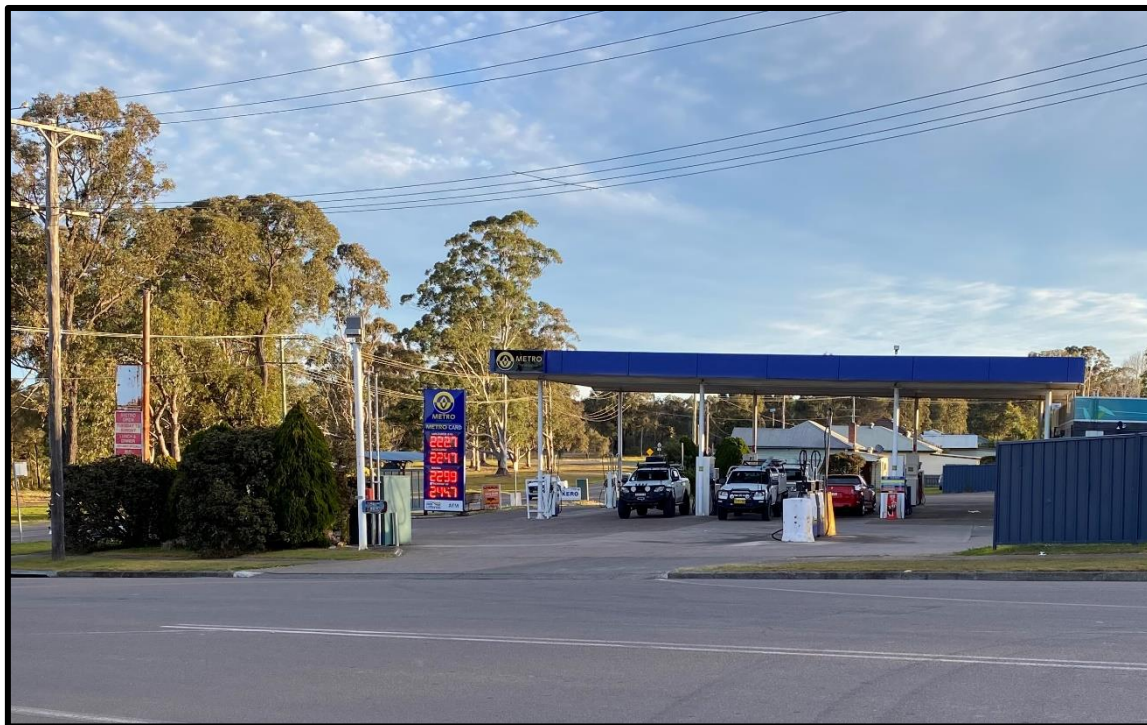


View of the site from Cessnock Road (view from the south)

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View of the site from Goulburn Street (view from the east)



View of the site from adjoining laneway (view from the north-east)

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The surrounding properties situated to the north, east and west are used for residential purposes, mainly detached, single-storey housing. Cessnock Road is the main arterial link between Kurri Kurri and Cessnock; the road has a gentle bend generally following the outer circumference of a railway line that lies further south. Except for the railway line, the land to the south is generally undeveloped. Abermain is a modest sized village with low density housing and a small commercial strip which lies along Cessnock Road. Along Cessnock Road there are other non-residential uses located in the residential area, including a medical centre and bakery.

Relevant development consents issued in relation to the property include:

Development Consent Reference No.	Date development consent issued	Description of approved development
6/1992/230	11 March 1992	Construct awning over petrol bowsers
8/2014/53	30 June 2014	Subdivision of land – three (3) lots into five (5) lots (Note: this development consent was never acted upon, and has lapsed)

HISTORY

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

Date	Action
23 November 2021	Application lodged with Council.
3 December 2021	Application referred to relevant officers/agencies.
8 December 2021 to 19 January 2022	Application placed on public exhibition. No submissions received.
7 March 2022	Application called up to a Council meeting.
8 March 2022	Request for information letter sent to applicant in respect of matters relating to signage, access, traffic and bushfire.
4 April 2022	Additional information submitted.
10 May 2022	Status of application discussed with applicant, and applicant advised that the application has been called-up to a Council meeting for consideration/determination. Applicant advised that the next available Council meeting for referral of the application is July 2022.
27 June 2022	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2021/22147/1 seeks approval to rebuild an existing service station and convenience shop, and continued operation 24 hours per day 7 days a week.

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The developer proposes to demolish the existing buildings including the removal of the underground tanks, excavate to level the site (earthworks will involve significant cutting into the norther parts of the site), then reconstruct the site with a new service station, including a sales/convenience shop, new underground tanks, new acoustic fencing and new security measures. Existing access points from Cessnock Road and Goulburn Street will remain in their current configurations, and in many respects the development will have a similar layout to the existing service station. The main difference relates to the provision of car parking spaces and the inclusion of vehicular access around the perimeter of the building. A copy of the plans are included as an enclosure to this report.

In detail, the application proposes:

Demolition

- Colorbond boundary fencing
- Sales building and associated structures (including container/s)
- Canopy and dispensers
- Removal of underground fuel tanks
- Removal of concrete forecourt

Construction

- Sales building (473m² GFA)
- Canopy (30.6m x 10m) – reoriented from existing position on the site
- 4 x multi product fuel dispensers (8 positions)
- 1 x diesel dispenser with canopy over (6.5m x 8.85m)
- Parking spaces: 25 spaces, including accessible space near sales building
- Retaining wall 1.5m inside of northern boundary with acoustic fence above and landscaping to site boundary
- Acoustic fence along western, northern and part of eastern boundary (to be constructed above retaining wall on northern side of sales building)
- Retaining walls (as indicated on plans – to engineer's details)
- New driveway around rear of sales building, inside of retaining wall (no access to laneway)
- New concrete forecourt
- Lighting
- Security measures to be installed throughout

Site Works

- Removal of underground tanks
- Excavation relating to foot pad of new sales building
- Retaining walls, acoustic fencing and landscaping throughout
- New concrete forecourt
- New OSD tank
- New fuel price sign panel 7.0m internally lit
- New stormwater drainage
- Landscaping with new kerbing surrounds
- Line mark parking spaces and delineate areas (e.g., loading zone)

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Operation of the site:

- Service station hours of operation: 24 hours per day, 7 days a week
- Staff: 1 - 2

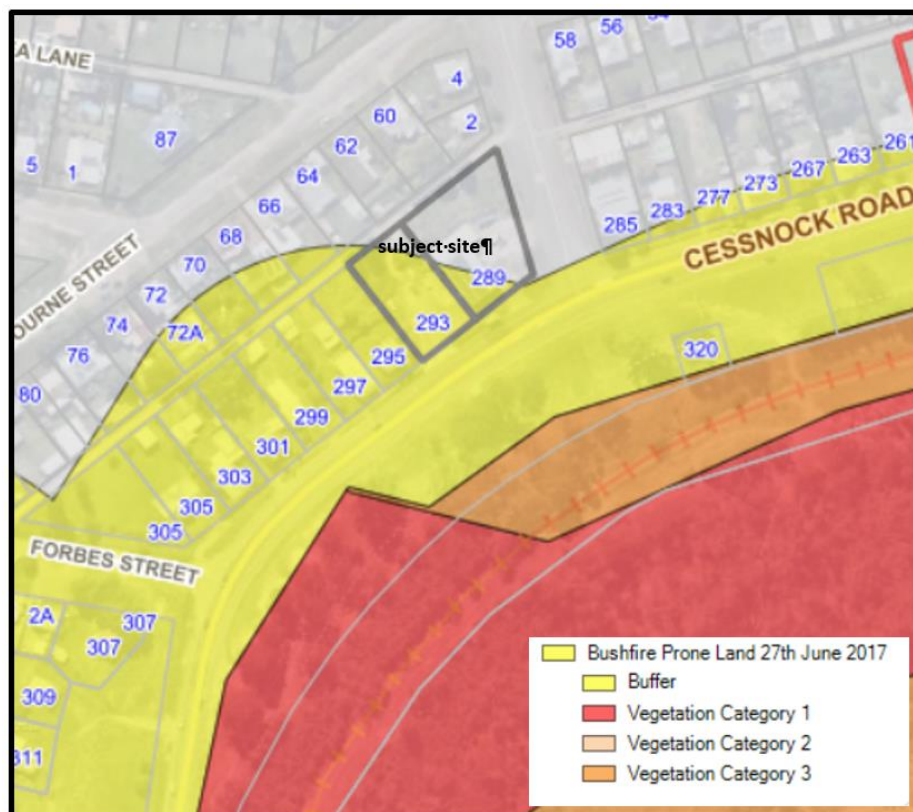
ASSESSMENT

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.

The site is identified as being partly bushfire prone, as identified in the below 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.

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The applicant has submitted an accredited Bushfire Report prepared by Bush Fire Planning Services in support of the proposed development.

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

- Prior to the use of the site, a Bush Fire Emergency Management and Evacuation Plan must be prepared and be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan. The plan must include, but not be limited to, the following:
 - Triggers for the closure and evacuation of the site;
 - Fuel system shut down procedures and management of onsite hazards that may contribute to a bush fire emergency
- Although AS3959 considers that no specific construction requirements need to be applied to this proposal, some risk from bushfire still exists. The subject lot is in an area that may be affected by a fire in the larger, surrounding area which could be expected to cause smoke and embers to affect the new building. It would be prudent to consider constructing the building to incorporate ember protection which will give an enhanced level of protection for the new building. The additional cost is not significantly onerous and is recommended, however not strictly required.

On the basis of the above, it is considered that the proposed development satisfies the provisions of s4.14.

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. Clause 4(1) of State Environmental Planning Policy (Resilience and Hazards) 2021, is relevant to the assessment of this Development Application.

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Clause 4.6(1) 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. It is noted that, in this case, it is proposed to continue using the site for its existing use, i.e., a service station.

4.6 Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless—
- (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is 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, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The applicant has provided a contamination report (Environmental Site Assessment) that has detailed groundwater and soil samples taken to determine the extent of existing contamination. The results of the testing indicate that the soil and groundwater contamination are below adopted assessment criteria. The Environmental Site Assessment report concludes:

In summary, the extent of impact to soil and groundwater by petroleum hydrocarbons across the site is considered minimal and limited to shallow soils in the vicinity of the operational UPSS. The potential for migration of contaminants in groundwater associated with site operations off-site and affecting a sensitive receptor is considered low or negligible.

The site is considered suitable for ongoing service station use.

Council's Senior Environmental Health Officer has reviewed the report and is satisfied with the findings and the conclusion of the report. The recommended conditions of consent include requirements to ensure that the underground fuel tanks are constructed in accordance with adopted standards, therefore ensuring that adequate measures are taken to ensure that ground and water contamination is prevented.

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

The development application was referred to Transport for NSW (TfNSW) as the development:

1. Has frontage to a classified road; and
2. Is categorised as traffic generating development, as the proposed development is prescribed in Column 3 of Schedule 3 of SEPP T&I.

The pertinent considerations as stated in SEPP T&I are reproduced below:

- 2.118 (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*

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- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and**
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

And,

2.121 (2) (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.

TfNSW has considered the application and raised no objection to the proposed development subject to the inclusion of conditions of consent on any notice of determination issued by Council.

SEPP T&I also contains provisions in respect to development in proximity to electricity infrastructure. Council must consider any comments from Ausgrid that are made within 21 days of referral. The application was referred to Ausgrid who have not provided comment. Therefore, it is considered that this provision has been satisfied.

3. Cessnock Local Environmental Plan 2011

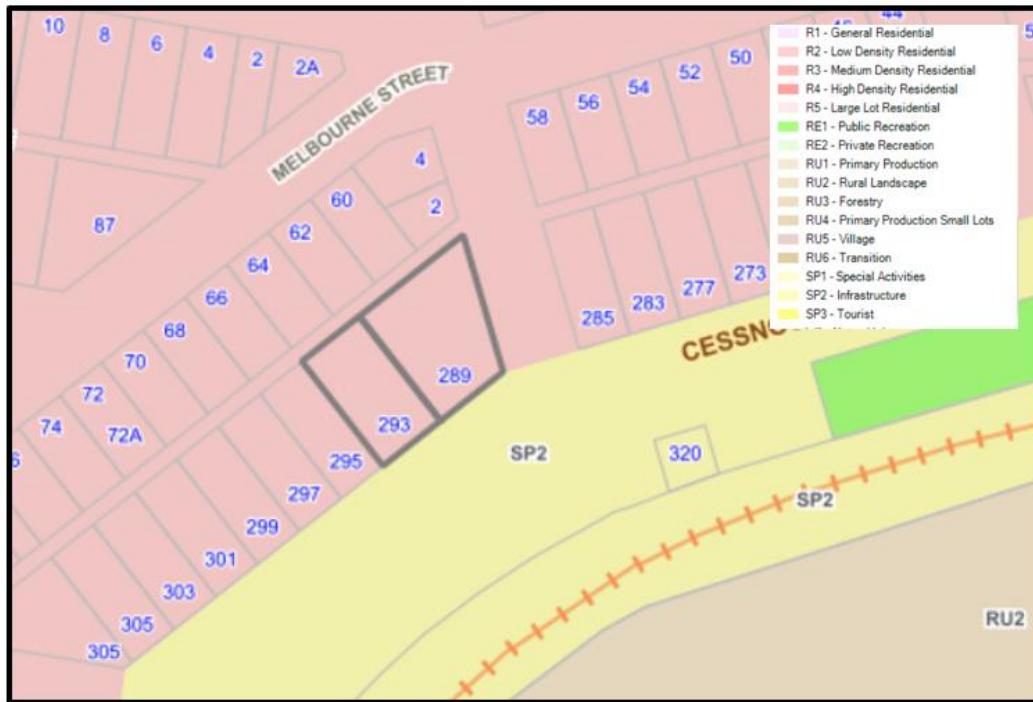
3.1 Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of the *Cessnock Local Environmental Plan (CLEP) 2011*, as depicted in the below map:

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The proposed development is categorised as a 'service station' under CLEP 2011, which is defined as follows:

service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following—

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

The development satisfies the above definition, as the development comprises a *building used for the sale by retail of fuels and lubricants for motor vehicles, and the ancillary sale by retail of spare parts and accessories for motor vehicles.*

Development for the purpose of a service station is a prohibited land use in the R2 Low Density Residential zone. Notwithstanding, the site benefits from existing use rights which permit the redevelopment of the site. This is discussed later in this report, in detail.

3.2 Objectives

The objectives of the R2 Low Density Residential zone and a response to each, are identified in the following table:

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Objective	Comment
<i>'To provide for the housing needs of the community within a low density residential environment'</i>	The proposed development is not a form of residential development.
<i>'To enable other land uses that provide facilities or services to meet the day to day needs of residents.'</i>	The proposed development is a facility that services the day to day needs of residents. Therefore, it is considered that the proposal is consistent with the stated objective.

3.3 Relevant Clauses

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

- Clause 7.2 – Earthworks

In part, clause 7.2 states as follows:

- '(3) Before granting development consent for earthworks, the consent authority must consider the following matters—*
- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,*
 - (b) the effect of the proposed development on the likely future use or redevelopment of the land,*
 - (c) the quality of the fill or the soil to be excavated, or both,*
 - (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
 - (e) the source of any fill material and the destination of any excavated material,*
 - (f) the likelihood of disturbing relics,*
 - (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
 - (h) any measures proposed to minimise or mitigate the impacts referred to in paragraph (g).'*

The development that currently occupies the site is cut into the natural topography of the land. The proposed development seeks to extend the cut into the landscape to the north adjacent to the laneway. The application proposes a cut into the land, at its deepest, approximately 2.8m below natural ground level. Whilst the development will alter the existing drainage pattern, this is not considered to be significant.

The earthworks facilitate and assist in improving the development of the site without detrimentally impacting on adjoining properties. The development will be managed to ensure that the excavated soil and fill is suitably controlled, and conditions of consent have been imposed on the draft notice of determination to ensure that off-site impacts are mitigated.

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Given that the existing site is significantly disturbed and that a relatively small area of undisturbed land is to be excavated under this proposal, it is considered unlikely that the development will disturb relics.

The abovementioned works have been assessed and determined to satisfactorily meet the requirements of the clause, subject to the imposition of appropriate conditions of consent on the draft notice of determination.

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).*

No proposed environmental planning instruments are relevant to the application.

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:

Cessnock DCP 2010			
Provision	Required	Provided	Complies?
Chapter C1 Parking and access	1 space per 20m ² of gross floor area of the convenience store. The convenience store gross floor area is 473m ² . Hence, 24 spaces are required.	25 parking spaces.	Yes
Chapter C3 Contaminated Lands	Contamination to be identified and if remediation required, details to be provided.	Testing indicates remediation is not required. Refer to previous assessment in respect of contamination.	Yes
Chapter C5 Waste Management and Minimisation	Waste management plan to be submitted.	Suitable waste management plan provided.	Yes
Chapter C8 Social Impact Assessment and Crime Prevention Through Environmental Design	Social Impact Assessment.	Social Impact Assessment submitted in support of the application, and considered satisfactory.	Yes

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Chapter D5 Outdoor signage	<p>The existing pylon sign that identifies fuel pricing is not a type of sign that is detailed in the advertising sign provisions.</p> <p>Canopy signs (fascia signs) are assessed on merit.</p>	<p>It should be noted that the replacement pylon sign will be increased in area and height. The sign is considered suitable having regard to its relationship with the adjoining built form; and it is consistent with the advertising principles contained in the DCP chapter.</p>	Yes
Chapter D12 Heritage Conservation & Design Guidelines	<p>Character assessment to be provided where the development adjoins heritage items.</p> <p>In this case, the following heritage items are located in proximity to the subject site:</p> <ul style="list-style-type: none"> I. 'Abermain War Memorial' (Item No.113) II. 'Abermain sandstone kerbs, gutters and roads: Cessnock Road (northern side between Goulburn and Bathurst Streets) road reserve (Item No.114) III. 'South Maitland Railway System' (Item No.1212) <p>In this case, the heritage listed sandstone kerb and gutter which is located approximately 30m to the east of the subject site, is considered the heritage item most likely to be affected.</p>	<p>The proposed development is considered to be consistent with the existing established character of the site.</p> <p>Council's Heritage Advisor considers that the development will have a negligible and acceptable impact on the heritage items within the vicinity of the site.</p>	Yes

4.15(1)(a)(iii) 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

Environmental Planning and Assessment Regulation 2021

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

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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,*
- (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* (Regulation) continue to apply, and the application has been assessed with consideration given to these provisions.

The pertinent provisions from the *Environmental Planning and Assessment Regulation 2000* relate to existing use rights (EUR). An existing use is essentially a use that lawfully commenced but subsequently becomes a prohibited use under a new local environmental plan (LEP) or other environmental planning instrument (EPI).

The *Environmental Planning and Assessment Act 1979* states that once EUR have been established, there are no provisions under the Act to prevent the continuation of the existing use. The Act also states that the Regulation may make provisions for the alteration, rebuild, expansion and for the change of the existing use to another use, as reproduced below (emphasis added in bold):

4.67 Regulations respecting existing use (cf previous s 108)

(1) The regulations may make provision for or with respect to existing use and, in particular, for or with respect to—

- (a) the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and...***

It is also noted that clause 41 of the Regulation gives Council the ability to approve the enlargement, expansion, intensification and rebuild of a development that benefits from EUR.

The applicant provided a review of the development history of the site to demonstrate that the site benefits from EUR. The information supplied by the applicant notes as follows:

The current LEP came into force on the date of its gazettal, that is, 23.12.2011, however the following extract of the Chief Town Planner's Report to Council in 1984 notes that zoning of the land as Residential 2(a) in 1984. It has been established that the land was used for as a service station prior to 1984 and Council has acknowledged the existing use rights of the property as far back as 1984. At this time Council was assessing a development application for the redevelopment of the service station on the land which had been destroyed by fire.

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The applicant also provided a detailed history of the site including an aerial photograph that identifies a building on the site in 1966. The submission also details the improvements made to the development over time and the legislative context that the alterations were made within.

The information provided by the applicant has been reviewed by Council officers. In addition, a search and review of Council's records has been undertaken, and the outcome of this collaborates the applicant's position. In this regard, Council officers are satisfied that the site benefits from EUR.

The Act states that once EUR have been established, there are no provisions under the Act to prevent the continuation of the existing use.

On the basis of the above, it is therefore considered that the site benefits from EUR and that there is no impediment to the application being approved.

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. The following is a discussion in respect to the key likely impacts:

Social impact and crime prevention

As outlined previously in this report, a Social Impact Assessment was submitted in support of the proposal. Council's Principal Community Planner assessed the SIA and concluded that the application was prepared in accordance with the Part C, Chapter 8 of the DCP 'Social Impact Assessment & Crime Prevention through Environmental Design Guidelines for a Proposed Development'.

In respect to the development, the following comments have been provided:

The submitted Social Impact Assessment indicates that despite the fact there were no responses received from the community, the approach taken to community engagement was adequate and provided an opportunity for the affected community to identify potential social and crime impacts associated with the development. The Social Impact Assessment identifies and provides an analysis of both positive and negative social impacts associated with the development. The submitted Crime Prevention Through Environmental Design (CPTED) Assessment recommends a number of measures and mitigation strategies that will address social and crime impacts identified.

In terms of the crime prevention, the application was required to be referred to the NSW Police as part of Council's adopted protocol. The NSW Police have responded and raised no objection to the development and recommended the incorporation of number of measures in respect of crime prevention. The recommendations from the NSW Police have been included as conditions of consent in the draft notice of determination.

Furthermore, the recommended conditions of consent include a 12 month trial and review period in respect to the proposed 24hr trading component of the application.

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Having regard to the above responses; adoption of the required crime prevention measures; and the fact that a review of Council's records has identified that the existing development has a history of 24 hour operation, it is considered that the development is suitable for approval.

Noise:

The applicant prepared a Noise Assessment in support of the application. The Noise Assessment was based on:

- site inspections;
- ambient background noise measurements;
- noise assessment procedures recommended in the EPA Noise Policy for Industry (NPfI) and Road Noise Policy (RNP);
- a conceptual site layout;
- nominal plant and equipment selections;
- plant and equipment manufacturer's noise data; and
- noise modelling.

The Noise Assessment considers the impact that the proposed development will have on the nearest residential receivers and concludes:

The results of modelling show that noise from plant and equipment can be controlled through selection, design, installation and satisfy the recommended noise goals.

Council's Senior Environmental Health Officer has reviewed the content and recommendations of the Noise Assessment and deemed that the measures to alleviate or reduce noise levels to acceptable standards, are suitable. The recommended conditions of consent require that all recommendations from the Noise Assessment are implemented in the development in its rebuilt form, and that measures are adopted to ensure the recommendations are maintained and observed on an ongoing basis.

Visual Impact

Service stations are designed in a functional manner. In terms of design form, they present utilitarian characteristics. The proposed development is required to have retaining walls with acoustic fencing above; expansive canopies; and a functional convenience shop. The development has been designed with fenestration to the façade that faces Cessnock Road to ensure it addresses the street. The development will also freshen the appearance of the development which currently has bins in open areas. In addition, the yard area is currently cluttered with goods offered for sale or hire. As the proposed development provides an enclosed service yard and landscaping, it is expected that these measures will result in an improved appearance. The proposed signage is orderly and simple and will add to the improved presentation.

Traffic

The site's primary access is directly to/from Cessnock Road (main road). The service station seemingly relies heavily on eastbound through-traffic for its patronage. The proposed access arrangements will not be altered by this development. Furthermore, as the intensity of the development is not altering in a notable manner, the development is not expected to result in any significant traffic impacts.

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Hazard

Although the development does not constitute a potential hazardous industry or storage facility, the applicant has submitted a preliminary hazard analysis. The analysis provides evidence that the storage of fuels will be in accordance with accepted standards and will not pose an undue hazard.

Heritage

The existing service station is situated within proximity to numerous items of heritage significance. The subject site is not identified as a heritage item and does not possess qualities or features that contribute to the significance of the heritage items. In this manner, there is no concern about the proposed demolition of the existing building.

The site is directly opposite the heritage listed stone kerb and guttering in Goulburn Street, however, all kerb and guttering surrounding the subject site is reinforced concrete.

Overall, the proposed redevelopment is not too dissimilar from the existing established character of the site and the development will have a negligible and acceptable impact on the heritage items within the vicinity of the site.

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 site is located adjacent to a main road and near a railway line. Noise associated with such infrastructure provides an acoustic backdrop that assists with site suitability. The site is located on a main road that enables vehicles to enter and exit the site without traversing local, residential roads. The topography of the site enables the development to shield the adjoining residential properties through cutting into the land; this assist with the acoustic barriers that are to be provided.

4.15(1)(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 18 December 2021 and 19 January 2022. No submissions were received in response to the exhibition period.

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 will improve the existing use and is therefore consistent with the public interest.

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 \$20,550.00 would be payable, in accordance with the contributions plan requirements.

INTERNAL REFERRALS

The Development Application was referred to the following Council officers for comment:

Officer	Comment
Development Engineer	No objection subject to conditions
Community Planner	No objection subject to conditions
Environmental Health Officer	No objection subject to conditions
Heritage Officer	No objection and no requirements

EXTERNAL REFERRALS

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

Agency	Comment or concurrence?	Outcome
TfNSW	Comment	No objection subject to conditions
NSW Police	Comment	No objection subject to conditions
Ausgrid	Comment	No response received, therefore deemed no objection.

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 has provided adequate information to demonstrate that the development is in accordance with the current regulatory framework. The development has an established history of operating on a 24 hour basis, and there have been no submissions from the public and no objection raised to the proposal by the NSW Police.

The application is expected to improve the amenity of the area by providing improved noise attenuation, improved security and a general improvement in the appearance of the site.

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Despite the improvements to the amenity of the area, and that the existing service station currently operates on a 24 hour basis, it is considered prudent to require a 12 month trial period in respect of the 24 hour trading. The 12 month trial period is proposed as a precautionary measure to ensure the extended operating hours do not have an adverse amenity impact on the existing residential development within the direct locality, and to enable Council to confirm that the extended hours do not result in land use conflict.

Based on the assessment, it is recommended that Development Application No. 8/2021/22147/1 be approved, subject to a 12 month trial period and the conditions of consent contained 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. 8/2021/22147/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Proposed Site Plan Ref 21-015-DA02 Rev F	MCHP Architects	12/10/2021
Existing and Demolition Plan Ref 21-015-DA01 Rev B		12/10/2021
Building Elevation 1 of 2 Ref 21-015-DA04 Rev D	MCHP Architects	12/10/2021
Building Elevation 2 of 2 Ref 21-015-DA05 Rev D	MCHP Architects	12/10/2021
Car Canopy Elevation and Section Ref 21-015-DA06 Rev D	MCHP Architects	12/10/2021
Truck Canopy Elevations & Section Ref 21-015-DA07 Rev C	MCHP Architects	12/10/2021
Tank Farm section and Site ID Sign Ref 21-015-DA08 Rev C	MCHP Architects	12/10/2021
Overall Site Elevations Ref 21-015-DA09 Rev C	MCHP Architects	12/10/2021
Project Metro Abermain Ref:LA01 Rev A	Taylor Brammer Landscape Architects Pty Ltd	13/10/2021
Project Metro Abermain Ref:LD01 Rev A	Taylor Brammer Landscape Architects Pty Ltd	13/10/2021
Site detail plan 21J48_DA_C100 Rev 3	Henry and Hymas	June 2021

Document Title	Prepared By	Dated
Statement of Environmental Effects	DM Planning	Updated March 2022
Certified bushfire compliance report for 289-293 Cessnock Road, Abermain	Bush Fire Planning Services	4/4/2022
Traffic and Parking Assessment Ref:21189 Issue B	TTPA	July 2021
Correspondence in response to TfNSW comments	TTPA	15/3/2022

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Social Impact Assessment	DM Planning	October 2021
Noise Assessment Service Station Development Cessnock Road. Abermain, Rev00	Atkins Acoustics	August 2021
Motor Spirit Preliminary Hazard Analysis	MCHP Architects	23/6/2021
Waste Management Plan	MCHP Architects	12/10/2021

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 service station and food and drink premises for twenty four (24) hours seven (7) days per 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 shall revert to the following: (a) The service station shall operate between the hours of 5.00am until 11.00pm, seven days per week.
- c. Should the applicant wish to continue operating 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, the results of the required noise monitoring program required by the approved Noise Management Plan 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

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- 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

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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 \$20,550 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. 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.

9. Acoustic Construction Detail

The plans and information submitted in association of the CC application must incorporate sufficient detail to demonstrate compliance with the following acoustic measures:

- (a) final mechanical plant selections, design and installation to satisfy the acoustic performance referenced in Table 4;

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- (b) air-conditioning condensers selected with soft start VSD fan motors;
- (c) air-conditioning condensers installed with night mode fan speed control;
- (d) refrigeration and air-conditioning condensers installed at ground level in an acoustic screened plant area;
- (e) the height of screen wall enclosing the ground level plant areas not less than three (3) metres above finished slab height;
- (f) inline exhaust fans installed in the building ceiling cavity; and
- (g) acoustic rated boundary walls (Attachment 2) installed on the Goulburn Street frontage, northern-western and southern-western boundaries.
- (h) amplified announcement systems designed and operated not to give rise to audible noise inside residential dwellings;
- (i) driveway and forecourt cover plates and grates acoustically isolated and mechanically fixed; and
- (j) signage installed with respect to minimising noise from trucks whilst onsite and leaving the site.

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

10. Building Height

The height of the building must not exceed the levels on the DA approved plan. The plans submitted in support of the CC application must 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.

11. 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.

12. 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.

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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.

13. 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.

14. 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.

15. Parking – Minimum Requirement

Onsite car parking shall be provided for a minimum of twenty five (25) 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. TfNSW Approval Required

Approval must be obtained from Transport for New South Wales (*TfNSW*) for the proposed works in the public road reserve. Evidence of the approval must be submitted to the Certifier prior to the issue of a CC. All requirements of *TfNSW* are to be complied with.

17. 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.

18. Plant and Equipment

All plant and associated equipment must be located within the approved building envelope and is not to be located on the roof. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

19. Detailed Landscape Plan (Vegetation)

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

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- iii) Include significant canopy trees where possible
- iv) Include trees and shrubs known to be fauna food sources where possible
- v) Provide perimeter planting adjacent to the car park
- vi) Not interfere with sight lines for vehicles entering or exiting the site (at full height – post establishment)
- h) Details of proposed turf species, turf underlay, quantity

20. Footings and Excavation Near Council Property

All works proposed within the zone of influence of Council's asset/s (laneway and road reserves) are to be designed and certified by a practising professional engineer.

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. 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

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- 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.

22. 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*.

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) Transactions to occur through the night pay window between the hours of 10.00pm and 5.00am.
- g) Glazed tiling, patterned, porous and non-solid surfaces reduce the reward for graffiti offenders.
- h) Access control systems for counter areas and staff only access areas.
- i) Site maintenance plan (graffiti management and rapid removal, litter, property damage and landscaping).

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

PRIOR TO COMMENCEMENT OF DEMOLITION OR WORKS

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

26. 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

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- 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.

27. 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.

28. Demolition Proposed

Consent is granted for the demolition of all buildings, structures and underground tanks currently existing 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*.

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- 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*.

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- 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.

29. 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.

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- 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. Site is Securely Fenced

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

35. 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.

36. 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*.

37. 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.

38. 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.

39. 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 (enter details to identify document) 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.
- b. 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”.

40. 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;

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- 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”.

41. 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

42. 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.

43. 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.

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44. 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.

45. 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.

46. 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.

47. 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.

48. 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):

49. Parking – Provision

Car parking areas must be completed in accordance with the approved plans with twenty five (25) car parking spaces provided prior to the issue of an OC.

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50. 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.

51. 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.

52. 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, in accordance with TfNSW requirements.
- 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 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.

53. 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.

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- 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*.

54. 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*.

55. 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.

56. 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:
 - Identify suitable monitoring and sampling location(s), including stormwater discharge outlet points;
 - 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;
 - Require visual inspections of storm water discharge outlet points after rainfall events to identify the presence of hydrocarbons;
 - Identify responsible persons and contact details;
 - Require review and update at six monthly intervals, for the lifetime of the treatment device;
 - 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
 - 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.

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57. 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.

58. Acoustic Testing

Prior to the issue of an *OC*, evidence must be provided to the *PC* that suitable acoustic testing has been conducted by a consultant who is a member of the Australian Acoustical Society, Engineers Australia, or the Association of Australian Acoustical Consultants, to verify that recommendations of the acoustic assessment will be achieved when the development is operational.

59. 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 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 and that the construction of the development has been completed in accordance with the requirements of condition 9.

60. 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 *PC*, authorised 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.

61. 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 *PC*, 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

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- 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 PC 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 PC. 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.

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.

62. 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.

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63. 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*.

64. 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.

65. 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 *PC* prior to the issue of an *OC*.

66. 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.

67. 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, plazas, reserves, at any time.

68. Trade Waste Disposal

Prior to the issue of an *OC* and/or commencement of the use, whichever is earlier, of the building the *PC* 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.

69. Disposal of Hazardous Waste

Prior to the issue of an *OC*, details concerning how hazardous and/or industrial waste arising from the demolition/operational activities is to be removed and/or transported in accordance with the requirements of the Office of Environment and Heritage and SafeWork New South Wales is to be submitted to the *PC*.

ONGOING USE

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

70. 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.

71. Fuel Delivery

Site fuel deliveries are restricted and must not occur outside the hours of 7.00am and 10.00pm.

72. 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.

73. 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.

74. 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.

75. 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.

76. Removal of Graffiti

The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.

77. 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.

78. 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.

79. 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.

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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.

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.

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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.

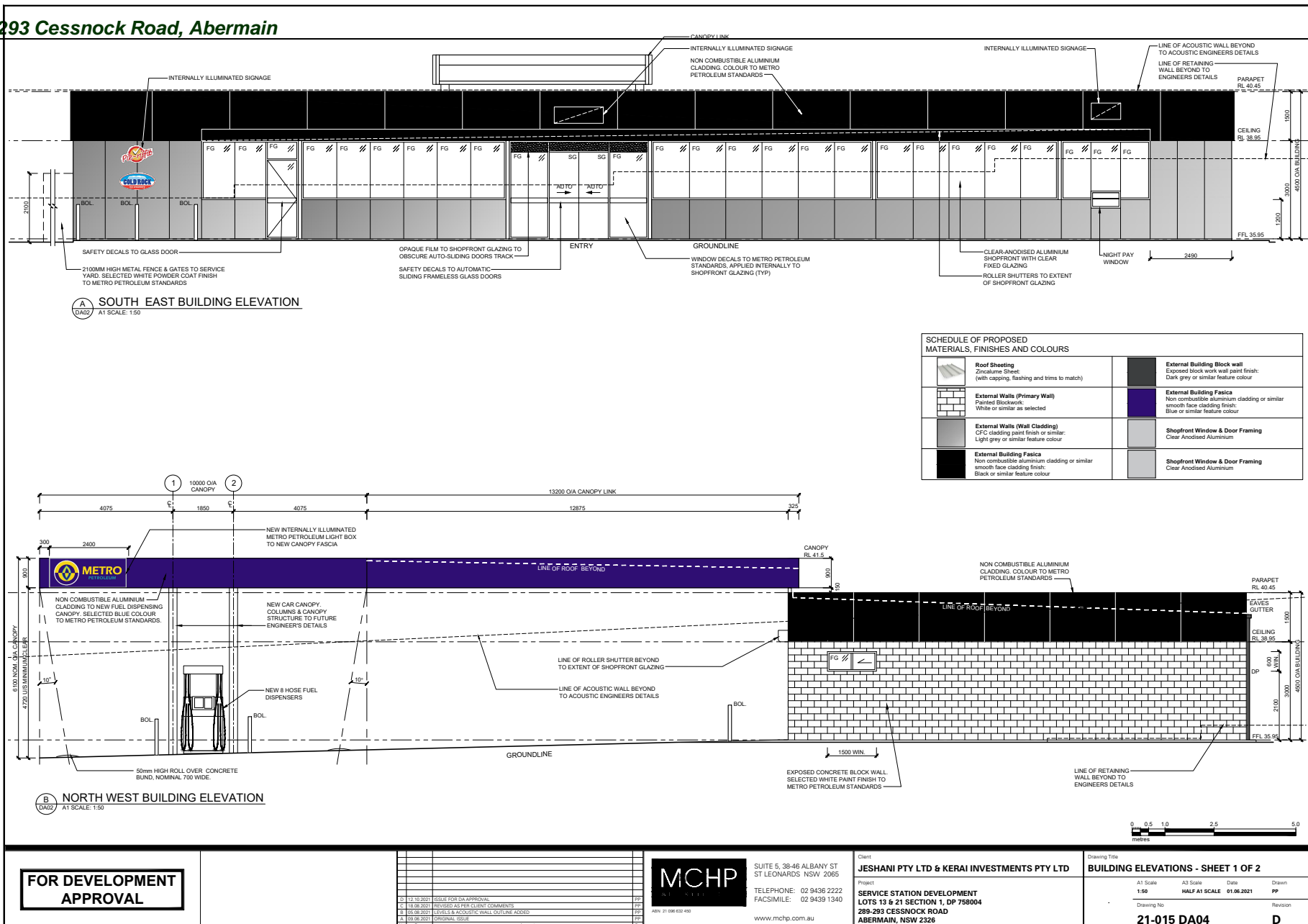
G. Aboriginal Heritage

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.

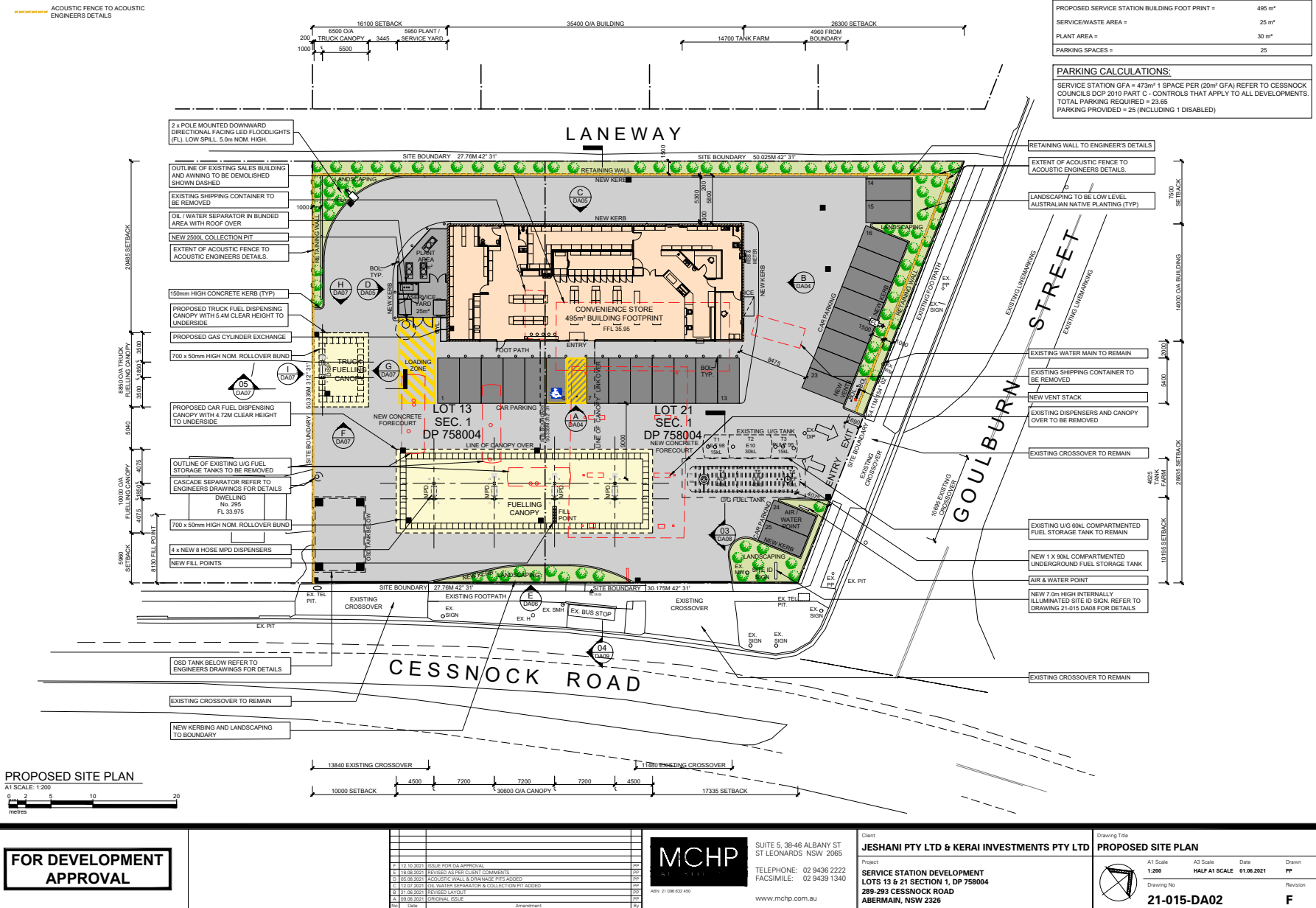
In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from the Heritage Division of the OEH.

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.

289-293 Cessnock Road, Abermain



289-293 Cessnock Road, Abermain



SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2022/149/1 SEEKING TO INCREASE THE NUMBER OF CHILDREN CATERED FOR AT AN EXISTING CHILDCARE CENTRE*

112 LANG STREET AND 89-93 BARTON STREET, KURRI KURRI

RESPONSIBLE OFFICER: *Development Services Manager – Janine Maher*

APPLICATION NUMBER:	8/2022/149/1
PROPOSAL:	<p>Increase in the number of children catered for at an existing childcare centre, as follows:</p> <ul style="list-style-type: none"> • OOSH places from a maximum of 45 to 120 (additional 75 places) • Vacation care places from a maximum of 55 to 120 (additional 65 places)
PROPERTY DESCRIPTION:	Lot 3 DP 1126263 and Lot 800 DP 720686
PROPERTY ADDRESS:	112 Lang Street and 89-93 Barton Street, Kurri Kurri
ZONE:	B4 Mixed Use
OWNER:	Cessnock City Council
APPLICANT:	Kurri Kurri Community Services C/- Complete Planning Solutions

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2022/149/1 seeking to increase the number of children catered for at an existing childcare centre from a maximum of 45 to 120 (OOSH) and from a maximum of 55 to 120 (vacation care), at 112 Lang Street and 89-93 Barton Street, Kurri Kurri be refused pursuant to Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, for the reasons contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:

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- Insufficient information has been submitted in order to undertake a full assessment of the application;
 - The application is inconsistent with Chapter C.1 Parking and Access of the Cessnock Development Control Plan 2010;
 - The proposed development is inconsistent with the social environment within the locality;
 - The subject land is not considered to be suitable to accommodate the increase in capacity; and
 - The development is not in 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. 8/2022/149/1 is being referred to Council for determination for the following reasons:

- The Application is recommended for refusal and the refusal is considered to be merits-based; and
- The Application has been called-up by three (3) Councillors.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2022/149/1 seeking to increase the number of children catered for at an existing childcare centre, as follows:

- OOSH places from a maximum of 45 to 120 (additional 75 places)
- Vacation care places from a maximum of 55 to 120 (additional 65 places)

The subject site is located at 112 Lang Street and 89-93 Barton Street, Kurri Kurri. No on-site parking currently exists on the site, and no on-site parking is proposed to be provided in conjunction with the application.

The Development Application has been assessed against the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2021*, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

In accordance with the Community Participation Plan, the Development Application was publicly exhibited and no submissions were received.

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The application is inconsistent with Chapter C.1 Parking and Access of the Cessnock Development Control Plan 2010 (DCP). Specifically, the DCP applies a parking rate of 1 space per employee, PLUS 1 space per 4 children enrolled for visitors and parent parking. Therefore, an additional 18 spaces are required to be provided on the site, calculated as follows:

- 16 spaces relating to additional children numbers (to be used by visitors and parents); and
- 2 spaces relating to additional staff numbers (to be used by employees).

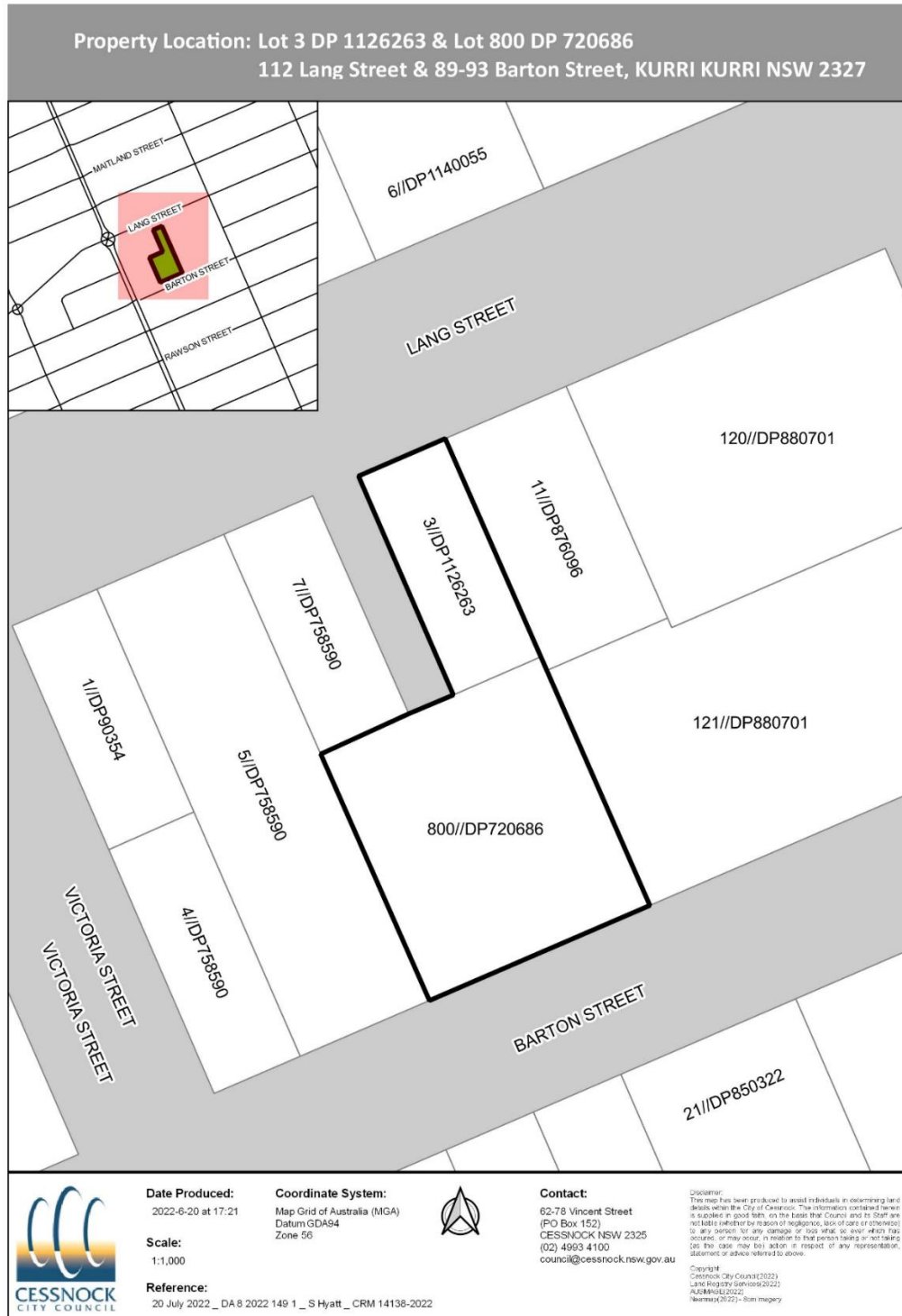
The requirement for 18 on-site parking spaces has been calculated based on the difference between the existing and proposed number of children and employees; and utilising the staffing ratios prescribed in section 123 of the *Education and Care Services National Regulations (2011 SI 653)*. It is acknowledged that the site benefits from historical approvals which accepted the establishment of the initial childcare centre without the provision of any on-site parking. Therefore, the parking assessment relating to this application accepts the historical deficiency previously approved by Council and does not seek to require the provision of any on-site parking for the existing development approved on the site.

As outlined above, no on-site parking current exists on the site. On-street parking within the road reserve is public parking, and as such, it cannot be considered for the purpose of ensuring compliance with the DCP provisions.

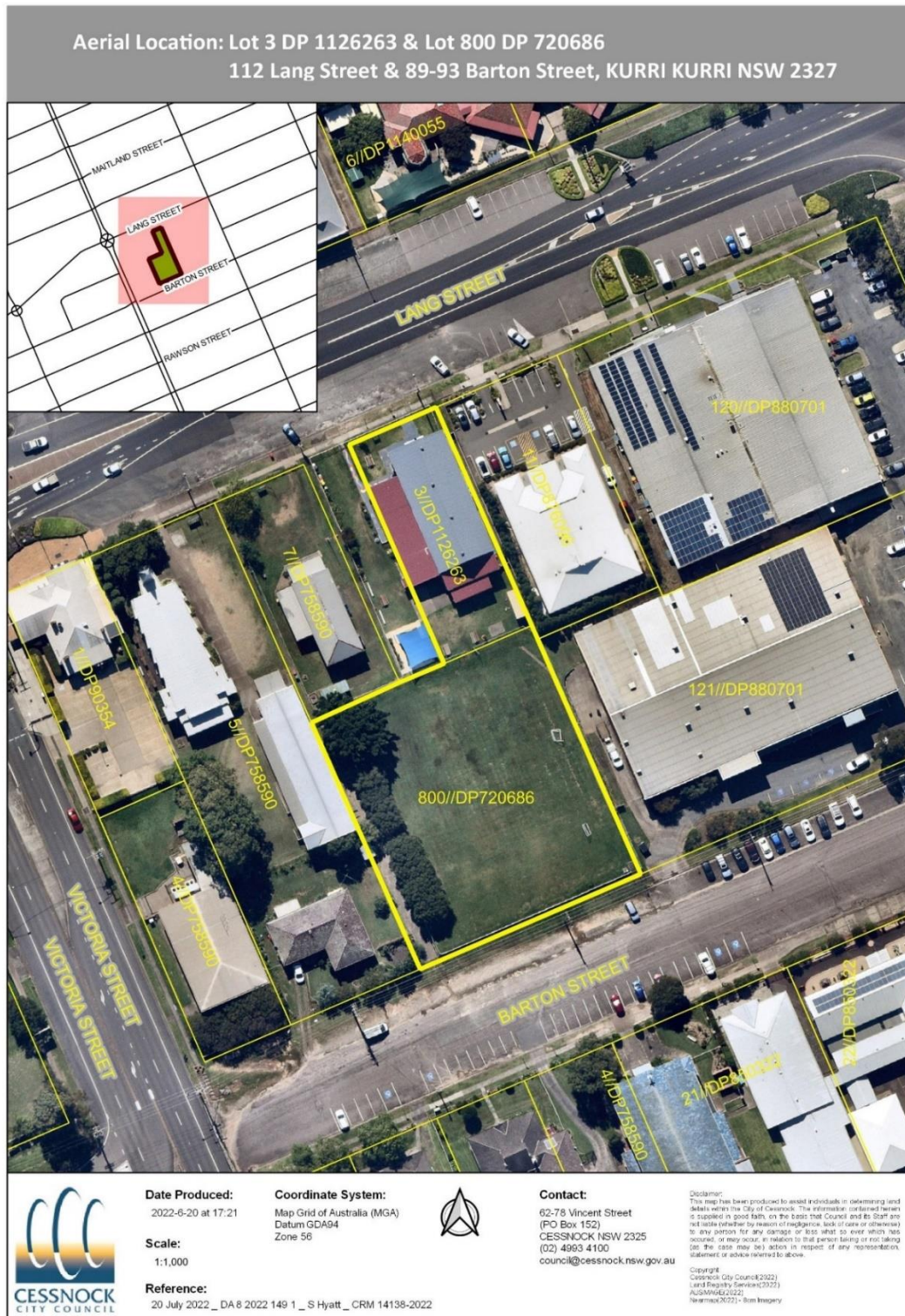
Having regard for the public interest, the proposed development is not considered to provide safe parking for users of the site and presents a public safety concern. The development is therefore not considered to be in the public interest. Further, given parking is not proposed to be catered for on-site, the site is not considered to be suitable to accommodate the intensification of the use.

Based on the assessment, it is recommended that the Development Application be refused subject to the reasons for refusal included in this report.

LOCATION MAP



AERIAL



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 112 Lang Street and 89-93 Barton Street, Kurri Kurri, and is legally described as Lot 3 DP 1126263 and Lot 800 DP 720686.

The subject site is located on the southern side of Lang Street and includes land to the rear with a frontage to Barton Street. The site has a frontage of approximately 30m to Lang Street and 50m to Barton Street. Overall the site has a depth of approximately 106m and an overall site area of 4,375m².

The subject site currently contains the former Kurri Kurri Ambulance Hall which is used for Out of School Hours (OOSH) care during school term and vacation care during school holidays.

The below photographs depict the site:



Figure 1: Kurri Kurri Ambulance hall and existing on-street parking

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Figure 2: Rear of hall and street frontage of 89-93 Barton Street

The surrounding properties are characterised by a range of commercial development fronting Lang Street to the north, east and west. Land to the south includes Holy Spirit Primary School, church and dwellings. The closest dwellings to the site are located on the corner of Barton and Victoria Streets.

Relevant development consents issued in relation to the property include:

Development Consent Reference No.	Date development consent issued	Description of approved development
8/2012/371/1	12/12/2012	Use of the former ambulance hall as a childcare centre for out of school child and vacation care for children aged 5-12 years
8/2012/371/2	31/01/2013	Modification to hours of operation and approved child numbers to specific vacation care from 6.30am to 6.30pm, and 55 children
8/2018/4721/1	05/09/2018	Rectification works to damaged building

The specific conditions imposed on Development Consent No. 2012/371 (as amended) in respect of number of children and hours of operation of the childcare centre, are as follows:

Condition 2

The hours of operation of the out of hours care and vacation care program being restricted to:

Before school care - 6.30am to 9.00am Monday to Friday.

After school care – 3.00pm to 6.30pm

Vacation care – 6.30am to 6.30pm

Condition 3

The child numbers of the out of hours care and vacation care program being restricted to:-

Before school care – up to twenty four (24) children

After school care – up to forty five (45) children.

Vacation care – up to fifty five (55) children at any one time

HISTORY

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

Date	Action
12 April 2022	Application lodged.
20 April 2022	Application referred internally.
2 May 2022	Engineering referral received identifying that no parking is proposed to be provided on-site, and the proposed development is therefore not supported due to the significant variation to the DCP controls.
5 May 2022	Application referred to Community Planner, who advised that a Social Impact Assessment is required to be lodged in conjunction with the application.
9 May 2022	Correspondence issued to applicant affording an opportunity to withdraw the application. The applicant is advised that Council officers are unable to support the application due to the increase in capacity proposed without the provision of any on-site parking.
11 May 2022	Application called-up to Council for determination.
12 May 2022	Response received from applicant confirming that the concerns raised by Council are addressed within the Traffic Impact Assessment submitted in conjunction with the application.
17 May 2022	Notification period commences.
31 May 2022	Notification period concludes. No submissions received.
21 June 2022	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2022/149/1 seeks to increase the number of children catered for at an existing childcare centre, as follows:

- OOSH places from a maximum of 45 to 120 (additional 75 places)
- Vacation care places from a maximum of 55 to 120 (additional 65 places)

The subject site is located at 112 Lang Street and 89-93 Barton Street, Kurri Kurri. No on-site parking currently exists on the site, and no on-site parking is proposed to be provided in conjunction with the application.

No internal or external alterations are proposed.

ASSESSMENT

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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 requires that consent not be granted until Council has considered whether the land is contaminated. The subject site has historically been used as a hall (place of assembly) and childcare centre. No evidence of contamination was observed during inspection of the site. As there is no historical evidence of the site being previously used for a purpose which would result in the land being contaminated, further testing of the site in respect of contamination is not warranted in this instance.

The application is consistent with the requirements of Section 4.6 of the SEPP.

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

This policy aims to facilitate the effective delivery of educational establishments and early education and care facilities across the State.

The application has been assessed in accordance with the National Regulations and is considered to be acceptable. In accordance with Section 3.23 the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline in relation to the development.

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In this instance, the Statement of Environmental Effects (SEE) submitted in conjunction with the application fails to consider the provisions of the Guideline. Council officers have not raised this issue with the applicant due to the fact that the proposed development is not supported on the basis of the significant non-compliance with respect to the provision of on-site parking. It is not considered reasonable to request the applicant to outlay additional funds in addressing this matter when the overall development application is not supported by Council officers.

Accordingly, it cannot be confirmed that the proposed development is consistent with Section 3.23 of the SEPP.

3. Cessnock Local Environmental Plan 2011

3.1 Permissibility

The subject site is zoned B4 Mixed Use under the provisions of the *Cessnock Local Environmental Plan (CLEP) 2011*, as depicted in the below map:



The proposed development is categorised as a 'centre-based child care facility' under CLEP 2011, which is defined as follows:

Centre-based child care facility means—

- (a) a building or place used for the education and care of children that provides any one or more of the following—
 - (i) long day care,
 - (ii) occasional child care,
 - (iii) out-of-school-hours care (including vacation care),
 - (iv) preschool care, or

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- (b) an approved family day care venue (within the meaning of the [Children \(Education and Care Services\) National Law \(NSW\)](#)), but does not include—
- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the [Children \(Education and Care Services\) National Law \(NSW\)](#)), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

Development for the purpose of a 'centre-based child care facility' is a permitted land use in the B4 zone with consent.

3.2 Objectives

The objectives of the B4 zone and a response to each, are identified in the following table:

Objective	Comment
<i>To provide a mixture of compatible land uses</i>	A centre based child care facility is considered to be suitable within the zone, providing child care services to the community.
<i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling</i>	<p>The subject land currently has an approval for use as an OOSH and vacation care service. While the location of the subject land lends itself to public transport usage and walking/cycling, it is unlikely that users of the site would utilise these means of transport to access the service.</p> <p>Notwithstanding the above, in the absence of any on-site car parking, concern is raised with respect to the compatibility of the proposed development with other surrounding land uses.</p>

3.3 Relevant Clauses

There are no additional relevant Clauses within the CLEP 2011 related to the subject land or proposed development.

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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).

No proposed environmental planning instruments are relevant to the application.

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 C.1: Parking and Access			
Provision	Required	Provided	Complies?
Section 1.2: Car Parking Standard 1 space per employee, PLUS 1 space per 4 children enrolled for visitors and parent parking.	<p>A total of 18 on-site car parking spaces are required to be provided, as explained below:</p> <p>Children: 16 spaces</p> <p>Calculation method: difference between maximum approved number of children on site (being 55 for vacation care), and proposed number of children on site (being 120) = 65 children</p> <p>Employees: 2 spaces</p> <p>Calculation method: difference between current approved staff (being 6); and proposed staff (being 8). = 2 staff</p>	Nil	No

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As outlined previously, the requirement for 18 on-site parking spaces has been calculated based on the difference between the existing and proposed number of children and employees; and utilising the staffing ratios prescribed in section 123 of the *Education and Care Services National Regulations (2011 SI 653)*. It is acknowledged that the site benefits from historical approvals which accepted the establishment of the initial childcare centre without the provision of any on-site parking. Therefore, the parking assessment relating to this application accepts the historical deficiency previously approved by Council and does not seek to require the provision of any on-site parking for the existing development approved on the site.

Variation Proposed

In accordance with section 1.2 Car Parking Standards of the DCP, based on the increase of children and staff, there is a shortfall of 18 spaces. The DCP prescribes the following in relation to varying parking standards:

“Council may give consideration to varying the specified parking requirement, depending upon the nature and type of street frontage available for the settling down and picking up of children.”

The applicant submitted a Traffic Impact Assessment (TIA), prepared by ‘Pavey Consulting Services’, in support of the application. The TIA identifies the following:

- A parking survey was carried out on Friday 18 June 2021 (between 7:30am and to 9:00am), and it was found that the vacancy rate of kerb side car parks was approx. 85%. The traffic report concludes that a sufficient number of vacant spaces for “Drop and Go” will be available given the turnover rate of 5 mins per child.
- Given the turnover of vehicles, sufficient on-street parking spaces are available to meet demand.
- In the 22 years that the OOSH has been operating, there have not been any issues with parent/carers using the available street parking.

An assessment of the TIA by Council officers has identified the following issues:

- The parking survey referred to in the TIA was only carried out over one (1) day and only during the morning peak. No assessment was carried out over consecutive days, or during the afternoon peak period.
- The parking survey does identify the number of kerb side parks surveyed. It is noted that approximately 8 car parking spaces exist within the frontage of the site to Lang Street (i.e., access to the childcare centre is available from Lang Street only). The use of on-street parking within the wider locality is not considered reasonable as such parking exists for all users within that locality and not one business/operator only.
- No dedicated “Drop and Go” area exists either on the site or within proximity to the site.
- The parking survey identifies that the site has operated for 22 years and states ‘currently all children are dropped off and picked up using the kerb side parking and to-date it has operated without incident’. The development application proposes a considerable increase in children numbers, and therefore, reliance should not be provided on the historical operation of the childcare centre. Furthermore, because the development application proposes a substantial increase in children numbers, this increases the likelihood that safety could be compromised and that an incident may occur.

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- On-street parking within the road reserve is public parking, and as such, it cannot be considered for the purpose of ensuring compliance with the DCP provisions.
- Relying upon on-street parking raises road safety concerns for children exiting vehicles and entering the service from the street. Lang Street caters for high traffic volumes and it is noted that traffic volumes have increased since approval of the initial development application in 2021. Accordingly, concerns are raised for the welfare and safety of children in close proximity to moving vehicles.

The development application has been lodged over two (2) sites, being 112 Lang Street and 89-93 Barton Street, Kurri Kurri. The site to the rear (89-93 Barton Street), is currently vacant. Whilst it is acknowledged that a retaining wall currently restricts the opportunity to obtain access to this site from Barton Street, the applicant could consider options to provide access, subject to works being undertaken. In addition, it is noted that any such parking area would be required to be constructed in accordance with Council's Engineering Requirements for Development.

Notwithstanding that an opportunity exists to provide parking on-site (being 89-93 Barton Street), the applicant has chosen to rely upon a variation to the parking controls.

Whilst it is acknowledged that Council has considered and approved variations to the DCP for childcare centres in the past, variations have been considered against the following factors:

- Proximity of the proposed development to a town centre;
- Availability of existing on-street car parking;
- Number of car parks provided on-site; and
- Provision of a dedicated drop-off/pick-up area.

Where these factors have been considered to be satisfactorily addressed, a dispensation to staff car parking requirements have been applied. In the circumstances of this application the following is noted in relation to the factors identified above:

- The subject land is located on the outer fringe of the CBD of Kurri Kurri;
- Off-street car parking is available within proximity of the site;
- No on-site car parking is currently provided or proposed; and
- The site does not have, nor proposes, a dedicated drop-off/pick-up area.

In this instance, given these previous determining factors are only in part addressed, the variation to Council's car parking requirements is not supported.

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**Part C: General Guidelines****Chapter C.8: Social Impact Assessment and Crime Prevention through Environmental Design Guidelines for a proposed development**

Provision	Required	Provided	Complies?
Section 8.5.3 When is a Social Impact Assessment (SIA) Required?	A SIA is required to be submitted in conjunction with proposals for child care centres and pre-schools (100 or more enrolments)	No	No

It is noted that a Social Impact Assessment (SIA) was not submitted in conjunction with the development application; however, a social impact comment was provided in the Statement of Environmental Effects. This does not address in detail the requirements required to be addressed within a SIA.

Accordingly, a full assessment of the potential social impact is not able to be undertaken.

Council officers have not raised this issue with the applicant due to the fact that the proposed development is not supported on the basis of the significant non-compliance with respect to the provision of on-site parking. It is not considered reasonable to request the applicant to outlay additional funds in addressing this matter when the overall development application is not supported by Council officers.

4.15(1)(a)(iia) 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.

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

Whilst it is acknowledged that the development provides child care options within the Kurri Kurri area, the traffic and parking impacts resulting from the operation of the use are not considered acceptable. The proposed development is not considered to provide safe parking for users of the site and presents a public safety concern.

Further; a social impact assessment has not been submitted in order to fully assess the social impact of the proposal. Accordingly, the proposed development presents a number of concerns in relation to the social impact of the development on the locality.

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4.15(1)(c) The suitability of the site for the development

As demonstrated by the above assessment, the site is considered to be unsuitable for the proposed development. Specifically, increasing the number of childcare places results in additional on-site parking being required. As on-site parking is not proposed, the site is not considered to be suitable to accommodate the significant increase in children numbers at the service.

4.15(1)(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 17 May and 31 May 2022. No submissions were received in response to the exhibition period.

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 2021*, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

As no parking is proposed on-site, families will be forced to rely upon existing on street parking. Traffic volumes along Lang Street are high, with concerns raised for the safety of children who would be required to exit a vehicle and enter the service from the roadway. This situation is considered to present a serious road safety concern. Accordingly, the proposed development is not considered to be in the public interest.

SECTION 7.11/7.12 CONTRIBUTIONS

Section 7.11/7.12 Contributions are not payable for the proposal.

INTERNAL REFERRALS

The Development Application was referred to the following Council officers for comment:

Officer	Comment
Senior Development Engineer	Engineering referral identified that no parking is proposed to be provided on-site, and the proposed development is therefore not supported due to the significant variation to the DCP controls.
Community Planning	Application referred to Community Planner, who advised that a Social Impact Assessment is required to be lodged in conjunction with the application.

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EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

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.

Insufficient information has been submitted in order to undertake a full assessment of the application.

In addition, the application is inconsistent with Chapter C.1 Parking and Access of the Cessnock Development Control Plan 22010 (DCP). In total, the DCP requires an additional 18 on-site parking spaces which have not been provided. Existing on-street parking is public parking and cannot be considered in parking calculations for the use.

Having regard for the public interest, the proposed development is not considered to provide safe parking for users of the site and presents a public safety concern. As parking is not being provided on-site, the site is not considered to be suitable to accommodate an intensification of the use.

Based on the assessment, it is recommended that Development Application No. 8/2022/149/1 be refused, subject to the reasons for refusal included in this report.

ENCLOSURES

- 1 Plans of Existing Premises
- 2 Traffic Impact Assessment

REASONS FOR REFUSAL

An assessment of the application has been carried out in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. The proposal is considered to be inconsistent with the matters for consideration under the Act.

Accordingly, the application is recommended for refusal based on the reasons outlined below:

1. Insufficient information has been submitted to allow a full assessment of the application including:
 - a. An assessment of the proposal against the requirements of the Child Care Planning Guideline, and
 - b. A Social Impact Assessment.
2. The proposed development in its current form is inconsistent with the requirements of Chapter C.1 Parking and Access of the Cessnock Development Control Plan 2020 for the following reason:
 - a. The application fails to provide sufficient on-site parking (Section 1.2) (Section 4.15(1)(a)(iii) *Environmental Planning and Assessment Act 1979*).
3. The proposed development is inconsistent with the social environment with insufficient information submitted in order to determine the impact of the development on the environment (Section 4.15(1)(b) *Environmental Planning and Assessment Act 1979*).
4. The subject land is not considered to be suitable for the following reason:
 - a. On-site parking is not provided (Section 4.15(1)(c) *Environmental Planning and Assessment Act 1979*).
5. The proposed development is not considered to be in the public interest (Section 4.15(1)(e) *Environmental Planning and Assessment Act 1979*).

112 Lang Street and 89-93 Barton Street, Kurri Kurri

INCREASE IN CHILD NUMBERS

Lot 3 SEC-- DP 1126263

(No. 112) Lang Street KURRI KURRI

IMPORTANT

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CONTRACTORS SHOULD REFER TO "DIAL BEFORE YOU DIG" FOR LOCATIONS OF UNDERGROUND SERVICES AND GUIDELINES FOR EXCAVATION NEAR UNDERGROUND SERVICES.

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IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO ESTABLISH THE LEVEL OF ALL EXISTING SERVICES PRIOR TO THE COMMENCEMENT OF WORK CONTRACTOR TO OBTAIN ALL AUTHORITY APPROVALS UNLESS DIRECTED OTHERWISE.

BUILDER SHALL MAKE GOOD ALL DISTURBED AREAS ADJACENT TO THE WORKS ON COUNCIL'S ROADS, FOOTPATHS TO BE RESTORED TO THE SATISFACTION OF THE PRINCIPAL CERTIFYING AUTHORITY



01 PLAN - SITE
EXISTING WORKS

PRELIMINARY
NOT FOR CONSTRUCTION

REVISION LOG	DATE
REV: CLIENT INFORMATION	19/06/21
A. EMAIL APPROVAL	19/06/21
B. EMAIL APPROVAL	19/06/21
C. EMAIL APPROVAL	19/06/21
D. EMAIL APPROVAL	19/06/22

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DRAWING TITLE COVER SHEET	SCALE 1:2.83 @A3	PRINT DATE 30/06/2021
CLIENT PROJECT INCREASE IN CHILD NUMBERS	LOCATION No.112 Lang Street KURRI KURRI 2327	
LOT 3	DP 126263	
SEC --		

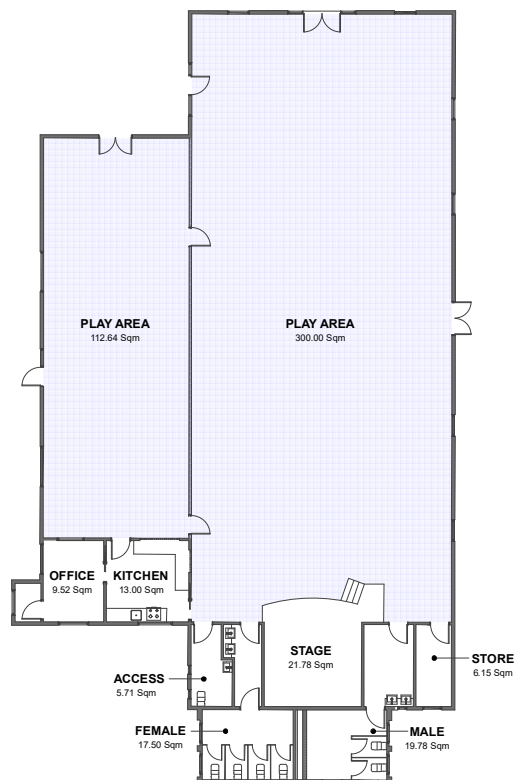
REVISION D	DRAWING DA-00	SHEET 1 OF 4
PROJECT 21010		

112 Lang Street and 89-91 Barton Street, Kurri Kurri

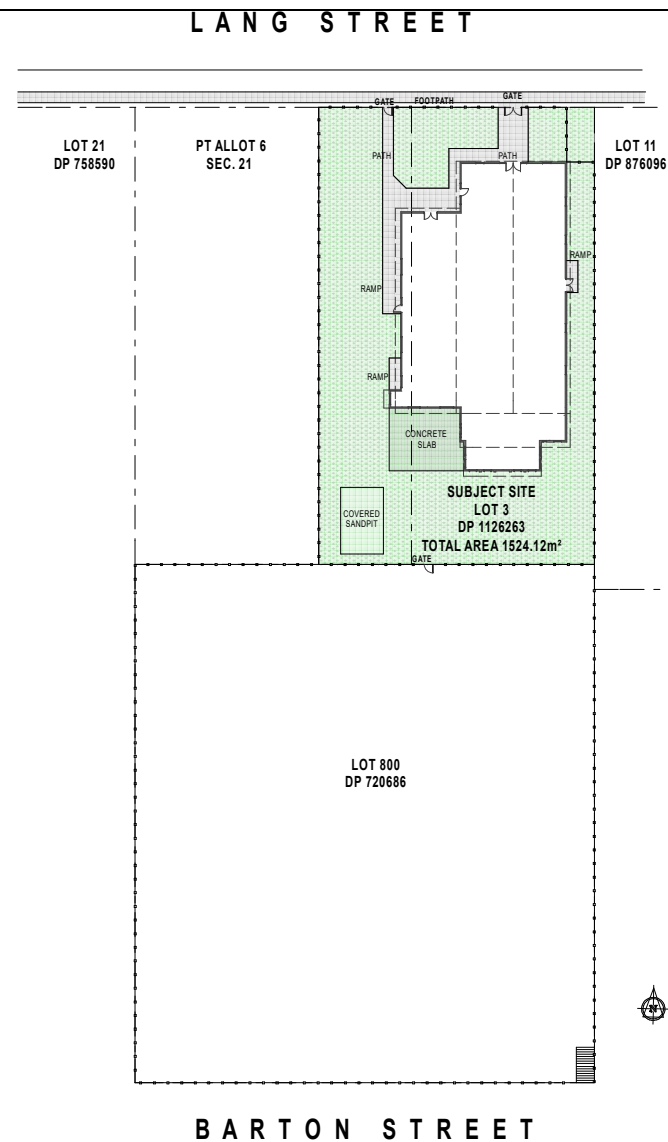
NO BUILDING WORKS PROPOSED

SERVICES SHOWN ARE INDICATIVE ONLY. POSITIONS ARE BASED ON SURFACE INDICATORS LOCATED DURING FIELD SURVEY. CONFIRMATION OF THE EXACT POSITION SHOULD BE MADE TO THERELEVANT AUTHORITIES PRIOR TO ANY EXCAVATION WORK. OTHER SERVICES MAY EXIST WHICH ARE NOT SHOWN.

TABLE OF AREAS	
INTERNAL FLOOR AREA	
UNENCUMBERED 412.64m ²	
ENCUMBERED 224.66m ²	
412.64m ² / 3.5m ² = 117	
412.64m ² / 2.5m ² = 165	
EXTERNAL	
UNENCUMBERED 841.24m ²	
ENCUMBERED 91.92m ²	
841.24m ² / 7m ² = 120	



01 PLAN - Floor
EXISTING WORKS



03 PLAN - SITE
EXISTING WORKS

PRELIMINARY
NOT FOR CONSTRUCTION

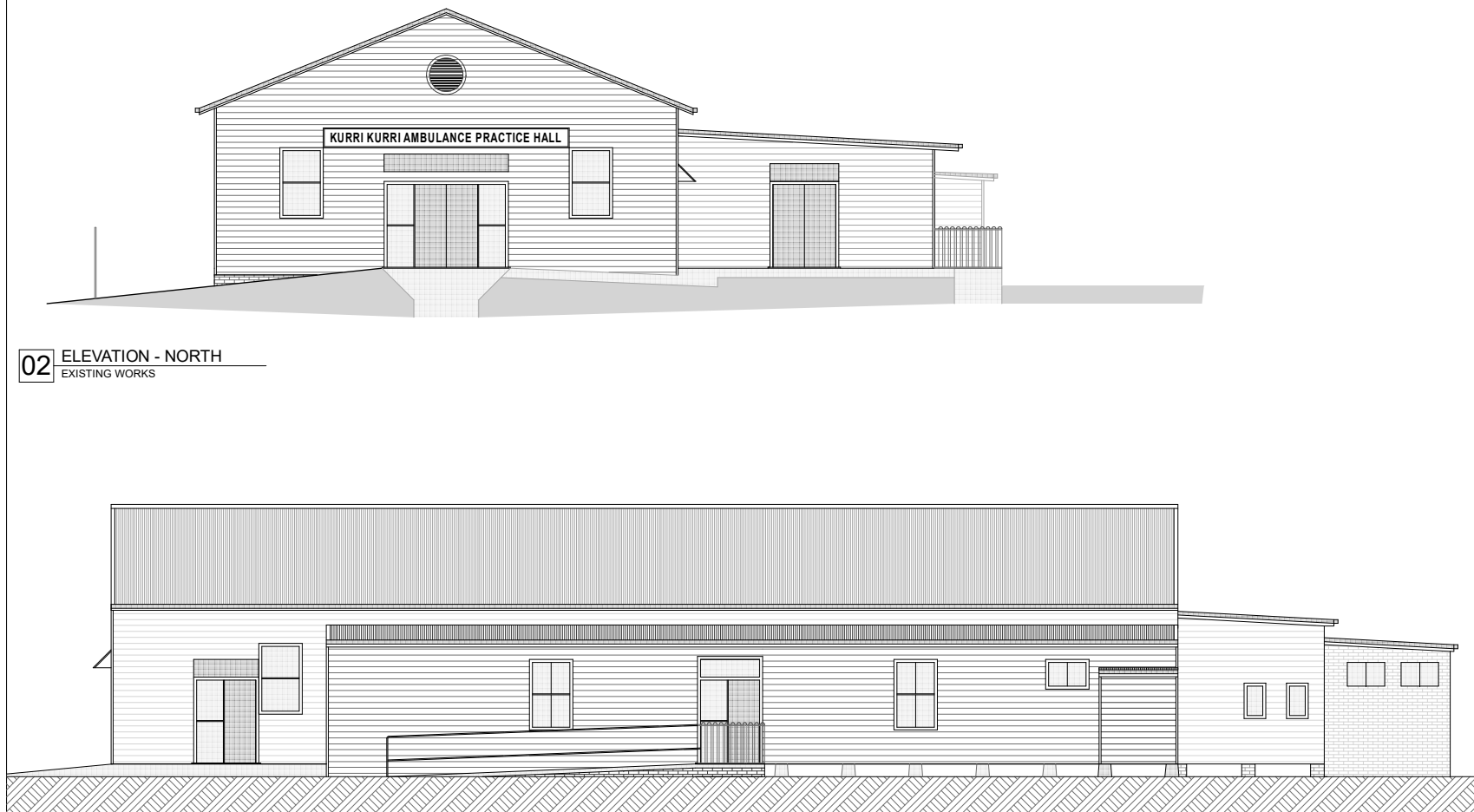
REVISION LOG	
DATE	REVISION
19/06/21	A. INITIAL CLIENT INFORMATION
19/06/21	B. INITIAL APPROVAL
30/06/21	C. INITIAL APPROVAL
19/03/22	D. INITIAL APPROVAL

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DRAWING TITLE	PLAN - Site, Floor
SCALE	1:6.15, 1:200, 1:500
PRINT DATE	30/06/2021
LOCATION	No.112 Lang Street KURRI KURRI 2327
DP	126263
SEC	--
LOT	3

REVISION	D
DRAWING	DA-01
SHEET	2 OF 4
PROJECT	21010

112 Lang Street and 89-93 Barton Street, Kurri Kurri



02 ELEVATION - NORTH
EXISTING WORKS

01 ELEVATION - WEST
EXISTING WORKS

REVISION LOG		DATE
REV/CHK/EXT		
A	BUILD CLIENT INFORMATION	13/05/21
B	BUILD APPROVAL	18/05/21
C	BUILD APPROVAL	31/05/21
D	BUILD APPROVAL	17/03/22



PRINT DATE
30/06/2021

SCALE
1:100 @A3

DRAWING TITLE
ELEVATIONS - Existing

LOCATION
No.112 Lang Street Kurri Kurri 2327

CLIENT
PROJECT
INCREASE IN CHILD NUMBERS

REVISION
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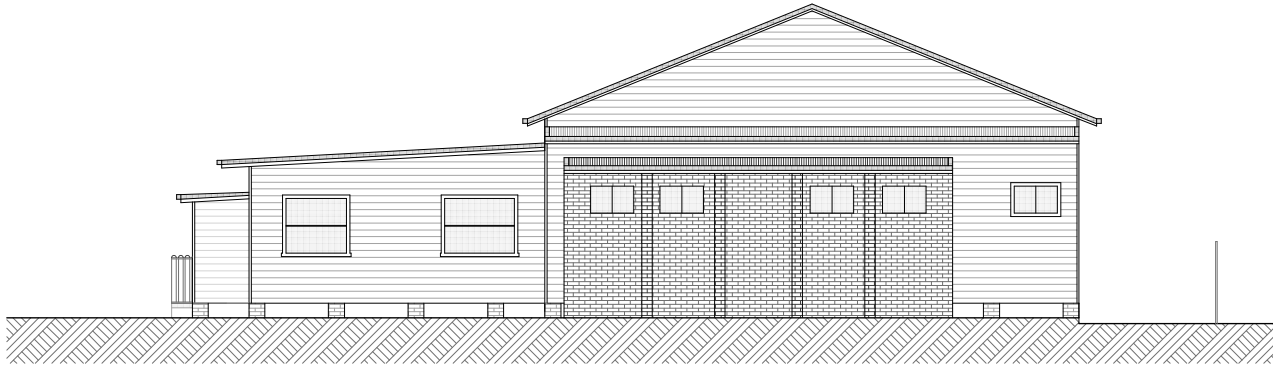
DRAWING
DA-02

SHEET 3 OF 4

PRELIMINARY
NOT FOR CONSTRUCTION


PROJECT
21010

112 Lang Street and 89-93 Barton Street, Kurri Kurri



02 ELEVATION - SOUTH
EXISTING WORKS

REVISION LOG	
REV/CHK/EVENT	DATE
A. BML CLIENT INFORMATION	19/05/21
B. BML APPROVAL	19/05/21
C. BML APPROVAL	31/05/21
D. BML APPROVAL	19/03/22



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DRAWING TITLE ELEVATIONS - Existing		SCALE 1:100 @A3	PRINT DATE 30/06/2021
CLIENT PROJECT INCREASE IN CHILD NUMBERS	LOCATION No.112 Lang Street KURRI KURRI 2327	DP 126263	SEC --
LOT 3	REVISION. D		
DRAWING DA-03		SHEET 4 OF 4	

PRELIMINARY
NOT FOR CONSTRUCTION

PROJECT
21010

112 Lang Street and 89-93 Barton Street, Kurri Kurri

Traffic Impact Assessment 112 Lang Street Kurri

Pavey Consulting Services

David Pavey Pty Ltd trading as
Pavey Consulting Services
Traffic Studies and Transportation Planning
Road Safety Reviews
Project Management and Contract Administration
Mediation and Government Relations
Civil and Structural Design

Traffic Impact Assessment
EXPANSION OF CHILDCARE FACILITY
Lot 3 DP 1126263 & Lot 800 DP 720686
(No. 112) Lang Street KURRI KURRI NSW

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Revision 0

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DOCUMENT CONTROL SHEET

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Release Level:

	Issued for Client Review		Issued for Tender
	Concept Design		Issued for Construction
✓	General Distribution		Restricted Distribution

Sign Off:

By	Name	Position	Signed	Date
Originator	D. Pavey	Lead Engineer	<i>David G. Pavey</i>	5/7/21
Checked	S. Pavey	Reviewer	<i>Sharyn Pavey</i>	5/7/21
Approved	D. Pavey	Director	<i>David G. Pavey</i>	5/7/21

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Rev No	Revision Details	Date	By	Chkd	Appd
0	Final	5/7/21	DGP	SVP	DGP

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112 Lang Street and 89-93 Barton Street, Kurri Kurri

Traffic Impact Assessment 112 Lang Street Kurri

Pavey Consulting Services

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Figure 1 Site Location

PLATES:

Plate 1 Existing kerb side parking Lang St

Plate 2 Existing kerb side parking Lang St

1. INTRODUCTION

1.1 Overview

Pavey Consulting Services has been requested by The Centre at Kurri Kurri to prepare a Traffic Impact Assessment to support an application to Cessnock City Council (CCC) for the proposed development which involves the expansion of established childcare facility at Lot 3 DP 1126263 and Lot 800 DP 720686 (No. 112) Lang Street, Kurri Kurri NSW.

The proposed development involves the increase of childcare numbers for Out of School Hours (OOSH) and Vacation Care to 120 children.

The facility currently caters for approximately 50 children.

The location of the site is shown as Figure 1 (below)



Figure 1 Site Location

1.2 Basis of Traffic Impact Assessment

This Traffic Impact Assessment (TIA) has been prepared in accordance with the relevant governmental assessment requirements, guidelines and policies, and in consultation with the relevant Government Agencies.

The TIA has been developed in accordance with:

- Austroads Guide to Traffic Management Part 3 Traffic Studies and Analysis.
- Austroads Guide to Traffic Management Part 12 Traffic Impacts of Developments; and
- NSW Roads and Maritime Services (RMS) Guide to Traffic Generating Developments (2002).

112 Lang Street and 89-93 Barton Street, Kurri Kurri

Traffic Impact Assessment 112 Lang Street Kurri

Pavey Consulting Services

The assessment is based on the following general scope for matters to consider in a TIA which is defined by the NSW Roads and Maritime Services (RMS) Guide to Traffic Generating Developments (RTA 2002):

- The existing locality and surrounding land uses.
- The existing road networks.
- Traffic generation characteristics.
- Traffic impacts; and
- A summary of assessed traffic impacts and any traffic mitigation measures proposed.

2 Existing Site Conditions Condition

2.1 Existing Approved Development

The land is currently used for OOSH and Vacation Care. An existing hall is located upon the subject site. The hall was originally constructed as the Kurri Kurri Ambulance Practice Hall approximately 80 years ago. It has been continually used as a community facility throughout its history.

The OOSH and Vacation Care Centre currently caters for approximately 50 children.

2.2 Existing Hours of Operation

The current hours of operations are as follows:

Before School	6.30am	9.00am
After School	3.00pm	6.30pm
Vocation Care	6.30am	6.30pm

2.3 Existing Site Access and Parking

There is no formal on-site parking available at the existing facility. However, the existing facility operates without any formal on-site carparking areas. In the 22 years that the OOSH has been operating from the current location there have not been any issues with parent/carers using the available street parking along Lang Street. The Kurri Early Childhood Centre, which is opposite the subject site, also relies on parents/carers parking along Lang Street.

In the vicinity of the development Lang Street has formalised rear to kerb 90-degree parking. Currently there is approx. 20 (including disabled) kerb side spaces with 20 meters walk of either side of the facility.

Adjacent developments have their own on-site parking.

Currently all children are dropped off and picked up using the kerbed side parking and to date it has operated without incident

Students are transported to and from school either by walking (for those close by) or by bus operated by the centre.

112 Lang Street and 89-93 Barton Street, Kurri Kurri

Traffic Impact Assessment 112 Lang Street Kurri

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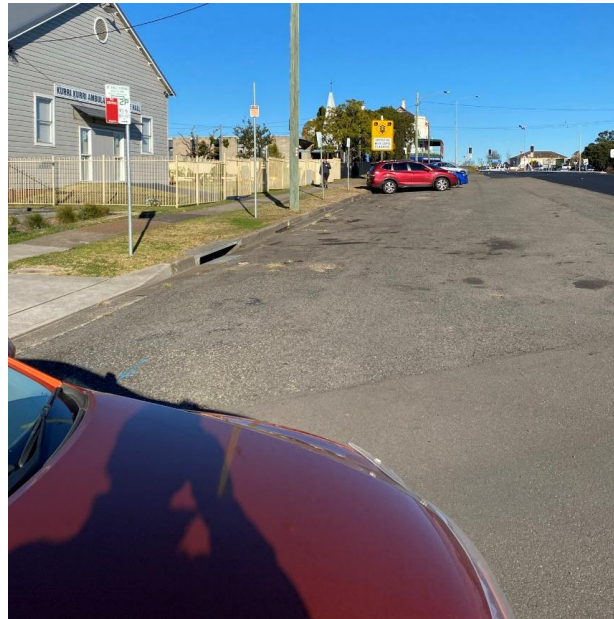


Plate 1 Existing Site Parking Lang Street

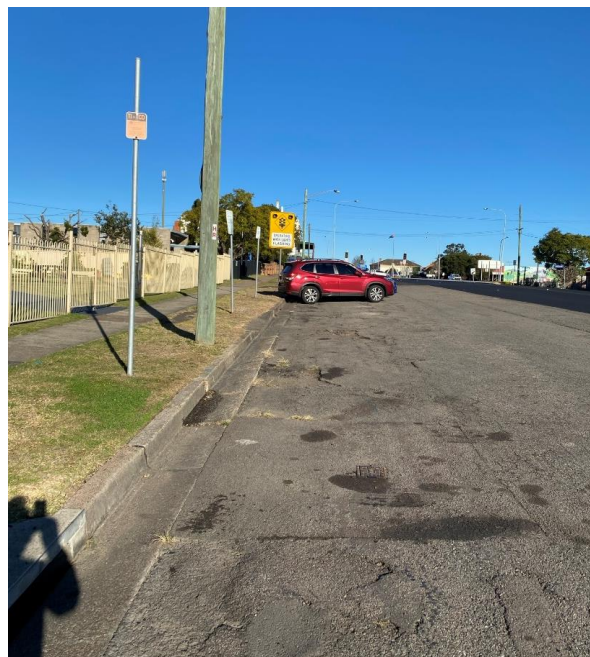


Plate 2 Existing Parking Lang Street

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Revision 0

3 Proposed Modification

The existing operation is running at full capacity with waiting lists of children seeking a position. OOSH provides a safe and educational environment for children who require supervision before and after school.

The proposed increase in children's numbers to 120 will allow the facility to accommodate the growing demands of the area.

No other aspects of the development are proposed to be amended.

3.1 Hours of Operation

The hours of operations are to remain as follows:

Before School	6.30am	9.00am
After School	3.00pm	6.30pm
Vocation Care	6.30am	6.30pm

3.2 Traffic Generation and Access

No changes to the existing drop off and pick up are proposed for the increased numbers of placers the centre wishes to operate with.

Currently drop off and pick up takes approx. 5 minutes per child

During school terms children are dropped off in a steady flow from 6.30am onwards and all are dropped off at the service by 8.15am.

This time period will result in needing to accommodate up to 120 vehicles arriving in the morning 1:45 mins available for the drop off time frame.

Based on an average of 5 mins per drop off it is anticipated that cars that at worse 20 cars will arrive to in the morning at any one time.

This is considered an upper limit due to:

- Many families that utilise the service have multiple children,
- Collection in the evening is spread over a longer period of time (around 3 hrs), and
- Vacation Care operates between 6.30am and 6.30pm drop and pick up drop off times are more staggered and over a longer period of time.

3.3 Parking

As discussed above, there is no formal on-site parking available.

At parking survey was carried out on the 18 June 2021 (between 7:30 to 9:am) and it was found that the vacancy rate of kerb side carparks was approx. 85% indicating a sufficient number of vacant spaces for "Drop and Go" will be available as the need arises.

Given turnover described in section 3.1 (i.e. sufficient kerb side parks are available to meet the demands) and that in the 22 years that the OOSH has been operating from the current location there have not been any issues with parent/carers using the available street parking along Lang Street. It is considered that the existing parking regime within Lang Street is satisfactory to accommodate the increased numbers anticipated.

4 Summary

The traffic impacts from the proposed increase in numbers have been assessed and the key findings are as follows:

- Lack of on-site carparking area. Whilst this is a concern it is not a major obstacle in approving an increase in numbers of an essential community service due to
 - The service operates in a commercial area with time kerb side parking ensuing a regular turn over and low occupancy rate,
 - There are sufficient kerbside parking available to accommodate demand at peak drop off times,
 - Low occupancy rate of kerb side carparking space indicates the high turnover rate of "Drop and Go" usage, and
 - In the 22 years that the OOSH has been operating from the current location there have not been any issues with parent/carers using the available street parking along Lang Street.

Based on the findings of this report, Pavey Consulting Services is of the opinion that Because of the staggered times which children are dropped off/collected on-street parking is not considered to be a major issue and therefore there are no traffic engineering related matters that should preclude approval of this Development Application.

Prepared by:
David Pavey
B.E (Civil) Grad Dip LGE. LGE Cert MAICD, MAIPM
Director,
Pavey Consulting Services

Planning and Environment

Report No. PE39/2022

Planning and Environment



SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2021/21642/1 -
PROPOSED CONSTRUCTION OF A NEW SINGLE STOREY
DWELLING*

169 NEW STREET MULBRING

RESPONSIBLE OFFICER: *Compliance Services Manager - Warren Murphy*

APPLICATION NUMBER:	8/2021/21642/1
PROPOSAL:	Construction of a new single storey dwelling
PROPERTY DESCRIPTION:	Lot 36, DP 755259
PROPERTY ADDRESS:	169 New Street Mulbring
ZONE:	RU2 Rural Landscape
OWNER:	Mrs K D Fuhrmann
APPLICANT:	Vision Homes Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2021/21642/1 proposing a new single storey dwelling at Lot 136, DP755259, 169 New Street Mulbring be refused pursuant to Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979* for the reasons contained in this report
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - In its locality, the development will likely result in unacceptable environmental impact due to the development being proposed on land being identified as having high biodiversity value which has already been cleared without the benefit of development consent. It is not possible to retrospectively demonstrate how the development addresses the hierarchy of avoiding and minimising impacts on

biodiversity values which prevents a complete assessment of the Biodiversity Assessment Method (2020); and

- It is not in the public interest to approve the development to ensure Council remains unfettered from taking action as deemed appropriate to rehabilitate the area that has been illegally cleared of vegetation identified as having high biodiversity value.

- (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. 8/2021/21642/1 is being referred to Council for determination as the application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2021/21642/1 proposing a new dwelling at 169 New Street Mulbring. The location where the dwelling is proposed is identified on the NSW Biodiversity Values Map as land being of high ecological value. A site inspection conducted by Council staff as part of the development assessment process identified unauthorised clearing of vegetation had previously occurred. A Biodiversity Development Assessment Report (BDAR) was submitted with the application. Council's Ecologist has assessed the proposal and is of the view that even if the unauthorised clearing of the site had not occurred, Council would not still support the application.

Council staff are of the view regulatory action for the unauthorised clearing of the land is appropriate which may include orders to rehabilitate the previously cleared area. Determining the application by approval will fetter Council in its legal and regulatory options.

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

Planning and Environment

Report No. PE39/2022

Planning and Environment



LOCATION MAP



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 169 New Street Mulbring and is legally described as Lot 36, Deposited Plan 755259.

The subject site is located on the western side of New Street. The site has a frontage of approximately 280m to New Street, and a depth of approximately 515m and an overall site area of approximately 12Ha. Vehicular access to the site is available from the New Street frontage.

The subject site is currently vacant with the exception of a farm shed located in the north western part of the property.

The surrounding properties are characterised by rural dwellings and associated farm buildings.

Relevant development consents issued in relation to the property include:

Development Consent Reference No.	Date development consent issued	Description of approved development
8/1999/1017/1	01/02/1999	Farm shed

HISTORY

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

Date	Action
24/08/2021	Development Application lodged with Council.
01/09/2021	Preliminary assessment, referral requests to internal staff comprising of ecologist, environmental health and development engineer
06/09/2021	Site inspection completed identifying evidence of recent clearing of vegetation on the site.
22/09/2021	Initial ecologist response confirming clearing of land identified on the NSW Biodiversity Values Map.
30/09/2021	Additional information requested from applicant addressing Council's biodiversity concerns.
08/12/2021	DA status update requested by the property owner. Council contacted the applicant (Vision Homes) who was unaware of the additional information requested in September due to staff leaving the organisation. Council forwards the request for information originally requested in September.
25/01/2022	Updated BDAR received which is referred to Council's ecologist for further assessment and comment
07/02/2022	Council is notified by the Department of Planning and Environment of its investigation into unauthorised clearing undertaken on the property. The development application is placed on hold to await the outcome of the DPE investigation.
27/04/2022	Council receives notification from DPE advising they have determined not to take any further action as Council is the appropriate regulatory authority for the unauthorised clearing.

Planning and Environment

Report No. PE39/2022

Planning and Environment



27/04/2022	Council recommences the development assessment process, seeks additional information from Council's Ecologist
17/05/2022	Response from Council's Ecologist advises the development proposal cannot be supported due to the inability to satisfy the "Avoid and Minimise" provisions required under the Biodiversity Assessment Method (2020).
24/05/2022	Council staff request for the application to be withdrawn due to decision not to support the application due to the unacceptable ecological impacts and to unfetter Council from any legal and/or regulatory action.
24/05/2022	Applicant advises the property owner refuses to withdraw the application and ask for Council's determination.
02/06/2022	Property owner asked for Council to determine the application.
02/06/2022	Council staff advise the property owner the application will be reported to Council for consideration at the 20 July 2022 meeting recommending refusal. Officers do not have delegation to refuse the application.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2021/21642/1 seeks approval for the construction of a new single storey dwelling and associated works.

Specifically, the proposed development involves:

- Construction of a five (5) bedroom dwelling and attached triple garage
- Excavation comprising of cutting and filling of the dwelling site to be suitable for slab-on-ground construction
- Vegetation clearing/management of land for the purposes of bushfire Asset Protection Zones
- Management and disposal of effluent via an onsite system of sewage management
- Driveway crossing and internal access road to the development site

ASSESSMENT

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

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

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

Biodiversity Conservation Act 2016

The development is proposed on land that is identified as having high ecological value and is mapped on the NSW Biodiversity Values Map. The provisions of the *Biodiversity Conservation Act 2016* are applicable to the development.

Planning and Environment

Report No. PE39/2022

Planning and Environment



The location of the proposed dwelling on the land has been illegally cleared of approximately 2Ha of native vegetation. The requirements of the BC Act required prior approval to remove the vegetation from the property.

The applicant has submitted a Biodiversity Development Assessment Report (BDAR) prepared by Peak Land Management, December 2021 in support of the proposed development.

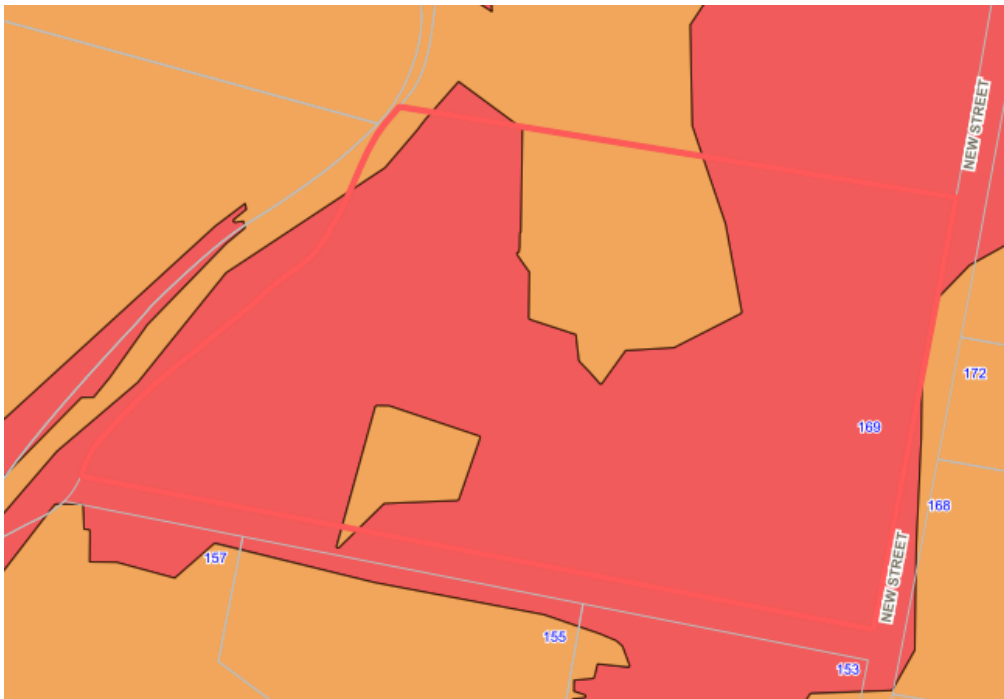
The BDAR has been reviewed by Council's Ecologist, who has concluded due to the land having already been cleared of native vegetation it is not possible to satisfy the requirements of the "Avoid and Minimise" provisions of the Biodiversity Assessment Method (2020), therefore the requirements of the BC Act cannot be satisfied. Importantly, Council's Ecologist is of the opinion that due the high ecological value, the development would not have been supported even if the land had not been previously cleared.

It is on this basis that the development proposal is recommended for refusal.

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.

The site is identified as being bushfire prone, as identified in the below 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.

Planning and Environment

Report No. PE39/2022

Planning and Environment



The applicant has submitted a Bushfire Report prepared by BushFire Consultant Pty Ltd (May 2021) and certified by an accredited bushfire consultant as conforming to the specifications and requirements of Planning for Bushfire Protection 2019 in accordance with Section 4.14(1)(b) of the *Environmental Planning and Assessment Act 1979*. The report states the development is capable of satisfying a Bushfire Attack Level of BAL 29 with an approximate 30m Asset Protection Zone surrounding the development. Other bushfire requirements relating to access, water, utilities and landscaping are also stated as being satisfied.

On the basis of the above, it is considered that the proposed development satisfies the provisions of s4.14.

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 (Building Sustainability Index: BASIX) 2004*
2. *State Environmental Planning Policy No. 55 (Remediation of Land)*
3. *State Environmental Planning Policy (Koala Habitat Protection) 2020*
4. *Cessnock Local Environmental Plan 2011*

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

1. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The aim of this policy is to encourage sustainable residential development.

A BASIX certificate has been submitted as part of this application. The certificate number is 1187763S_02 and it meets the requirements in regards to water, thermal comfort and energy.

If the application was to be approved, the BASIX certificate will form part of the approval, and provided the development is undertaken in accordance with the certificate, the proposed development will be consistent with this SEPP.

2. State Environmental Planning Policy No. 55 (Remediation of Land)

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. Clause 7(1) of the SEPP, is relevant to the assessment of this Development Application.

Clause 7(1) 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.

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Based on the information available, the land is in the majority native vegetation with remnants of an orchard in the northern part of the site.

No evidence of contamination was observed at the proposed development site. As there is no historical evidence of the site being previously used for a purpose which would result in the land being contaminated, further testing of the site in respect of contamination is not warranted in this instance.

3. State Environmental Planning Policy (Koala Habitat Protection) 2020

The aim of the policy is to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline

- (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- (b) by encouraging the identification of areas of core koala habitat, and
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.

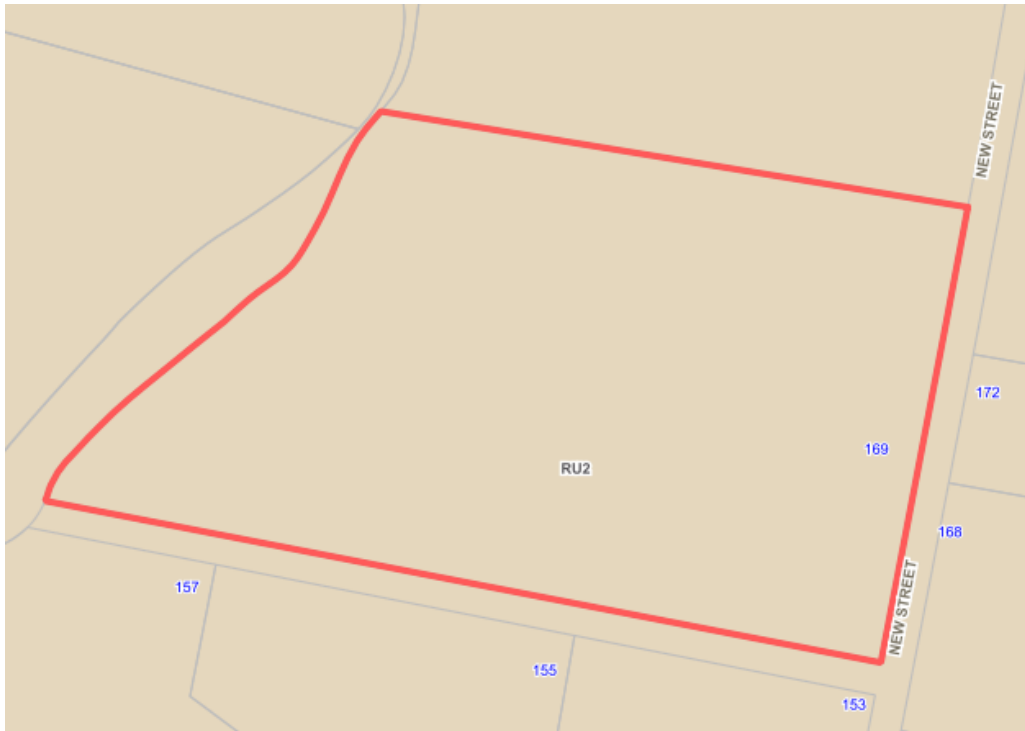
The Biodiversity Development Assessment Report (BDAR) prepared by Peak Land Management, December 2021 included information addressing the requirements of the SEPP. Council's Ecologist has reviewed the BDAR and concluded the site was found to constitute 'highly-suitable' Koala habitat. However, was not found to constitute 'core' Koala habitat. A search of NSW Bionet records found no historical record of the species within 2.5 km of the outer boundaries of the subject site.

On this basis the requirements of the SEPP are considered to have been satisfied.

4. Cessnock Local Environmental Plan 2011

4.1 Permissibility

The subject site is zoned RU2 Rural Landscape under the provisions of the *Cessnock Local Environmental Plan (CLEP) 2011*, as depicted in the below map:



The proposed development is categorised as a *dwelling house* under CLEP 2011, which is defined as follows:

dwelling house means a building containing only one dwelling.

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

The development satisfies the above definition, as the development comprises of a single storey dwelling with attached triple garage.

Development for the purpose of a dwelling house is a permitted land use in the RU2 Rural Landscape zone, with consent.

4.2 Objectives

The objectives of the RU2 Rural Landscape zone, and a response to each, are identified in the following table:

Objective	Comment
To encourage sustainable primary industry production by maintaining and enhancing the natural resource base	The subject land is not of a size or location to be considered of having high primary industry value. The land is valued by its existing native vegetation and ecological importance.
To maintain the rural landscape character of the land	The proposed development is consistent with other surrounding land uses comprising mainly of a mix of rural dwellings and small hobby farms.
To provide for a range of compatible land uses, including extensive agriculture	The subject land is not of a size or location suitable for extensive agriculture. The land is valued by its existing native vegetation and ecological importance.

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To enable other forms of development that are associated with rural activity and require an isolated location or support tourism and recreation	The subject land is not of a size or location that would be suitable for other forms of rural activity.
To ensure that the type and intensity of development is appropriate in relation to the rural capability and suitability of the land, the preservation of the agricultural, mineral and extractive production potential of the land, the rural environment (including scenic resources) and the costs of providing services and amenities.	The proposed development is consistent with other surrounding land uses comprising mainly of a mix of rural dwellings and small hobby farms. Any services required in support of the development are capable of being achieved on site, such as electricity, water supply and effluent management. The type of development is appropriate for the size and location of the subject land.
To maintain and enhance the scenic character of the land	The proposed development is consistent with other surrounding land uses comprising mainly of a mix of rural dwellings and small hobby farms.
To ensure that development does not create unreasonable or uneconomic demands for the provision or extension of services.	The development is capable of incorporating required services such as electricity, water supply and effluent management. There are no unreasonable or uneconomic demands for the provision or extension of services.
To minimise the visual impact of vegetation clearing in order to be consistent with the rural character of the locality	<p>The development is proposed in an area that was previously vegetated with native vegetation having high ecological value.</p> <p>The subject lot has an area of approximately 12Ha. The surrounding properties are characterised by hobby style farms the majority being approximately 4Ha in size up to larger 14Ha lots.</p> <p>There is a mix of properties that have been heavily cleared of vegetation while others have retained the native vegetation. The properties are occupied by a rural dwelling and associated farm buildings.</p> <p>The visual impact of the vegetation clearing is considered generally consistent with the rural character of the locality.</p>
To minimise disturbance to the landscape from development through clearing, earthworks, access roads and construction of buildings.	<p>The development is proposed in an area that was previously vegetated with native vegetation having high ecological value.</p> <p>The clearing of vegetation and proposed development has/will result in an unacceptable disturbance to the existing landscape. There are other suitable locations on the site that would minimise disturbance to the landscape. The applicant has not chosen to amend the development proposal by relocating the dwelling to perhaps a more suitable location on the site.</p>
To ensure development does not intrude into the skyline when viewed from a road or other public place	The development is not located in an elevated or visually prominent location.

4.3 Relevant Clauses

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

Clause 4.2A Erection of dwelling houses on land in certain residential, rural and environmental protection zones

In part, Clause 4.2A states as follows:

“(3) Development consent must not be granted for the erection of a dwelling house on land in a zone to which this clause applies, and on which no dwelling house has been erected, unless the land is—

(a) a lot that is at least the minimum lot size specified for that land by the Lot Size Map”

The land on which the development is proposed requires a minimum lot size of 4Ha according to the Lot Size Map. The subject land is approximately 12Ha in size, therefore satisfies the requirements of this clause.

Clause 5.16 Subdivision of, or dwellings on, land in certain rural, residential or conservation zones

In part, Clause 5.16 states as follows:

“(3) A consent authority must take into account the matters specified in subclause (4) in determining whether to grant development consent to development on land to which this clause applies for either of the following purposes—

(b) erection of a dwelling.

(4) The following matters are to be taken into account—

(a) the existing uses and approved uses of land in the vicinity of the development,

(b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,

(c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),

(d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).”

In response to these matters, the following comments are relevant:

- The proposed development is consistent with the existing and approved uses of land within the vicinity of the development.
- The proposed development is considered an appropriate use of the land and will not result in impact that will affect the existing use of surrounding land.

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On this basis, the requirements of this clause are considered satisfied.

Clause 5.21 Flood planning

This clause applies to land identified on Council's mapping as being flood prone land. The requirements of this clause involves an assessment of how the development satisfies potential or likely impacts from flooding.

Council's development engineer has reviewed the development in line with Council's mapping and concluded that while parts of the property are identified as being flood prone, the location of the proposed development is not flood affected, including access to the development from New Street.

On this basis, the requirements of this clause have been satisfied.

Clause 7.2 Earthworks

In part, Clause 7.2 states as follows:

(2) Development for the purposes of earthworks may be carried out only with development consent unless—

(b) the earthworks are ancillary to other development for which development consent has been given.

The development will involve earthworks comprising of cutting and filling of the dwelling site being works ancillary to the development consent. Matters relating to the suitability of the earthworks proposed are considered as part of the assessment of the dwelling.

On this basis, the requirements of this clause have been satisfied.

Clause 7.14 Essential Services

This clause applies to development proposed on RU2 Rural Landscape zoned land. The purpose of this clause is to ensure the proposed development includes services that are considered essential for the proper function and use of the development. Services to be considered include; supply of water, electricity, onsite sewage management, stormwater management and vehicular access.

The proposed development incorporates all essential services deemed relevant for the land use and satisfies the requirements of this clause.

Clause 7.15 Groundwater vulnerability

This clause applies to development proposed on RU2 Rural Landscape zoned land. The purpose of this clause is to ensure proposed development will not result in groundwater contamination or impact groundwater dependent ecosystems or land uses that may extract groundwater such as for drinking or stock water supply.

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The proposed development includes the installation of an onsite system of sewage management and effluent disposal. Council's Environmental Health officers have reviewed the proposal and are satisfied that an onsite sewage management system is capable of satisfying the required Australian Standards and will not result in contamination of groundwater.

On this basis, the requirements of this clause are considered satisfied.

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,*
- (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 Guidelines

Provision	Required	Provided	Complies?
1.4.1 Access to the site	Access to the site must be provided in accordance with the standards and provisions listed in 1.4.1 and shown in Tables 1 & 2 to achieve an appropriate and safe design.	A 3.4m wide access crossing is proposed within the road reserve in New Street. The property has legal access from New Street. The design is capable of satisfying this requirement.	Yes
1.4.2 Car Parking Design	This section outlines the minimum design requirements to be designed in accordance with the Australian Standards, enable adequate site maneuvering.	The proposal requires a total of two (2) car parking spaces; the development achieves this requirement by the provision of the proposed triple garage.	Yes
1.4.6 Construction Materials	Outlines that all parking areas and accessways shall be constructed in accordance with Council's Engineering Requirements for development.	If the application was to be approved, a condition would be imposed ensuring that all parking areas and accessways are constructed accordingly.	Yes

Part C: General Guidelines

Chapter 3: Contaminated Lands

Provision	Required	Provided	Complies?
C.3	As the DCP has been prepared in accordance with the requirements of SEPP 55, satisfaction of SEPP 55 is taken to be consistent with the provisions of Chapter C.3.	The proposed development is consistent with the requirements of this chapter as discussed previously in this report (refer to consideration of SEPP 55).	Yes

Part C: General Guidelines

Chapter 5: Waste Management and Minimisation

Provision	Required	Provided	Complies?
5.2 Key Features	A waste management plan is to be completed by the applicant.	The applicant has provided an appropriate waste management plan.	Yes

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**Part C: General Guidelines****Chapter 9: Development on Flood Prone Land**

Provision	Required	Provided	Complies?
Land Use and Hazard Control Matrix	The development must satisfy the relevant controls based on the land use type. The development is identified as a single residential dwelling.	The development site is not located within flood prone land, therefore this part is not applicable.	Yes
Sensitive and Hazardous Development	This section requires consideration of safe occupation and evacuation in the event of a flood or potential of the development to adversely affect the environment in the event of a flood.	The development site including access and evacuation from the site does not traverse flood prone land.	Yes
Detailed Survey	This section requires a detailed survey to be provided for development affected by flood prone land.	The development site is not located within flood prone land; therefore this part is not applicable.	Yes

The development proposal does not include and variations to the DCP.

4.15(1)(a)(iia) 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.

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 likely to have a significant impact on both the natural and built environments, and the social and economic conditions of the locality. In particular, the development is proposed within land that has been identified as having high ecological value.

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The Biodiversity Development Assessment Report (BDAR) has been reviewed by Council's Ecologist, who has concluded due to the land having already been cleared of native vegetation it is not possible to satisfy the requirements of the "Avoid and Minimise" provisions of the Biodiversity Assessment Method (2020), therefore the requirements of the BC Act cannot be satisfied. Council's Ecologist is of the opinion that due the high ecological value, the development would not have been supported even if the land had not been previously cleared.

4.15(1)(c) The suitability of the site for the development

As demonstrated by the above assessment, specific site of the proposed development on the land is considered to be unsuitable due to the land being identified as having high ecological value.

4.15(1)(d) Any submissions made in accordance with this Act or the regulations

The development application was not publicly exhibited. No submissions have been received in relation to the development application.

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.

Approval of the proposed development is not in the public interest as the decision will fetter the Council in terms of rehabilitation options for the unauthorised clearing of land which is identified of having high ecological value.

SECTION 7.11/7.12 CONTRIBUTIONS

Section 7.11/7.12 Contributions are not payable for the proposal.

INTERNAL REFERRALS

The Development Application was referred to the following Council officers for comment:

Officer	Comment
Environmental Health Officer	The proposed development is capable of satisfying the requirements of relevant legislation and Australian Standards in relation to installing and maintaining an onsite system of sewage management.
Development Engineer	The proposed development is capable of satisfying the relevant Engineering Requirements for Development.
Ecologist	The proposed development is not supported due to the land where the development is proposed has been identified as having high ecological value.

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	The Biodiversity Development Assessment Report (BDAR) has been reviewed by Council's Ecologist, who has concluded due to the land having already been cleared of native vegetation it is not possible to satisfy the requirements of the "Avoid and Minimise" provisions of the Biodiversity Assessment Method (2020), therefore the requirements of the BC Act cannot be satisfied. Importantly, Council's Ecologist is of the opinion that due the high ecological value, the development would not have been supported even if the land had not been previously cleared.
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EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agency for comment.

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 proposed development is considered unsuitable in the location being sought by the applicant due to the land being identified as having high ecological value and mapped on the NSW Biodiversity Values Map. The land where the development is proposed has been previously cleared of vegetation without prior approval. Council staff are of the view that the illegally cleared areas should be rehabilitated. Determining the application by approval will fetter the Council in relation to regulatory and legal options to have the area rehabilitated.

Based on the assessment, it is recommended that Development Application No. 8/2021/21642/1 be refused, subject to the reasons for refusal included in this report.

ENCLOSURES

There are no enclosures for this report.

REASONS FOR REFUSAL

1. In its locality, the development will likely result in unacceptable environmental impact due to the development being proposed on land being identified as having high biodiversity value which has already been cleared without the benefit of development consent. It is not possible to retrospectively demonstrate how the development addresses the hierarchy of avoiding and minimising impacts on biodiversity values which prevents a complete assessment of the Biodiversity Assessment Method (2020) (Section 4.15(1)(b) *Environmental Planning and Assessment Act 1979*); and
2. It is not in the public interest to approve the development to ensure Council remains unfettered from taking action as deemed appropriate to rehabilitate the area that has been illegally cleared of vegetation identified as having high biodiversity value (Section 4.15(1)(e) *Environmental Planning and Assessment Act 1979*).

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

AUTHOR: *Development Services Manager - Janine Maher*

SUMMARY

In 2019, Council appointed two (2) suitably qualified and experienced external members to act as Council's alternate Hunter and Central Coast Regional Planning Panel (RPP) representatives, for a period of three (3) years. These members are called upon in circumstances where current members declare a conflict of interest.

These appointments are due to expire in November 2022.

The purpose of this report is for Council to consider calling for Expressions of Interest to appoint external alternate members to the RPP for a period of three (3) years, who will be called upon in circumstances where Council's permanent and alternate Councillor members declare a conflict of interest and stand aside from their place on the RPP.

RECOMMENDATION

1. That the General Manager make arrangements for an Expressions of Interest process to occur calling for suitable external members to act as Council's alternate Hunter and Central Coast Regional Planning Panel (RPP) representatives to participate in any briefings and meetings scheduled for the RPP in respect of any Development Application, S4.55 Application, and Planning Proposal, in circumstances where Council's permanent and alternate Councillor member/s has declared a conflict of interest, for a period of three (3) years.
2. That a further report on the Expressions of Interest outcomes, be provided to Council for consideration and/or endorsement of external alternate members to the Hunter and Central Coast Regional Planning Panel.

BACKGROUND AND REPORT

Council's Current RPP Members

Council's current appointed Hunter and Central Coast RPP members, and their appointment timeframes, are outlined below:

Member	Type of member	Expiry of membership
Mayor Suvaal	Full member	End of current term of Council
Councillor Sander	Full member	End of current term of Council
Councillor Burke	Alternate member	End of current term of Council

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Councillor Jackson	Alternate member	End of current term of Council
Stephen Leathley	External alternate member	6 November 2022
Robert Bisley	External alternate member	6 November 2022

In accordance with Clause 11(1) of Part 4 of Schedule 2 of the *Environmental Planning and Assessment Act 1979*, each appointment to the RPP is for a maximum of three (3) years.

It is noted that it is *not mandatory* for Council to nominate members to the RPP. If a council fails to nominate one or more council members, a panel may still exercise its functions in relation to the area of the council concerned.

‘Sydney & Regional Planning Panels Operational Procedures’ (January 2020) and ‘Sydney District and Regional Planning Panels Code of Conduct’ (August 2020)

Council is increasingly experiencing situations where Council’s permanent and alternate Councillor RPP members are declaring conflicts of interest in respect of matters referred to the RPP for consideration.

The ‘Sydney & Regional Planning Panels Operational Procedures’ (January 2020) and ‘Sydney District and Regional Planning Panels Code of Conduct’ (August 2020), both address issues relating to conflicts of interest.

In part, Section 5.2 of the ‘Sydney & Regional Planning Panels Operational Procedures’ (January 2020), states as follows:

‘To avoid any perceptions of bias, and to meet the requirements of the Code of Conduct, councillors who have deliberated or voted on a matter that is to come before the Planning Panel (such as a submission from the council on a DA for regionally significant development, a related voluntary planning agreement or a planning proposal), must stand aside from their place on the Planning Panel and allow council’s nominated alternative member to take their place’.

The ‘Sydney District and Regional Planning Panels Code of Conduct’ (August 2020), also addresses conflicts of interest, in detail. Of particular relevance is Section 3.19(b), which states as follows:

‘The following situations are considered to represent a conflict of duties for panel members (however this list is not exhaustive):

(b) councillor members where they have deliberated or voted on, or otherwise considered, a matter, and/or been present when such consideration is undertaken, in their role at council and that matter, or a related matter, subsequently comes before the panel. Matters which are considered to be related to a panel matter include, but are not limited to:

- a planning proposal for the site*
- a voluntary planning agreement for the development or planning proposal*
- a Masterplan for the development or planning proposal*
- a Plan of Management for the development*

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- *property matters related to the site, including leases, licences, purchase of land, disposal of land and management of lands*
- *legal matters related to the site, development or proposal*
- *consideration on whether to make a submission to the panel on a DA for regional development'*

Due to the above provisions, it is becoming increasingly common for Council's permanent and alternate Councillor RPP members to declare a conflict of interest in respect of the consideration of a development application. This is mainly due to their previous involvement in a Planning Proposal for the site the subject of the development application.

If these types of situations occur, it is necessary for Council's permanent and alternate Councillor RPP members to declare a conflict of interest and stand aside from their place on the Planning Panel. This can mean that Council is unrepresented on the RPP.

In consideration of the above, it is recommended that a minimum of two (2) external alternate members be nominated for a period of three (3) years to ensure that Council always has representation on the RPP.

Options in respect of the nominations are outlined below.

OPTIONS

1. *Expressions of Interest process*

Council may resolve to call for Expressions of Interest to appoint external alternate members to the RPP for a period of three (3) years, who will be called upon in circumstances where Council's permanent and alternate Councillor RPP members declare a conflict of interest in respect of a particular matter and stand aside from their place on the RPP.

In this case, it would be appropriate to call for Expressions of Interest from the community, and subsequently process/consider any applications received and provide a further report to Council for endorsement.

This option is preferred and is reflected in the recommendation.

2. *Appoint staff member/s employed by Council*

Alternatively, Council may resolve to appoint appropriate staff member/s employed by Council.

It is noted that Section 4.5 of the 'Sydney & Regional Planning Panels Operational Procedures' (January 2020), stipulates that, in selecting members, Council should have regard to the conflict of duties that would be created for a person nominated to the Planning Panel if they are in any way responsible or involved in the assessment of matters to be determined by the Panel or involved in voting or deliberating on matters that come before the Panel.

The 'Sydney District and Regional Planning Panels Code of Conduct' (August 2020), addresses this in further detail. Of particular relevance is Section 3.19(c), which states as follows:

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'The following situations are considered to represent a conflict of duties for panel members (however this list is not exhaustive):

c) *council staff members that have:*

- *presented, or been present at a council meeting, that considers an assessment report for the planning panel, or a related matter as per section 3.19(b)*
- *been directly or indirectly involved in the preparation of the assessment report for the planning panel*
- *approved agenda items for reporting to council meetings, or have been a signatory to correspondence in relation to matters that may come before a panel.*

The code effectively precludes the General Manager, senior staff, senior planning staff as well as other non-planning staff who have been involved in referrals or related matters.

It is also noted that, in the event a Council staff member is appointed to the Panel, the staff member is bound by the provisions of the 'Sydney District and Regional Planning Panels Code of Conduct' (August 2020). In this regard, the staff member must act honestly, ethically and responsibly, and for a proper purpose; and must have a clear understanding of their public duties and legal responsibilities. In addition, the staff member must form their own opinion in respect of matters, and make their decision on merit and in accordance with statutory obligations.

In consideration of the above, it is not recommended that Council staff be appointed to the RPP.

CONSULTATION

Director Planning and Environment
Principal Development Planner

STRATEGIC LINKS

a. Delivery Program

Objective 5.3: *Making Council more responsive to the community*

b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

The implications for Council's participation on the Hunter and Central Coast RPP are outlined in the report.

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b. Financial Implications

In the event Council resolves to appoint external representatives to the RPP via an Expressions of Interest process, Council would incur costs in calling for expressions of interest from the community, and processing/considering any applications received.

In addition, ongoing costs would be incurred as Council would be responsible for paying the external representatives for their time and associated travel expenses.

As outlined previously in this report, Council appointed two (2) suitably qualified and experienced external applicants to act as Council's alternate Hunter and Central Coast Regional Planning Panel (RPP) representatives in 2019. At this time, a budget was created for the RPP on an annual basis. Such budget continues to exist, and \$12,000 has been set aside in the 2022/23 budget for this purpose. This amount covers attendance at the RPP meeting, travel to/from the RPP meeting, and general expenses such as printing costs etc.

c. Legislative Implications

N/A

d. Risk Implications

In appointing sitting Councillors to represent Council as additional alternate members on the RPP, the risk remains that Council may not be represented during RPP meetings, especially in the event the current Council has already voted in respect of a Planning Proposal (or other matter), relating to the same site.

e. Other Implications

N/A

CONCLUSION

Council is increasingly experiencing situations where Council's permanent and alternate Councillor RPP members are declaring conflicts of interest in respect of matters referred to the RPP for consideration.

To ensure Council is adequately represented at future briefings/meetings, particularly in circumstances where Council's permanent and alternate Councillor RPP members have declared a conflict of interest, it is recommended that Council call for Expressions of Interest for external alternate members to be appointed for a period of three (3) years. This would be subject to a future report to Council following completion of the Expressions of Interest process for Council to consider endorsement of nominations.

ENCLOSURES

There are no enclosures for this report.

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SUBJECT: *18/2021/3 PLANNING PROPOSAL - WILLS HILL ROAD*

RESPONSIBLE OFFICER: *Strategic Planning Manager - Martin Johnson*

SUMMARY

The purpose of this report is to provide Council with an update on the progress of planning proposal 18/2021/3 to heritage listed Wills Hill Road, Lovedale and recent development approvals which impact the heritage significance of the Road.

Application Number	18/2021/3
Proposal	Identify Wills Hill Road, Lovedale as an item of Local Heritage Significance in Schedule 5 of the Cessnock LEP 2011 and associated heritage map
Property Description	Road Reserve
Property Address	Wills Hill Road
Zone (Current)	RU4 Primary Production Small Lots
Proponent	Insite Planning

RECOMMENDATION

That Council not proceed with Planning Proposal 18/2021/3 Wills Hill Road and notify the Department of Planning and Environment of its decision.

BACKGROUND

Council received a request on 8 July 2021 to amend the *Cessnock Local Environmental Plan 2011* (LEP) at Wills Hill Road Lovedale. The proposal was supported by a Heritage Assessment. On 17 November 2021 Council resolved to proceed with the Planning Proposal and request a Gateway determination. A Gateway determination was issued on 2 March 2022 and the proposal was subsequently exhibited.

Concurrently to the planning proposal being assessed Council was also assessing a number of Development Applications (DAs) on Wills Hill Road. These include:

- DA 8/2021/21634/1 Internal Fit-out to Existing Shed and Use for Function Centre and Associated Car Parking and Other Works
- DA 8/2021/21333/1 - Construction of Three (3) Storey Information and Education Facility Comprising an Art Gallery with Associated Facilities, and Associated Roadworks, Civil Works and Vegetation Removal
- DA 8/2021/21250/1 - Construction of Information and Education Facility Comprising a Museum, and Associated Roadworks, Civil Works and Vegetation Removal

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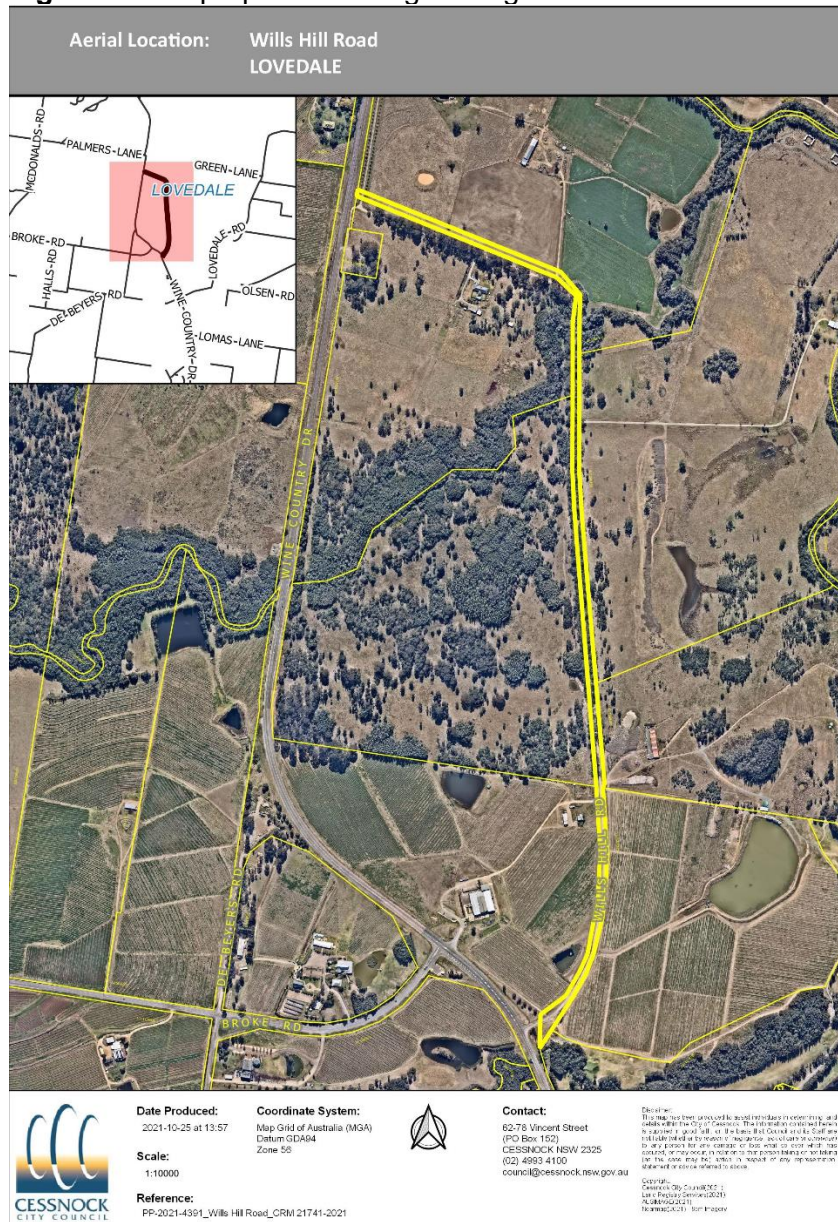
These DAs have now been approved. Of note DA 8/2021/21333 and DA8/2021/2125 contain a condition requiring upgrade to Wills Hill Road, specifically:

- Wills Hill Road – Construct a 7m wide sealed pavement for approximately 1400m
- Construct 0.5m gravel shoulders on each side of the road
- Place two (2) coat hot bitumen seal on new works

REPORT/PROPOSAL

The Planning proposal intends to Heritage List Wills Hill Road, Lovedale (Figure 1) as an item of local heritage significance in Schedule 5 of the Cessnock LEP 2011 and associated maps.

Figure 1: The proposed heritage listing of Wills Hill Road Lovedale



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In order to be heritage listed in the Cessnock LEP a site must meet at least one of the heritage assessment criteria identified in the Heritage Act 1977. The Heritage Assessment report provided by the proponent in September 2021 indicates that the road met a number of the heritage criteria however, most significantly the proposal meets criteria *a) An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).*

A detailed Heritage Assessment is attached to the planning proposal. The Heritage Assessment includes details on the physical description of Wills Hill Road, the historical context, importance of the road and a comparative analysis of other roads in the locality.

The significant aspects of the road outlined in the Heritage Assessment Report include:

- Road alignment
- Road width
- Tree corridor
- Road surface
- Verges and undergrowth
- Fences
- Water crossing
- View and setting of the road.

Given the above-mentioned DAs require the road to be upgraded and widened a number of significant heritage aspects of the road will likely be removed or substantially changed. This includes, the road width, tree lined corridor, road surface, verges and undergrowth and the view and setting of the road. This is likely to remove most of the aspects of the road which make the road of significance for heritage listing. Only the alignment of the road and water crossing will remain. It is considered that this alone is not enough to warrant a heritage listing of Wills Hill Road. There are a number of other roads in the LGA which follow their original alignment. It is therefore recommended that Council not proceed with the planning proposal.

OPTIONS

Council has the following options:

1. Endorse the recommendations of this report and not proceed with the Planning Proposal. *This is the preferred option.*
2. Not endorse the recommendations of this report and resolve to proceed with the Planning Proposal. This would mean that Council requests DPE make the plan and list Wills Hill Road as an item of Local Heritage Significance in the Cessnock LEP 2011.

CONSULTATION

In accordance with the Gateway determination consultation was undertaken with the Office of Environment and Heritage (OEH). The OEH advised in their response that they do not comment on local heritage items.

The proposal was publicly exhibited from 20 April to 20 May 2022. An advertisement was placed in the Cessnock Advertiser and notice of the exhibition was sent to property owners on

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Wills Hill Road. The exhibition material was available for viewing at the Cessnock and Kurri Kurri Library and Councils webpage. No submissions were received.

STRATEGIC LINKS

a. Delivery Program

The Planning Proposal generally aligns with the following theme and objective of the Cessnock 2027 Community Strategic Plan (CSP):

- Civic leadership and effective governance
 - Objective 5.2 involving more community participation in decision making

b. Other Plans

Nil

Hunter Regional Plan and Cessnock Local Strategic Planning Statement

The Hunter Regional Plan and Cessnock Local Strategic Planning statement contain directions and principles related to protecting and identifying heritage items. However as discussed above the conditions on DA 8/2021/21333 and DA8/2021/2125 requiring the road to be upgraded will remove many of the significant aspects of the road.

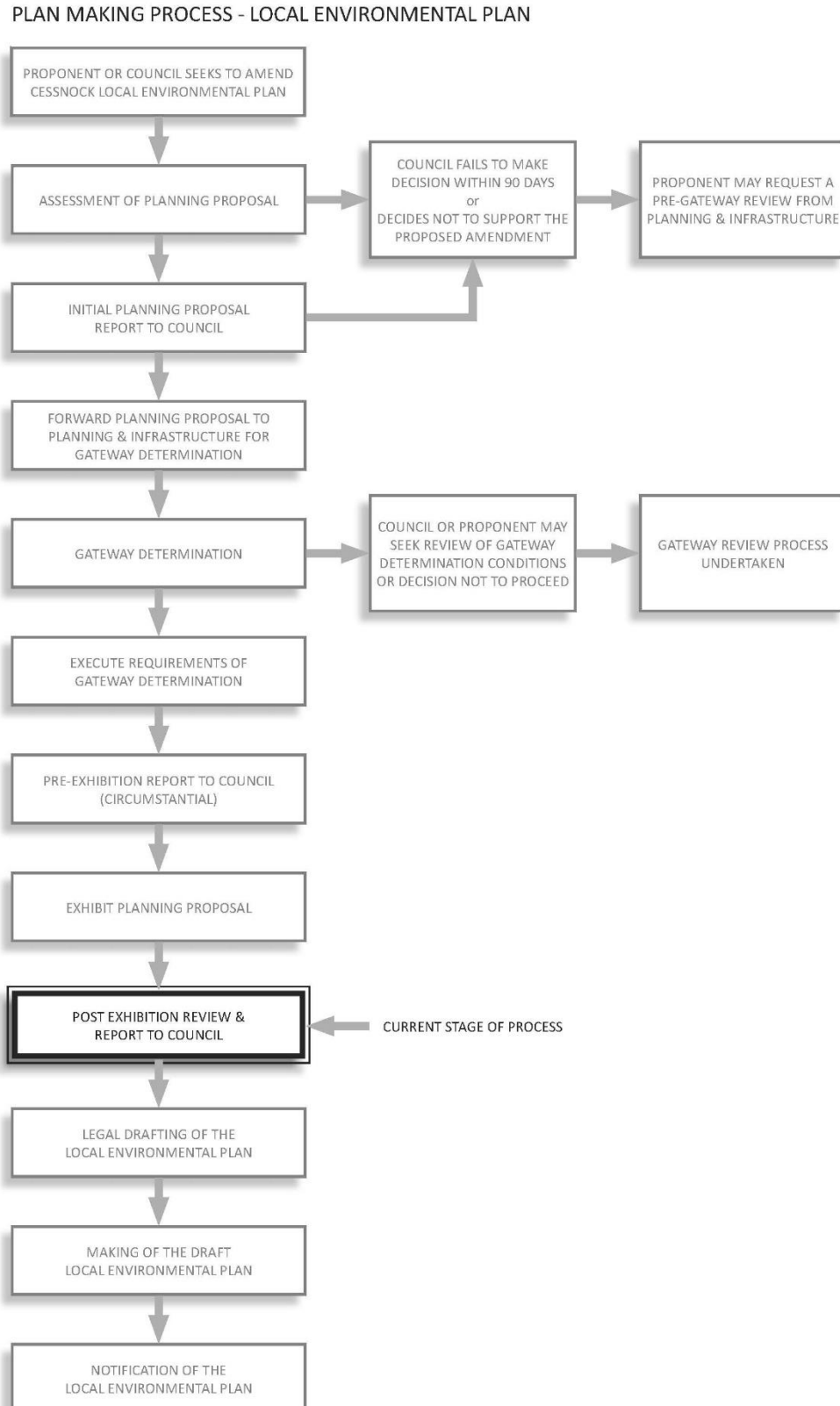
IMPLICATIONS

a. Policy and Procedural Implications

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The status of the Planning Proposal is identified in the following process flow chart.



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b. Financial Implications

In accordance with Council's Fees and Charges Schedule the proponent has paid the relevant fee.

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 and Environment's Guide to Preparing a Planning Proposal.

d. Risk Implications

Nil

e. Environmental Implications

Nil

f. Other Implications

There is a possibility that DA 8/2021/21333 and DA8/2021/2125 do not proceed. However this risk is considered low given that grant funding has been awarded for the project. The consents are valid for five years.

CONCLUSION

When Council first considered the planning Proposal in November 2021 Wills Hill Road met sections of the OEH listing criteria. However, since this time DA8/2021/21333 and DA8/2021/2125 have been approved by Council and contain a condition requiring the road to be upgraded and widened so that a number of significant aspects of the road will likely be removed. This includes, the road width, tree lined corridor, road surface, verges and undergrowth and the view and setting of the road. This is likely to remove most of the aspects of the road which made the road of significance for heritage listing. Only the alignment of the road and water crossing will remain. It is considered that this alone is not enough to warrant a heritage listing of Wills Hill Road.

It is therefore recommended that Council not proceed with the planning proposal.

ENCLOSURES

There are no enclosures for this report

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SUBJECT: ***DRAFT AMENDMENT TO CESSNOCK CITY WIDE
INFRASTRUCTURE CONTRIBUTIONS PLAN - REPORT ON
EXHIBITION***

RESPONSIBLE OFFICER: ***Strategic Planning Manager - Martin Johnson***

SUMMARY

The purpose of this report is to advise Council of submissions received following the exhibition of the revised Cessnock City Wide Infrastructure Contributions Plan 2020 (CCWICP - the Plan) and to seek adoption of the final Plan.

RECOMMENDATION

- 1. The Council adopt the Cessnock City Wide Infrastructure Contributions Plan 2020.**
- 2. That the General Manager notifies those persons who made submissions of Council's decision.**

BACKGROUND

A report was presented to Council on 16 March 2022 (Report PE15/2022), with Council resolving that the amended plan be placed on exhibition for a minimum period of 28 days and that Council receive a further report post exhibition.

This matter was reported to Council on 15 June 2022 and deferred to the July 2022 Council meeting as a Councillor advised that a number of submissions had been lodged online and were considered within the original Council report.

Following the deferral, a search was undertaken within Council's record management system and no further submissions in relation to the CCWICP were found other than that which was previously reported on. A search was also undertaken by Council's Media and Communications team on Facebook and no submission was identified as received through Facebook. The CCWICP also did not provide for submissions to be lodged online via Council's website.

Accordingly it has been determined that all submissions have been taken into account in this Council report, with the report addressing the two (2) submissions received during the exhibition and seeks Council to endorse the amendment to the Plan.

REPORT/PROPOSAL

The amended plan was placed on public exhibition from 30 March 2022 to 13 May 2022. Two submissions were received by Council, with the main issues raised in these submissions being:

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1. Lack of funding for a Regional Art Gallery in Cessnock

The community facilities listed in the works schedule of the Plan were developed in conjunction with Community and Cultural Engagement staff. Local Infrastructure Contributions have been providing funding for the redevelopment of the Cessnock Performing Art Centre through repealed funds in accordance with the Council resolution from 20 May 2020.

2. Issues regarding Cessnock Swimming Pool Facilities

There were concerns raised regarding money spent on the existing swimming pool when a future swimming pool is earmarked at Turner Park. The works schedule for swimming pool facilities within the Local Government Area was developed in conjunction with Open Space and Recreation Assets owner. The Plan is currently collecting for upgrades to the existing swimming pool as well as the development of a new swimming pool.

3. The Plan anticipated delivery dates for Infrastructure in the works schedule that are pushed back towards the end of the life of the Plan.

The issue raised concern with the delivery dates for local infrastructure within the work schedule of the Plan. All infrastructure delivery dates within the amended Plan were developed in consultation with the future asset owners within Council. Infrastructure projects within the Plan are dependent in many cases on a co-contribution from Council and will be reviewed yearly in line with the yearly budget process. Long term delivery and funding plans (5-10 years) are currently in development.

After consideration of the submissions that have been made it is not intended to propose any amendments to the exhibited Plan.

Council has made one amendment to the draft Plan that was placed on exhibition, being project number OS48 (Hydro development) on page 61 of the works schedule. Council and the developer have been in negotiations and the developer has agreed to provide 8.4 ha of land to be dedicated free of charge for district open space. The works schedule has been amended to reflect this. This will reduce the levies in Kurri Kurri District Catchment from \$15,290.93 as exhibited to \$15,049.49.

This minor amendment to the draft plan does not necessitate the re-exhibition of the plan.

OPTIONS

N/A

CONSULTATION

Internal Consultation

The amendments to the Plan was prepared in consultation with Council's Contributions Steering Group. This Group has representatives from:

- Development Assessment;
- Works and Infrastructure;

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- Open Space and Recreation;
- Community and Cultural Engagement; and
- Finance.

Staff from each of these sections contributed to the development of the Works Schedule in the plan.

External Consultation

A notification that the amended plan was on exhibition was placed in the Cessnock Advertiser on 30 March 2022.

On 29 March 2022, the following groups were advised of the exhibition of the amended plan and invited to make a submission:

- Council's Development Forum;
- Building Professionals Board;
- Urban Development Institute of Australia (UDIA);
- Property Council of Australia, New South Wales; and
- Surrounding Local Government Councils.

The amended plan was also placed on Councils webpage, at Kurri Kurri and Cessnock Libraries and Council's Administration Building. Notification of the exhibition period was also announced on social media.

STRATEGIC LINKS

a. Delivery Program

The amended plan aligns with the following:

- Delivery Program 2017-2021
- Operational Plan 2021-22 and draft Operational Plan 2022-23

The amended plan also aligns with the following objectives of the Cessnock 2020 Community Strategic Plan:

- Objective 1.1 - Promoting social connections
- Objective 1.2 - Strengthening community culture
- Objective 1.3 - Promoting safe communities
- Objective 1.4 - Fostering an articulate and creative community
- Objective 2.1 - Diversifying local business options
- Objective 2.2 - Achieving more sustainable employment opportunities
- Objective 2.3 - Increasing tourism opportunities and visitation in the area
- Objective 3.2 - Better utilisation of existing open space
- Objective 4.1 - Better transport links
- Objective 4.2 - Improving the road network
- Objective 5.2 - Encouraging more community participation in decision making
- Objective 5.3 - Making Council more responsive to the community.

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b. Other Plans

The amended plan is directly linked to:

- Hunter Regional Plan 2036 and draft Hunter Regional Plan 2041
- State and Regional Environmental Planning Policies
- Cessnock Local Strategic Planning Statement (LSPS)
- Cessnock Urban Growth Management Plan (UGMP)
- Cessnock Housing Strategy
- Cessnock 2027 Community Strategic Plan
- Cessnock Community Infrastructure Strategic Plan
- Cessnock Recreation and Open Space Strategy 2018 (as amended)
- Cessnock LGA Traffic and Transport Strategy, as amended
- Cessnock City Library Services Review Report and Strategy
- Cessnock Economic Development Strategy
- Cessnock Cycling Strategy 2016
- Aquatic Needs Analysis 2014
- Skate and BMX Facilities Needs Assessment 2020
- Council's Masterplans
- Disability Inclusion Action Plan (2017 – 2020)
- Cessnock City Council Cemetery Strategy and Masterplan
- Pedestrian Access and Mobility Plan (PAMP) 2016

IMPLICATIONS

a. Policy and Procedural Implications

Adoption of the amended plan has numerous benefits for Council including:

- Being easier to read and interpret
- Reducing risk of legal challenge by providing an up-to-date Contributions Plan that contains a revised Works Schedule and costings
- Aligning with up to date strategic plans within Council
- Allowing Council to impose conditions of consent on development to collect the applicable funds required from development, to meet its share of the cost of delivering infrastructure
- Updated works and costings outlined in the Works Schedule.

b. Financial Implications

Outdated cost estimates result in inadequate contributions being collected, which in turn, places financial strain on Council to provide infrastructure required for the growing community, as it is responsible to fund the shortfall of the costs. The amended plan seeks to ensure that adequate contributions are collected from new development in order to meet the local infrastructure needs of the growing community.

It should be noted that no existing plans will be repealed as a result of the adoption of the amended plan. All funds collected under the current Contributions Plan have been deducted from the cost of items in the Works Schedule that are apportioned to new development.

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c. Legislative Implications

The amended plan has been developed in accordance with the provisions of the *Environmental Planning & Assessment Act 1979* and the *Environmental Planning & Assessment Regulation 2021*.

d. Risk Implications

The key risk is legal challenges to the current plan if it is not amended to reflect the changes incorporated in the plan. The review of the plan seeks to reduce these risks by ensuring all information is up to date and meets legislative requirements.

e. Environmental Implications

NIL

f. Other Implications

If the amended Plan is not adopted, the Plan could not only be vulnerable to legal challenge, but there will be a shortfall in collected funds to deliver local infrastructure in years to come which will affect the growing community of the Cessnock LGA.

CONCLUSION

The amended plan will provide Council with an opportunity to ensure that appropriate conditions of consent to collect contributions can be imposed on developments throughout the Cessnock LGA. The current amendment of the originally adopted plan in 2020 is a further step in the continued review and improvement to the management of local infrastructure contributions within the organisation.

ENCLOSURES

- 1 [↓](#) Amended City Wide Infrastructure Contributions Plan - Provided under Separate Cover

Placeholder for Enclosure 1

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Amended City Wide Infrastructure Contributions Plan -
Provided under Separate Cover

Corporate and Community

Report No. CC56/2022

Corporate and Community Services



SUBJECT: ***EASEMENT REQUEST - BEING THE NORTHERN PORTION OF GEORGE WINTER PARK (LOT 170 DP 1137848) AND BENEFITING 96A DEAKIN STREET, KURRI KURRI (LOT 3 DP 703289) FOR DRAINAGE PURPOSES***

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

SUMMARY

The purpose of this report is to obtain the authority of Council to grant an easement for drainage purposes benefiting private land and burdening Council owned land known as George Winter Park at Wermol Street, Kurri Kurri.

A location plan is attached (**Enclosure 1**).

RECOMMENDATION

That Council consent to the granting of an easement burdening Council land, being the northern portion of George Winter Park (lot 170 DP 1137848) and benefiting 96A Deakin Street, Kurri Kurri (lot 3 DP 703289) for drainage purposes subject to the following:

- a) That Council gives landowners consent to the lodgement of the development application which proposes an easement over Council land for underground storm water pipes and delegates to the General Manager the power to determine the appropriate location and specific requirements of the easement to protect Council's land.
- b) That Council delegates to the General Manager the power to negotiate amounts payable for granting an easement over Lot 170 DP 1137848 in accordance with an independent valuation.
- c) That Council advises the applicant that all costs associated with granting the easement, including Council's reasonable legal and valuation costs, be borne by the benefiting property owner.
- d) That Council authorise the General Manager to execute the documents relating to the granting of the easement and compensation amount payable.

BACKGROUND

As part of DA 8/2021/21621/1, the applicants are proposing an easement which will affect George Winter Park. George Winter Park is Council owned community land and managed by Council's Open Space and Community Facilities unit. Strategic management and use of the park is outlined in the Generic Parks Plan of Management.

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In accordance with s46 of the *Local Government Act 1993*, Council may grant an estate in respect of community land for the purposes of providing pipes under the surface of the ground for the connection of premises adjoining the community land to a facility of the Council or other public utility providers.

On 16 September 2021, Council's legal representatives Lindsey Taylor Lawyers confirmed that compulsory acquisition, purchase, sale, exchange or surrender of an easement is a matter that cannot be the subject of any delegation by the Council under s377 of the *Local Government Act 1993* and must be authorised by a resolution of Council.

REPORT/PROPOSAL

The applicants are proposing an easement for drainage purposes which will affect the northern portion of George Winter Park at 131A Wermol Street, Kurri Kurri. The applicant has advised that the easement is required to pipe storm water underground from the benefiting property to the stormwater channel and therefore will have minimal impact on the land. Construction of the stormwater pipes and infrastructure will be managed by the Principal Certifying Authority (Council or Private Certifier) in the development application process ensuring the location and specific requirements of the easement shall protect Council's land. A survey plan of the proposed pipeline easement is enclosed for Council's information (**Enclosure 2**).

The Development Assessment Team referred the draft easement plan to Council's Principal Recreation and Community Facilities Planner on 7 September 2021 and the following comments were provided regarding the stormwater easement, there was no objection to the proposed alignment. Future upgrades of the reserve are planned to occur towards the south of the reserve and the proposed alignment (towards the boundary fence at the northern end) will not limit future open space opportunities at the site.

It is proposed that all costs associated with creation of the easement, construction and ongoing maintenance of the pipeline be the responsibility of the benefiting property owner/s. In this regard, the benefiting property owner engaged a qualified valuer to provide a valuation report for negotiation purposes and an amount \$3,800 exclusive of GST was assessed as compensation payable to Council for granting the easement (**Enclosure 3**). If the recommendation is adopted, the applicant would be required to enter into a Deed of Agreement stipulating the terms and payment of compensation immediately upon registration of the plan that creates the easement (**Enclosure 4**).

OPTIONS

1. Council resolves to grant the proposed easement subject to the applicant meeting all costs associated with creating it and entering into a deed of agreement to pay the assessed compensation immediately upon registration of the plan; or
2. DA 8/2021/21621/1 applicant's request to grant the proposed easement is rejected.

Option 1 is recommended.

CONSULTATION

Principal Recreation Planner

Marshall Scott Surveyors (applicant on behalf of landowner)

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STRATEGIC LINKS

a. Delivery Program

This report is linked to Council's Operational Plan "Accessible Infrastructure Services and Facilities, specifically flooding and drainage" and "Civic Leadership and Effective Governance in respect to compliance with legislation.

b. Other Plans

Nil

IMPLICATIONS

a. Policy and Procedural Implications

Nil

b. Financial Implications

The recommendation in this report has a positive impact on Council's budget with the benefiting property owner responsible for payment of compensation to Council and all costs associated with creation of the easement and installation of stormwater drainage equipment.

Funds received will be restricted to the Property Reserve.

c. Legislative Implications

Section 46 of the *Local Government Act 1993*, provides that Council may grant a lease, licence or other estate in respect of community land for the purposes of providing pipes under the surface of the ground for the connection of premises adjoining the community land to a facility of the Council or other public utility providers.

Section 377 of the *Local Government Act 1993* provides that compulsory acquisition, purchase, sale, exchange or surrender of an easement is a matter that cannot be the subject of any delegation by the Council and must be authorised by a resolution of Council.

d. Risk Implications

The benefiting property owner is responsible for the preparation and registration of documents identifying the easement and all costs associated with the matter will be borne by the benefiting property owner.

e. Environmental Implications

Nil

f. Other Implications

Nil

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CONCLUSION

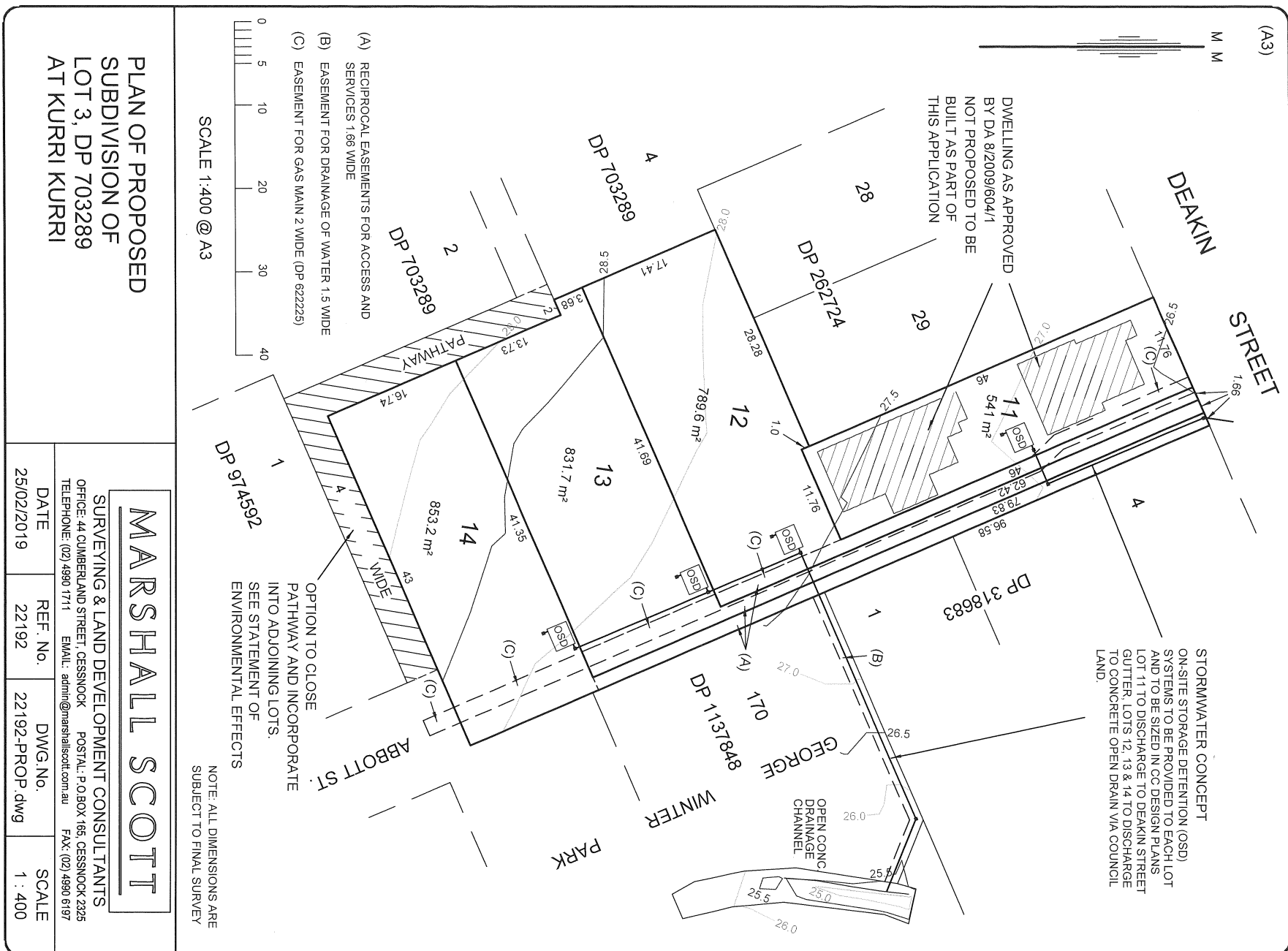
Council has the power to grant an easement over George Winter Park benefitting Lot 3 DP 703289, 96A Deakin Street, Kurri Kurri. An easement has been requested to connect to the stormwater channel in accordance with s46 of the Local Government Act 1993. An independent valuation has been obtained by the benefiting property owner for the purposes of negotiating the amount payable.

ENCLOSURES

- 1 [↓](#) OC20072022SR_14 _ Enclosure 1 _ Location Plan
- 2 [↓](#) OC20072022SR_14 _ Enclosure 2 _ Proposed Plan of Subdivision
- 3 OC20072022SR_14 _ Enclosure 3 _ Valuation Assessment - *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.*
- 4 OC20072022SR_14 _ Enclosure 4 _ Deed of Agreement - *This matter is considered to be confidential under Section 10A(2) (j) of the Local Government Act, as it deals with Council Policy and contains personal information.*

OC20072022SR_14 _ Enclosure 1 _ Location Plan





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Report No. CC57/2022

Corporate and Community Services



SUBJECT: *LOCAL GOVERNMENT NSW ANNUAL CONFERENCE 2022
- REQUEST FOR ATTENDANCE AND MOTIONS*

RESPONSIBLE OFFICER: *Acting Director Corporate & Community Services -
Darrylen Allan*

SUMMARY

The Local Government NSW (LGNSW) Annual Conference 2022 is scheduled to be held in the Hunter Valley from Sunday 23 October to Tuesday 25 October 2022. The purpose of this report is to provide the opportunity for Councillors to make an application to attend as per Council policy, and to consider motions to be submitted to the Conference.

RECOMMENDATION

1. That Councillors wishing to attend the Local Government NSW Annual Conference 2022 make an application to attend the conference to the General Manager by 4 August 2022 so that Council can determine attendees at the meeting of 17 August 2022.
2. That Councillors consider possible motions for the conference and that they be provided to the General Manager by 4 August 2022 for consideration/endorsement by Council at the meeting of 17 August 2022.

BACKGROUND

Council needs to determine attendees and voting delegates to the LGNSW Annual Conference 2022. Councillors wishing to attend need to make application to attend with applications to be determined at a later Council meeting.

LGNSW has opened registration of motions from 4 July 2022, with a final submission deadline of 29 August 2022 to enable the conference agenda to be completed.

REPORT/PROPOSAL

LGNSW have provided information on the Conference to be held in the Hunter Valley from 23-25 October 2022, to set advocacy priorities for the year ahead.

Details about the conference, including the draft program are provided via the following link:

<https://lgnswconference.org.au/program/>

Request to Attend

In accordance with Council Policy, Councillors wishing to attend the conference are requested to make application to the General Manager by a specified date so that Council could determine the attendees and voting delegates at a subsequent Council meeting.

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Early bird registration opened mid July 2022 and a number of places have been tentatively booked to take advantage of the discount available, with delegate details to be updated once Council determines attendees. Standard registration is \$1,430 plus accommodation costs (if required), early bird registration is \$1,088 and Conference Dinner ticket (optional) \$250

The application to attend conference form is available at **Enclosure 1**.

Motions

LGNSW has also sought to have motions for consideration at the Conference submitted by 29 August 2022. Councillors are requested to notify the General Manager of any suggested motions by 4 August 2022 so that Council could determine the motions to be referred to the Association at the meeting of 17 August 2022.

The Local Government NSW Board is seeking ways to ensure that the motions debate at the Conference centres on advancing section wide policy agenda. This means proposed motions should seek to be strategic, affect members state-wide and introduce new or emerging policy issues and actions.

An online portal is available for submission of motions. Those motions only will be included in the conference business paper where they:

1. are consistent with the objects of the Association;
2. relate to Local Government in NSW and/or across Australia;
3. concern or are likely to concern Local Government as a sector;
4. seek to advance Local Government policy agenda of the Association and/or improve governance of the Association;
5. have a lawful purpose (a motion does not have a lawful purpose if its implementation would require or encourage non-compliance with prevailing laws);
6. are clearly worded and unambiguous in nature; and
7. do not express preference for one or several members over one or several other members.

CONSULTATION

Acting General Manager

STRATEGIC LINKS

a. Delivery Program

This report is linked to the Community's Desired Outcome Objective 5 "Civic Leadership and Effective Governance".

b. Other Plans

N/A

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IMPLICATIONS

a. Policy and Procedural Implications

Application for attendance at the Local Government NSW Annual Conference is in accordance with Council Policy.

b. Financial Implications

Funding is available for attendance in the Councillors conference budget vote. The approximate cost per delegate is estimated to be \$2,500. This includes accommodation, conference/workshop registration and meals.

c. Legislative Implications

N/A

d. Risk Implications

N/A

e. Other Implications

N/A

CONCLUSION

This report provides information on the upcoming LG NSW Annual Conference and provides Council with the opportunity to consider any motions to be submitted to the conference and for Councillors to apply to attend.

ENCLOSURES

[1](#) Councillor Request to Attend Conference Form



COUNCILLOR REQUEST TO ATTEND CONFERENCE, SEMINAR OR TRAINING

COUNCILLOR DETAILS					
Name:					
Mobile Phone Number:				Dietary Requirements:	
CONFERENCE/SEMINAR/TRAINING DETAILS					
Course Name:		2022 Local Government NSW Annual Conference			
Organiser:		Local Government NSW		Location: Hunter Valley	
Date:		23 – 25 October		Cost: TBA	
				Job Number:	
Detail benefits to you and your role in Council					
Details of conferences / seminars / training already attended in this term of Council					
TRAVEL & ACCOMMODATION					
Accommodation					
Is Accommodation Required?		<input type="checkbox"/> Yes <input type="checkbox"/> No (if Yes please complete details below)			
Name:				Phone:	
Check in Date:				Check out Date:	
Travel					
Airfare Required?		<input type="checkbox"/> Yes <input type="checkbox"/> No (if Yes please complete details below)			
Other Transport Require?		<input type="checkbox"/> Yes <input type="checkbox"/> No		Transport requirement:	
Special Requirements?					
AUTHORISATION					
Mayor / Councillor					
Name:		Signature:		Date:	
General Manager					
Full Name:		Signature:		Date:	
<input type="checkbox"/> Approved <input type="checkbox"/> Not Approved					
OFFICE USE ONLY					
	Date	Signature		Date	Reference / Reservation Number
Received by EA:			Registered in RM:		
TRIM link to HR:			Registration Booked:		
Clr Advised:			Accommodation Booked:		
			Travel Booked:		

Corporate and Community

Report No. CC58/2022

Corporate and Community Services



SUBJECT: *ACCOUNTING TREATMENT - RURAL FIRE SERVICE FLEET*

RESPONSIBLE OFFICER: *Chief Finance Officer - Matthew Plumridge*

SUMMARY

On 22 June 2022 the Auditor General provided a report to the NSW Parliament emphasising a large number of local councils, including Cessnock City Council, do not account for Rural Fire Service (RFS) firefighting equipment as required, in the Audit Office's opinion, by the *Rural Fires Act 1997*.

This report informs Council as to why this treatment does not align with Councils adopted Policy Position, accounting standards, the potential financial implications and ongoing lobbying efforts from other Councils, LGNSW and other professional bodies to have the State Government change the *Rural Fires Act 1997* so that the State accounts for these assets.

RECOMMENDATION

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.

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.

BACKGROUND

In 2018 the Audit Office raised a position regarding which entities should reflect firefighting equipment as part of their accounts as RFS firefighting equipment is not currently accounted for by the RFS or many local Councils.

The State Government is relying on s119(2) of the *Rural Fires Act 1997* that states that "All fire fighting equipment purchased or constructed wholly or partly from money to the credit of the Fund is to be vested in the council of the area for or on behalf of which the fire fighting equipment has been purchased or constructed." to effectively state that the burden of the depreciation cost and asset value should fall to the local government that houses the RFS brigade.

On 22 June 2022 in a report to the NSW Parliament the Auditor General explicitly noted the non accounting of RFS assets by 68 councils of an estimated \$145m in fire fighting equipment. The Auditor General went on to recommend that:

Councils should perform a full asset stocktake of rural firefighting equipment, including a condition assessment for 30 June 2022 financial reporting purposes and recognise this equipment as assets in their financial statements.

Consistent with OLG's role to assess council's compliance with legislative responsibilities, standards or guidelines, OLG should intervene where councils do not recognise rural firefighting equipment.

This report was subsequently followed up by a letter from the Auditor General to council (Enclosure 1) and further clarification from our contract auditors (Enclosure 2).

Corporate and Community

Report No. CC58/2022

Corporate and Community Services



Council's Audit and Risk Committee considered this in great detail in 2018, refer to Report ACCLM25/2018 and endorsed the Policy position of not recognising RFS fleet assets.

REPORT/PROPOSAL

A long-standing dispute over the accounting treatment of RFS firefighting equipment has come to a head with the Auditor-General's 2021 Report on Local Government on 22 June 2022. The Audit Report re-emphasises the State Government determination that RFS assets are the "property" of councils and must be recorded in Council's financial statements with Council required to therefore absorb all depreciation costs.

The *Audit Office Local Government Report* has reinforced the notion that RFS mobile and other fire-fighting assets can somehow be deemed to be council assets and applies pressure on councils and the Office of Local Government (OLG) to conform with this determination, even though councils do not have effective management or control of these assets.

Comparable assets held by Fire & Rescue NSW (FRNSW) and the State Emergency Service (SES) are not vested anywhere other than with the organisations that purchase, use, maintain and dispose of them, however s119 of the Rural Fires Act 1997 treats RFS assets differently.

Council officers are concerned that the requirement breaches Australian Accounting Standard. The Australian Accounting Standards Board defines the necessary requirements to recognise an asset under the Statement of Accounting Concepts 4 (SAC4).

SAC4 defines that the 'control of an asset' to be:

1. The capacity of the entity to benefit from the asset in the pursuit of the entity's objectives and;
2. To deny or regulate the access of others to that benefit.

Note that ownership is not a sufficient determination for control under this accounting concept.

The *Rural Fires Act 1997* places the following restrictions on the assets:

- Council is unable to sell or otherwise dispose of the asset (s 119(3) *Rural Fire Services Act 1997* (NSW));
- Council cannot receive the benefit of the proceeds of any sale of equipment (s119(4) of the *Rural Fire Services Act 1997* (NSW)).

Further to this, RFS have direct control of the assets and are able to move assets out of the council area without council approval and to account for these assets we need to approach the RFS for a list of assets in our LGA.

Via the restrictions in s119(3) and s119(4) of the *Rural Fire Services Act 1997*, as outlined above, Council is specifically limited in its ability to regulate the access of the asset or the economic benefit of the asset. Therefore, under the Accounting Standards these assets do not meet the criteria to recognise an asset in Council's financial statements.

Corporate and Community

Report No. CC58/2022

Corporate and Community Services



As per Enclosure 3, Council officers note the view in the Code of Accounting Practice and Financial Reporting noting the NSW Government's view that these assets are not controlled by the State or the RFS but would point to the final paragraph that states:

"Councils need to assess whether they control any rural firefighting equipment in accordance with Australian Accounting Standards and recognise in their financial statements any material assets under their control and state the relevant accounting policy in relation to the treatment".

Despite the "vesting" of the asset to council as per s119 *Rural Fire Services Act*, Council's requirement to consider control as per the Accounting Standards, which we do not have. In reality these are assets of the State not local government.

This position has been confirmed by the Secretary of the Department of Planning and Environment in his letter to the Auditor-General dated 7 June 2022, presented in Appendix 1 on page 47 of the 2021 Local Government Audit Report. (Enclosure 4).

The latest Audit Report has made further impositions on Council by:

- recommending Council undertakes a stocktake of RFS assets and records the value in Council's financial statements;
- warning that if Council does not recognise the assets, it will be found non-compliant and will have a high risk finding reported; and
- calling on the NSW Department of Planning and Environment (OLG) to intervene where councils do not recognise rural firefighting equipment.

Financial Consequences

The financial risk to Council is currently unknown as Council does not hold the necessary information on the equipment held by the RFS.

The possible costs if Council had to account for these assets would be

- depreciation and;
- any impairments to assets damaged or not held in appropriate condition.

Council would also need to recognise the net asset values on the Balance Sheet as Plant and Equipment.

These costs can impact Council's Performance Measures including:

- Operating Performance Ratio (would decrease or be negative)
- Asset Maintenance Ratio (could reduce the ratio depending on asset maintenance performed by the RFS)

In terms of budgeting and forecasting the depreciation and asset values, Council would need to continue to work with the RFS to determine assets in the LGA, their cost, age and effective lives.

Corporate and Community

Report No. CC58/2022

Corporate and Community Services



Lobbying Efforts

Council notes advice from the President of LGNSW that many councils are refusing to comply with the Auditor General's instructions. The majority (68) of councils choosing not to record the RFS mobile assets in accordance with the Local Government Accounting Code. This was the same number of councils as in 2020.

LGNSW is encouraging councils to continue resisting pressure from the Audit Office and make their own determinations notwithstanding overtures that ongoing non-compliance with the Auditor General's instructions may result in future qualified financial reports.

LGNSW has been advocating this position on councils' behalf and has written to the NSW Treasurer the Hon. Matt Kean MP, Minister for Emergency Services, the Hon. Stephanie Cooke MP, Minister for Local Government the Hon. Wendy Tuckerman MP and the Auditor-General, Ms Margaet Crawford to express the local government sector's strong objection to the NSW Government's determination, applied by the Auditor-General, that RFS assets are the property of councils for accounting purposes and amend the Rural Fires Act 1997.

LGNSW has advised it will continue its advocacy efforts on councils' behalf and is asking all affected councils in NSW to consider adopting a resolution advising the Audit Office that Council will not carry out the RFS stocktakes on behalf of the NSW Government and will not record RFS assets on Council's financial statements.

Councils Policy Position

Council's Audit and Risk Committee considered RFS Assets in detail at the meeting 21 August 2018 (Report ACCLM25/2018) with the report provided at Enclosure 8. The adopted Policy position of Council remains:

That the Audit Committee supports Council's current practice of recognising Rural Fire Service Land and Buildings which are owned by Council but not recognising Rural Fire Service plant and equipment ("firefighting equipment") within Council's financial accounts as, based on the criteria for recognition of assets within the AASB Accounting Standards, Council does not have control of Rural Fire Service plant and equipment.

That this policy position is subject to re-evaluation in the event of changes to accounting standards or via directive from the Office of Local Government

The Management Letter on the Final Phase of the Audit for the Year Ended 30 June 2021 issued by the Audit Office on 22 December 2021 included the issue of RFS assets not being recognised by Council, with a recommendation of performing an asset stock take and recording the value in our accounts.

Councils management response included in that Final Management letter disagreed with this recommendation, and included the following statement:

Management is of the opinion that Council does not control the rural fire fighting equipment irrespective of the indicators of control listed above nor of the opinion of the Department of Planning, Industry and Environment.

Corporate and Community

Report No. CC58/2022

Corporate and Community Services



Council is unable to sell or dispose of the assets under s119(3) Rural Fire Services Act 1997, nor receive the benefit of the proceeds of any sale of equipment under s119/40 Rural Fire Services Act 1997.

Further to this the Rural Fire Service has direct control of the assets and can move assets out of the council area without Council approval.

SAC 4 defines that the "control of an asset" means the capacity of the entity to benefit from the asset in pursuit of the entity's objectives and to deny or regulate the access of others to that benefit. Despite the indicators of control listed above, the restrictions under the Rural Fire Services Act 1997 specifically limits the ability of council to regulate the access to that benefit or the economic benefit of the asset.

Management consider that recognition of these assets is not in keeping with the requirements of the Accounting Standards for Council and that the most appropriate body for recognition of these assets is the Rural Fire Service. Council's position has been reported to and supported by the Audit and Risk Committee.

OPTIONS

Council can choose to:

1. Adopt the recommendation as outlined
2. Amend the recommended resolution
3. Oppose the recommendation

Option 1 is the preferred option.

CONSULTATION

Acting General Manager
Neighbouring councils
Local Government NSW
Local Government Professionals Australia

STRATEGIC LINKS

a. Delivery Program

5.3.7 Continue to manage Council governance functions and statutory requirements

b. Other Plans

Rural Fire Zone Service Agreement
The Hunter Zone Financial Management Plan

IMPLICATIONS

a. Policy and Procedural Implications

NIL

Corporate and Community

Report No. CC58/2022

Corporate and Community Services



b. Financial Implications

Financial implications are as outlined in the report

c. Legislative Implications

Rural Fires Act 1997

d. Risk Implications

Correspondence from Auditors suggests that continuing to not account for RFS assets may lead to a negative audit opinion. A qualified audit may have repercussions in reputation risk to council and may also affect future grant applications.

e. Environmental Implications

NIL

f. Other Implications

NIL

CONCLUSION

Council has been advised of a stronger focus for the accounting of RFS firefighting equipment from the Audit Office with its conclusion that these are assets of Council, and an underlying theme that qualified audits may occur if Councils do not conform to the Audit offices position. In accordance with Councils Accounting Policy position, and in support of the largely sector wide consensus, Council officers consider this to be inconsistent with accounting standards, and that these assets are and should be recorded within the accounts of the RFS as a State government responsibility.

ENCLOSURES

- 1 [↓](#) Correspondence from Auditor General
- 2 [↓](#) Correspondence from RSM
- 3 [↓](#) Extract from Code of Accounting Practice and Financial Reporting
- 4 [↓](#) Appendix 1 2021 Local Government Report: Letter from the Secretary of the Department of Planning and Environment
- 5 [↓](#) LGNSW Member Message
- 6 [↓](#) LGNSW Correspondence and recommended resolution
- 7 [↓](#) LGNSW Template for Mayoral Minute
- 8 [↓](#) ACCLM25/2018 Policy Position - Accounting for RFS Assets



Mr Robert Maginnity
A/General Manager
Cessnock City Council

Contact: Aaron Green
Phone no: 02 9275 7209
Our ref: D2210985/FA1712

By email only

23 June 2022

Dear Mr Maginnity

Rural Firefighting Equipment

I am writing to let you know that our Report to Parliament, 'Local Government 2021' was recently tabled and is available on our [website](#). This report brings together findings and recommendations from our 2020–21 financial audits of local councils and comments on financial reporting and performance, internal controls and governance, and areas of interest that are in focus during the conduct of our audits.

The intent of this letter is to draw your attention to the specific findings and recommendations reported to Parliament about rural firefighting equipment vested to councils. Please refer to the Appendix for the relevant extract from the Report.

Our management letters issued to councils on the 2020–21 financial audits included recommendations to undertake a stocktake of the rural firefighting equipment vested to councils and record the value in the council's financial statement. I trust these recommendations are being actioned. Please share this letter with relevant staff within your council to ensure they consider recommendations when preparing your financial statements for the 2021–22 financial year.

If you wish to discuss this matter further, please contact Aaron Green on 02 9275 7209.

Yours sincerely

Margaret Crawford
Auditor-General for New South Wales

APPENDIX

Sixty-one per cent of the total value of uncorrected errors was due to unrecorded rural firefighting equipment

In 2017, we recommended that OLG should address the different practices across the local government sector in accounting for rural firefighting equipment.

In 2020–21, 68 (2019–20: 68) councils did not record rural firefighting equipment in their financial statements estimated to be \$145 million (2019–20: \$119 million). Forty-one councils recognise this equipment in their financial statements with a total value of \$162.8 million, highlighting the inconsistent recognition practices across the local government sector.

The financial statements of the NSW Total State Sector and the NSW Rural Fire Service do not include these assets, as the State is of the view that rural firefighting equipment that has been vested to councils under section 119(2) of the *Rural Fires Act 1997* is not controlled by the State. In reaching this conclusion, the State argued that on balance it would appear the councils control the rural firefighting equipment that has been vested to them. It is important to note that there are only two parties to the agreements that govern the use of vested rural firefighting equipment, leaving only two parties who would be considered to control this equipment- the NSW Rural Fire Service in the State sector, or councils in the Local Government sector.

The Department of Planning and Environment (inclusive of the Office of Local Government) (the Department) confirmed in the 'Report on Local Government 2020' (tabled in Parliament on 27 May 2021) their view that rural firefighting equipment is not controlled by the NSW Rural Fire Service.

The Local Government Code of Accounting Practice and Financial Reporting confirms the State's view that it does not control these assets but provides that 'Councils need to assess whether they control any rural firefighting equipment in accordance with Australian Accounting Standards'. It would seem however, given the State's view that it does not control these assets, that these assets can only be controlled and therefore recognised by councils in the local government sector.

Despite this, many councils do not report these critical assets in their financial statements.

The continued non-recording of rural firefighting equipment in financial management systems of some councils increases the risk that these assets are not properly maintained and managed. Councils who have rural firefighting equipment vested from the NSW Rural Fire Service should recognise these assets in their financial management systems and consider their condition and useful life.

Recommendation to councils

Councils should perform a full asset stocktake of rural firefighting equipment, including a condition assessment for 30 June 2022 financial reporting purposes.

Consistent with the requirements of the Australian Accounting Standards, councils should recognise this equipment as assets in their 30 June 2022 financial statements.

The Department should intervene where councils do not recognise rural firefighting equipment

The Department, through the Office of Local Government, requires each council to prepare financial statements in accordance with Australian Accounting Standards (accounting standards), as required by the LG Act. The State Government, through NSW Treasury (and in agreement with the Department), has concluded that under accounting standards rural firefighting equipment vested to councils is not controlled by the State, and further on balance that councils in the local government sector control this rural firefighting equipment.

The Department's role includes assessing whether intervention is appropriate with respect to council's compliance with and performance against legislative responsibilities, standards or guidelines. Given the State's clear position, it would appear that any council not recognising this equipment is non-compliant with the relevant accounting standards.

Having considered the accounting position papers prepared by the respective stakeholders, the Audit Office has advised councils and the Department that any council not recognising this equipment is not complying with the requirements of the Australian Accounting Standards.

The Department should now intervene to address this matter as a priority.

Recommendation to the Department

Consistent with the Department's role to assess council's compliance with legislative responsibilities, standards or guidelines, the Department should intervene where councils do not recognise rural firefighting equipment.

We acknowledge that the Department has committed to working closely with NSW Treasury to educate, guide and assist councils to understand the State's view regarding ownership and recognition of rural firefighting equipment in their financial statements.

Non-recognition of this equipment may impact the financial statements audit opinions of those councils. The NSW Rural Fire Service (NSW RFS), a state government entity, has spent in excess of \$1.1 billion over the past ten years on rural firefighting activities and equipment. While confirming the State Government's position that it does not control this equipment, the NSW RFS advised it has a complete listing of the rural firefighting equipment vested to councils under section 119(2) of the *Rural Fires Act 1997*, and has provided this to the Department. The NSW RFS also confirmed that as it does not control the equipment, it is unable to confirm its value or condition.

This raises two general questions: whether these assets are being properly managed as in some instances they are purportedly not controlled by any government sector and are not recorded in either the State or the local government sector financial records, and whether in these instances there is non-compliance with accounting standards if this equipment is not recorded in the financial statements of councils. This may impact audit opinions on the financial statements of councils.

The Audit Office is conducting performance audits of the NSW Rural Fire Service (Planning and managing bushfire equipment) and the Office of Local Government (the effectiveness of local government regulation and support).

Matthew Plumridge

From: Shelby Earl <Shelby.Earl@rsm.com.au>
Sent: Thursday, 7 July 2022 6:30 AM
To: Matthew Plumridge
Cc: Kim Fitcher; Kelly McGowan; Furqan Yousuf; Cameron Hume
Subject: CM: CCC Audit 2022: RFS Assets [RSM-CLIENT.FID47607846]
Attachments: Extract of the Report to Parliament.pdf

Record Number: DOC2022/103795

Hi Matthew,

I hope this email finds you well and happy new financial year!
I know both Kim and Kelly are on leave for the rest of this week, but following on from our discussions last week, we have some further clarification below regarding the RFS assets.

The NSW Auditor-General recently wrote to the council General Manager's drawing attention to the specific findings and recommendations reported to Parliament about rural firefighting equipment (RFS assets) vested to councils. Further, our 2020-21 final management letter included recommendations to undertake a stocktake of the RFS assets vested to councils and record the value in the council's financial statements.

We trust that management will action these recommendations for 30 June 2022 financial statements.

The NSW Rural Fire Service advised it has a complete listing of the RFS assets vested to councils under section 119(2) of the *Rural Fires Act 1997*. The Council should reach out to the local RFS unit and request the updated RFS assets listing for the LGA and perform a full stocktake of these assets including a condition assessment, to confirm the completeness and accuracy of this listing. Consistent with the requirements of the Australian Accounting Standards, councils should recognise the RFS assets in the financial statements.

Please share the stocktake outcomes and evidence supporting value of RFS assets recorded in the 30 June 2022 financial statements.

As explained in the attached extract from the Report to Parliament, councils not recognising the vested RFS assets do not comply with the requirements of the Australian Accounting Standards. This may impact the financial statements audit opinions.

We are happy to arrange a phone call to discuss further if you wish. Don't hesitate to let me know if you have any questions.

Kind regards

Shelby Earl
Principal, Assurance and Advisory

RSM Australia Pty Ltd
12 Anderson Street West Ballarat VIC 3350
PO Box 685 Ballarat VIC 3353
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Rural Fire Services (RFS) assets

Under Section 119 of the Rural Fire Services Act 1997 (NSW), 'all firefighting equipment purchased or constructed wholly or from money to the credit of the Fund is to be vested in the council of the area for or on behalf of which the firefighting equipment has been purchased or constructed'.

The NSW Government has confirmed its view that these assets are not controlled by the NSW Rural Fire Services or the State.

Councils need to assess whether they control any rural firefighting equipment in accordance with Australian Accounting Standards and recognise in their financial statements any material assets under their control and state the relevant accounting policy in relation to the treatment.

Appendix one – Response from the Office of Local Government within the Department of Planning and Environment



Office of
Local Government

5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541

Our Reference: A822114
Your Reference: D2206464
Contact: Ally Dench
Phone: 02 4428 4100

Ms Margaret Crawford
Auditor-General for New South Wales
GPO Box 12
SYDNEY NSW 2001

Email:

7 June 2022

Dear Ms Crawford

Thank you for the opportunity to review an updated draft of the report on Local Government 2021.

I have reviewed the changes in the draft report and would like to clarify my feedback in relation to the recognition of rural firefighting equipment (RFS Assets) for your consideration in finalising the report.

I acknowledge the State's position is that it does not control RFS assets. Councils need to assess whether they control any rural firefighting equipment in accordance with Australian Accounting Standards. Councils need to recognise, in their financial statements, any material assets under their control and state the relevant accounting policy in relation to the treatment to the Audit Office.

The Minister for Local Government and the Department do not have legal authority to direct councils in this matter. However, we are working closely with Treasury to educate, guide and assist councils to understand the State's view regarding the ownership and recognition of the RFS assets in their financial reporting.

Should you require further assistance in relation to these matters, please do not hesitate to contact Ally Dench, OLG's Executive Director on or by email at olg@olg.nsw.gov.au

Yours sincerely

Michael Cassel
Secretary
Department of Planning and Environment

T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209
E olg@olg.nsw.gov.au W www.olg.nsw.gov.au ABN 20 770 707 468

A822114



The Red Fleet Fight Comes to a Head

As many of you would be aware, the accounting dispute over the Red Fleet is rapidly coming to a head following the release of the Auditor-General's latest Report on Local Government this week.

In the Report, the Auditor General reiterates the State Government determination that Rural Fire Service (RFS) assets are the "property" of councils, who must therefore absorb all depreciation costs.

This Determination is nothing more than a financial sleight of hand, which would force councils to absorb significant depreciation costs for assets over which we have precisely zero management or control.

Councils have **no** say in the acquisition of the assets, **no** involvement in their deployment, and **none** in their disposal.

In fact, the *only* connection between the two is the Government's nonsensical determination that the Auditor General has called out in this latest report.

Comparable assets held by Fire & Rescue NSW (FRNSW) and the State Emergency Service (SES) are not vested anywhere other than with the organisations that purchase, use, maintain and dispose of them.

The State Government's own *Local Government Accounting Code of Accounting Practice and Financial Reporting* states councils are able to choose whether or not to record this RFS equipment on their books.

Unsurprisingly, 68 impacted rural and regional councils have refused to record these assets just as they refuse to wear costs which last year stood at \$145 million.

The latest Audit Report tightens the screws on councils by:

- recommending them to undertake a stocktake of RFS assets and record the value in their financial statements;
- warning councils that do not recognise the assets will be found non-compliant; and
- calling on the NSW Department of Planning and Environment to intervene.

This latest development only compounds the farce, given the Government's 7 June letter – included in the Report and attached to this email – which states neither it nor the Local Government Minister have legal authority to direct councils to record the assets and assume the costs.

I have today written urgently to the NSW Treasurer Matt Kean, Minister for Emergency Services and Resilience Steph Cook, and Local Government Minister Wendy Tuckerman.

I have urged them to finally clear up this mess once and for all by ensuring the NSW Government acknowledges rural firefighting equipment is controlled by and the property of the RFS.

I am also appealing to you to join your fellow councils in rejecting this shameless financial chicanery.

Help restore financial transparency and integrity to the process by moving motions advising the Audit Office your council will not carry out the stocktakes, and will not record RFS assets on your financial statements.

This action is supported by resolutions passed at several LGNSW Conferences and meetings of the Country Mayors Association.

Local government in NSW stands together, and speaks with one voice. To help us amplify that voice, please let us know of the actions you intend to take by contacting our Chief Economist Shaun McBride via email at shaun.mcbride@lgnsw.org.au.

Kind Regards,
Cr Darriea Turley AM
President LGNSW

Questions?

Feel free to send us an enquiry regarding this member message.

Contact us today

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Matthew Plumridge

From: Scott Phillips <scott.phillips@Lgnsw.org.au>
Sent: Thursday, 7 July 2022 5:47 PM
To: Jay Suvaal
Subject: Template Mayoral Minute and Report - NSW Audit Office position on RFS Assets

Dear Cr Suvaal,

As you will all be aware, the Auditor General has followed up her 2021 [Local Government Report](#) released last month with a letter to General Managers 'recommending' councils "undertake a stocktake of the rural firefighting equipment vested to councils and record the value in the council's financial statement" - [see an example sent to Cabonne Council](#). We suspect the Auditor General has established this requirement to create a trigger to issue qualified audit opinions to non-conforming councils in 2022.

Notwithstanding the Auditor General's 'recommendation', we note [correspondence addressed to the Auditor General](#) from the Secretary of the Department of Planning and Environment dated 7 June 2022 stating: "the State's position is that it does not control RFS assets. Councils need to assess whether they control any rural firefighting equipment in accordance with Australian Accounting Standards". The correspondence also makes clear that "The Minister for Local Government (does) not have legal authority to direct councils in this matter".

You would have received our [24 June Member Message](#) advising you LGNSW immediately wrote to the Auditor General, Treasurer, Minister for Local Government and Minister for Emergency Services expressing the sector's strong objection to the determination that RFS assets are the property of councils for accounting purposes. We called on the Government to acknowledge rural firefighting equipment is vested in, under the control of, and the property of the RFS, thereby clearing up this mess once and for all. See a copy of our letter to Government [here](#).

Since then, we have been heartened by feedback from a number of councils who have already written to the Auditor General, advising they have determined they do not control any rural firefighting equipment in accordance with Australian Accounting Standards and will not be undertaking a stocktake. **If your council has yet to form an opinion on the issue of RFS asset control, we urge you to do so as early as possible and to communicate that to the Auditor General.**

We particularly encourage **councils on the metropolitan fringe** who may not have examined the matter for a number of years to consider whether they are in a position to discontinue recording RFS assets on financial statements. We are aware that the vast majority of rural and regional councils, who are disproportionately affected by the Auditor General's and Government's position, would be grateful for this support and solidarity.

We also encourage all councils, **including metropolitan councils not directly affected** to move Mayoral Minutes in support of their fellow councils who are impacted. To assist, LGNSW has prepared a [template Mayoral Minute](#) and accompanying report. This template resolves to write to several members of the Government, Opposition and cross benchers, with contact details located [here](#).

We believe the more Members of Parliament who are made aware of this shameless cost-shift onto local government, the greater the likelihood of affirmative action – and it is our hope that the Auditor General and the Government receive 128 letters (one for each of NSW's general purpose councils) notifying them that the relevant council has formed the opinion they do not control any firefighting equipment and will not be undertaking a stocktake of RFS assets.

In closing, I would like to acknowledge the considerable efforts and support of Local Government Professionals CEO Vicki Mayo, Secretary/Public Officer of Country Mayors Kent Boyd (his 'other hat'), Leeton Council General Manager Jackie Kruger and Revenue Professionals NSW Chair Andrew Butcher. Each of these organisations continues to work closely with LGNSW in seeking Government recognition - once and for all - that rural firefighting equipment is vested in, under the control of and the property of the RFS.

Thank you in anticipation for your support. If you have any questions or concerns, please don't hesitate to call/email.

Kind regards,
Scott Phillips
Chief Executive

T 02 9242 4011 | M 0419 469 023

scott.phillips@lgnsw.org.au

lgnsw.org.au



**DRAFT
ITEM****MAYORAL MINUTE – ACCOUNTING TREATMENT OF RURAL FIRE
SERVICE ('RED FLEET') ASSETS****Department****Author****RECOMMENDATION:**

THAT:

1. Council writes to the local State Member(s) <xxxx>, the Treasurer the Hon Matt Kean MP, Minister for Emergency Services and Resilience the Hon Stephanie Cook MP and the Minister for Local Government Wendy Tuckerman MP:
 - a. Expressing Council's objection to the NSW Government's determination on ownership of Rural Fire Service assets;
 - b. Advising of the impact of the Government's position on Council finances of this accounting treatment;
 - c. Informing that Council will not carry out RFS assets stocktakes on behalf of the NSW Government and will not record RFS assets in (xxxx Council's) financial statements;
 - d. Calling on the NSW Government to take immediate action to permanently clear up inequities and inconsistencies around the accounting treatment of Rural Fire Service (RFS) assets by acknowledging that rural firefighting equipment is vested in, under the control of and the property of the RFS; and
 - e. 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. Council writes 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:
 - a. Advising Members of (xxxx Council's) position, including providing copies of correspondence to NSW Government Ministers; and
 - b. Seeking Members' commitments to support NSW Councils' call to amend the *Rural Fires Act 1997* as set out in correspondence.
3. (xxxx Council) writes to the Auditor General advising that notwithstanding any overtures of future qualified audits, it will not carry out RFS stocktakes on behalf of the NSW Government and will not record RFS assets in (xxxx 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 the RFS assets as council assets.
4. Council promotes these messages via its digital and social media channels and via its networks.

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5. Re-affirms its complete support of and commitment to local RFS brigades noting that (xxxxx 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 councils consider to be a cynical financial sleight of hand abdicating the NSW Government's responsibilities at the cost of local communities.
6. That (xxxxx Council) affirms its support to Local Government NSW (LGNSW) and requests LGNSW continue advocating on Council's behalf to get clarification finally from the State Government about the accounting treatment of RFS assets

REPORT

I am calling on Councillors to support the local government campaign on the financial accounting treatment of Rural Fire Service (RFS) mobile assets known as the 'Red Fleet'.

A long-standing dispute over the accounting treatment of the Red Fleet has come to a head with the Auditor-General's 2021 Report on Local Government on 22 June 2022. The Audit Report reemphasises the State Government determination that RFS assets are the "property" of councils and must be recorded in Council's financial statements with Council required to therefore absorb all depreciation costs.

The *Audit Office Local Government Report* has reinforced the notion that RFS mobile and other fire-fighting assets can somehow be deemed to be council assets and applies more pressure on councils and the Office of Local Government (OLG) to conform with this determination, even though councils do not have effective management or control of these assets.

Councils across the State and Local Government NSW (LGNSW) refute this determination. Councils do not have any say in the acquisition, deployment, or disposal of these assets. Comparable assets held by Fire & Rescue NSW (FRNSW) and the State Emergency Service (SES) are not vested anywhere other than with the organisations that purchase, use, maintain and dispose of them.

Councils and LGNSW have also raised concerns that the requirement breaches Australian Accounting Standards. The State Government's own *Local Government Accounting Code of Accounting Practice and Financial Reporting* provides for councils to determine whether to record RFS assets on their books as council assets. This position has been confirmed by the Secretary of the Department of Planning and Environment in his letter to the Auditor-General dated 7 June 2022, presented in Appendix 1 on page 47 of the 2021 Local Government Audit Report.

Council notes advice from LGNSW that many councils are refusing to comply with the Auditor General's instructions. Councils remained firm in 2021, resisting pressure to record RFS assets with the majority (68), choosing not to record the RFS mobile assets in accordance with the *Local Government Accounting Code*. This was the same number of councils as in 2020. LGNSW is encouraging councils to continue resisting pressure from the Audit Office and make their own determinations notwithstanding overtures that

ongoing non-compliance with the Auditor General's instructions may result in future qualified financial reports.

The latest Audit Report has made further impositions on (Council) by:

- recommending Council undertakes a stocktake of RFS assets and records the value in Council's financial statements;
- warning that if Council does not recognise the assets, it will be found non-compliant and will have a high risk finding reported; and
- calling on the NSW Department of Planning and Environment (OLG) to intervene where councils do not recognise rural firefighting equipment.

The Government's blanket determination is not only nonsensical, but also inconsistent with the treatment of the comparable assets of other emergency service agencies such as Fire & Rescue NSW (FRNSW) and the State Emergency Service (SES). There is no rational reason for maintaining this anomaly.

LGNSW has been advocating this position on councils' behalf and has written to the NSW Treasurer the Hon. Matt Kean MP, Minister for Emergency Services, the Hon. Steph Cooke MP, Minister for Local Government the Hon. Wendy Tuckerman MP and the Auditor-General, Ms Margaet Crawford to express the local government sector's strong objection to the NSW Government's determination, applied by the Auditor-General, that RFS assets are the property of councils for accounting purposes and amend the *Rural Fires Act 1997*.

LGNSW has advised it will continue its advocacy efforts on councils' behalf and is asking all affected councils in NSW to consider adopting a resolution advising the Audit Office that Council will not carry out the RFS stocktakes on behalf of the NSW Government and will not record RFS assets on Council's financial statements.

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Item No. ACCLM25/2018

Corporate and Community Services



SUBJECT: *POLICY POSITION - ACCOUNTING FOR RURAL FIRE SERVICE ASSETS*

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

SUMMARY

Council's current practice relating to the Rural Fires Services (RFS) is to recognise Land and Buildings owned by council but used by the RFS in its asset schedules, but not recognise RFS Plant and Equipment.

Based on a review of relevant accounting standards, legislation, service agreements, current finance management agreements and the manner the RFS plant and equipment is purchased, managed and utilised Council does not have control over RFS plant and equipment and consequently should not recognise these assets as Council assets.

AASB Accounting Standards require a standard higher than ownership when accounting for assets. An entity needs to have control of that asset and must be able to clearly identify future economic benefits flowing to the entity from that asset. If this cannot be demonstrated the asset cannot be included in the entities assets schedule. Council does not receive the future economic benefit and does not have control over those future economic benefits.

Councils obligation and commitment to the rural fire fighting function is fully and accurately reflected in the statutory contribution expense made and the net cost of other relevant facilities provided under the local agreement.

The Office of Local Government and the Audit Office have not reached a consensus view for the accounting treatment of RFS assets. This report is provided to formalise Councils position in regards to control of RFS assets.

RECOMMENDATION

That the Audit Committee recommend that Council continues the current practice of recognising Rural Fire Service Land and Buildings which are owned by Council but not recognising Rural Fire Service plant and equipment ("firefighting equipment") within Council's financial accounts as, based on the criteria for recognition of assets within the AASB Accounting Standards, Council does not have control of Rural Fire Service plant and equipment.

BACKGROUND

The Audit Office has raised a position regarding which entities should reflect firefighting equipment as part of their accounts. Currently there are instances where such equipment is not reflected in either the accounts of the Rural Fire Service or local authorities.

The review covered in the report below has included an analysis of the following relevant documentation:

- The Rural Fires Act

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- Relevant Accounting Standards
- The Code of Accounting Practice
- The Rural Fire Zone Service Agreement
- The Hunter Zone Financial Management Plan

The Rural Fires Act 1997 ("the Act") established the RFS to co-ordinate bush firefighting and prevention throughout the state and to provide rural fire services for New South Wales. The Act specifies how the brigades are established, focuses predominantly on the functions of the service, and also addresses funding arrangements, including the status of firefighting equipment. Relevant sections of the Act have been reviewed to assist with addressing the question of control of firefighting equipment within this report.

To assist with this assessment however the following background regarding Council agreements with the RFS and how the current arrangements have arisen is relevant. In addition some background in funding arrangements and the allocation of costs (funding) between councils is also useful.

A history of Service Agreements

The agreements have evolved over time to establish a zone which is larger (across multiple councils) and recognises the independent nature of the service within this context.

A summary of the history of these changes is provided below:

- Council historically captured these assets when the fire zone aligned fully with the Cessnock LGA. It was clear in this situation that Council could possibly be deemed as having control of the firefighting equipment (although as covered in the report some sub-sections in the Act create some uncertainty regarding the level of control). All firefighting equipment acquired during this period were reflected within Council's accounts and depreciated. Numerous assets despite being fully depreciated remain on Council's books.
- On 30 September 2004 a Zone Service Agreement was established between Cessnock and Maitland Council's to establish the Hunter Zone of operation for NSW Fire Service. This service agreement noted in the recital that The Commissioner agreed to exercise all of Council's functions under the Rural Fires Act 1997 (NSW) except for those specified in Schedule 1. This includes maintenance of firefighting equipment. A Hunter Zone Financial Management Plan was also established. The Zone Operations Support Officer will ensure a listing of items.
- On 1 November 2009 a new agreement called the Lower Hunter RFS Zoning Agreement was established covering Cessnock, Maitland, Port Stephens and Dungog councils. The agreement recognised in the section on equipment that "Service Delivery Model improvements and replacement programs will be developed for the zone". This recognised the need to change the operating model to operate effectively as a larger zone. The agreement specifically noted that "All fleet maintenance, repairs and servicing will be co-ordinated through the Zone Operations Section, at the Fire Control Centre". The RFS has undertaken service improvements under this agreement to operate as a zone. RFS maintenance is fully controlled by the RFS and to assist with the maintenance of equipment utilises one vendor rather than multiple councils for this service. All procurement of equipment is undertaken directly by the RFS. Equipment is also not operationally restricted to a particular district but will be utilised where needed. The financial and accounting functions for the zone were

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delegated to Port Stephens Council in recognition in that the financial management needed to be undertaken at the zone level and therefore aligned to how the RFS operates.

Funding Arrangements

The NSW Rural Fire Fighting Fund holds all contributions required to meet the costs of the service and is maintained by the NSW Treasury. Annual contributions to the fund are sourced from the following:

- NSW Treasurer 14.6%
- Relevant Councils 11.7%
- Insurance Companies 73.7%

Rural Fire districts and Rural Fire Brigades are established generally in line with local council areas. Council shares a fire zone and Rural Fire District Service Agreement with Maitland, Port Stephens and Dungog councils. Port Stephens Council provides the majority of administrative support required under the service agreement. Council maintains buildings within its Local Government Area boundary and used to service RFS Vehicles through its maintenance depot upon request. Council would charge the RFS for vehicle servicing costs. Council no longer provides this service as the RFS has independently sought an alternative service provider.

RFS costs are shared between the councils. There is no clearly dominant council in this arrangement with no council incurring a majority of the costs. The basis of this allocation is tied to a number of criteria currently. This is currently under revision for the next service cost allocation and will in future be based on the number of site locations. This is deemed as the only reliable basis for allocating cost. Previous and proposed RFS contributions are as follows:

Council	Previous Breakdown (since 2009)	Proposed Breakdown 2018/19
Cessnock City Council	32.5%	34.0%
Maitland City Council	14.0%	16.5%
Port Stephens Council	33.0%	29.0%
Dungog Shire Council	20.5%	20.5%

As can be seen from the table above the contributions are not dominated by any particular council and also the contribution split changes over time.

Current Accounting Treatment of RFS Assets

Council accounts for land and buildings used by the RFS situated within the Council boundary however Council does not account for RFS plant or other equipment.

REPORT

The background provided above provides relevant context and should be considered in conjunction with the analysis below. This report reviews relevant legislation and accounting standards. This report will also consider the service agreements and operating model of the RFS (and how it interacts with Council) to support the conclusions reached on the appropriate accounting treatment of RFS assets, in particular plant and equipment.

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Listed Matters**Item No. ACCLM25/2018****Corporate and Community Services*****Rationale for the Recommendation***

Based on a review of relevant accounting standards, legislation, service agreements, current finance management agreements and the manner the RFS plant and equipment is purchased, managed and utilised Council does not have control over firefighting equipment (as defined in the Rural Fires Act 1997 (NSW) ("The Act") and should therefore not be recognised as Council assets.

AASB Accounting Standards require a standard higher than ownership when accounting for assets. An entity needs to have control of that asset and must be able to clearly identify future economic benefits flowing to the entity from that asset. If this cannot be demonstrated the asset cannot be included in the entities assets schedule.

Applying the standards to Council a distinction can be made between (1) land and buildings and (2) plant and equipment.

Council owned land and buildings that are used by the RFS remain in the ownership of Council as ownership has not been transferred under any legislation or agreement. In addition, Council retains effective control of these assets based on all criteria of asset recognition included in the AASB Accounting Framework and Standards. These assets clearly reside in the Cessnock LGA and Council is responsible as the landlord for their maintenance.

With regard to plant and equipment there are a multitude of different situations to consider. Various agreements and consequently the operating model (and relationship between Council and the RFS) has changed over time and has resulted in the RFS becoming a more independent entity that no longer directly aligns with our council. Prior to the establishment of the RFS as an entity, Council owned firefighting equipment and had staff and volunteers dedicated to protecting the LGA from fire. The establishment of the RFS resulted in a zone being established that aligned fully with the Cessnock LGA.

The nexus between the firefighting assets and councils possible control was weakened (possibly broken) with an agreement in September 2004 that established a rural fire zone between Cessnock and Maitland councils and the Commissioner of the RFS. This established a zone which covered the combined areas of the two LGAs with the assets being utilised across both LGAs. This nexus was further challenged when the rural fire zone was expanded further with a new agreement established between four councils and the RFS with the addition of Port Stephens and Dungog councils

As would be expected with these changes the agreement needed to reflect that the RFS required more control to operate effectively. The Service Agreement transferred responsibility from the councils concerned to the RFS. The recital of the Service Agreement notes "The Commissioner has agreed to exercise all of the Council's functions under the Rural Fires Act 1997 (NSW)" save for a number of functions irrelevant to the control of the firefighting equipment. The RFS now purchases equipment, maintains the equipment with vendors they have selected (i.e. not Council) and utilises the equipment purchased across the entire Lower Hunter Rural Fire Zone. Individual Councils do not have any day-to-day control of these assets and also are not allowed to sell any firefighting equipment (this is legislated in the Rural Fires Act 1997). The only vehicles that Council registers under the Financial Management Agreement are vehicles not typically directly involved in firefighting such as cars, utes and trailers. Fire tankers are not registered by Council.

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At a fundamental level it appears Council should not recognise RFS plant and equipment assets as the Council must (1) receive future economic benefits and also (2) must have control over those future economic benefits. The vast majority of the RFS budget is funded from sources other than councils (councils only provide 11.7% of the funding). All funds are managed by NSW Treasury. Both operating and capital acquisitions are made directly by RFS Officers. Council has no input into the operations or capital acquisitions of the RFS. Under the Act, the NSW RFS has the function to provide rural fire services for NSW. It is considered therefore that it is the RFS and not councils that receive future economic benefit from firefighting equipment assets in terms of both net cash flows and service provision.

Section 119 has been used as a basis for suggesting councils should recognise RFS plant and equipment ("firefighting equipment"). On review it appears that The Act does not address the elements of the AASB Accounting Standards and also does not address how to overcome the issues associated with equipment being purchased to service a zone rather than an individual council. The Act notes (s119) that all firefighting equipment purchased from money to the credit of the Fund is to be vested in the council of the area for or on behalf of which the firefighting equipment has been purchased.

- The legal meaning of "vested" is generally recognised as reflecting that a party has an interest in an asset. This does not align with the criteria covered in AASB Accounting Standards to determine whether an asset should be included in an entities asset schedule. "Vested" does not necessarily reflect ownership. This legal meaning could have some alignment with economic benefit (as some form interest) however there is no element of "control" within the meaning of vested and the act does not indicate how council's might control such assets.
- Not only is there not control but also where multiple councils are receiving the benefit it appears the Act does not assist in determining which council is deemed to be recognised as receiving the interest (at the exclusion of the other councils). The assets are no longer purchased on behalf of a particular council but rather for the zone and will be utilised across the zone. The procurement decision is now made by the RFS.

The future path of how the RFS operates (and how it interacts with Councils) is also relevant. The path of increasing independence appears likely to continue rather than reversion to operations tightly linked to councils. The RFS might have had a heritage that started with councils however it is an independent entity with a specific purpose and is being structured in a manner that is optimal. The designation of zones and the RFS operating model are being continually refined to maximise operational effectiveness. This path is likely to result in further divergence from its council heritage with councils merely funding and working collaboratively with the RFS just as they do with other emergency services.

Council's current practice is to recognise associated Land and Buildings in its asset schedules, but not Plant and Equipment. It is also considered that in regard to the objectives of financial reporting, Councils obligation and commitment to the rural fire fighting function is fully and accurately reflected in the statutory contribution expense made and the net cost of other relevant facilities provided under the local agreement. The analysis undertaken in determining Council's policy position indicates Council's current practice complies with the AASB Accounting Standards and should not be changed.

Reference to specific sources in support of the Recommendation

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- ***The Rural Fires Act 1997 ("the Act") allows multiple councils to form a rural fire brigade (or zone)***

As noted previously the Act specifies how the brigades are established, focuses predominantly on the functions of the service, and also addresses funding arrangements, including the status of firefighting equipment.

Section 15 of the Act addresses the Formation of rural fire brigades. According to s. 15(2) Two or more local authorities may jointly form a rural fire brigade for a rural fire district constituted for their areas. A rural fire brigade may also be formed on the initiative of the local authority or local authorities concerned or on the request of any interested person (s15(3)) or the Commissioner may form a rural fire brigade. This section of the Act therefore recognises that a rural fire brigade might be established by more than one local authority.

Section 119 of the Act addresses the maintenance and disposal of firefighting equipment purchased from the NSW Rural Fire Fighting Fund ("Fund"). Subsection (2) notes that all firefighting equipment purchased or constructed wholly or partly from money to the credit of the Fund is to be vested in the council of the area for or on behalf of which the firefighting equipment has been purchased or constructed. The Act does not address the question how this should occur when multiple local authorities have been responsible for the establishment of a rural fire brigade.

More specifically the following is of relevance:

- The legal meaning of "vested" is generally recognised as reflecting that a party has an interest in an asset. This does not align with the criteria covered in AASB Accounting Standards to determine whether an asset should be included in an entities asset schedule. "Vested" does not necessarily reflect ownership. This legal meaning could have some alignment with economic benefit (as some form interest) however there is no element of "control" within the meaning of vested and the act does not indicate how council's might control such assets.
- Not only is there not control but also where multiple councils are receiving the benefit it appears the Act does not assist in determining which council is deemed to be recognised as receiving the interest (at the exclusion of the other councils). The assets are no longer purchased on behalf of a particular council but rather for the zone and will be utilised across the zone. The procurement decision is now made by the RFS.

The following additional subsections of s119 are also of relevance:

- Subsection (3) of the Act notes that a council must not sell or otherwise dispose of any firefighting equipment purchased or constructed wholly or partly from money to the credit of the Fund without the written consent of the Commissioner.

This subsection also indicates that councils do not have control. As noted assets are now utilised for the benefit of the Lower Hunter Zone.

- Subsection (4) There is to be paid to the credit of the Fund:
 - (a) if the whole of the cost of the purchase or construction of any firefighting equipment was met by money to the credit of the Fund:
 - (i) an amount equal to the proceeds of sale of any such equipment, and

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- (ii) any amount recovered (whether under a policy of insurance, from the Bush Fire Fighters Compensation Fund under the Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987, or otherwise) in respect of the damage to, or destruction or loss of, any such equipment, and
- (b) if a part only of the cost of the purchase or construction of any such equipment was met by money to the credit of the Fund--an amount which bears to the amount that would be required by this subsection to be paid if the whole of that cost had been met by money to the credit of the Fund the same proportion as that part of the cost bears to the whole of that cost.

Any funds from the sale of any assets are retained within the NSW Rural Fire Fighting Fund. Only (a) is relevant for Cessnock City Council as Council contributes its allocated share of the cost to the RFS to utilise according to the RFS budget.

- (5) A council must take care of and maintain in the condition required by the Service Standards any firefighting equipment vested in it under this section.

This function has been delegated to the RFS under the Lower Hunter RFS Zoning Agreement and is managed at the zone level. The care and maintenance is solely under the control of the RFS which now utilises a vendor rather than councils to undertake the maintenance.

- **Responsibility for functions held at the Council under the Act have been delegated by individual councils to the RFS under the Zone Service Agreement and are managed at the zone level.**

The 30 September 2004 RFS Service Agreement between the RFS, Cessnock and Maitland councils transferred responsibility from the councils concerned to the RFS. The recital of the Service Agreement notes "The Commissioner has agreed to exercise all of the Council's functions under the Rural Fires Act 1997 (NSW)" save for a number of functions irrelevant to the control of the firefighting equipment. Schedule 3 of the agreement specifically lists maintenance as the responsibility of the RFS and the development of an asset management system including maintenance, replacement, monitoring and reporting.

The Lower Hunter RFS Zoning Agreement (dated 1 November 2009 and also including Port Stephens and Dungog councils as parties) evolved the operating model further by directly addressing the distinction between zone and local government area and the need to operate as a zone. The recitals included the following:

- The Councils agreed to operate and manage the Rural Fire Districts as a zone
- Councils and Commissioner have agreed to operate and manage the Zone under the terms of the Service Agreement
- The Councils have agreed to delegate certain functions, powers and duties to the Zone Manager in accordance the Service Agreement.

The Zoning Agreement also recognised that the Service Delivery Model improvements and replacement programs will be developed for the Zone.

Under the current operating model the RFS now purchases equipment, maintains the equipment with vendors they have selected (i.e. not Council) and utilises the equipment

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purchased as required across the Lower Hunter Rural Fire Zone. Individual Councils do not have any day-to-day control of these assets and also are not allowed to sell any firefighting equipment (this is legislated in the Rural Fires Act 1997). The only vehicles that Council registers under the Financial Management Agreement are vehicles not typically directly involved in firefighting such as cars, utes and trailers. Fire tankers are not registered by Council.

Councils and the RFS appear to be developing an appropriate operating model within the confines of the Rural Fires Act and to make the model workable have transferred as many operational responsibilities as possible including the procurement, management, maintenance, use and disposal of plant and equipment to the RFS. This is necessary to ensure managing operations by zone rather than by LGA can be supported.

- ***The Accounting Recognition of Assets relies on two major factors to determine whether assets should be recognised***

SAC 4 "Definition and Recognition of the Elements of Financial Statements" sets the basis on which an "Asset" should be recognised. There are two major factors to determine:

- The Entity must receive future economic benefits; and
- The Entity must have control over those future economic benefits.

- ***Future Economic Benefit: The future economic benefits of individual items of plant and equipment is received by the RFS and cannot be attributed to a particular council.***

The RFS is funded directly by the State; both operating and capital acquisitions are made directly by RFS Officers. Council has no input into the operations or capital acquisitions of the RFS.

The Fire Services Act provides that;

The NSW Rural Fire Service has the function to provide rural fire services for New South Wales [9 (1)(a)]. It is considered therefore that it is the RFS and not councils that receive future economic benefit from firefighting equipment assets in terms of both net cash flows and service provision.

- ***Control of Assets: Council does have control of Land and Building assets but does not have control of RFS plant and equipment assets.***

SAC 4 defines "control of an asset" as; the capacity of the entity to benefit from the asset in the pursuit of the entity's objectives and to deny or regulate the access of others to that benefit.

Land & Buildings

The RFS Agreement clearly identifies that Council retains full legal right to possession and control over premises occupied by the RFS. Councils are required to maintain buildings, pay all utility costs associated with the building and pay all insurances on the buildings and public risk associated with the use of the building.

This is similar to a lease agreement, and as such Council retains control of the building and is required to hold the land and associated building as an asset.

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Section 119 (3) of the Rural Fires Act 1997 (NSW) stipulates that Council must not sell or otherwise dispose of any firefighting equipment without the consent of the Commissioner. Section 119 (4) requires any funds received from sale must be credited to the RFS fund. The RFS Zone manager makes all decisions about capital improvements and new assets, while Council may be consulted in these decisions it takes no part in the final decision. The RFS insures all plant and equipment.

In practice the RFS makes all decisions to switch fleet and equipment to other fire districts as it feels necessary.

Council has no access to and is not permitted to use of any plant and equipment held by the RFS. Council has taken the view that it has no control over the purchase, use or sale of any RFS equipment. As such the requirements of SAC 4 have not been met and RFS equipment should not be included as assets in Councils accounts.

CONSULTATION

Director Works and Infrastructure
Director Corporate and Community Services
Plant Superintendent, Depot Services
Management Accountant
Port Stephens Emergency Management Coordinator

IMPLICATIONS**Policy / Procedural / Financial / Legislative / Risk Implications**

The recommendation supports the current practice of not including RFS plant and equipment in Council's asset schedule. Following this recommendation there will be no change and therefore no implications. Council does not have control of these assets so there is no risk created by not recognising these assets.

If Council was required to recognise these assets there is risk that Council will be deemed to have some responsibility for assets that it does not control. Council would be held responsible for assessing the useful life, the condition of the assets and possible adjustments to depreciation for assets that are used across the Rural Fire Zone. It is possible that assets are placed arbitrarily on Council's books merely to ensure an asset has been accounted for by one of the councils' that is a party to Lower Hunter Rural Fire Zoning Agreement.

OPTIONS

1. That Council continues the current practice of recognising RFS Land and Buildings which are owned by Council but not recognising RFS plant and equipment ('firefighting equipment') within Council's financial accounts as, based on the criteria for recognition of assets within the AASB Accounting Standards, Council does not have control of RFS plant and equipment. (The recommended option.)
2. Include both RFS Land and Buildings which are owned by Council and RFS plant and equipment within Council's financial accounts.

CONCLUSION

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Council's current practice is to recognise RFS Land and Buildings that are owned by Council in its asset schedules, but not RFS Plant and Equipment. It is also considered that in regard to the objectives of financial reporting, Council's obligation and commitment to the rural fire fighting function is fully and accurately reflected in the statutory contribution expense made and the net cost of other relevant facilities provided under the local agreement. The analysis undertaken in determining Council's policy position indicates Council's current practice complies with the AASB Accounting Standards and should not be changed.

ENCLOSURES

- 1 OLG correspondence regarding accounting treatment for RFS assets

Corporate and Community

Report No. CC59/2022

Corporate and Community Services



SUBJECT: *INVESTMENT REPORT - JUNE 2022*

RESPONSIBLE OFFICER: *Chief Finance 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 June 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 \$73,749,001.

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 cash returns of the portfolio to the end of June 2022 was 0.48%, below the benchmark of 1.81% of the Investment Policy. It is likely until term deposits are renewed that the performance will be below the benchmark due to the speed that interest rates are increasing.

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 1.35% during a scheduled RBA Board meeting held on 5 July 2022. This is an increase of 0.50% from earlier rate of 0.85% in June 2022, previously held at 0.10% since November 2020.

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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 30 June 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			0.00%	7,708
	Commonwealth Bank	At Call			0.01%	41
1243	AMP Bank	At Call			0.50%	500
1410b	National Bank	TD	442	15-Dec-22	0.40%	1,000
1434a	Macquarie bank	TD	365	22-Sep-22	0.40%	1,000
1435a	National Bank	TD	392	06-Oct-22	0.40%	1,000
1436a	National Bank	TD	400	20-Oct-22	0.40%	1,000
1437a	National Bank	TD	435	15-Dec-22	0.42%	1,000
1446a	Suncorp Bank	TD	378	08-Sep-22	0.35%	1,000
1449a	Commonwealth Bank	TD	364	07-Jul-22	0.42%	1,000
1463	TCorp	Growth Fund			0.00%	4,000
1464	Macquarie bank	TD	329	14-Jul-22	0.40%	1,000
1466	National Bank	TD	329	14-Jul-22	0.32%	1,000
1467	Suncorp Bank	TD	364	18-Aug-22	0.35%	1,500
1469	Commonwealth Bank	TD	324	21-Jul-22	0.39%	1,000
1470	Macquarie bank	TD	378	22-Sep-22	0.40%	1,000
1471	Macquarie bank	TD	392	06-Oct-22	0.40%	1,000
1472	AMP Bank	TD	735	14-Sep-23	0.75%	1,000
1473	National Bank	TD	399	20-Oct-22	0.40%	2,000
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 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
1482	Macquarie Bank	TD	110	12-Jul-22	0.55%	3,000
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
TOTAL						73,749

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

Financial Institution	Rating	Maximum Counterparty	Amount \$'000	% of Portfolio
Commonwealth Bank	A1+	25%	12,000	18.18%
Westpac Bank	A1+	25%	12,000	18.18%
National Bank	A1+	25%	11,000	16.67%
Suncorp Bank	A1	25%	9,500	14.39%
Macquarie Bank	A1	25%	7,000	10.61%
AMP Bank	A2	10%	5,500	8.33%
Bank Of Queensland	A2	10%	5,000	7.58%
TCorp	Unrated	10%	4,000	6.06%
TOTAL			66,000	100.00%

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

Investment in NSW Treasury Corporation (TCorp)

During August 2021, Council invested an amount of \$4M in TCorp's Investment Management (TCorplM) Medium Term Growth Fund, in line with Council's Investment Policy. TCorplM 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.

TCorp operates pooled funds, whereby its clients' investments are combined with those of other investors. This pool is used to buy investments that are managed on behalf of all investors in the fund. TCorplM Funds are unit trusts. Upon investing in a fund, investors are allocated units in the fund. The value of an investment in the fund will vary as the fund's daily unit price changes to reflect increases or decreases in the market value of the fund's underlying assets.

Distributions are made annually and are automatically reinvested into the fund to buy additional units. Each month Council accrues estimated returns based on statements from TCorp. The preliminary June accrued return was -2.24% leading to a preliminary year to date negative return of -8.08%. Due to delivery of the financial year-end reporting of the TCorplM Funds, the final returns and balances for June were not yet available. Rates of return will fluctuate each month and possibly be negative from time to time with the medium term investment horizon.

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

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**Table 3 NSW Treasury Corporation Performance Summary**

	10 year (% pa)	7 year (% pa)	3 year (% pa)	1 year %	FYTD %	1 month %
TCorplm Medium Term Growth Fund	4.97	3.25	2.09	(2.67)	(4.01)	(0.84)
Benchmark: CPI + 2.0% p.a. (over rolling 7 years)	4.22	4.11	4.67	6.44	6.09	0.64
Return above benchmark p.a.	0.75	(0.86)	(2.58)	(9.11)	(10.10)	(1.48)

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	62,000	84.07%
Cash/At Call Deposits	Low	Low	7,749	10.51%
Capital Growth Fund	Medium	Medium	4,000	5.42%
TOTAL			73,749	100.00%

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

Performance Measures	This Year	Last Year
Portfolio Average Interest Rate (year to date)	0.48%	0.75%
BBSW Average Interest Rate (year to date) *	1.81%	0.05%
Actual Investment Interest Earned (for the current month)	\$54,284	\$42,230
Actual Investment Interest Earned (year to date)^	\$316,640	\$354,621
Budget Investment Interest (year to date)	\$210,000	\$325,000
Original Budget Investment Interest (annual)	\$210,000	\$325,000
TCorp unrealised movement (year to date)	-8.08%	-

Investment and Cash Balances (Par Value) #	This Year	Last Year
Opening Balance as at 1 July 2021	\$54,388,548	\$47,140,822
Month End Balance as at 30 June 2022	\$73,749,001	\$54,388,548

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

^ Excludes TCorp accrued returns, these will be included once half year distributions are realised

Excludes Section 355 Committee cash held

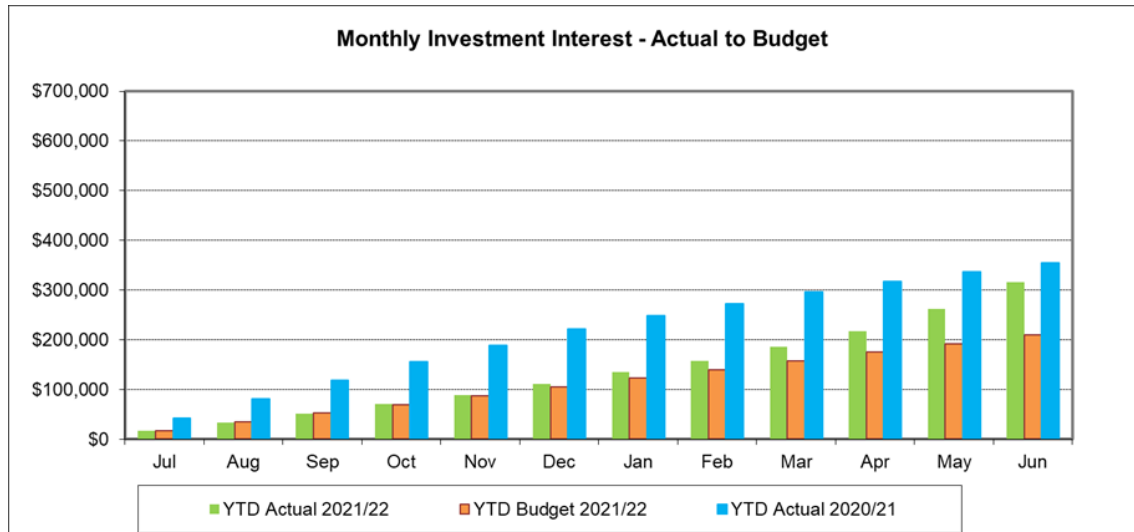
Corporate and Community

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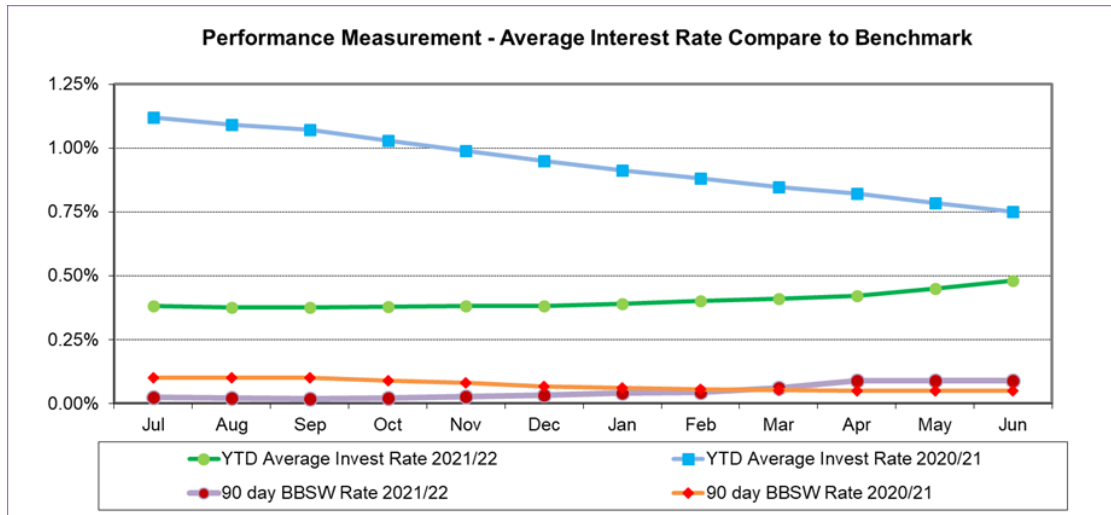
Corporate and Community Services



Graph 1 Actual Term Deposit interest earned compared to budget for this year and last year



Graph 2 Current year Term Deposit portfolio performance to prior year performance



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

Month End Totals \$'000	June 2022*	May 2022	Apr 2022	Mar 2022	Feb 2022	Jan 2022
Developer contributions	29,495	25,226	24,619	24,513	22,487	22,622
Committed developer contributions	710	904	1,236	1,366	2,562	2,627
RMS contributions	664	809	817	820	982	993
Specific purpose unexpended grants	10,251	9,363	6,769	7,063	6,954	7,051
Domestic waste management reserve	430	430	430	430	430	430
Stormwater management	871	606	472	574	764	674
External Restrictions	39,421	37,338	34,343	34,766	34,179	34,397
Month End Totals \$'000	June 2022*	May 2022	Apr 2022	Mar 2022	Feb 2022	Jan 2022
Plant and vehicle replacement	3,768	2,979	2,941	3,105	3,031	2,935
Employees leave entitlement	2,840	2,840	2,840	2,814	2,870	2,838
Carry over works	427	462	1,140	1,296	1,317	1,429
Bridge replacement	519	706	644	644	644	499
Insurance provisions	1,282	1,282	1,282	1,284	1,292	1,413
Miscellaneous and property	425	185	185	185	169	169
Grant Fund Leverage	112	94	101	132	140	179
Operations and programs	343	343	743	743	743	688
Property investment fund	3,199	3,211	3,225	3,224	268	283
Civil Works	1,736	2,121	2,634	2,452	2,480	2,518
Waste depot and rehabilitation	6,833	6,833	6,833	6,833	6,833	6,833
Unexpended loan funds	0	85	85	85	85	97
Committed projects (SRV)	1,872	1,609	1,107	1,746	1,371	1,309
Security deposits and bonds	3,551	3,734	3,726	3,638	3,585	3,563
Financial Assistance Grant in Advance	6,115	6,115	6,115	-	-	-
Internal Restrictions	33,022	32,599	33,601	28,181	24,828	24,753
Unrestricted	1,306	11,760	9,008	8,754	12,187	8,859
Total Cash & Investments	73,749	81,697	76,952	71,701	71,194	68,009

*Figures for June 2022 represent draft balances prior to final annual adjustments and accruals.

Externally restricted funds have increased by \$2.0M due to an increase in the balance of unexpended grants and developer contributions. Internally restricted funds have remained relatively stable.

The overall level of cash and investments generally remains relatively stable with increases 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 which generally occur in the months of May and June, explaining the cash movement from May to June. The accounts payable year run process totaled over \$6M.

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

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Corporate and Community Services



CONSULTATION

Acting Director Corporate and Community Services (Human Resources Manager)
Chief Finance Officer
Management Accountant
Finance Operations and Administration Coordinator
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:

5.3.7: Continue to educate staff on statutory compliance obligations.

5.3.8: Carry out governance functions to comply with legislation and best practice.

IMPLICATIONS

a. Policy and Procedural Implications

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

b. Financial Implications

Investment returns are included in Council's Delivery Program and Operational Plan. Amendments are effected through the Quarterly Budget Review process. Investment portfolio performance is detailed within the report with comparisons to prior year and budget.

A portion of the portfolio and its associated investment income is restricted as it relates to funds from developer contributions, payments in advance for grant projects, Domestic Waste Management, and stormwater management income to be applied to specific purposes and not available for general operational projects.

c. Legislative Implications

This report meets Council's statutory obligations under the *Local Government (General) Regulation 2021* and the *Local Government Act 1993*.

d. Risk Implications

Investment risks are detailed within this report.

e. Other Implications

There are no environmental, community, consultative or other implications to this report.

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Corporate and Community Services



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. CC60/2022

Corporate and Community Services



SUBJECT: *RESOLUTIONS TRACKING REPORT*

RESPONSIBLE OFFICER: *Corporate Governance Officer - Robyn Larsen
Chief Finance Officer - Matthew Plumridge*

SUMMARY

The enclosure contains pending actions from previous meetings as well as completed actions for period 7 June 2022 to 11 July 2022.

RECOMMENDATION

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

ENCLOSURES

- 1 [↓](#) Completed Actions
- 2 [↓](#) Outstanding Actions

Action Sheets Report		Division: Committee: Ordinary Council Officer:	Date From: Date To:	Printed: Tuesday, 12 July 2022 6:57:16 AM		
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
CC48/2022 160	Ordinary Council 15/06/2022	Spooner, Eliza Allan, Darrylen	Controlled Document Review 2022 - Revocation of Policies	13/07/2022	17/06/2022	17/06/2022
17 Jun 2022 1:23pm Spooner, Eliza - Completion Completed by Spooner, Eliza (action officer) on 17 June 2022 at 1:23:23 PM - Approved, no further action required.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
CC49/2022 161	Ordinary Council 15/06/2022	Waghorn, Peter Allan, Darrylen	Minutes of the Strategic Property & Community Facilities Committee meeting held 1 June 2022	13/07/2022	17/06/2022	30/06/2022
30 Jun 2022 3:10pm Waghorn, Peter - Completion Completed by Waghorn, Peter (action officer) on 30 June 2022 at 3:10:22 PM - Noted						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
CC47/2022 159	Ordinary Council 15/06/2022	McGowan, Kelly Allan, Darrylen	Donations under Section 356 - Rates Relief	13/07/2022	17/06/2022	23/06/2022
23 Jun 2022 3:57pm McGowan, Kelly - Completion Completed by McGowan, Kelly (action officer) on 23 June 2022 at 3:57:01 PM - Noted. Letter issues to ratepayer 22/6/2022						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
PE35/2022 155	Ordinary Council 15/06/2022	Maher, Janine Mickleson, Peter	Review of Site Inspection Protocol	13/07/2022	17/06/2022	20/06/2022
20 Jun 2022 9:49am Maher, Janine - Completion Completed by Maher, Janine (action officer) on 20 June 2022 at 9:49:05 AM - To be discussed with Councillors at an upcoming Councillor briefing.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
CC45/2022 157	Ordinary Council 15/06/2022	Wade, Craig Allan, Darrylen	Tender T112223HUN Road Safety Barrier Systems	13/07/2022	17/06/2022	17/06/2022
17 Jun 2022 1:59pm Wade, Craig - Completion Completed by Wade, Craig (action officer) on 17 June 2022 at 1:59:05 PM - Regional Procurement has been advised of resolution						

Action Sheets Report	Division: Committee: Ordinary Council Officer:	Date From: Date To: Printed: Tuesday, 12 July 2022 6:57:16 AM
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Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 15/06/2022	Goodbun, Nathan	Minutes of the Cessnock Local Traffic Committee Meeting held 20 September 2021	13/07/2022	17/06/2022	1/07/2022
WI44/2022 172		Moloney, David				
01 Jul 2022 2:06pm Cocking, Tracey Item 1 - Authorisation noted, CRM sent to Works and Operations., Item 2 - Notified Development Services of Councils refusal. 01 Jul 2022 2:18pm Cocking, Tracey - Completion Completed by Cocking, Tracey on behalf of Goodbun, Nathan (action officer) on 01 July 2022 at 2:18:19 PM - All actions completed.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 15/06/2022	McGowan, Kelly	Large Sites Electricity Contract Status	13/07/2022	17/06/2022	23/06/2022
CC53/2022 177		Allan, Darrylen				
23 Jun 2022 3:58pm McGowan, Kelly - Completion Completed by McGowan, Kelly (action officer) on 23 June 2022 at 3:58:24 PM - Noted.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 15/06/2022	Goodbun, Nathan	Minutes of the Cessnock Local Traffic Committee Meeting held 16 May 2022	13/07/2022	17/06/2022	29/06/2022
WI43/2022 171		Moloney, David				
29 Jun 2022 3:40pm Cocking, Tracey Item 1 - Noted comments from TfNSW., Item 2 - Noted comments from TfNSW., Item 3 - Noted comments from TfNSW., Item 4 - Event withdrawn by applicant. 29 Jun 2022 3:53pm Cocking, Tracey - Completion Completed by Cocking, Tracey on behalf of Goodbun, Nathan (action officer) on 29 June 2022 at 3:53:33 PM - All actions completed.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 15/06/2022	Donnelly, Patricia	Waste Voucher Proposed Improvements and amendment to Waste Management Policy	13/07/2022	17/06/2022	22/06/2022
WI39/2022 167		Moloney, David				
22 Jun 2022 4:29pm Donnelly, Patricia 1. Policy updated and posted to website. New arrangements will be visible on website from 1 July., 2. Voucher changes will be undertaken for July 2023 22 Jun 2022 4:33pm Donnelly, Patricia - Completion Completed by Donnelly, Patricia (action officer) on 22 June 2022 at 4:33:20 PM - Completed						

Action Sheets Report	Division: Committee: Ordinary Council Officer:	Date From: Date To: Printed: Tuesday, 12 July 2022 6:57:16 AM
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Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 15/06/2022	Thompson, Carly	Financial Assistance for the Disposal of Waste (charitable and not for profit organisations) Policy	13/07/2022	17/06/2022	17/06/2022
WI40/2022 168		Moloney, David				
17 Jun 2022 12:33pm Thompson, Carly - Completion Completed by Thompson, Carly (action officer) on 17 June 2022 at 12:33:36 PM - Updated website link to reflect Council Resolution. NFA						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 16/03/2022	Forsyth, Karen	Proposed Amendment to the City Wide Infrastructure Contributions Plan 2020	30/06/2022	23/03/2022	21/06/2022
PE15/2022 69		Mickleson, Peter				
24 Mar 2022 12:04pm Forsyth, Karen Draft plan will be placed on exhibition from 30 March to 13 May and report will be prepared for June meeting for adoption. 08 Apr 2022 12:16pm Blake, Yvonne - Target Date Revision Target date changed by Blake, Yvonne from 13 April 2022 to 30 June 2022 - Draft plan will be placed on exhibition from 30 March to 13 May and report will be prepared for June meeting for adoption. 21 Jun 2022 12:57pm Forsyth, Karen Exhibition finalised and submissions reviewed. Reported to Council on 15 June. Matter finalised 21 Jun 2022 12:59pm Forsyth, Karen - Completion Completed by Forsyth, Karen (action officer) on 21 June 2022 at 12:59:04 PM - Exhibition finalised and submissions reviewed reported to Council on 15 June						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 16/03/2022	Drage, Natalie	Her Majesty, The Queen - Platinum Jubilee	30/06/2022	23/03/2022	29/06/2022
CC15/2022 74		Allan, Darrylen				
28 Mar 2022 9:05am Drage, Natalie Resolution noted. Outcome of grant application seeking funding to deliver a community tree planting event not yet known. Planning of events has commenced. 28 Mar 2022 9:10am Drage, Natalie - Target Date Revision Target date changed by Drage, Natalie from 13 April 2022 to 29 April 2022 - Date changed to allow further time for the outcome of the grant application to be known. 21 Apr 2022 3:40pm Drage, Natalie The EOI application has progressed to the next stage of the application process and that further application was submitted to the funding body on 21 April 2022. An announcement is expected after the close of the next stage application process and is 2 May 2022. Event planning has commenced for the Council funded events proposed to be held at the library and youth centre. 21 Apr 2022 3:46pm Drage, Natalie - Target Date Revision Target date changed by Drage, Natalie from 29 April 2022 to 31 May 2022 - Target date changed to enable time for the funding body to determine the outcome of the grant process. 01 Jun 2022 9:32am Drage, Natalie - Target Date Revision Target date changed by Drage, Natalie from 31 May 2022 to 30 June 2022 - As at 31 May 2022, no announcements have been made by the funding body for the outcome of the grant application. 29 Jun 2022 3:56pm Drage, Natalie The funding application was successful and planning is well underway for a community tree planning event. 29 Jun 2022 3:58pm Drage, Natalie - Completion Completed by Drage, Natalie (action officer) on 29 June 2022 at 3:58:44 PM - With funding received for the community planting event, the event will be proceeding.						

Action Sheets Report	Division:	Ordinary Council	Date From:
	Committee:		Date To:
	Officer:		
	Printed: Tuesday, 12 July 2022 6:57:16 AM		

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 20/10/2021	Rush, Iain	Planning Proposal 18/2019/1/1 - Reclassification and Rezoning of Council Land	30/06/2022	25/10/2021	21/06/2022
PE54/2021 1852		Mickleson, Peter				
28 Oct 2021 12:53pm Rush, Iain - Target Date Revision Target date changed by Rush, Iain from 17 November 2021 to 31 March 2022 - Final Local Environmental Plan (LEP) mapping is being prepared by Council prior to forwarding the Planning Proposal to the Department of Planning, Industry and Environment with a request the LEP amendment be made. 25 Jan 2022 8:52am Rush, Iain Planning Proposal forwarded to Minister for Planning, Industry and Environment for finalisation on 19 November 2021. Awaiting confirmation from Minister that Plan has been made. 23 Feb 2022 9:34am Rush, Iain Awaiting confirmation from the Minister that Plan has been made. 08 Apr 2022 12:14pm Blake, Yvonne - Target Date Revision Target date changed by Blake, Yvonne from 31 March 2022 to 30 April 2022 - Still awaiting confirmation from the Minister that Plan has been made. 26 Apr 2022 3:04pm Rush, Iain - Target Date Revision Target date changed by Rush, Iain from 30 April 2022 to 30 June 2022 - Planning Proposal forwarded to Minister for Planning, Industry and Environment for finalisation on 19 November 2021. Awaiting confirmation from Minister that Plan has been made. 21 Jun 2022 3:50pm Rush, Iain - Completion Completed by Rush, Iain (action officer) on 21 June 2022 at 3:50:26 PM - LEP Amendment 34 was notified by DPE on 10 June 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 15/07/2009	Fitzgerald, Darryl	FLASHING LIGHT - KURRI KURRI BOWLING CLUB	22/07/2009	21/07/2009	9/07/2022
Q81/2009		Mickleson, Peter				
20 Jul 2009 2:18pm Response given at the Council Meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/10/2020	Corken, Robert	Amended Planning Proposal for the Cessnock Commercial Precinct	17/12/2022	23/10/2020	24/06/2022
PE36/2020 1456		Mickleson, Peter				
03 Nov 2020 10:35am Corken, Robert Sent to DPIE 27/10 for revised gateway determination. 04 Mar 2021 4:20pm Brown, Keren Still awaiting Gateway Determination 09 Mar 2021 10:39am Corken, Robert Addressing issues including flooding in CBD. 23 Mar 2021 12:16pm Brown, Keren Discussions regarding flooding continuing with DPIE 24 May 2021 11:04am Corken, Robert The DoPE has withdrawn the current gateway determination for the planning proposal and will reissue a new gateway determination because the planning proposal is substantially different from the original planning proposal. The implications of the new gateway, when issued, will be assessed in terms of this action and this action will be updated accordingly.						

Division:	Ordinary Council	Date From:	
Committee:		Date To:	
Officer:		Printed:	Tuesday, 12 July 2022 6:57:16 AM
Action Sheets Report			

21 Jun 2021 10:56am Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 21 June 2021 to 21 August 2021 - We have not received the revised gateway determination from the Department of Planning, Infrastructure and Environment.
26 Jul 2021 4:32pm Corken, Robert Still negotiating with DIPE on matters of flooding.
04 Aug 2021 8:50am Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 21 August 2021 to 19 November 2021 - Still negotiating with DPIE re: flooding.
27 Aug 2021 1:20pm Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 19 November 2021 to 17 December 2021 - Still negotiating with DPIE and BCD over flood concerns.
30 Sep 2021 1:21pm Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 17 December 2021 to 17 December 2022 - DPIE will be issuing a revised gateway determination. It is anticipated that they will place a 12 month time limit on the revised gateway.
25 Jan 2022 4:22pm Corken, Robert Exhibition to commence in March 2022.
23 Feb 2022 12:38pm Corken, Robert Public exhibition concludes 8 March 2022.
30 Mar 2022 1:22pm Brown, Keren Proposal re-exhibited from 30 March to 4 May
24 Jun 2022 11:05am Corken, Robert Resolved to be made a 15/06/2022 Council meeting. Waiting for GIS mapping to be completed and then it will be finalised.
24 Jun 2022 11:09am Corken, Robert - Completion Completed by Corken, Robert (action officer) on 24 June 2022 at 11:09:26 AM - Planning proposal withdrawn and new gateway determination issued by the Department. New planning proposal 18/2021/7. See PE33/2022.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 15/06/2022	Maginnity, Robert	Parking Advocacy - Amendment to Rule 197 of the Road Rules 2014	13/07/2022	17/06/2022	1/07/2022
MM10/2022 149		Maginnity, Robert				
01 Jul 2022 4:06pm Andreska, Melissa - Completion Completed by Andreska, Melissa on behalf of Maginnity, Robert (action officer) on 01 July 2022 at 4:06:31 PM - Letters sent to the Minister for Transport and State Member of Cessnock on 22 June 2022						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 15/06/2022	Varghese, Arun	Minutes of the Audit and Risk Committee meeting held 10 May 2022	13/07/2022	17/06/2022	17/06/2022
GMU13/2022 150		Maginnity, Robert				
17 Jun 2022 12:39pm Varghese, Arun - Completion Completed by Varghese, Arun (action officer) on 17 June 2022 at 12:39:53 PM - Actions from the Audit and Risk Committee are monitored and reported back on quarterly basis.						

Action Sheets Report		Division: Committee: Ordinary Council Officer:	Date From: Date To: Printed: Tuesday, 12 July 2022 6:57:16 AM
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Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
PE31/2022 146	Ordinary Council 15/06/2022	Rush, Iain Mickleson, Peter	18/2015/2/1 Hydro Kurri Kurri Planning Proposal	13/07/2022	17/06/2022	27/06/2022
27 Jun 2022 1:56pm Rush, Iain - Completion Completed by Rush, Iain (action officer) on 27 June 2022 at 1:56:35 PM - Planning Proposal forwarded to the Department of Planning and Environment for finalisation on 22 June 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
BN16/2022 105	Ordinary Council 20/04/2022	Harris, Kate Moloney, David	Safety Hand Rails - Bridges Hill Park	30/06/2022	26/04/2022	30/06/2022
02 May 2022 3:13pm Meyers, Kristy Development of costing underway for the installation of handrail. 30 Jun 2022 11:52am Harris, Kate A Councillor memo has been distributed outlining that the hand rail will be installed within the 2022/2023 Operational Plan. A compliant ramp is unable to be achieved at this location. 30 Jun 2022 11:53am Harris, Kate - Completion Completed by Harris, Kate (action officer) on 30 June 2022 at 11:53:15 AM - The item has been actioned.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
PE30/2022 145	Ordinary Council 15/06/2022	Porter, Kerry Mickleson, Peter	Section 4.55(1A) Application Proposing to modify development consent No. 8/2020/20576/1 by amending condition no. 28 relating to roadworks	13/07/2022	17/06/2022	22/06/2022
20 Jun 2022 9:49am Maher, Janine Notice of determination to be prepared consistent with Council's resolution. 20 Jun 2022 11:28am Porter, Kerry I have tracked the application to Business Support today for the consent to be prepared 22 Jun 2022 4:23pm Blake, Yvonne - Completion Completed by Blake, Yvonne on behalf of Porter, Kerry (action officer) on 22 June 2022 at 4:23:59 PM - Consent signed by DP&E and forwarded to Business Support for processing.						

Action Sheets Report	Division: Committee: Ordinary Council Officer:	Date From: Date To: Printed: Tuesday, 12 July 2022 8:19:56 AM
<p>02 Apr 2020 10:58am Harris, Kate Item 4: Cessnock Pool Masterplan has been adopted. Construction plans and estimate delayed by consultant until April 2020. Report continues to be drafted inclusive of funding options.</p> <p>02 Apr 2020 11:00am Harris, Kate - Target Date Revision Revised Target Date changed by: Harris, Kate From: 31 Mar 2020 To: 04 May 2020, Reason: Detailed designs are currently being finalised.</p> <p>02 Apr 2020 11:11am Harris, Kate - Target Date Revision Revised Target Date changed by: Harris, Kate From: 4 May 2020 To: 30 Jun 2020, Reason: Awaiting consultants to complete detailed designs</p> <p>28 May 2020 3:13pm Benson, Nicole Item 4: Cessnock Pool Masterplan has been adopted. Construction plans and estimate reviewed by staff and back with consultants for final changes. Report continues to be drafted inclusive of funding options for July meeting.</p> <p>03 Aug 2020 6:54am Harris, Kate Item 4: Cessnock Pool Masterplan has been adopted. Construction plans and estimate are complete. A report was provided to Council outlining funding options in July 2020 and was deferred pending a Councillor briefing. A further report will be provided to Council in September following the briefing.</p> <p>03 Aug 2020 6:57am Harris, Kate - Target Date Revision Revised Target Date changed by: Harris, Kate From: 31 Jul 2020 To: 30 Sep 2020, Reason: A councillor briefing is required.</p> <p>09 Oct 2020 11:56am Benson, Nicole - Target Date Revision Revised Target Date changed by: Benson, Nicole From: 30 Sep 2020 To: 30 Oct 2020, Reason: Councillor briefing scheduled for 14 October and report included in 21 October Ordinary Council meeting agenda to address Item 4.</p> <p>29 Oct 2020 12:14pm McCloy, Natalie - Target Date Revision Revised Target Date changed by: McCloy, Natalie From: 30 Oct 2020 To: 31 Dec 2020, Item 4: Complete, Item 2: Reliance on resourcing and workloads, Item 5: Reliance on resourcing and workloads</p> <p>06 Nov 2020 1:48pm Benson, Nicole 2 Reliant on a dedicated budget and additional resources, 5 Reliant on a dedicated budget and additional resources</p> <p>18 Jan 2021 11:15am Benson, Nicole 2 Reliant on a dedicated budget and additional resources, 5 Reliant on a dedicated budget and additional resources</p> <p>09 Mar 2021 7:31am Harris, Kate 2 Reliant on a dedicated budget and additional resources, 5 Reliant on a dedicated budget and additional resources</p> <p>09 Mar 2021 7:34am Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 26 February 2021 to 30 April 2021 - Completion of outstanding items is reliant upon additional budget and resourcing.</p> <p>28 Apr 2021 11:36am Benson, Nicole 2 Reliant on a dedicated budget and additional resources, 5 Reliant on a dedicated budget and additional resources</p> <p>28 Jun 2021 1:30pm Harris, Kate Item 2: Reliance on resourcing and workloads, Item 5: Reliance on resourcing and workloads</p> <p>28 Jun 2021 1:32pm Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 30 June 2021 to 26 November 2021 - Completion of outstanding items is reliant upon additional budget and resourcing.</p> <p>28 Oct 2021 10:41am Harris, Kate 2 Reliant on a dedicated budget and additional resources, 5 Reliant on a dedicated budget and additional resources</p> <p>28 Oct 2021 10:42am Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 26 November 2021 to 31 March 2022 - Reliant on a dedicated budget and additional resources</p> <p>31 Mar 2022 1:06pm Harris, Kate 2 Reliant on a dedicated budget and additional resources, 5 Reliant on a dedicated budget and additional resources</p> <p>31 Mar 2022 1:07pm Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 31 March 2022 to 30 June 2022 - The completion of the remaining tasks are reliant on a dedicated budget and additional resources.</p> <p>30 Jun 2022 8:59am Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 30 June 2022 to 30 December 2022 - Completing items 2 and 5 are reliant on a dedicated budget and additional resources</p>		

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<p>Owner has contacted Council this week and wants to finalise this matter. Surveyor has been contacted to move ASAP.</p> <p>31 Aug 2020 12:27pm Keegan, Robyn CCC Property Officer has spoken with the solicitor for the owners of the land we are to acquire last week and he has an issue with probate over the land ownership. Apparently when this matter commenced the site was owned by mother and son, after the passing of the father. Now, more recently, like late 2019, mother has passed and there are issues with the ownership transfer, which he is resolving now. Once this is in the son's name we can finalise the acquisition.</p> <p>30 Sep 2020 9:18am Larsen, Robyn still pending resolution of ownership before we can proceed to finalise acquisition. I spoke with the solicitor for the "owners" this morning again and he believes the matter should be resolved within a week.</p> <p>28 Oct 2020 2:46pm Keegan, Robyn - Target Date Revision Revised Target Date changed by: Keegan, Robyn From: 30 Sep 2020 To: 27 Nov 2020, Reason: Awaiting on ownership to be finalised by their Solicitor.</p> <p>25 Nov 2020 4:25pm Keegan, Robyn - Target Date Revision Revised Target Date changed by: Keegan, Robyn From: 27 Nov 2020 To: 26 Mar 2021, Reason: Owners solicitors have not responded to sorting out their ownership issues, due to probate and death of a party some time back.</p> <p>19 Jan 2021 11:48am Keegan, Robyn - Target Date Revision Revised Target Date changed by: Keegan, Robyn From: 26 Mar 2021 To: 30 Apr 2021, Reason: Solicitor for the owners is still working through complex probate issues.</p> <p>23 Feb 2021 10:22am Rathborne, Michael - Target Date Revision Target date changed by Rathborne, Michael from 30 April 2021 to 30 April 2021 - Email sent to Mark Gibbs lawyer today as a follow up.</p> <p>24 Mar 2021 4:45pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 30 April 2021 to 30 May 2021 - Awaiting response from Solicitor. Will follow up again.</p> <p>28 Apr 2021 10:26am Rathborne, Michael - Target Date Revision Target date changed by Rathborne, Michael from 30 May 2021 to 30 June 2021 - No response from clients solicitor after repeated requests to complete the matter. Letter being sent directly to client.</p> <p>24 May 2021 3:25pm Larsen, Robyn - Reallocation Action reassigned to Waghorn, Peter by Larsen, Robyn</p> <p>25 Jun 2021 12:27pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 30 June 2021 to 31 August 2021 - As at 27 May 2021, the lack of response from the parties is understood to be due to disputed ownership of the property to be acquired and there has still been no response to correspondence and other attempts to contact the solicitor or their client. W&I project managers advised accordingly.</p> <p>02 Sep 2021 3:09pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 31 August 2021 to 29 October 2021 - Peter Waghorn advised that there is no further update.</p> <p>11 Oct 2021 3:06pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 29 October 2021 to 17 December 2021 - No further update available.</p> <p>26 Oct 2021 2:17pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 17 December 2021 to 25 February 2022 - Advised by Chief Financial & Administration Officer no update was available but will investigate the completion date.</p> <p>25 Jan 2022 12:18pm Waghorn, Peter There has been no contact from the solicitor for the owners of the land since advising Council in October 2020 that he was resolving probate issues that were affecting ownership transfer. Matter will continue to be followed up by Property Services officers</p> <p>29 Mar 2022 7:53am Boughton-Ingham, Petra 28 Mar 2021 - Target Date Revision, Request from 25 February 2022 to 30 April 2022, Update: 28 Mar 2022 Peter Waghorn, Lawyers acting in the matter were contacted by telephone 28 March and committed to providing a full update on the status of their investigation into probate issues delaying identification of the land owner from whom the land was acquired and compensation is owed</p> <p>12 Apr 2022 10:18am Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 25 February 2022 to 18 May 2022 - Lawyers acting in the matter were contacted by telephone 28 March and committed to providing a full update on the status of their investigation into probate issues delaying identification of the land owner from whom the land was acquired and compensation is owed.</p> <p>28 Apr 2022 2:46pm Waghorn, Peter Awaiting advice from solicitor regarding land ownership</p> <p>26 May 2022 9:08am Waghorn, Peter This 2019 resolution is related to the Fosters Creek Bridge roadworks project. Due to continuing difficulties with tracing affected landowner/s, associated land acquisition processes stalled and roadworks affecting lot 120 commenced. Current plans for further roadworks are being verified to ascertain whether acquisition of lot 122 is still required.</p>		

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26 May 2022 9:21am Waghorn, Peter - Target Date Revision

Target date changed by Waghorn, Peter from 18 May 2022 to 15 June 2022 - Awaiting confirmation that planned roadworks still necessitate the acquisition of lot 122 DP 755244

30 Jun 2022 3:16pm Waghorn, Peter

Road Infrastructure Team advise that further roadworks which will impact and necessitate acquisition of lot 122 DP 755244 are still required. At this time, solicitors for the estate of the former landowner have not advised current ownership.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
WI74/2020	Ordinary Council 16/09/2020	Moloney, David	Works and Infrastructure	Shared Pathways and Trails	31/08/2022	
1446 MOTION 1446 RESOLVED	Moved:	Moloney, David Councillor Fitzgibbon	Seconded:	Councillor Gray		
<ol style="list-style-type: none"> That Council notes the status of the design for the shared pathway along Wine Country Drive Nulkaba, the Pokolbin Cycling Improvements, and eight recreational trails. That Council notes the total estimated costs of \$2,500,000 to progress to Preliminary Designs for the shared pathway along Wine Country Drive Nulkaba, the Pokolbin Cycling Improvements, and eight recreational trails. That Council endorses the sources of funding identified as suitable to progress to Preliminary Designs with the further investigation and finalised scoping to inform the cost of Final Designs. Determining the feasibility of trails 1, 3, 6 and 7 are included as well as the Abermain to Weston link and the Chinaman's Hollow and Maybury Peace Park Trails as an action in the 2021/2022 Operational Plan A report back to Council with results of the feasibility study. 						
23 Sep 2020 12:33pm Kerr, Katrina Item 1 - Noted, Item 2 - Noted, Item 3 - Requested allocation of funding., Item 4 - Listed Feasibility Study of Trails for inclusion in 2021-22 Operational Plan. , Item 5 - Commenced draft report for completion in financial year 2021-22.						
18 Jan 2021 11:09am Benson, Nicole Item 5 - Report to be prepared once feasibility studies are complete.						
09 Mar 2021 9:58am Benson, Nicole - Target Date Revision Target date changed by Benson, Nicole from 14 October 2020 to 30 June 2021 - Tasks to be completed in line with Operational Plan timeframes.						
29 Apr 2021 9:56am Benson, Nicole Item 4 - Feasibility Study of Trails has been included in the draft 2021-22 Operational Plan. , Item 5 - Commenced draft report for completion in financial year 2021-22.						
06 Jul 2021 3:04pm McCloy, Natalie - Target Date Revision Target date changed by McCloy, Natalie from 30 June 2021 to 15 July 2021 - Item 4 - Complete						
29 Jul 2021 8:22am Benson, Nicole Item 4 - Complete - Feasibility Study of Trails has been included in the draft 2021-22 Operational Plan. , Item 5 - Commenced draft report for completion in financial year 2021-22.						
29 Jul 2021 8:23am Benson, Nicole - Target Date Revision Date in line with resolution 4.						
27 Apr 2022 1:11pm Meyers, Kristy Items 1-3 - \$3M funded Public Spaces Legacy Program., Item 4 - Engaged quantity surveyor and obtained costings for high and medium priority pathways, which includes Abermain to Weston through to Maybury Peace Park., Item 5 - Report being drafted for June / July 2022 Council meeting.						
28 Jun 2022 11:12am Meyers, Kristy Report draft for 20 July 2022 Council Meeting.						

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Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
W178/2020	Ordinary Council 21/10/2020	Harris, Kate	Works and Infrastructure	Multipurpose Half Courts and Outdoor Exercise Equipment in Council Open Space	30/09/2022	
1469 MOTION 1469 RESOLVED	Moved:	Moloney, David Councillor Doherty	Seconded:	Councillor Dagg		
<p>1. That Council notes the outcome of the investigation into a multipurpose half court or outdoor exercise equipment in Ellalong Park.</p> <p>2. That the General Manager writes to the organiser of the petition regarding Ellalong Park to advise the outcome of the investigation.</p> <p>3. That Council lists construction of a pathway connecting the existing multipurpose half court at Ellalong Park for consideration in the Recreation Facilities Renewal Program of the 2021-22 Operational Plan.</p> <p>4. That Council lists preparation of an Open Space Guideline for Multipurpose Courts and Outdoor Exercise Equipment as an action for inclusion in the 2021-22 Operational Plan.</p> <p>5. That the General Manager prepares a report to present the completed Open Space Guideline for Multipurpose Courts and Outdoor Exercise Equipment including proposed locations and costs.</p> <p>09 Nov 2020 11:20am Harris, Kate 1. Noted, 2. A response has been drafted, 3. To be completed when the 2021-22 Recreation Facilities Renewal Program has been drafted, 4. To be completed when the 2021-22 Operational Plan has been drafted, 5. To commence following the completion of item 4.</p> <p>10 Dec 2020 2:24pm Harris, Kate 2. A response has been provided to the organiser of the petition (DOC2020/191234)</p> <p>19 Feb 2021 3:02pm Harris, Kate 5. To commence following the completion of item 4.</p> <p>28 Apr 2021 11:48am Benson, Nicole 5. To commence following the completion of item 4.</p> <p>28 Jun 2021 1:26pm Harris, Kate 5. To commence following the completion of item 4.</p> <p>28 Jun 2021 1:29pm Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 30 June 2021 to 24 September 2021 - The action is unable to commence until the 2021/2022 financial year in line with the 2021/2022 operational plan.</p> <p>29 Jul 2021 8:43am Benson, Nicole 1. Noted, 2. Complete., 3. Complete., 4. Complete., 5. To be scheduled.</p> <p>16 Sep 2021 10:58am Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 24 September 2021 to 01 December 2021 - Due to internal resourcing constraints, this project is not due to commence until December 2021.</p> <p>28 Oct 2021 10:39am Harris, Kate 1. Noted, 2. Complete., 3. Complete., 4. Complete., 5. The guideline is scheduled to commence early 2022.</p> <p>31 Mar 2022 1:00pm Harris, Kate 1. Noted, 2. Complete., 3. Complete., 4. Complete., 5. The guideline has commenced, engagement complete and document being drafted.</p> <p>30 Jun 2022 8:59am Harris, Kate 1. Noted, 2. Complete., 3. Complete., 4. Complete., 5. A preliminary directions report is complete and a Councillor briefing is planned for 13 July 2022.</p> <p>30 Jun 2022 9:04am Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 27 May 2022 to 30 September 2022 - Document progressing, Councillor briefing required.</p>						

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Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
BN33/2020	Ordinary Council 18/11/2020	Awal, Rabiul	Business With Notice	Laneway Access to Units/Granny Flats etc	14/12/2022	
1514 MOTION 1514 RESOLVED	Moved:	Moloney, David Councillor Olsen	Seconded:	Councillor Dunn		
<p>That the General Manager provide a report to Council regarding options that council could change as it relates to development applications for the approval of units, granny flats or houses that will only have access off laneways to have the following conditions included,</p> <ol style="list-style-type: none"> The laneway, if it has no name, be named with all costs to the developer The laneway be sealed by the developer so as not to create dust issues for existing residents All costs to be borne by the developer The Council's preference is for access off existing roads, not laneways <p>23 Nov 2020 11:38am Blake, Yvonne - Reallocation Action reassigned to Kerr, Katrina by: Blake, Yvonne for the reason: This report relates to Council Policy D5.3 - Development Applications Adjacent to Rear Lanes, which is the responsibility of the Roads, Bridges & Drainage Manager in W&I.</p> <p>30 Nov 2020 11:50am Kerr, Katrina Commenced drafting report to Council.</p> <p>13 Apr 2021 9:28am Bates, Kelly Item 1 - Commenced drafting report to Council.</p> <p>10 Aug 2021 9:30am Bates, Kelly - Target Date Revision Target date changed as a result of current resources and competing priorities.</p> <p>31 Jan 2022 1:38pm Benson, Nicole Resources now allow for this task to be completed. Work on the matter is scheduled to recommence in March 2022.</p> <p>02 May 2022 12:59pm Awal, Rabiul - Target Date Revision Will be updated as per the consultation with the Development team.</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE46/2020	Ordinary Council 9/12/2020	Mewing, Jenny	Planning and Environment	18 2020 4 - Planning Proposal to Rezone Part of Lot 10 DP 1085485, known as 261 Averys Lane Buchanan	11/08/2022	
1520 MOTION 1520 RESOLVED	Moved:	Mickleson, Peter Councillor Doherty	Seconded:	Councillor Gray		
<ol style="list-style-type: none"> That Council requests a Gateway determination for the Planning Proposal to rezone part of Lot 10 DP 1085485, from RU2 Rural Landscape Zone to R2 Low Density Residential Zone and amend the minimum lot size, to the NSW Department of Planning, Industry and Environment pursuant to the <i>Environmental Planning and Assessment Act 1979</i>. That Council requests authorisation under Section 3.31 of the <i>Environmental Planning and Assessment Act 1979</i> to act as the local plan-making authority to make the Local Environmental Plan. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination. That Council receives a report back on the Planning Proposal if unresolved written objections are received during consultation with the community, otherwise, forwards the Planning Proposal to the Department of Planning, Industry and Environment requesting that the Plan be made. 						

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14 Dec 2020 2:22pm Gambotto, Daniela

Commencing resolved actions.

14 Dec 2020 2:24pm Gambotto, Daniela - Target Date Revision

Revised Target Date changed by: Gambotto, Daniela From: 6 Jan 2021 To: 31 Mar 2021, Reason: DPIE administrative process.

18 Jan 2021 2:44pm Gambotto, Daniela - Target Date Revision

Revised Target Date changed by: Gambotto, Daniela From: 31 Mar 2021 To: 31 Mar 2021, Reason: Planning Proposal sent to DPIE for Gateway Determination on 23/12/21.

04 Mar 2021 11:40am Brown, Keren - Target Date Revision

Target date changed by Brown, Keren from 31 March 2021 to 01 November 2021 - Target date revised to reflect anticipated gateway timeframe

04 Mar 2021 11:46am Gambotto, Daniela

Recommendations 1 and 2 complete. Recommendations 3 and 4 pending subject to Gateway Determination being issued by DPIE.

31 May 2021 2:27pm Gambotto, Daniela - Target Date Revision

Target date changed by Gambotto, Daniela from 01 November 2021 to 17 May 2022 - DPIE requested further information and resubmittal of planning proposal. 12 month deadline to resubmit.

30 Jun 2021 7:46am Brown, Keren - Target Date Revision

Target date changed by Brown, Keren from 17 May 2022 to 17 May 2022 - Resolution 1 and 2 complete. DPIE requested further information. Resolution 3 cannot be completed until the additional information is provided by the proponent.

28 Oct 2021 11:42am Brown, Keren

Additional information provided by the proponent. Additional information currently being reviewed.

27 Jan 2022 11:20am Brown, Keren

Further additional information provided in December. Currently undertaking internal referrals.

22 Feb 2022 12:39pm Mewing, Jenny

Meeting to be scheduled with Proponent to discuss future progress of proposal based on outcomes of review of investigative studies.

23 Mar 2022 3:53pm Mewing, Jenny

Meeting held with applicant 9 March 2022. Biodiversity Consultation Division of DP&E to be consulted prior to further progression of proposal. , Referral sent to BCD 15 March 2022

30 Mar 2022 1:31pm Brown, Keren - Target Date Revision

Target date changed by Brown, Keren from 17 May 2022 to 11 August 2022 - Meeting held with applicant 9 March 2022. Biodiversity Consultation Division of DP&E to be consulted prior to further progression of proposal. , Referral sent to BCD 15 March 2022

29 Apr 2022 8:23am Mewing, Jenny

BCD advice indicates additional work required prior to revised Gateway Determination request being made to DPE. This request must be submitted by 17 May 2022.

23 May 2022 8:22am Mewing, Jenny

Additional biodiversity reporting completed. Referred to DP&E seeking Gateway Determination on 13 May 2022.

21 Jun 2022 8:11am Mewing, Jenny

Awaiting Gateway Determination

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
W12/2021	Ordinary Council 17/02/2021	Waghorn, Peter	Works and Infrastructure	Sale of Land to Bellbird Bowling Club	30/12/2022	
1571 MOTION 1571 RESOLVED	Moved:	Allan, Darrylen Councillor Dunn	Seconded:	Councillor Fitzgibbon		
1.	That Council authorises the General Manager to undertake the process to reclassify the seven metre strip of land along the southern boundary of the Bellbird Park Bowling Club from Community to Operational.					

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2. That Council agrees to sell the subject parcel of land once reclassified to Bellbird Park Bowling Club at the nominal cost of one dollar (\$1.00) provided the Bellbird Park Bowling Club fund associated costs for the land transfer.
3. That Council authorises the General Manager to execute documents related to the reclassification and transfer of land between Cessnock City Council and the Bellbird Park Bowling Club.

04 Mar 2021 11:58am Benson, Nicole - Reallocation

Action reassigned to Rathborne, Michael by Benson, Nicole - Michael please commence the actions as per the resolution. Liaise with my team if required. Thanks

24 Mar 2021 4:49pm Keegan, Robyn - Target Date Revision

Target date changed by Keegan, Robyn from 17 March 2021 to 30 June 2021 - Information sent to surveyor for the club to prepare and lodge forms,

29 Mar 2021 4:04pm Rathborne, Michael - Target Date Revision

Target date changed by Rathborne, Michael from 30 June 2021 to 30 August 2021 - Surveyor preparing documents for registration.

28 Apr 2021 10:33am Rathborne, Michael - Target Date Revision

Target date changed by Rathborne, Michael from 30 June 2021 to 30 September 2021 - Pending survey and documentation being prepared by surveyor.

25 Jun 2021 12:30pm Keegan, Robyn - Target Date Revision

Target date changed by Keegan, Robyn from 30 September 2021 to 31 December 2021 - Bellbird Park Bowling Club has taken responsibility for survey registration. Further work by Council Property Services to effect the transfer of land is deferred pending Strategic Property obtaining Council approval for a site-specific planning proposal to reclassify the land.

02 Sep 2021 3:11pm Keegan, Robyn - Target Date Revision

Target date changed by Keegan, Robyn from 31 December 2021 to 31 December 2021 - Peter Waghorn advised that there is no further update.

26 Oct 2021 2:19pm Keegan, Robyn - Target Date Revision

Target date changed by Keegan, Robyn from 31 December 2021 to 21 January 2022 - Advised by Chief Financial & Administration Officer no update was available but will investigate.

25 Jan 2022 10:12am Waghorn, Peter

In accordance with the resolution, Bellbird Park Bowling Club management are responsible for organising and registering the survey of land to be acquired but are yet to do so. A registered plan and reclassification of the land are required before the land transfer can be transacted.

29 Mar 2022 7:55am Boughton-Ingham, Petra

28 Mar 2022 Peter Waghorn, [Confidential]: BPBC's Secretary Manager was contacted with an offer of assistance and advised that the club had not sought quotes for land survey work to date due to their financial situation. As the cost of a partial survey is not anticipated to be high, Council Officers contacted a local surveyor on the club's behalf and was told that the previous Board had engaged Marshall Scott Surveyors to prepare a plan and the draft was sent to the club last year. MSS is following up directly with club management.

12 Apr 2022 10:21am Keegan, Robyn - Target Date Revision

Target date changed by Keegan, Robyn from 21 January 2022 to 15 June 2022 - The Bellbird Park Bowling Club Secretary Manager was contacted with an offer of assistance and advised that the club had not sought quotes for land survey work due to a recent change of voluntary board membership. Council Officers contacted a local surveyor on the club's behalf and were advised that the previous Board had engaged Marshall Scott Surveyors to prepare a plan and the draft was sent to the club last year. Principal of Marshall Scott Surveyors is following up with the new club management directly.

28 Apr 2022 3:32pm Waghorn, Peter

Mark Scott of Marshall Scott Surveyors is still following up with the new club Secretary Manager regarding a survey plan previously prepared and sent to the Club in draft for their review.

26 May 2022 9:22am Waghorn, Peter

Bellbird Park Bowling Club officials have confirmed that Marshall Scott Surveyors were engaged by the previous Board to prepare a plan of acquisition. Once the draft plan is provided to Council for review and verification, the process to reclassify the identified portion of Bellbird Park can be commenced. Transfer of the land to the Club can only be effected on gazettal of the reclassification.

26 May 2022 9:50am Waghorn, Peter - Target Date Revision

Target date changed by Waghorn, Peter from 15 June 2022 to 30 December 2022 - The planning proposal to amend the LEP and reclassify a portion of Bellbird Park is a lengthy process and yet to be commenced. Transferring ownership to the Club is deferred pending gazettal of the land reclassification for Community to Operational land.

30 Jun 2022 3:12pm Waghorn, Peter

An LEP amendment request to reclassify the portion of Bellbird Park the Club requires has been scheduled with Strategic Planning.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
WI56/2021	Ordinary Council 21/07/2021	Goodbun, Nathan	Works and Infrastructure	Cessnock CBD Bypasses - Reprioritisation of Operational Plan 2021-22	18/08/2022	
1766		Moloney, David				

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MOTION 1766 RESOLVED	Moved:	Councillor Suvaal	Seconded:	Councillor Dunn
<p>1. That Council notes the availability of \$132,000 of repealed development contributions to part fund preparation of the Concept Plan for the Cessnock CBD Bypasses;</p> <p>2. That Council notes in Report W147/2021 that Council will be seeking grant opportunities to fund concept plans for the northern and southern Cessnock CBD Bypass;</p> <p>3. That Council brings forward the review of the Cessnock LGA Traffic and Transport Strategy and Concept Plan for the Cessnock CBD Bypasses by including it in the Operational Plan 2021/22 with funding allocated as outlined in point 4;</p> <p>4. That Council allocates funding (if grant opportunities are not available as noted in point 2) by using \$132,000 of repealed developer contributions, and \$793,000 from the profits from the sale of stage 8 of Vineyard Grove Estate and 62-76 Cessnock Street, Aberdare.</p> <p>5. That Council endorses investigation and liaison into suitability of the Austar / South Maitland Railways railway corridor for the City's future transport needs.</p> <p>03 Sep 2021 8:57am Cocking, Tracey Item 1 - Noted, Item 2 - Noted, Item 3 - Recorded request for review of Strategy and preparation of Concept Plan for inclusion in future 1/4ly review., Item 4 - Recorded request to allocation funding of \$132,000 and \$793,000 for inclusion in future 1/4ly review., Item 5 - Drafted letter to invite liaison.</p> <p>20 Oct 2021 2:00pm Cocking, Tracey Item 3 - Listed for inclusion in future 1/4ly review and reviewing position description for recruitment of Project Manager., item 4 - Recorded request to allocate funding of \$132,000 and \$793,000 for inclusion in future 1/4ly review., Item 5 - Conducted preliminary discussions with Manager South Maitland Railways (SMR) and was advised that for them it is business as usual with no intention to close the track at this stage and that should SMR make the business decision to close or partially close the mine CCC will be immediately consulted and extensive stake holder consultation would ensue in the development of any significant proposals for changes in the use of the corridor. See DOC2021/134756.</p> <p>04 Feb 2022 12:45pm Cocking, Tracey Item 1 - CBD bypasses are a deliverable component of the Traffic and Transport Strategy., Item 3 - RFQ released via government procurement (Vendor Panel), RFQ period closes 11/02/2022., Item 5 - Strategic Property matter.</p> <p>22 Feb 2022 11:43am Cocking, Tracey Item 3 - Received 1 proposal in response to RFQ for development of Cessnock LGA Traffic and Transport Strategy, evaluation panel to meet 25 February 2022., Item 5 - Strategic Property matter.</p> <p>02 May 2022 3:45pm Cocking, Tracey Item 3 - Awarded development of the new Cessnock LGA Traffic and Transport Strategy., Item 5 - Reassigned this item to Strategic Property for action.</p> <p>05 May 2022 2:02pm Cocking, Tracey - Reallocation Action reassigned to Brown, Keren by Cocking, Tracey</p> <p>19 May 2022 10:34am Brown, Keren - Reallocation Action reassigned to Goodbun, Nathan by Brown, Keren</p> <p>01 Jun 2022 11:57am Cocking, Tracey Item 5 - Held meeting with Strategic Planning on 12 May 2022, additional planning is ongoing.</p> <p>29 Jun 2022 3:38pm Cocking, Tracey Item 5 - Preparation for additional mapping layer underway.</p>				

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
W162/2021	Ordinary Council 21/07/2021	Townsend, Phillip	Works and Infrastructure	Minutes of the Floodplain Management Committee Meeting held 2 June 2021	13/07/2022	
1772 MOTION 1772 RESOLVED	Moved:	Moloney, David Councillor Doherty	Seconded:	Councillor Gray		
<p>1. That the Minutes of the Floodplain Management Committee of 2 June 2021 be adopted as a resolution of the Ordinary Council.</p> <p>2. FLOCLM11/2021</p>						

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	(i) That the General Manager writes on behalf of Council to the Hunter Joint Organisation seeking support for a pricing review of the NSW Stormwater Levy.
	(ii) That the General Manager writes on behalf of Council to the Floodplain Management Association seeking advocacy on a pricing review for the NSW Stormwater Levy.
	(iii) That Council submits a motion to the Local Government NSW Conference seeking an increase in the NSW Stormwater Levy.
3.	FLOCLM13/2021
	(i) That Council adopts the Cessnock City Wide Flood Study.
	(ii) That the General Manager updates relevant flood mapping and associated property notifications for flood related development controls, planning certificates and flood certificates.
	(iii) That Council applies for a Floodplain Management grant in 2022 for an overland flood study to replace the Cessnock City Wide Flood Study in urban catchments.
4.	FLOCLM15/2021
	(i) That Council investigates flood marker signage requirements for bridges and culverts.
	(ii) That Council allocates \$50,000 (from the Strategic Asset Planning budget) in 2021-2022 to identify and prioritise the location of new flood marker signs.
	(iii) That the Committee receives a report on the outcomes of the consultancy.
5.	FLOCLM16/2021
	(i) That Council starts the recruitment process for a new Floodplain Management Committee following the September 2021 Council Elections.
	(ii) That Council notes the Floodplain Management Committee meetings of 1 September and 1 December 2021 be rescheduled to a single meeting on 3 November 2021.
	(iii) That Council recognise the community members of the Floodplain Management Committee for commitment, knowledge and skills brought to the Committee.
30 Jul 2021 11:58am O'Hara, Rachael	
Item 1 - Noted, Item 2 - FLOCLM11/2021, (i) Drafted letter., (ii) Drafted letter., (iii) Prepared memo., Item 3 - FLOCLM13/2021, (i) Adopted Study., (ii) Updated flood mapping., (iii) Preparing for a Floodplain Management grant in 2022 for an overland flood study to replace the Cessnock City Wide Flood Study in urban catchments., Item 4 - FLOCLM15/2021, (i) Investigating flood marker signage requirements for bridges and culverts., (ii) Allocated funding., (iii) Drafted a report., Item 5 - FLOCLM16/2021, (i) Consulted Governance., (ii) Rescheduled meeting to 3 November 2021., (iii) Noted	
10 Sep 2021 2:44pm O'Hara, Rachael	
Item 2 - FLOCLM11/2021, (i) Progressed letter., (ii) Progressed letter., (iii) Internal memo sent., Item 3 - FLOCLM13/2021, (iii) Preparing for a Floodplain Management grant in 2022 for an overland flood study to replace the Cessnock City Wide Flood Study in urban catchments., Item 4 - FLOCLM15/2021, (i) Investigating flood marker signage requirements for bridges and culverts., (iii) Drafted a report.	
28 Sep 2021 11:59am Conner, Martin	
Item 2 - FLOCLM11/2021 (i) Sent letter 28.09.21 (DOC2021/138456); (ii) Drafted letter (DOC2021/034613); (iii) Prepared motion and obtained approval to submit (DOC2021/139099), Item 3 - FLOCLM13/2021 (iii) Preparing for a Floodplain Management Grant in 2022 for an overland flood study to replace the Cessnock City Wide Flood Study in urban locations., Item 4 - FLOCLM15/2021 (i) Preparing RFQ to investigate flood marker signage requirements, (ii) Added to log of proposed changes for Q1 budget review; (iii) Undertake action following completion of consultancy (i), Item 5 - FLOCLM16/2021 (i) Deferred action until after December 2021 council elections; (ii) Extraordinary FMC meeting scheduled for 20.10.21 to align with Council ordinary meeting schedule.	
27 Oct 2021 3:31pm Conner, Martin	
Item 2 - FLOCLM11/2021 (ii) Drafted letter (DOC2021/034613); (iii) Motion submitted 29.09.21 (DOC2021/139099), Item 3 - FLOCLM13/2021 (iii) Preparing for a Floodplain Management Grant in 2022 for an overland flood study to replace the Cessnock City Wide Flood Study in urban locations., Item 4 - FLOCLM15/2021 (i) Preparing documentation to investigate flood marker signage requirements, (ii) Added to log of proposed changes for Q1 budget review; (iii) Undertake action following completion of investigation (i), Item 5 - FLOCLM16/2021 (i) Deferred action until after December 2021 council elections; (ii) Deferred November 2021 meeting to 2022 due to December 2021 elections.	

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01 Feb 2022 9:34am O'Hara, Rachael

Item 2 - FLOCLM11/2021 (ii) Letter sent; (iii) Motion submitted, Item 3 - FLOCLM13/2021 (iii) Preparing for a Floodplain Management Grant in 2022 for an overland flood study to replace the Cessnock City Wide Flood Study in urban locations., Item 4 - FLOCLM15/2021 (i) Undertaking field investigation of road creek crossings in LGA. (ii) Funding no longer required. (iii) Undertake action following completion of investigation (i)., Item 5 - FLOCLM16/2021 (i) Preparing recruitment process for new Committee.

22 Feb 2022 11:13am O'Hara, Rachael

Item 3 - FLOCLM13/2021 (iii) Preparing for a Floodplain Management Grant in 2022 for an overland flood study to replace the Cessnock City Wide Flood Study in urban locations., Item 4 - FLOCLM15/2021 (i) Undertaking field investigation of road creek crossings in LGA. (ii) Funding no longer required. (iii) Undertake action following completion of investigation (i)., Item 5 - FLOCLM16/2021 (i) Prepared media release and advertisement for publication.

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W172/2021	Ordinary Council 22/09/2021	Goodbun, Nathan	Works and Infrastructure	Minutes of the Cessnock Local Traffic Committee Meeting held 16 August 2021	20/10/2022	
1829 MOTION 1829 RESOLVED	Moved:	Moloney, David Councillor Doherty	Seconded:	Councillor Suvaal		
That the Minutes of the Cessnock Local Traffic Committee Meeting of 16 August 2021 be adopted as a resolution of the Ordinary Council.						
1.	TC35/2021 - That Council authorises the temporary regulation of traffic for the Winery Running Festival on Lovedale Road, Wilderness Road, and Talga Road, Lovedale in accordance with Various Roads Lovedale _ Winery Running Festival TCP's.					
2.	TC36/2021 - That Council notes that the Broke & McDonalds Road, Pokolbin temporary regulation of traffic for the Grapevine Gathering / Red Hot Summer event has been withdrawn.					
3.	TC37/2021 - That Council authorises the installation of regulatory parking signage and line marking on the unnamed road off Frame Drive, Abermain, in accordance with the enclosed Frame Drive Abermain _ Signage & Line Marking Diagram.					
4.	TC38/2021 - That Council authorises installation of regulatory parking and intersection controls on various roads within Huntlee, in accordance with various updated Roads Huntlee - Signage & Line Marking Diagrams.					
5.	TC39/2021 - That Council authorises the installation of signage and line marking for a Channelised Right Turn (Short) treatment at the intersection of Wollombi Road and Abbottsford Street Bellbird, in accordance with the enclosed Wollombi Road Bellbird _ Signage & Line Marking Diagrams.					
27 Oct 2021 2:36pm Cocking, Tracey						
Item 1 - Withdrawn by applicant, Item 2 - Withdrawn by applicant, Item 3 - Pending correction of submitted drawings, Item 4 - Pending correction of submitted drawings, Item 5 - Pending detailed design.						
04 Jan 2022 11:59am Cocking, Tracey						
Item 3 - Pending correction of submitted drawings, Item 4 - Pending correction of submitted drawings, Item 5 - Pending detailed design.						
04 Feb 2022 12:00pm Cocking, Tracey						
Item 3 - Pending correction of submitted drawings, Item 4 - Pending correction of submitted drawings, Item 5 - Pending detailed design.						
11 Mar 2022 2:11pm Cocking, Tracey						
Item 3 - Advised Development Services., Item 4 - Preparation of updated diagrams to be supplied to Developer as per LTC requirements., Item 5 - Currently on hold pending Traffic Signals.						
05 May 2022 1:58pm Cocking, Tracey						
Item 4 - Advised Developer of modifications., Item 5 - Currently on hold pending traffic Signals.						
01 Jun 2022 11:56am Cocking, Tracey						
Item 5 - Pending information regarding traffic signals.						
29 Jun 2022 3:32pm Cocking, Tracey						
Item 5 - Pending information regarding traffic signals.						

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W173/2021	Ordinary Council 20/10/2021	Jeffery, Warren	Works and Infrastructure	Kerlew Street, Nulkaba - Cessnock Correctional Centre Access	16/02/2023	
1846 MOTION 1846 RESOLVED	Moved:	Moloney, David Councillor Suvaal	Seconded:	Councillor Burke		
<p>1. That Council notes the outcome of the community consultation regarding the proposed final design option for the upgrade of the intersection of Kerlew and Occident Streets, Nulkaba.</p> <p>2. That Council approves Option 3 as the final design for Occident/Kerlew St intersection and a report be prepared for the Cessnock Local Traffic Committee for design.</p> <p>3. That Council allocates an addition \$219,000 from the Civil Works reserve for the construction of the intersection of Kerlew and Occident Streets, Nulkaba.</p> <p>4. That Council engages with the Nulkaba community prior to finalising the detailed design of the intersection at Kerlew and Occident Streets Nulkaba.</p> <p>5. That a report be presented to Council six months after the construction of the new entrance outlining any issues that have been raised with Council following completion of this project, and include any possible options and estimated costs to mitigate against the ongoing occurrence of these issues in the future.</p> <p>6. That the General Manager investigate the renaming of part of Kerlew Street, from Occident Street to Wine Country Drive, and that a report come back to Council on the outcomes of the investigation. That the General Manager also undertake any actions that may be required to improve wayfinding technologies following the completion of the new intersection.</p> <p>26 Oct 2021 12:59pm Meyers, Kristy Investigations commenced.</p> <p>27 Oct 2021 2:01pm Cocking, Tracey Item 1 - Noted, Item 2 - Procurement of design pending - final/detailed design subject to LTC process, Item 3 - Noted, Item 4 - Noted, Item 5 - Noted, Item 6 - Noted for referral to Road Principal Engineer - Roads Infrastructure.</p> <p>04 Feb 2022 12:51pm Cocking, Tracey Item 2 - Selected intersection treatment option advertised under Section 116 of the Roads Act 1993 with a 28 day public submission period which closed 15/12/2021. 2 submissions were received and forwarded to TfNSW as required by Section 116 of the Act. Consent for selected treatment will be sort from TfNSW at the Local Traffic Committee meeting of 21/2/2022. Project Manager has been appointed to this Project. , Item 5 - In abeyance contingent on consent of the treatment from TfNSW.</p> <p>22 Feb 2022 11:51am Cocking, Tracey Item 2 - Deferred pending outcome from TfNSW., Item 5 - In abeyance contingent on consent of the treatment from TfNSW.</p> <p>02 May 2022 3:57pm Cocking, Tracey Item 2 - Presented report to April Ordinary Council meeting advising TfNSW refusal of consent., Item 5 - In abeyance contingent on consent of the treatment from TfNSW.</p> <p>03 Jun 2022 3:25pm Cocking, Tracey Item 5 - In abeyance contingent on consent of the treatment from TfNSW.</p> <p>29 Jun 2022 4:22pm Cocking, Tracey Item 5 - In abeyance contingent on consent of the treatment from TfNSW.</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE52/2021	Ordinary Council 20/10/2021	Corken, Robert	Planning and Environment	Planning proposal to rezone land at Gingers Lane, Sawyers Gully	17/11/2022	
MOTION	Moved:	Mickleson, Peter Councillor Sander	Seconded:	Councillor Gray		

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RESOLVED

1. That Council supports the planning proposal as submitted to rezone land at Gingers Lane, Sawyers Gully.
2. That Council requests a Gateway determination for the Gingers Lane Planning Proposal –from the Department of Planning, Industry and Environment pursuant to the Environmental Planning and Assessment Act 1979.
3. That Council requests authorisation under Section 3.31 of the Environmental Planning and Assessment Act 1979 to act as the local plan-making authority to make the Local Environmental Plan.
4. Council note the general consistency of the Gingers Lane Planning Proposal with the UGMP Principles and the high level and subjective nature of the UGMP which enables specific planning proposals to be assessed on their merits.
5. That an investigation area wide structure plan be developed and approved by Council prior the rezoning of the Gingers Lane Planning Proposal site.

28 Oct 2021 2:14pm Corken, Robert - Target Date Revision

Target date changed by Corken, Robert from 17 November 2021 to 17 November 2022 - Will be referred to Department of Planning, Industry and Environment for Gateway Determination.

27 Jan 2022 3:19pm Corken, Robert

Planning proposal has been forward to the Department of Planning. Council is waiting for the Gateway Determination.

24 Jun 2022 11:06am Corken, Robert

Still waiting for Gateway Determination.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE55/2021	Ordinary Council 20/10/2021	Rush, Iain	Planning and Environment	Planning Proposal 18/2020/3/1 - Comprehensive LEP Review - Recreation Zones	30/12/2022	
1853 MOTION 1853 RESOLVED	Moved:	Mickleson, Peter Councillor Fitzgibbon	Seconded:	Councillor Burke		
<ol style="list-style-type: none"> 1. That Council requests a Gateway determination for the Recreation Planning Proposal from the NSW Department of Planning, Industry and Environment pursuant to the <i>Environmental Planning and Assessment Act 1979</i>. 2. That Council requests authorisation under Section 3.31 of the <i>Environmental Planning and Assessment Act 1979</i> to act as the local plan-making authority to make the Local Environmental Plan. 3. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination. 4. That Council receives a report back on the Planning Proposal with the outcomes of the consultation with public authorities and the community. 						
<p>28 Oct 2021 12:52pm Rush, Iain - Target Date Revision</p> <p>Target date changed by Rush, Iain from 17 November 2021 to 30 December 2022 - Currently preparing Planning Proposal to be submitted to the Department of Planning, Industry and Environment (DPIE) for Gateway determination. Target date for project will be further reviewed/updated to reflect timeframe specified in the conditions of the Gateway determination by DPIE.</p> <p>25 Jan 2022 8:57am Rush, Iain</p> <p>Planning Proposal forwarded to the Department of Planning, Industry and Environment for Gateway determination on 1 November 2021. Awaiting outcome of Gateway determination.</p> <p>23 Feb 2022 9:34am Rush, Iain</p> <p>Gateway determination issued by the Department of Planning and Environment for the Planning Proposal on 30 March 2022.</p>						

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11 Apr 2022 12:48pm Rush, Iain

Gateway determination issued by the Department of Planning and Environment for the Planning Proposal on 30 March 2022. Agency consultation commenced for 30 days on 5 April 2022 in accordance with the Gateway determination.

21 Jun 2022 3:50pm Rush, Iain

Public exhibition of the Planning Proposal commenced on 16 June 2022 and will cease on 20 July 2022.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE56/2021	Ordinary Council 20/10/2021	Rush, Iain	Planning and Environment	Local Environmental Plan Optional Clause 5.22 - Special Flood Considerations	30/12/2022	
1854 MOTION 1854 RESOLVED	Moved:	Mickleson, Peter Councillor Doherty	Seconded:	Councillor Suvaal		
1.	That Council advises the Department of Planning, Industry and Environment that it would like to ‘opt in’ to optional clause 5.22 of the Standard Instrument (Local Environmental Plans) Order 2006.					
2.	That Council pursuant to clause 18 of the Environmental Planning and Assessment Regulation 2000, exhibits the proposed amendments to the Flood Prone Land Development Control Plan Chapter for a period of 28 days.					
3.	That Council receives a further report following public exhibition of the Flood Prone Land Development Control Plan Chapter.					
25 Oct 2021 2:36pm Rush, Iain The Department of Planning, Industry and Environment were notified of Council's resolution regarding Optional Clause 5.22, Special Flood Considerations, on 25 October 2021. This satisfies Item 1 of the Council resolution.						
28 Oct 2021 12:47pm Rush, Iain - Target Date Revision Target date changed by Rush, Iain from 17 November 2021 to 30 March 2022 - The Department of Planning, Industry and Environment were notified of Council's resolution regarding Optional Clause 5.22, Special Flood Considerations, on 25 October 2021. This satisfies Item 1 of the Council resolution. Exhibition of Draft Flood Prone Land DCP scheduled to commence on 3 November 2021. Exhibition to end on 1 December 2021. DCP to be reported back to Council for adoption in the new year.						
25 Jan 2022 9:00am Rush, Iain Department of Planning, Industry and Environment advised on 25 October 2021 of Council's resolution to 'opt in' to optional clause. The Draft Flood Prone Land chapter of the Cessnock DCP was placed on public exhibition for 28 days and no submissions were received. The DCP chapter is scheduled to be reported to Council for adoption at its meeting on 16 February 2022.						
23 Feb 2022 9:35am Rush, Iain Department of Planning, Industry and Environment advised on 25 October 2021 of Council's resolution to 'opt in' to optional clause. The Draft Flood Prone Land chapter was adopted by Council on 16 February 2022. Currently preparing the document for publication on Council's website.						
31 Mar 2022 10:31am Rush, Iain DPE is conducting public consultation on behalf of all councils In relation to optional cl.5.22, Special Flood Considerations. When this public consultation is complete, the outcomes will be provided to Council to help determine whether we would still like to opt into the optional clause. This matter will require a further Council report in the future.						
08 Apr 2022 12:16pm Blake, Yvonne - Target Date Revision Target date changed by Blake, Yvonne from 30 March 2022 to 30 April 2022 - Awaiting completion of public consultation by DPE.						
26 Apr 2022 3:12pm Rush, Iain - Target Date Revision Target date changed by Rush, Iain from 30 April 2022 to 30 June 2022 - Implementation of clause 5.22 of the LEP is being managed by the Department of Planning and Environment. Council is awaiting outcomes of the community consultation process that has/will be carried out by DPE.						
21 Jun 2022 3:49pm Rush, Iain - Target Date Revision Target date changed by Rush, Iain from 30 June 2022 to 30 December 2022 - Implementation of optional clause 5.22 of the LEP is being coordinated by the Department of Planning and Environment (DPE). Council has no control over this process. Council is awaiting the outcomes of the community consultation process that has/will be carried out by DPE.						

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Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE59/2021	Ordinary Council 17/11/2021	Brown, Keren	Planning and Environment	Planning Proposal 18/2021/3 Heritage Listing of Wills Hill Road	26/07/2022	
1879 MOTION 1879 RESOLVED	Moved:	Mickleson, Peter Councillor Suvaal	Seconded:	Councillor Fitzgibbon		
<p>1. That Council requests a Gateway determination for the Planning Proposal Heritage Listing of Wills Hill Road from the Department of Planning and Environment pursuant to the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>2. That Council requests authorisation under Section 3.31 of the Environmental Planning and Assessment Act 1979 to act as the local plan-making authority to make the Local Environmental Plan.</p> <p>3. That Council undertakes consultation with public authorities and the community as determined by the Department of Planning and Environment Gateway determination.</p> <p>4. That Council receives a report back on the Planning Proposal if unresolved written objections are received during consultation with the community; otherwise, forward the Planning Proposal to the Department of Planning and Environment requesting that the Plan be made.</p> <p>27 Jan 2022 11:05am Brown, Keren - Target Date Revision Target date changed by Brown, Keren from 15 December 2021 to 01 June 2022 - Waiting on Gateway determination from DPIE</p> <p>30 Mar 2022 1:17pm Brown, Keren Gateway determination issued., Agency consultation underway., Public exhibition to commence in April.</p> <p>27 Apr 2022 9:36am Brown, Keren Agency consultation undertaken with Office of Environment and Heritage. Response received. Proposal on public exhibition until 20 May.</p> <p>01 Jun 2022 9:20am Brown, Keren - Target Date Revision Target date changed by Brown, Keren from 01 June 2022 to 26 July 2022 - Public exhibition concluded on 20 May. Post exhibition report to be presented to Council.</p> <p>22 Jun 2022 1:21pm Brown, Keren Council report drafted for July Council meeting</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE53/2021	Ordinary Council 17/11/2021	Worthing, Alex	Deferred Business	Environmental Zoning Framework - Public exhibition outcomes and Planning Proposal 18/2021/6/1 - Environmental Zone Land Uses and Objectives	30/04/2023	
1884 MOTION 1884 RESOLVED	Moved:	Mickleson, Peter Councillor Doherty	Seconded:	Councillor Sander		
<p>1. That Council adopts the Environmental Zoning Framework as amended.</p> <p>2. That Council notifies in writing the persons who made a submission with regard to the draft framework, of Council's decision.</p> <p>3. That Council requests a Gateway determination for the Planning Proposal – Environmental Zone Land Uses and Local Objectives (18/2021/6/1) from the Department of Planning, Industry and Environment pursuant to the <i>Environmental Planning and Assessment Act 1979</i>.</p>						

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4. That Council requests authorisation under Section 3.31 of the *Environmental Planning and Assessment Act 1979* to act as the local plan-making authority to make the Local Environmental Plan.
5. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination.

25 Jan 2022 3:32pm Gambotto, Daniela

Planning Proposal sent to Department of Planning, Infrastructure and Environment lodged through the planning portal 14/12/2021. Request for further information received from DPIE 20/01/2022.

27 Jan 2022 9:20am Blake, Yvonne - Target Date Revision

Target date changed by Blake, Yvonne from 17 November 2021 to 28 February 2022 - Planning Proposal sent to Department of Planning, Infrastructure and Environment lodged through the planning portal 14/12/2021. Request for further information received from DPIE 20/01/2022.

22 Feb 2022 10:40am Gambotto, Daniela

Discussions with DPE ongoing. Submitting further information by mid March

22 Feb 2022 10:43am Gambotto, Daniela - Target Date Revision

Target date changed by Gambotto, Daniela from 28 February 2022 to 28 March 2022 - Collecting more data to submit to DPE in support of this PP.

24 Feb 2022 10:13am Brown, Keren - Target Date Revision

Target date changed by Brown, Keren from 28 March 2022 to 28 August 2022 - Waiting Gateway determination from DPE

26 Apr 2022 11:42am Blake, Yvonne - Target Date Revision

Target date changed by Blake, Yvonne from 28 August 2022 to 30 April 2023 - Awaiting Gateway determination to be issued.

26 Apr 2022 11:43am Blake, Yvonne - Reallocation

Action reassigned to Worthing, Alex by Blake, Yvonne - Daniela Gambotto has transferred to another department.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE60/2021	Ordinary Council 17/11/2021	Corken, Robert	Planning and Environment	Planning proposal to rezone land at 532 Main Road, Clifftleigh from RU2 Rural Landscape to R2 Low Density Residential.	15/12/2022	
1887 MOTION 1887 RESOLVED	Moved:	Mickleson, Peter Councillor Gray	Seconded:	Councillor Suvaal		
1.	That Council considers the planning proposal after Council’s adoption of the Heddon Greta - Clifftleigh Urban Corridor Master Plan.					
2.	That Council prioritise the preparation and completion of the “Heddon Greta – Clifftleigh Urban Corridor Master Plan”.					
3.	That a report comes back to the February 2022 meeting outlining the progress of the Master “Heddon Greta – Clifftleigh Urban Corridor Master Plan”.					
25 Jan 2022 4:24pm Corken, Robert - Target Date Revision						
Target date changed by Corken, Robert from 15 December 2021 to 15 December 2022 - Deferred pending the Main Road Corridor Study						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
BN30/2021	Ordinary Council 17/11/2021	Eveleigh, Nathan	Business With Notice	Cessnock Pool Disability Access Improvement and Solar Energy for Public Pools	20/07/2022	
1907 MOTION 1907 RESOLVED	Moved:	Moloney, David Councillor Fitzgibbon	Seconded:	Councillor Burke		

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1.	That the General Manager bring a report back to Council with options and costs on:- <input type="checkbox"/> Improving access from the disability carpark adjacent to the pool <input type="checkbox"/> Mounting solar lights on the two pillars at the front entrance of the pool
2.	The report include an update and timeframe on the installation of solar energy for the 3 pool complexes.
3.	That the General Manager investigates the feasibility of moving the historic archway from across the road that leads over the small bridge into the carpark being placed back at the disabled entrance to the pool.
<p>22 Feb 2022 12:39pm Eveleigh, Nathan Item 1: Disability access - to be reviewed following completion of Splash Pad. Disability access is still available to Cessnock Pool., Solar lighting - awaiting Heritage advice given the classification of the entry building. , Item 2: Installation of solar energy for the 3 pool complexes. Procurement for Branxton & Cessnock in progress., Item 3: Relocation of archway in Apex Park - Awaiting Heritage advice and seeking information around the Apex Masterplan to go on exhibition this week.</p> <p>22 Feb 2022 1:35pm Eveleigh, Nathan - Target Date Revision Target date changed by Eveleigh, Nathan from 16 March 2022 to 19 May 2022 - Subject to heritage advice and Apex Park Masterplan exhibition, a report will be prepared for Council for any works to be considered for funding as part of the 2022/23 works program (where permissible).</p> <p>27 Apr 2022 11:28am Eveleigh, Nathan Heritage advice received. Apex Park MP on public exhibition and archway relocation noted. Seeking solar installation costings and then report can be prepared for Council consideration.</p> <p>27 Apr 2022 11:29am Eveleigh, Nathan - Target Date Revision Target date changed by Eveleigh, Nathan from 19 May 2022 to 20 July 2022</p> <p>03 Jun 2022 12:15pm Eveleigh, Nathan 30kW solar system currently being installed. Report to be drafted.</p>	

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
GMU4/2022	Ordinary Council 16/02/2022	Chadwick, Tony	General Manager's Unit	Proposed Apex Park Gateway Site Vision	3/09/2022	
20 MOTION	Moved:	Maginnity, Robert Councillor Sander	Seconded:	Councillor Moores		
20 RESOLVED						
1.	That Council endorses the concept of turning Apex Park into an iconic gateway site.					
2.	That Council places the Concept Masterplan on public exhibition for a minimum period of 28 days and invite public submissions.					
3.	That this report be returned to Council for endorsement at the completion of public exhibition.					
25 Feb 2022 3:42pm Chadwick, Tony 1. That Council endorses the concept of turning Apex Park into an iconic gateway site. No action required., 2. That Council places the Concept Masterplan on public exhibition for a minimum period of 28 days and invite public submissions. The Public exhibition period ran from 1 - 28 March 2022., 3. That this report be returned to Council for endorsement at the completion of public exhibition. The draft Masterplan will be reviewed using community feedback. A report will be returned to Council once the design has been reviewed.						
14 Mar 2022 2:36pm Chadwick, Tony - Target Date Revision Target date changed by Chadwick, Tony from 16 March 2022 to 18 May 2022 - The design will require amendment following community feedback. Once the design is revised the Council Report can be developed for May 2022.						
03 May 2022 3:37pm Chadwick, Tony - Target Date Revision Target date changed by Chadwick, Tony from 18 May 2022 to 03 September 2022 - The Masterplan amendments will occur in the 2022/2023 financial year due to budget availability.						

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Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE4/2022	Ordinary Council 16/02/2022	Corken, Robert	Planning and Environment	18 2020 5 - Planning Proposal to Grant a Dwelling Entitlement for Lot 686 DP 619758, Known as 0 Black Hill Road, Black Hill	30/06/2023	
25 MOTION 25 RESOLVED	Moved:	Mickleson, Peter Councillor Dunn	Seconded:	Councillor Burke		
<p>1. That Council requests a Gateway determination for the Planning Proposal – Dwelling Entitlement for Lot 686 DP619758 from the Department of Planning and Environment pursuant to the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>2. That Council requests authorisation under Section 3.31 of the <i>Environmental Planning and Assessment Act 1979</i> to act as the local plan-making authority to make the Local Environmental Plan.</p> <p>3. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination.</p> <p>4. That Council be provided with a report back on the Planning Proposal if unresolved written objections are received during consultation with the community; otherwise forward the Planning Proposal to the Department of Planning and Environment requesting that the Plan be made.</p> <p>23 Feb 2022 4:18pm Blake, Yvonne - Target Date Revision Target date changed by Blake, Yvonne from 16 March 2022 to 30 June 2022 - Resolved at Ordinary Council Meeting held 16 February 2022 to adopt the recommendation.</p> <p>24 Feb 2022 10:03am Brown, Keren Gateway determination requested from DPE on 23/2/22</p> <p>27 Apr 2022 10:43am Brown, Keren - Target Date Revision Target date changed by Brown, Keren from 30 June 2022 to 30 June 2023 - Waiting on Gateway determination</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
GMU7/2022	Ordinary Council 16/02/2022	Allan, Darrylen	General Manager's Unit	Consideration of Final Investigation Report - Code of Conduct Complaint	29/07/2022	
54 MOTION 54 RESOLVED	Moved:	Allan, Darrylen Councillor Sander	Seconded:	Councillor Hill		
<p>1. That the investigation report into the Code of Conduct matter concerning Councillor Olsen provided by separate confidential enclosure be received and noted.</p> <p>2. That the oral submission from Councillor Olsen addressing the investigators recommendation be received and noted.</p> <p>3. That Council adopt the recommendation made by the investigator in the investigation report.</p> <p>4. That Councillor Olsen be formally censured in accordance with Clause 440(g) of the Local Government Act for breaching Clauses 3.1 (a) and (c) and Clause 7.6(h) of the Cessnock City Council Code of Conduct and the matter be referred to the Office of Local Government for further action under the misconduct provisions of the Local Government Act.</p> <p>11 Apr 2022 4:49pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 16 March 2022 to 08 April 2022 - The matter has been referred to the Office of Local Government (OLG) as per the resolution. As at 11 April 2022, Council has not yet received any further information from the OLG in relation to this referral.</p>						

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11 Apr 2022 4:58pm Keegan, Robyn - Target Date Revision

Target date changed by Keegan, Robyn from 08 April 2022 to 20 May 2022 - Waiting on advice from OLG.

29 Apr 2022 10:37am Larsen, Robyn

As at 28 April 2022, Council has not yet received any further information from OLG in relation to this matter

01 Jun 2022 11:57am Keegan, Robyn - Target Date Revision

Target date changed by Keegan, Robyn from 20 May 2022 to 29 July 2022 - Further follow up email sent to OLG on 25 May 2022, as at 1 June 2022 no response has been received to the email.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE14/2022	Ordinary Council 16/03/2022	Mewing, Jenny	Planning and Environment	Draft Heddon Greta - Clifftleigh Urban Corridor Structure Plan	1/07/2022	
68 MOTION 68 RESOLVED	Moved:	Mickleson, Peter Councillor Hill	Seconded:	Councillor Hawkins		
<p>1. That Council places the draft Heddon Greta – Clifftleigh Urban Corridor Structure Plan on public exhibition for a minimum period of 28 days.</p> <p>2. That Council receives a further report following public exhibition of the draft Heddon Greta – Clifftleigh Urban Corridor Structure Plan.</p>						
<p>23 Mar 2022 3:57pm Mewing, Jenny Preparations being undertaken to commence community consultation between 4 April and 6 May 2022.</p> <p>30 Mar 2022 1:28pm Brown, Keren - Target Date Revision Target date changed by Brown, Keren from 13 April 2022 to 01 July 2022 - Public exhibition from 4 April to 6 May 2022. Three community consultation sessions scheduled.</p> <p>29 Apr 2022 8:24am Mewing, Jenny Consultation commenced 4 April 2022. Three community drop-in/information sessions have been held on 12, 21 and 26 April.</p> <p>23 May 2022 8:23am Mewing, Jenny Consultation/submission summary being prepared. , MR195 working group reconvened. First meeting held 12 May 2022</p> <p>21 Jun 2022 8:11am Mewing, Jenny Structure Plan being revised to report to Council in August</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
BN8/2022	Ordinary Council 16/03/2022	Awal, Rabiul	Business With Notice	Dry Creek Road Ellalong	27/07/2022	
87 MOTION 87 RESOLVED	Moved:	Moloney, David Councillor Dunn	Seconded:	Councillor Hawkins		
<p>1. That the General Manager prepare a report for the Road Review Committee with respect to the ownership and maintenance of the whole of Dry Creek Road Ellalong</p> <p>2. That the report consider;</p> <p>2.1 The current status of the entire length of the road.</p> <p>2.2 The current public use of the entire length of the road.</p> <p>2.3 The current engineering standard of both the council and crown owned parts of the road.</p> <p>2.4 Council's obligations with respect to triggers of transfer from crown, specifically but not limited to any DA's that fall in the zone of crown road.</p>						

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- 2.5 Any policies or schedules that relate to these types of roads.
 2.6 Options for a resolution to any issues that arise with regard to council's obligation to provide access to property and possible maintenance, including initial serviceability, addition to any schedules or programs, external sources of funding, and costing for any associated upgrades or repairs.

02 May 2022 12:50pm Awal, Rabiul - Target Date Revision
 Report being prepared for next Road Review Committee.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
BN9/2022	Ordinary Council 16/03/2022	Awal, Rabiul	Business With Notice	Bellamy Street Millfield	27/07/2022	
88 MOTION 88 RESOLVED	Moved:	Moloney, David Councillor Dunn	Seconded:	Councillor Hawkins		
<p>1. That the General Manager prepare a report for the Road Review Committee with respect to the maintenance of the Council owned portion of Bellamy Street Millfield.</p> <p>2. That the report consider;</p> <p>2.1 The current standard of both the maintained and un-maintained sections of the council owned portion of the road.</p> <p>2.2 The engineering standards of the road and obligations to land owners when the road was transferred from crown lands and upon issuing of occupation certificates.</p> <p>2.3 The current public use of the council owned portion of the road.</p> <p>2.4 The current maintenance schedule of the council owned portion of the road, and possible future plans to add the entirety of the council owned portion of the road to the maintenance schedule.</p> <p>2.5 Any other policies or schedules that relate to these types of roads.</p> <p>2.6 Options for a resolution to any issues that arise with regard to council's obligation to provide access to property and possible maintenance, including initial serviceability, addition to any schedules or programs, external sources of funding, and costing for any associated upgrades or repairs.</p> <p>2.7 What developments have been approved along Bellamy Street Millfield.</p>						
<p>02 May 2022 12:42pm Meyers, Kristy Report being prepared for next Roads Review Committee Meeting.</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
BN13/2022	Ordinary Council 16/03/2022	Allan, Darrylen	Business With Notice	Domestic Violence Strategies and Policies	29/07/2022	
92 MOTION 92 RESOLVED	Moved:	Allan, Darrylen Councillor Burke	Seconded:	Councillor Dunn		
<p>1) That the General Manager bring back a report to council outlining the following:</p> <p>a) What strategies and policies does council have relating to Domestic Violence for staff and within the community?</p> <p>b) Does Council have a Gender Equity strategy within Council? If not is there a plan for council to undertake one.</p> <p>c) What programs does council have or are involved in that support the community regarding Domestic Violence?</p>						

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d) What strategies does council have in place to support someone who is experiencing domestic violence in the community?
2) That the General Manager provide a report to the Strategic Property and Community Facilities Committee outlining:
a) What vacant land does Council have that could be identified to be used for support services involving Domestic Violence?
b) Any recent requests to Council from Domestic Violence support services requesting council assistance with obtaining land for their services.
c) What options are available to Council to work with Domestic Violence support services to provide land if requested?
<p>11 Apr 2022 4:53pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 13 April 2022 to 27 May 2022 - A report is being prepared for the 18 May 2022 Council meeting to address resolution 1. Resolution 2 will be an agenda item for the next Strategic Property and Community Facilities Committee.</p> <p>01 Jun 2022 11:56am Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 27 May 2022 to 29 July 2022 - Report on resolution 1 went to Council meeting on 18 May 2022 and was adopted. Resolution 2 is being progressed through the Strategic Property and Community Facilities Committee.</p>

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE22/2022	Ordinary Council 20/04/2022	Hyatt, Sarah	Planning and Environment	Development Application 8/2021/21939/1 Proposing a 336 lot subdivision to occur in 3 phases 33 Government Road, Cessnock	21/09/2022	
<p>PROCEDURAL MOTION</p> <p>Mickleson, Peter</p> <p>Moved: Councillor Hawkins</p> <p>Seconded: Councillor Jurd</p> <p>63</p> <p>RESOLVED</p> <p>That the report be deferred to the next available meeting to allow for further discussion between the applicant and Council staff.</p> <p>26 Apr 2022 11:04am Blake, Yvonne - Target Date Revision Target date changed by Blake, Yvonne from 18 May 2022 to 30 June 2022 - Report deferred to the next available meeting to allow for further discussion between the applicant and Council staff.</p> <p>27 Apr 2022 12:03pm Maher, Janine Correspondence issued to applicant on 26 April 2022 to invite the applicant to address outstanding issues, and attend a meeting with relevant Council staff to discuss outstanding matters. Awaiting a response from the applicant.</p> <p>08 Jun 2022 2:38pm Maher, Janine Meeting with applicant held on 17 May 2022 to discuss outstanding issues. Additional information and amended plans submitted on 5 and 8 June 2022. Currently under assessment by Council, and referred to relevant external authority (TfNSW) for comment.</p> <p>08 Jun 2022 2:41pm Maher, Janine - Target Date Revision Target date changed by Maher, Janine from 30 June 2022 to 17 August 2022 - Amended plans submitted and currently under assessment.</p> <p>29 Jun 2022 3:48pm Maher, Janine Amended plans submitted and currently under assessment.</p> <p>29 Jun 2022 3:48pm Maher, Janine - Target Date Revision Target date changed by Maher, Janine from 17 August 2022 to 21 September 2022 - Amended plans submitted and currently under assessment.</p>						

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Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
GMU10/2022	Ordinary Council 20/04/2022	Chadwick, Tony	General Manager's Unit	Expression of Interest T2022-03 Branxton RV Park	29/07/2022	
71 MOTION 71 RESOLVED	Moved:	Maginnity, Robert Councillor Sander	Seconded:	Councillor Burke		
<ol style="list-style-type: none"> That Council endorses Campervan & Motorhome Club of Australia LTD as the preferred applicant to manage Branxton RV Park subject to community consultation; That Council gives public notice of the Branxton RV Park Management proposal for a period of 28 days; That Council provides public notice of the intention to engage Campervan & Motorhome Club of Australia LTD as the Branxton RV Park Manager subject to consideration of submissions received; and That the General Manager negotiate a licence agreement for Branxton RV Park Management after considering the public submissions received. <p>03 May 2022 3:28pm Chadwick, Tony - Target Date Revision Target date changed by Chadwick, Tony from 18 May 2022 to 29 July 2022 - This allows time for community consultation and agreement negotiation.</p> <p>03 May 2022 3:29pm Chadwick, Tony Actions taken as follows: 1. That Council endorses Campervan & Motorhome Club of Australia LTD as the preferred applicant to manage Branxton RV Park subject to community consultation - Noted., 2. That Council gives public notice of the Branxton RV Park Management proposal for a period of 28 days - The public consultation period will be from 18 May to 15 June 2022., 3. That Council provides public notice of the intention to engage Campervan & Motorhome Club of Australia LTD as the Branxton RV Park Manager subject to consideration of submissions received - Achieved via website and paid advertisement., 4. That the General Manager negotiate a licence agreement for Branxton RV Park Management after considering the public submissions received - This will commence after 15 June 2022.</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE24/2022	Ordinary Council 20/04/2022	Rush, Iain	Planning and Environment	Draft Local Planning Framework for the Cessnock LGA Vineyards District	30/12/2022	
75 MOTION 75 RESOLVED	Moved:	Mickleson, Peter Councillor Burke	Seconded:	Councillor Grine		
<ol style="list-style-type: none"> That Council requests a Gateway determination in respect of the Cessnock Vineyards District Planning Proposal from the NSW Department of Planning and Environment, pursuant to the <i>Environmental Planning and Assessment Act 1979</i>. That Council requests authorisation under Section 3.31 of the <i>Environmental Planning and Assessment Act 1979</i> to act as the local plan-making authority to make the Local Environmental Plan. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination. That Council exhibits the Draft Cessnock Vineyards District Local Character Statement and Development Control Plan with the Planning Proposal. That Council receives a report back on the Planning Proposal and draft local planning framework, following public exhibition. <p>27 Apr 2022 12:10pm Rush, Iain - Target Date Revision Target date changed by Rush, Iain from 18 May 2022 to 30 December 2022 - Preparing documentation for submission to DPE for Gateway determination.</p>						

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21 Jun 2022 3:52pm Rush, Iain
 Planning Proposal submitted for Gateway determination on 10 May 2022. Currently reviewing quotations for 'Tourism Centre' Economic Feasibility Assessment.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE25/2022	Ordinary Council 20/04/2022	Worthing, Alex	Planning and Environment	Planning Proposal 18/2022/2 - Comprehensive LEP Review - Rural Zones	30/11/2022	
76 MOTION 76 RESOLVED	Moved:	Mickleson, Peter Councillor Burke	Seconded:	Councillor Grine		
1. That Council requests a Gateway determination for the RU2 Rural Landscape Zone, RU3 Forestry Zone and RU5 Village Zones Planning Proposal from the NSW Department of Planning and Environment pursuant to the <i>Environmental Planning and Assessment Act 1979</i> . 2. That Council requests authorisation under Section 3.31 of the <i>Environmental Planning and Assessment Act 1979</i> to act as the local plan-making authority to make the Local Environmental Plan. 3. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination. 4. That Council receives a report back on the Planning Proposal and draft local planning framework, following public exhibition.						
04 May 2022 10:54am Worthing, Alex - Target Date Revision Target date changed by Worthing, Alex from 18 May 2022 to 30 November 2022 - With DPIE awaiting Gateway						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE26/2022	Ordinary Council 20/04/2022	Corken, Robert	Planning and Environment	Planning Proposal 18/2020/3/1 - Comprehensive LEP Review - Special Purpose Zones	18/05/2023	
77 MOTION 77 RESOLVED	Moved:	Mickleson, Peter Councillor Burke	Seconded:	Councillor Grine		
1. That Council requests a gateway determination for the Special Purposes Planning Proposal from the NSW Department of Planning and Environment pursuant to the <i>Environmental Planning and Assessment Act 1979</i> . 2. That Council requests authorisation under Section 3.31 of the <i>Environmental Planning and Assessment Act 1979</i> to act as the local plan-making authority to make the Local Environmental Plan. 3. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination. 4. That Council receives a report back on the Planning Proposal and draft local planning framework, following public exhibition.						
27 Apr 2022 10:18am Brown, Keren - Target Date Revision Target date changed by Brown, Keren from 18 May 2022 to 18 May 2023 - Gateway determination requested from Department of Planning on 22 April 2022 24 Jun 2022 11:07am Corken, Robert Waiting for gateway determination.						

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Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE27/2022	Ordinary Council 20/04/2022	Corken, Robert	Planning and Environment	Employment Land Zone Reforms	1/07/2022	
78 MOTION 78 RESOLVED	Moved:	Mickleson, Peter Councillor Burke	Seconded:	Councillor Sander		
<ol style="list-style-type: none"> That Council notes the changes proposed by the Department of Planning and Environment's employment land-use zone reforms. That Council endorses the proposed changes to the Cessnock Local Environmental Plan 2011 be exhibited by the Department of Planning and Environment. That Council endorses the changes to the Cessnock Local Environmental Plan 2011 proceed, if no unresolvable submissions are received by the Department relating to the Cessnock Local Environmental Plan 2011 during the exhibition period. That Council receives an additional report outlining any unresolvable submissions if received by the Department relating to the Cessnock Local Environmental Plan 2011 during the exhibition period. <p> 26 Apr 2022 1:05pm Brown, Keren - Reallocation Action reassigned to Mewing, Jenny by Brown, Keren 27 Apr 2022 10:16am Brown, Keren - Target Date Revision Target date changed by Brown, Keren from 18 May 2022 to 01 July 2022 - Council resolution and response to land uses sent to Department of Planning on 27/4/22. 29 Apr 2022 8:25am Mewing, Jenny DPE advised of Council resolutions of 20 April 2022. DPE to undertake consultation but will provide standard wording and support material for Council to publish on its website. 23 May 2022 8:26am Mewing, Jenny Preparations for exhibition commenced. Awaiting confirmation of commencement date from DP&E 23 May 2022 8:43am Blake, Yvonne - Reallocation Action reassigned to Corken, Robert by Blake, Yvonne - Matter to be finalised by Senior Strategic Planner Rob Corken. </p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
CC24/2022	Ordinary Council 20/04/2022	Allan, Darrylen	Corporate and Community	Community & Cultural Precinct	25/06/2022	
82 MOTION 82 RESOLVED	Moved:	Allan, Darrylen Councillor Burke	Seconded:	Councillor Grine		
<ol style="list-style-type: none"> That Council receives the report and notes the information. That a workshop be held with Councillors to define the desired outcome with respect the potential development of a Community and Cultural Precinct surrounding the Cessnock Performing Arts Centre (CPAC). <p> 29 Apr 2022 10:38am Larsen, Robyn Councillor Workshop to discuss the Community and Cultural Precinct to be scheduled in May 2022. 01 Jun 2022 11:57am Keegan, Robyn - Target Date Revision </p>						

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Target date changed by Keegan, Robyn from 18 May 2022 to 25 June 2022 - Councillor workshop scheduled for 15 June 2022.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
WI15/2022	Ordinary Council 20/04/2022	Harris, Kate	Works and Infrastructure	Richmond Vale Rail Trail	31/07/2022	
93 MOTION 93 RESOLVED	Moved:	Moloney, David Councillor Grine	Seconded:	Councillor Hill		
<ol style="list-style-type: none"> That Council place the Richmond Vale Rail Trail – Stockrington to Kurri Kurri Review of Environmental Factors on Public Exhibition for a 6 week period and invite public submissions. That a report on the outcomes of the exhibition period be provided to Council prior to Council endorsing the Richmond Vale Rail Trail – Stockrington to Kurri Kurri Review of Environmental Factors. 						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
WI19/2022	Ordinary Council 20/04/2022	Jeffery, Warren	Works and Infrastructure	Kerlew Street, Nulkaba	22/09/2022	
97 MOTION 97 RESOLVED	Moved:	Moloney, David Councillor Burke	Seconded:	Councillor Grine		
<ol style="list-style-type: none"> That Council notes the refusal of consent from Transport for NSW (TfNSW) for the installation of the proposed intersection treatment at Kerlew and Occident Streets, Nulkaba as recorded in WI6/2022 Minutes of Cessnock Local Traffic Meeting held 21 February 2022. That Council requests TfNSW to provide as a matter of urgency the refusal letter detailing the reasons for their decision. That Council request a meeting with TfNSW and Clayton Barr, Member for Cessnock in regards to the refusal of the proposed intersection treatment at Kerlew St and Occident St. That Council has no obligation or plans to undertake works at the intersection of Wine Country Drive and Kerlew St which is a State Road intersection. That a report come back to Council detailing the outcomes of the meetings and requests. That Council remains committed to supporting the Nulkaba communities preferred preference for Option 3 for the intersection of Kerlew and Occident Streets which isolates the Correctional Centre traffic from the local road network. <p>02 May 2022 2:40pm Cocking, Tracey Item 1 - Noted, Item 2 - Advised by TfNSW that correspondence is pending signature (DOC2022/063227), Item 3 - Pending receipt of correspondence from TfNSW, Item 4 - Noted, Item 5 - Pending meeting with TfNSW, Clayton Barr and Cessnock City Council, Item 6 - Noted.</p> <p>03 Jun 2022 3:27pm Cocking, Tracey Item 2 - Received correspondence from TfNSW., Item 3 - Meeting being co ordinated., Item 5 - Pending meeting with TfNSW, Clayton Barr and Cessnock City Council.</p> <p>29 Jun 2022 4:20pm Cocking, Tracey Item 3 - Held meeting 17 June 2022., Item 5 - Post meeting negotiations and follow-up currently occurring. Interagency working group to be formed. Report pending Working Group direction and outcomes.</p>						

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Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
WI20/2022	Ordinary Council 20/04/2022	Moloney, David	Works and Infrastructure	Upgrade works on Old Maitland Road Sawyers Gully	31/07/2022	
98 MOTION 98 RESOLVED	Moved:	Moloney, David Councillor Burke	Seconded:	Councillor Grine		
<p>1. That Council notes the information contained within the report regarding road safety and design, land matters, schedule, timeframes, cost estimate and budget.</p> <p>2. That Council contacts the grant provider and seeks to renegotiate the terms of the project to undertake works available within the current grant funded amount.</p> <p>3. That Council commits the current allocated funds of \$724,085.00 to fund the detailed design and associated land acquisitions for the full unsealed section of Old Maitland Road.</p> <p>4. That Council actively seeks further grant funding to complete the full scope of works required to upgrade Old Maitland Road, including adding it to the letter to Federal Candidates for the electorates of Hunter and Paterson as outlined in Dot Point 2 of MM8/2022.</p> <p>27 Apr 2022 10:21am Meyers, Kristy Item 1 - Noted, Item 2 - Grant provider to be contacted. Variation being prepared., Item 3 - Noted., Item 4 - Noted. Letter sent to Federal Candidates. Greater Cessnock Infrastructure Priorities Advisory Agenda updated to include Old Maitland Road.</p> <p>01 Jun 2022 10:11am Moloney, David Discussions are being held with TfNSW on the current funding allocation and undertaking works to that value</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
WI23/2022	Ordinary Council 20/04/2022	Jeffery, Warren	Works and Infrastructure	Main Road LED Replacement Program	18/08/2022	
101 MOTION 101 RESOLVED	Moved:	Moloney, David Councillor Burke	Seconded:	Councillor Grine		
<p>1. That Council accepts Ausgrid's proposal for the accelerated replacement of 1,825 Ausgrid lights on main roads and on residential roads over the next three years through agreeing to Ausgrid's proposal to fund the accelerated replacement and to Council funding the residual value of the old lights.</p> <p>2. That Council write to the Minister for Planning and Department of Planning and Environment on the community value of retaining the current scheme in an appropriate way moving forward.</p> <p>02 May 2022 3:52pm Cocking, Tracey Item 1 - Arranging GM signature to Ausgrid commitment document, Item 2 - Created draft correspondence</p> <p>02 Jun 2022 3:40pm Cocking, Tracey Item 2 - Pending additional information from SSROC advisers.</p> <p>29 Jun 2022 4:04pm Cocking, Tracey Item 2 - Additional information from SSROC pending.</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
WI24/2022	Ordinary Council 20/04/2022	Awal, Rabiul	Works and Infrastructure	Heavy Vehicle Safety & Productivity Program for Camp Road, Greta	8/07/2022	

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MOTION

Moved:

Moloney, David

Councillor Burke

Seconded:

Councillor Grine

102

RESOLVED

1.

That Council endorses an application under the Heavy Vehicle Safety and Productivity Program for Camp Road, Greta.

2.

That Council allocates the 20% co-contribution of \$300,000 for Camp Road, Greta from the Road Renewal Program in the 2022-23 Operational Plan.

02 May 2022 12:57pm Awal, Rabiul - Target Date Revision

The HVSPP Funding Application will be lodged by 18 May 22.

25 May 2022 2:55pm Awal, Rabiul

Funding application expected to be lodged by end June 2022.

01 Jul 2022 1:54pm Awal, Rabiul

The HVSPP grant application will be submitted by 8 July 2022.

01 Jul 2022 2:02pm Awal, Rabiul - Target Date Revision

Target date changed by Awal, Rabiul from 30 June 2022 to 08 July 2022

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
BN15/2022	Ordinary Council 20/04/2022	Chadwick, Tony	Business With Notice	Pilot Job Shuttle Program (Youth)	27/08/2022	
104		Maginnity, Robert				
MOTION	Moved:	Councillor Watton	Seconded:	Councillor Hawkins		
104						
RESOLVED						
That the General Manager prepare a report to Council outlining the implications, resourcing requirements, funding opportunities and processes necessary for a program to:						
1.	Liaise, and work alongside community-based organisations and businesses within our LGA, to develop and implement a Cessnock to Wine Country Pilot Job Shuttle Program;					
2.	Research appropriate, relevant grants that may assist in local businesses and organisations facilitating said Cessnock Pilot Job Shuttle Program.					
03 May 2022 3:41pm Chadwick, Tony						
That the General Manager prepare a report to Council outlining the implications, resourcing requirements, funding opportunities and processes necessary for a program to:; 1. Liaise, and work alongside community based organisations and businesses within our LGA, to develop and implement a Cessnock to Wine Country Pilot Job Shuttle Program;; Action Taken: Council presented the Pilot Job Shuttle Program concept and ran a survey at the 10 June 2022 Business Networking Event in Pokolbin. The Pilot Job Shuttle Program survey is currently open to the community for additional feedback. Once the survey results are reviewed a program will be developed for discussion with Councillors.; 2. Research appropriate, relevant grants that may assist in local businesses and organisations facilitating said Cessnock Pilot Job Shuttle Program.; Action Taken: Potential funding sources include Resources for Regions, Royalties for Regions or Stronger Country Communities Grants as these funds allow community programs. Program costs need to be developed before an application can be made.						
03 May 2022 3:49pm Chadwick, Tony - Target Date Revision						
Tarotet date changed by Chadwick, Tonyv from 18 May 2022 to 27 August 2022 - Consultation and program costs need to be developed before a recommendation can be made to Council.						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
BN17/2022	Ordinary Council 20/04/2022	Moloney, David	Business With Notice	Working with Cessnock Correctional Centre	31/07/2022	
106	Moloney, David					

Division:	Ordinary Council	Date From:	
Committee:		Date To:	
Officer:		Printed:	Tuesday, 12 July 2022 8:19:56 AM
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MOTION 106 RESOLVED	Moved:	Councillor Jurd	Seconded:	Councillor Hawkins
<p>That the General Manager investigate and a report come back to Council on the use of the inmates from Cessnock Correctional Centre to assist with their rehabilitation back into the community and help the council staff with the ground maintenance on a needs basis so it doesn't affect any council staff. This could help staff with the large areas of lawn mowing and edging they are currently trying to keep at high standard.</p> <p>27 Apr 2022 1:39pm Meyers, Kristy Email sent to Corrective Services 27/4/2022 seeking meeting to discuss options.</p> <p>29 Jun 2022 2:50pm Meyers, Kristy Follow up emails sent to NSW Corrective Services and awaiting suitable dates.</p>				

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
BN18/2022	Ordinary Council 20/04/2022	Chadwick, Tony	Business With Notice	Cessnock LGA Hall Booking/Management	30/09/2022	
MOTION 107 RESOLVED	Moved:	Maginnity, Robert Councillor Watton	Seconded:	Councillor Jurd		
<p>That the General Manager prepare a report to council outlining the implications, resourcing requirements, funding opportunities and processes necessary to overhaul the current practices Cessnock City Council has adopted relating to hall bookings, maintenance and potential promotions. The following points are to be considered:</p> <ol style="list-style-type: none"> 1. Adopt a more streamlined, user-friendly online system (potential to link in across platforms i.e. social media sites) enabling customers to clearly and efficiently make their hall selection and booking 2. Research appropriate grants and / or other funding streams that will enable new systems to be incorporated, updated and made relevant 3. Provide valid training, support and assistance where applicable for volunteers looking after council halls to help ensure standards are met across all halls (i.e. cleaning, maintenance, customer service etc.). 4. Estimation of costs to update to a new system. 5. Consultation to take place with the 355 Committees as to the current processes in place. <p>12 May 2022 9:09am Chadwick, Tony - Target Date Revision Target date changed by Chadwick, Tony from 18 May 2022 to 15 June 2022 - A council report is planned to be tabled at the 15 June 2022 Council Meeting.</p> <p>26 May 2022 1:36pm Chadwick, Tony - Target Date Revision Target date changed by Chadwick, Tony from 15 June 2022 to 30 September 2022 - A council report is planned to be tabled at the 21 September 2022 Council Meeting following a discussion with the Hall Committee members and after obtaining costs for a suitable booking system.</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE29/2022	Ordinary Council 18/05/2022	Forbes, Richard	Planning and Environment	Development Application No. 8/2021/21491/1 proposing a boundary adjustment 0 Thomas Street and 16 Thomas Street, North Rothbury	30/09/2022	
MOTION 114 RESOLVED	Moved:	Mickleson, Peter Councillor Sander	Seconded:	Councillor Hill		

Division:	Ordinary Council	Date From:	
Committee:		Date To:	
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1. That the report be deferred.
2. That Council requests that the General Manager continues negotiations with the applicant and land owners with a view to facilitating the transfer of the existing laneways to each individual adjoining owner.

24 May 2022 3:45pm Blake, Yvonne - Target Date Revision

Target date changed by Blake, Yvonne from 15 June 2022 to 30 September 2022 - Report deferred at Council meeting held 17 May 2022, pending negotiations with applicant and land owners to facilitate transfer of laneways to all adjoining owners.

08 Jun 2022 2:42pm Maher, Janine

Meeting arranged with applicant for 8 June 2022. Applicant was unable to attend. Meeting to be re-scheduled.

20 Jun 2022 9:50am Maher, Janine

Meeting held with applicant and landowner/s on 17 June 2022. Applicant to submit a response to Council's resolution.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
W118/2022	Ordinary Council 18/05/2022	Moloney, David	Deferred Business	Cooper and Charlton Streets Cessnock Intersection	30/09/2022	
117 MOTION 117 RESOLVED	Moved:	Moloney, David Councillor Dunn	Seconded:	Councillor Sander		
<ol style="list-style-type: none"> 1. That Council notes the information contained within the report regarding the construction and condition of the Cooper and Charlton Street intersection. 2. That Council allocates \$100,000 in the 2022/2023 Operational Plan to fund the repairs to the intersection. 3. That the General Manager bring back a report on the assessment and repair options to be taken to this intersection and a timeframe for completion. 						
01 Jun 2022 10:48am Meyers, Kristy Contract awarded for independent investigation on the failures. Draft Report in Info Council being prepared.						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE28/2022	Ordinary Council 18/05/2022	Forbes, Richard	Planning and Environment	Development Application No. 8/2021/21052/1 - proposing a boundary adjustment 0 Thomas Street and 34 Mitchell Street, North Rothbury	30/09/2022	
119 MOTION 119 RESOLVED	Moved:	Mickleson, Peter Councillor Sander	Seconded:	Councillor Grine		
<ol style="list-style-type: none"> 1. That the report be deferred. 2. That Council requests that the General Manager continues negotiations with the applicant and land owners with a view to facilitating the transfer of the existing laneways to each individual adjoining owner. 						

Division:	Ordinary Council	Date From:	
Committee:		Date To:	
Officer:		Printed: Tuesday, 12 July 2022 8:19:56 AM	
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24 May 2022 3:45pm Blake, Yvonne - Target Date Revision

Target date changed by Blake, Yvonne from 15 June 2022 to 30 September 2022 - Report deferred at Council meeting held 17 May 2022, pending negotiations with applicant and land owners to facilitate transfer of laneways to all adjoining owners.

08 Jun 2022 2:42pm Maher, Janine

Meeting arranged with applicant for 8 June 2022. Applicant was unable to attend. Meeting to be re-scheduled.

20 Jun 2022 9:51am Maher, Janine

Meeting held with applicant and landowner/s on 17 June 2022. Applicant to submit a response to Council's resolution.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
CC36/2022	Ordinary Council 18/05/2022	Drage, Natalie	Corporate and Community	Positive Covenant for Partial Areas at Cessnock Performing Arts Centre	31/08/2022	
122 MOTION 122 RESOLVED	Moved:	Allan, Darrylen Councillor Dunn	Seconded:	Councillor Burke		
<ol style="list-style-type: none"> That Council consent to the registration of and agrees to be bound by a Positive Covenant burdening Council land being part of Lot 2 Deposited Plan 165744 in favour of Hunter Water Corporation in accordance with the draft Works, Monitoring and Maintenance Deed between Council and Hunter Water Corporation. That Council authorise the General Manager to execute the Works, Monitoring and Maintenance Deed between Council and Hunter Water Corporation. That Council authorise the Common Seal of Cessnock City Council to be affixed to documents relating to the granting of the Positive Covenant if required. That Council authorise the Mayor and the General Manager to execute the documents relating to the granting of the Positive Covenant. 						
01 Jun 2022 9:28am Drage, Natalie The matter is being facilitated by Council's legal representative and the documents are being finalised for signing by all parties. 01 Jun 2022 9:31am Drage, Natalie - Target Date Revision Target date changed by Drage, Natalie from 15 June 2022 to 31 August 2022 - Expected date for completion by all parties that are signatory to the documents. 29 Jun 2022 3:58pm Drage, Natalie The matter continues to be facilitated by Council's legal representative and the documents are with Hunter Water seeking signature.						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
W128/2022	Ordinary Council 18/05/2022	Harris, Kate	Works and Infrastructure	Booth Park Netball Facility, Kurri Kurri	26/08/2022	
132 MOTION 132 RESOLVED	Moved:	Moloney, David Councillor Grine	Seconded:	Councillor Hill		
<ol style="list-style-type: none"> That Council place the draft concept plan for Booth Park Netball Facility on public exhibition for a minimum 28 day period. That community engagement is held with stakeholders during the public exhibition period including Kurri Kurri Netball Association, impacted residents and the broader community. That a report be prepared at the conclusion of the exhibition period outlining the submissions received. 						

Division:	Ordinary Council	Date From:	
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30 Jun 2022 11:54am Harris, Kate

1. Complete, 2. Complete, 3. A report will be prepared for the August 2022 Council Meeting

30 Jun 2022 11:55am Harris, Kate - Target Date Revision

Target date changed by Harris, Kate from 15 June 2022 to 26 August 2022 - Submissions from the exhibition period are currently being assessed with outcomes reported to the August Council Meeting.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
WI29/2022	Ordinary Council 18/05/2022	Harris, Kate	Works and Infrastructure	Kitchener Poppethead Park Draft Plan of Management	30/09/2022	
133 MOTION 133 RESOLVED	Moved:	Moloney, David Councillor Dunn	Seconded:	Councillor Burke		
<p>1. That in accordance with Section 36D(1) of the <i>Local Government Act 1993</i>, Council declares a portion of Kitchener Poppethead Park, as outlined within Enclosure 1, as an Area of Cultural Significance as it represents an important stage in the development of the mining industry in the Cessnock area.</p> <p>2. That the draft Plan of Management for Kitchener Poppethead Park be referred to the NSW Department of Planning, Industry and Environment – Crown Lands:</p> <p style="margin-left: 40px;">I. As the landowner, as required by Section 39 of the <i>Local Government Act 1993</i></p> <p style="margin-left: 40px;">II. For Ministerial consent to exhibit the draft Plan of Management, as required by section 3.23(7)(d) of the <i>Crown Land Management Act 2016</i>.</p> <p>3. That following the receipt of Ministers consent and approval by the department as the landowner, the draft Plan of Management for Kitchener Poppethead Park be placed on public exhibition for a minimum period of 42 days and invite public submissions.</p> <p>4. That a report on the outcomes of the exhibition be provided to Council prior to adopting the final document.</p> <p>30 Jun 2022 11:56am Harris, Kate</p> <p>1. Noted., 2. Complete, 3. Awaiting approval from the Minister, 4. To be undertaken following the completion of item 3.</p> <p>30 Jun 2022 11:58am Harris, Kate - Target Date Revision</p> <p>Target date changed by Harris, Kate from 15 June 2022 to 30 September 2022 - Anticipated timeframe to receive Ministers Consent to publicly exhibit the document.</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
WI35/2022	Ordinary Council 18/05/2022	Jeffery, Warren	Works and Infrastructure	Pedestrian Access - Elizabeth Street, Abermain	18/08/2022	
139 MOTION 139 RESOLVED	Moved:	Moloney, David Councillor Burke	Seconded:	Councillor Sander		
<p>1) That the General Manager arrange for community consultation to take place at an appropriate location.</p> <p>2) That a further report come back to Council taking into consideration the community feedback from the onsite meeting.</p> <p>01 Jun 2022 4:32pm Cocking, Tracey</p> <p>Item 1 - Scheduled community consultation for 5 July 2022 4pm to 7pm at Abermain Plaza Hall., Item 2 - Scheduling of report pending community consultation.</p>						

Action Sheets Report	Division: Committee: Ordinary Council Officer:	Date From: Date To: Printed: Tuesday, 12 July 2022 8:19:56 AM
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29 Jun 2022 4:06pm Cocking, Tracey
 Item 1 - Consultation scheduled for 5 July 2022, community notified by mailout and posters placed locally., Item 2 - Report scheduled for August 2022.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
GMU14/2022	Ordinary Council 15/06/2022	Bennett, Charmaine	General Manager's Unit	Work Health and Safety Policy Statement - Review	13/07/2022	
151 MOTION 151 RESOLVED	Moved:	Maginnity, Robert Councillor Dunn	Seconded:	Councillor Sander		
That Council adopts the Work Health and Safety Policy Statement.						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
GMU15/2022	Ordinary Council 15/06/2022	Bennett, Charmaine	General Manager's Unit	Risk Management Policy Statement - Review	13/07/2022	
152 MOTION 152 RESOLVED	Moved:	Maginnity, Robert Councillor Dunn	Seconded:	Councillor Sander		
That Council adopts the Risk Management Policy Statement.						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE32/2022	Ordinary Council 15/06/2022	Brown, Keren	Planning and Environment	18/2021/4 Molly Worthington Netball Courts Planning Proposal	21/07/2022	
153 MOTION 153 RESOLVED	Moved:	Mickleson, Peter Councillor Sander	Seconded:	Councillor Grine		
1. That Council endorses the responses to the additional information sought by the Department of Planning and Environment outlined within the report. 2. That Council forwards an amended planning proposal to the Department of Planning and Environment and request a Gateway determination for the Planning Proposal pursuant to the <i>Environmental Planning and Assessment Act 1979</i> .						
22 Jun 2022 1:23pm Brown, Keren - Target Date Revision Target date changed by Brown, Keren from 13 July 2022 to 21 July 2022 - Planning Proposal being updated for DPE						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
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PE33/2022	Ordinary Council 15/06/2022	Corken, Robert	Planning and Environment	18/2021/7 Planning Proposal for the Cessnock Commercial Precinct	13/07/2022
154 MOTION 154 RESOLVED	Moved:	Mickleson, Peter Councillor Sander	Seconded:	Councillor Hill	
<p>1. That Council endorses the Planning Proposal as an amendment to the Cessnock Local Environmental Plan 2011.</p> <p>2. That the General Manager notify submission makers of Council's decision.</p> <p>24 Jun 2022 11:07am Corken, Robert Resolved to be made a 15/6/2022 Council meeting. Waiting for GIS.</p>					

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE34/2022	Ordinary Council 15/06/2022	Forsyth, Karen	Planning and Environment	Draft amendment to Cessnock City Wide Infrastructure Contributions Plan - Report on exhibition	13/07/2022	
<p>RESOLVED</p> <p>That the report be deferred to the next Ordinary Council meeting.</p> <p>21 Jun 2022 12:59pm Forsyth, Karen Issues regarding submissions and report deferred to July. A complete review was undertaken in content manager and facebook and no further submissions were found.</p> <p>21 Jun 2022 3:09pm Forsyth, Karen Spoken to Cr Jurd and discussed the issue. I advised that we had completed a thorough review of Councils record system which did not come up with her submission and search with Facebook. She then advised that the webpage offered different items to tick and I advised that the Contributions Plan did not allow for that and I believed her submission was in relation to the Community Strategic Plan exhibition.</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
CC46/2022	Ordinary Council 15/06/2022	Chadwick, Teresa	Corporate and Community	Draft Code of Meeting Practice 2022	13/07/2022	
158 MOTION 158 RESOLVED	Moved:	Allan, Darrylen Councillor Dunn	Seconded:	Councillor Sander		
<p>1. That Council adopts the Code of Meeting Practice following the conclusion of the Public Exhibition period.</p> <p>2. That the General Manager progress the implementation of a rotating roster system which provides religious organisations in the Local Government Area an opportunity to conduct the prayer at the commencement of Ordinary meetings of Council.</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
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Corporate and Community

Report No. CC61/2022

Corporate and Community Services



SUBJECT: ***WASTE LEVY EXEMPTION - AREAS EFFECTED BY FLOODING***

RESPONSIBLE OFFICER: ***Acting Director Corporate & Community Services - Darrylen Allan***

SUMMARY

This report provides notification to Council that on 8 July 2022 the Mayor exercised emergency powers pursuant to Section 226(d) of the *Local Government Act 1993* (the Act), being the policy-making functions of the governing body of the council between meetings of the council, to provide a waiver of Council fees to the Cessnock Waste Management Centre for the disposal of flood affected waste.

RECOMMENDATION

That Council notes that on 8 July 2022 the Mayor exercised powers pursuant to Section 226(d) of the *Local Government Act 1993* to provide a waiver of Council fees to the Cessnock Waste Management Centre for the disposal of flood affected waste.

BACKGROUND

The July 2022 rain event in the Cessnock City Council local government area (LGA) has resulted in significant flood damage with many areas and communities continuing to suffer significantly from the flooding and damage to property. This has resulted in the Cessnock LGA, along with another fifty-six LGAs, being subject to a natural disaster declaration.

REPORT/PROPOSAL

On 8 July 2022, the Mayor exercised emergency powers as per Section 226(d) of the Act, being the policy-making functions of the governing body of the council between meetings of the council, to provide a waiver of Council fees to the Cessnock Waste Management Centre for the disposal of flood affected waste.

This is to assist residents in the flood affected communities in the LGA, to dispose of their flood damaged goods and possessions.

Further, notification was received from the NSW Environment Protection Authority (EPA) that exemption from the NSW waste levy will be provided to waste management facilities that receive waste generated as a result of the July 2022 flood event and the associated natural disaster declaration.

The waste levy exemption only applies to waste generated as a result of declared NSW events and for bona fide flood affected properties. Council's waiver will apply under the same conditions and timeframes associated with the State waste levy waiver for flood affected properties.

Corporate and Community

Report No. CC61/2022

Corporate and Community Services



The arrangements were put in place from Saturday 9 July, residents from those localities detailed on the SES flood affected suburbs listing are able to dispose of flood affected waste without charge at the facility.

Skip bins have been delivered to the Wollombi area due to the significant damage experienced in that location.

From a governance perspective, the EPA conditions require that records must be kept of the types and amounts of waste disposed of under this exemption, including waste facility receipts (weighbridge records). Council will be required report materials disposed of under the exemption via the monthly Section 88 (Protection of Environmental Operations Act 1993) return.

A similar approach has been utilised in past to control disaster management responses.

OPTIONS

N/A

CONSULTATION

NSW Environment Protection Authority (EPA)
Acting General Manager
Mayor Suvaal

STRATEGIC LINKS

a. Delivery Program

Objective 3.3 Better Waste Management and Recycling

b. Other Plans

Nil

IMPLICATIONS

a. Policy and Procedural Implications

The operation of the Cessnock Waste Management Centre (CWMC) falls under the licensing regime administered by the NSW EPA and as such is liable for the NSW waste levy.

b. Financial Implications

The waste levy exemption will lessen the financial implication to Council for flood waste disposed of at the CWMC, however Council will incur a cost for the disposal of such waste.

Corporate and Community

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Corporate and Community Services



c. Legislative Implications

Under Clause 21 of the *Protection of Environmental Operations (Waste) Regulation 2014* (Waste Regulation), the EPA has approved the exemption from the waste levy for waste generated as a result of the recent flood events and on 8 July 2022 the Mayor exercised emergency powers pursuant to Section 226(d) of the *Local Government Act 1993*, being the policy-making functions of the governing body of the council between meetings of the council, to provide a waiver of Council fees to the Cessnock Waste Management Centre for the disposal of flood affected waste.

d. Risk Implications

Risk is minimised with the existing software capability to record the volume of material received. Further risk mitigation is achieved by the area and description provided by the EPA.

The CWMC operators will also verify the origin through the normal request of proof of address and nature of material.

e. Environmental Implications

f. Other Implications

CONCLUSION

This report provides notification to Council that the Mayor exercised powers pursuant to Section 226(d) of the *Local Government Act 1993*, being the policy-making functions of the governing body of the council between meetings of the council, to provide a waiver of Council fees to the Cessnock Waste Management Centre for the disposal of flood affected waste.

ENCLOSURES

There are no enclosures for this report.

SUBJECT: *NSW SEVERE WEATHER AND FLOOD GRANT*

RESPONSIBLE OFFICER: *Director Works and Infrastructure - David Moloney*

SUMMARY

Following the NSW State Governments declaration that Cessnock LGA was a disaster area as a result of the March 2022 flooding event, Council was provided with \$1million in support payments via the NSW Severe Weather and Flood Grant – Category D.

The Proposed Program of Works for these grant funds is below and works need to be completed by 30 June 2024 (24 months).

RECOMMENDATION

That Council endorse the proposed Program of Works to be funded via the \$1M Council Support Payments - NSW Severe Weather and Flood Grant – Category D, offered by the Office of Local Government.

BACKGROUND

The March 2022 flooding event caused significant and widespread damage to Council owned infrastructure as well as private and other government organisation infrastructure and property (including Crown Lands & National Parks). This led to Cessnock LGA being declared a disaster area by the NSW Government and offered a range of support. One method of support is via the Council Support Payments offered by the Office of Local Government.

Council has been provided a \$1M grant for financial assistance to support restoration and recovery projects that best meet their community's needs.

REPORT/PROPOSAL

The Office of Local Government has provided Council with a \$1M grant to provide financial assistance to councils towards supporting restoration and recovery projects that best meet their community's needs.

The proposed Program of Works must contribute to one or more of the following outcomes. The outcomes highlighted in yellow are the outcomes supported by this proposed Program of Works:

Disaster Recovery Outcomes:

- The needs of vulnerable groups are addressed in the disaster recovery process
- The community is aware of the disaster recovery process
- The community can express its changing disaster recovery needs
- Community members are aware of the risks of future disasters
- Government, private sector, civil society and organisations are engaged in plans for preparedness and management of the recovery

Works and Infrastructure

Report No. WI45/2022

Works and Infrastructure



Social and Economic Recovery Outcomes:

- Community members receive access to appropriate and coordinated social services
- The community has improved capacity and capability to respond to future disasters
- The community strengthens its ability to withstand and recover from future disasters
- Business and non-profit groups implement adequate mitigation practices for risks and threats

Built and Environment Recovery Outcomes:

- Infrastructure that delivers essential services to the community is repaired
- Infrastructure is repaired in accord with changing recovery needs
- Cultural or heritage sites or assets of importance are restored, where possible, in a way that provide these values to the community
- The impact of future disasters on biodiversity and ecosystem is minimized

Project Criteria

Diverse local recovery needs are balanced

The community has a need for the project and its outcomes.

Alignment

The project is able to contribute to social and economic recovery needs and current recovery activities whilst avoiding duplication with other recovery initiatives already funded or underway.

Resilience building

The project supports the ongoing productivity, sustainability, preparedness and disaster resilience of the impacted community or infrastructure asset(s).

Local support and delivery

The community supports the project and participate, where possible, in planning and development processes.

Feasibility

The project is feasible, risks and consequences are acceptable, and appropriate mitigation strategies are identified. Cost is an effective, efficient, and ethical use of resources.

The proposed Program of Works needs to be completed by 30 June 2024.

Works and Infrastructure

Report No. WI45/2022

Works and Infrastructure

Proposed Program of Works	
<p>Wollombi Valley Pony Clubhouse Relocation to higher ground:</p> <p>Fund the relocation, repair and refitting of the Wollombi Valley Pony Club clubhouse which is regularly inundated and damaged by flood waters. Relocate to higher ground on the Wollombi Recreation Ground, to reduce the incidence of regular flooding and damage to this essential piece of community infrastructure.</p> <p>Activities include:</p> <ul style="list-style-type: none"> • Relocate Pony Club clubhouse to higher ground • Repair damage caused by flooding & relocation • Refit internals damaged by flooding. <p>Expected Outcome or Benefit:</p> <p>This project will reduce the incidence of the Wollombi Valley Pony Club clubhouse (important Council-owned community infrastructure) from being regularly inundated with flood water. This will reduce the negative impacts to the community when their facility is flooded. It will also reduce the cost to the community, Council and the government for regular repairs when major flooding occurs.</p>	\$70,000
<p>Causeway upgrades on Yango Creek Road & Upper Yango Creek Road:</p> <p>Fund the upgrade of causeways on Yango Creek Road and Upper Yango Creek Road (10+ causeways exist including Cagney's Crossing), to improve their ability to withstand regular flooding. Upgrades will also reduce the frequency and depth of flooding at these causeways, which currently lead to residents being isolated or unable to access their properties after heavy rain.</p> <p>Activities include:</p> <ul style="list-style-type: none"> • Concrete surface to reduce damage to causeways during floods • Increasing the height of the road to reduce impact of flooding • Install or increase size of culverts to reduce impact of flooding • Other upgrades as required to reduce impact of flooding <p>Expected Outcome or Benefit:</p> <p>This project will improve safety for residents and visitors on these roads. It will reduce the impact to this important road infrastructure thereby reducing the cost of future repairs following floods. Importantly this project will ensure residents are able to access their properties safely and more often during flooding events.</p>	\$500,000

Works and Infrastructure

Report No. WI45/2022

Works and Infrastructure

<p>Raise Great North Road at Rhino Corner, Glenloona Road, Laguna:</p> <p>Fund works on Great North Road to increase the height of the road to reduce regular flooding impacts on this section of road.</p> <p>Activities include:</p> <ul style="list-style-type: none"> • Road surveying • Road reconstruction work to increase the height of the road • Improved drainage <p>Expected Outcome or Benefit:</p> <p>This project will improve safety for residents and visitors on these roads. It will reduce the impact to this important road infrastructure thereby reducing the cost of future repairs following floods. Importantly this project will ensure residents are able to access their properties more often during flooding events.</p>	\$250,000
<p>Investigation and installation of Flood Boom Gates starting at:</p> <ol style="list-style-type: none"> 1. Williams Bridge, Paynes Crossing; 2. Old North Road; 3. Station Street, Greta; 4. Millfield & other locations: <p>Fund the installation of flood boom gates and warning systems in locations that are susceptible to flooding to reduce impact of flooding on road infrastructure and residents.</p> <p>Activities include:</p> <ul style="list-style-type: none"> • Installation of flood boom gates at Williams Bridge, Paynes Crossing; Old North Road; Allandale Road, Station Street, Greta • Installation of warning system in Millfield <p>Expected Outcome or Benefit:</p> <p>This project will improve safety for residents and visitors on these roads. It will reduce the impact to this important road infrastructure thereby reducing the cost of future repairs following floods. Importantly this project will ensure lives and vehicles are protected by preventing access to flood waters during flooding events.</p>	\$180,000

OPTIONS

Council has several options

1. Endorse the list of projects for submission as presented. (Recommended Option)
2. Provide a list of other priority projects for submission
3. Not apply for funding under this grant program

Works and Infrastructure

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Works and Infrastructure



CONSULTATION

Following the March 2022 flood event, the following organisations have been consulted and provided Council with feedback with regards to flooding impacts and risk reduction measures which would benefit the community and thier ideas have been used to build the above list of projects:

Wollombi Valley Community Association Inc
Wollombi Valley Pony Club
Local RFS Brigades (Bucketty, Laguna, Wollombi)
Upper Yango Landholders Group Inc
Flood Impacted Residents (via Flood Recovery Hubs, emails, phone calls, site visits)
Council Flood Engineer
Council Road & Infrastructure Team

STRATEGIC LINKS

a. Delivery Program

This report is consistent with the Delivery Program 2022-2026
1.3.5 Improving the safety of the road network

b. Other Plans

NIL

IMPLICATIONS

a. Policy and Procedural Implications

NIL

b. Financial Implications

The grant program does not require Council to provide any co-contribution but will need to maintain and operate the assets delivered into the future.

c. Legislative Implications

NIL

d. Risk Implications

The projects proposed will assist in building resilience in the community and assist Council in responding to Natural disasters and in particular flooding.

e. Environmental Implications

NIL

Works and Infrastructure

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Works and Infrastructure



f. Other Implications

The moving of the Pony Club rooms will ensure that the flooding occurring at the building is reduced significantly and stop damage to this asset in a natural disaster.

CONCLUSION

The proposed Program of Works outlined above, will be completely funded by the NSW Severe Weather and Flood Grant – Cat D. This program of works was guided by the community following the flooding event in March 2022 and is based on knowledge from the March 2022 flood and previous flooding events. It meets the guidelines and eligibility criteria of the grant and will provide tangible outcomes and benefits to the communities within Cessnock LGA who are regularly impacted by flooding events.

ENCLOSURES

There are no enclosures for this report

Works and Infrastructure

Report No. WI46/2022

Works and Infrastructure



SUBJECT: *LOCAL ROADS AND COMMUNITY INFRASTRUCTURE - GRANT FUNDING APPROVAL*

RESPONSIBLE OFFICER: *Director Works and Infrastructure - David Moloney*

SUMMARY

Council was advised of an Extension to the Local Roads and Community Infrastructure Program (LRCIP) (Phase 3 Extension) and to arrange for changes in funding over 2 years for the Phase 2 and 3 projects. Works and Infrastructure requires re-allocation of funding to complete 2 projects commenced in financial year 2021-22 and the remaining from Phase 2 and 3 in the 2022-23 financial year.

RECOMMENDATION

That Council endorses the project allocations and changes to the Local Roads and Community Infrastructure Programs (LRCIP) as follows:

1. Reallocate \$2,287,082 from LRCIP Phase 2 Projects (Charlton St – Library Shared Space (\$769,910) Millfield – Rose Hill Est to Wollombi Road (\$240,000), Nelson Street Greta (\$500,000), O'Connor's Road and Wine Country Drive Nulkaba (\$263,172), Stanford Street, Pelaw Main – Log of Knowledge Park (\$514,000)) to the 2021/2022 Local Roads Reseal Program.
2. Reallocate \$1,290,798 from LRCIP Phase 3 Projects from 2021/2022 Local Roads Reseal Program to a 2022/2023 Local Roads Pavement Strengthening Project.
3. Reallocate \$1,065,157 (general funds) from the 2021/2022 Local Roads Reseal Program and \$1,290,798 from the 2022/2023 Local Roads Reseal Program to Charlton St – Library Shared Space (\$769,910) Millfield – Rose Hill Est to Wollombi Road (\$240,000) Nelson Street Greta (\$500,000) O'Connor's Road and Wine Country Drive Nulkaba (\$263,172) Stanford Street, Pelaw Main – Log of Knowledge Park (\$514,000).

BACKGROUND

There has been 3 Phases of the Local Roads and Community Infrastructure Program (LRCIP) program with a recent notification of Phase 4 (Phase 3 Extension Program).

Applications to the LRCIP by Council have allocated funding to the following projects:

- Phase 2 (\$2,287,082)
 - o Charlton St – Library Shared Space (\$769,910)
 - o Millfield – Rose Hill Est to Wollombi Road (\$240,000)
 - o Nelson Street Greta (\$500,000)
 - o O'Connor's Road and Wine Country Drive Nulkaba (\$263,172)
 - o Stanford Street, Pelaw Main – Log of Knowledge Park (\$514,000)
- Phase 3 (\$2,390,798)

Works and Infrastructure

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Works and Infrastructure



- Cliftleigh and Heddon Greta Suburb Entry Signs (\$40,000)
- Kurri Kurri CBD Upgrade – Pavement Rehabilitation (\$800,000)
- Local Roads Reseal Program (\$1,290,798)

This report looks to reallocate funding from Phase 2 and 3 along with recommendations for Phase 4 (Phase 3 Extension Program).

REPORT/PROPOSAL

LRCIP is a Federal Government program design to stimulate the economy during the COVID 19 pandemic. There has been 3 phases to date with Council receiving notification of a Phase 4 (otherwise known as the Phase 3 Extension program). Any project identified need to be new projects and not be started.

Phases 1 and 2 deadlines for completion of projects was 30 June 2022 and Phase 3 being 30 June 2023.

The reallocation of funding is due to the projects in Phase 2 not being able to be completed by the funding deadline of 30 June 2022. The changes to Phase 2 proposed is to bring a Phase 3 project – 2021/2022 Local Roads Reseal Program (LRRP) forward as this project has been completed and allocate the general funds from the LRRP to those projects in Phase 2 that were not completed on time along with general funds from the 2022/23 Local Roads Reseal Program to enable the projects removed from Phase 2 to be fully funded.

A new project as part of the 2022/2023 Local Road Reseal Program was then proposed in Phase 3, the Local Roads Pavement Strengthening Program (LRPSP), which will effectively reduce the 2022/2023 reseal program by the same amount.

These adjustments would mean that all projects would still be funded and in Councils Operational Plan for delivery though the funding sources for each would have changed.

Discussion started with the LRCIP in April 2022 with an application to vary the projects was submitted and later not approved.

Further discussion with LRCIP have yielded a better outcome with a proposal put forward in June by Council (as outlined above) was agreed to by the LRCIP.

Table 1 Original Program and Projects for reallocation of funds, shows the original Phase 1-3 projects and those whose funds are proposed to be changed as part of Table 2. Comparison of Table 1 and 2 shows that there is no increase or decrease in funding or projects to be delivered only a change in the way each project is funded.

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Project #	Location	Funding Program	Funding to be spent by	Funding amount	Co-Contribution Amount	Co-Contribution source
RRL 2021 010	Government Road, Weston -	LRCIP 1	30-Jun-22	\$ 300,399		
CFT 2018 005	Sixth Street, Weston (Weston Public School) & Fourth Street,	LRCIP 1	30-Jun-21	\$ 150,000	\$ 30,000	General Funds
CTB 2021 001	Branxton - Branxton Town Centre - Phase 1/Stage 3	LRCIP 1	30-Jun-22	\$ 330,000	\$ 30,000	Adjoining Landowner
RCC 2022 001	Cessnock Library Shared Space (Charlton Street) - Phase 2	LRCIP 2	30-Jun-22	\$ 769,910	\$ 53,825	General Funds
CPW 2022 001	Millfield - Rose Hill Est to Wollombi Road via Crawford	LRCIP 2	30-Jun-22	\$ 240,000	\$ 120,000	General Funds
CPW 2022 002	Nelson Street, Greta - Phase 2	LRCIP 2	30-Jun-22	\$ 500,000	\$ -	
CPW 2022 006	O'Connors Road and Wine Country Drive,	LRCIP 2	30-Jun-22	\$ 263,172	\$ -	
CPW 2022 003	Pelaw Main - Phase 2 (Log of Knowledge)	LRCIP 2	30-Jun-22	\$ 514,000	\$ -	
CRV 2023 001	Cliftleigh and Heddons Greta Suburb entry	LRCIP 3	31-Dec-23	\$ 40,000	\$ -	
CTK 2021 001	Upgrade - Pavement Rehabilitation Phase 3	LRCIP 3	31-Dec-23	\$ 800,000	\$ 597,725	Funds, SRV and Civil Works Reserve
RRL 2022 001	Reseal Program - Phase 3	LRCIP 3	31-Dec-23	\$ 1,290,798	\$ 1,065,157	General Funds
RRL 2023 001	Local Roads Reseal Program	LRCIP 3	30-Jun-23	\$ -	\$ 2,066,582	
Total				\$ 5,198,279	\$ 3,963,289	
Total Program				\$	9,161,568	

Table1 Original Program and Projects for reallocation of funds

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Project #	Location	Funding Program	Funding to be spent by	Funding amount	Co-Contribution Amount	Co-Contribution source
RRL 2021 010	Government Road, Weston - Phase 1	LRCIP 1	30-Jun-22	\$ 300,399		
CFT 2018 005	Sixth Street, Weston (Weston Public School) & Fourth Street, Weston	LRCIP 1	30-Jun-21	\$ 150,000	\$ 30,000	General Funds
CTB 2021 001	Church Street Branxton - Branxton Town Centre - Phase 1/Stage 3	LRCIP 1	30-Jun-22	\$ 330,000	\$ 30,000	Adjoining Landowner
RRL 2022 001	Local Roads Reseal Program - Phase 3	LRCIP 2	31-Dec-23	\$ 2,287,082	\$ 68,873	General Funds
RCC 2022 001	Cessnock Library Shared Space (Charlton Street) - Phase 2		30-Jun-22	\$ -	\$ 823,735	General Funds
CPW 2022 001	Millfield - Rose Hill Est to Wollombi Road via Crawford Park - Phase 2		30-Jun-22	\$ -	\$ 360,000	General Funds
CPW 2022 002	Nelson Street, Greta - Phase 2		30-Jun-22	\$ -	\$ 500,000	General Funds
CPW 2022 006	O'Connors Road and Wine Country Drive, Nulkaba - Phase 2		30-Jun-22	\$ -	\$ 263,172	General Funds
CPW 2022 003	Stanford Street, Pelaw Main - Phase 2 (Log of Knowledge)		30-Jun-22	\$ -	\$ 514,000	General Funds
CRV 2023 001	Cliftleigh and Heddon Greta Suburb entry signs - Phase 3	LRCIP 3	31-Dec-23	\$ 40,000	\$ -	
CTK 2021 001	Kurri Kurri CBD Upgrade - Pavement Rehabilitation Phase 3	LRCIP 3	31-Dec-23	\$ 800,000	\$ 597,725	General Funds, SRV and Civil Works Reserve
RRL 2022 001	Local Roads Reseal Program - Phase 3	LRCIP 3	31-Dec-23	\$ -	\$ -	
RCC 2023 XXX	Local Roads Pavement Strengthening Program	LRCIP 3	30-Jun-22	\$ 1,290,798		
RRL 2023 001	Local Roads Reseal Program		30-Jun-23	\$ -	\$ 775,784	General Funds
Total				\$ 5,198,279	\$ 3,963,289	
Total Program				\$	9,161,568	

Table 2 Proposed Changes to LRCIP program

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Works and Infrastructure



OPTIONS

Nil

CONSULTATION

Consultation has been undertaken with the following groups:

Internal
Council Infrastructure Unit

External
Department of Infrastructure, Transport, Regional Development, Communications and the Arts
- Local Roads and Community Infrastructure Program administrators

STRATEGIC LINKS

a. Delivery Program

This report is in keeping with the Delivery Program 2022-26

4.2.2 Deliver prioritised on ground capital works and maintenance programs

b. Other Plans

NIL

IMPLICATIONS

a. Policy and Procedural Implications

Should the projects changes not be endorsed then funding for several projects will lapse and will not longer be able to be delivered.

b. Financial Implications

If the project changes are endorsed then Council can continue to deliver on the priority projects identified in the Operational and Delivery programs.

If the changes are not endorsed then \$2,287,087 in LRCIP funding may be at risk projects funded by the program at risk.

c. Legislative Implications

NIL

d. Risk Implications

Should the changes not be endorsed then several projects will no longer have a funding source to enable them to be delivered.

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e. Environmental Implications

NIL

f. Other Implications

NIL

CONCLUSION

The changes to the projects funded by LRCIP needs to be changed in order to maintain the funding under Phase 2 of the program. Agreement has been reached with the LRCIP program administrators to adjust the program as identified in this report and the changes enable all projects to still be delivered.

ENCLOSURES

There are no enclosures for this report.

Works and Infrastructure

Report No. WI47/2022

Works and Infrastructure



SUBJECT: *RE-ESTABLISHMENT OF SPECIAL EVENT ALCOHOL FREE ZONE FOR THE AUSTRALIAN POSTIE BIKE GRAND PRIX*

RESPONSIBLE OFFICER: *Principal Engineer - Traffic and Transport - Warren Jeffery*

SUMMARY

The NSW Police, Central Hunter Local Area Command, Crime Prevention Officer previously requested that Council establish a Special Event Alcohol Free Zone, as an imposed condition of development consent for the annual running of the Australian Postie Bike Grand Prix.

RECOMMENDATION

That Council establish a Special Event Alcohol Free Zone, for the Australian Postie Bike Grand Prix, under the provisions of the *Local Government Act 1993*, applying on the day of the annual event only; being effective on 6 November 2022 and on the Sunday of the race in October or November in each of the three ensuing years, and applying to the following Cessnock streets:

- **Hall Street, from Charlton Street to Darwin Street;**
- **South Avenue, from North Avenue to Snape Street;**
- **Darwin Street from South Avenue to North Avenue;**
- **North Avenue from South Avenue to Keene Street.**

BACKGROUND

In the course of processing the development application for the Australian Postie Bike Grand Prix (APBGP), Council Officers requested a Crime Risk Assessment from the NSW Police Force, Central Hunter Local Area Command. The assessment was conducted in July 2015 by Crime Prevention Officer, NSW Police.

Emanating from this Crime Risk Assessment was the suggested establishment of a Special Event Alcohol Free Zone, covering the entirety of the streets and public places encompassed by the APBGP on the day of the event, as an imposed condition of development consent.

It was also suggested that the existing Alcohol-Free zones within the Cessnock CBD be maintained.

The previous Special Event Alcohol Free Zone was in force 4 years and has expired. The 2022 event will take place on Sunday, 6 November.

The purpose of this report is to seek a Council resolution to re-establish the special event alcohol-free zone for the iconic community event for a further 4 years.

Works and Infrastructure

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Works and Infrastructure



REPORT/PROPOSAL

The link between the consumption of intoxicating liquor and public order offences is well established and irrefutable.

In the case of a major outdoor event of the size and nature of the APBGP, which is conservatively anticipated to attract over 6,000 spectators, it is imperative that reasonable and proactive steps be taken to mitigate the inherent risks associated with irresponsible alcohol consumption.

The proposal to establish a Special Event Alcohol Free Zone, is in response to an application from the Cessnock Motorcycle Club, under section 644 of the *Local Government Act 1993*, pursuant to the imposed conditions of Development Consent for the APBGP.

The aim of the Special Event Alcohol Free Zone, is to reduce the potential for irresponsible consumption of alcohol by patrons at the APBGP and to promote responsible behaviour on the roads, footpaths and public car park areas encompassed by the event.

Cessnock CBD has an existing Alcohol-Free Zone which is in force from 1 November 2021 to 31 October 2025. The proposed Special Event Alcohol Free Zone would adjoin and extend the existing Alcohol-Free Zone.

As with the previous Special Event Alcohol Free Zone, the proposed re-established Special Event Alcohol Free Zone, would apply to the following Cessnock Streets:

- Hall Street, from Charlton Street to Darwin Street;
- South Avenue, from North Avenue to Snape Street;
- Darwin Street from South Avenue to North Avenue; and
- North Avenue from South Avenue to Keene Street.

The period of the proposed Special Event, Alcohol Free Zone is four years. It is to apply on the day of the annual event only; for the forthcoming event, it would apply on 6 November 2022 and on a designated Sunday in October, or, November, in each of the three ensuing years.

The Australian Postie Bike Grand Prix - Special Event Alcohol Free Zone Establishment Proposal 2022 is attached as **Enclosure1**.

A separate licensed area within the TAFE grounds, subject to appropriate conditions, imposed by NSW Police and the Office of Liquor Gaming and Racing may be available for patrons who wish to responsibly consume alcohol at the event.

The Special Event Alcohol Free Zone, would be subject to the maintenance of appropriate records, namely:

- (i) Documentation that all the steps for valid establishment have been undertaken;
- (ii) Provision for removal of signs at the conclusion of the zone's operation;
- (iii) Identification of suspensions or cancellations of alcohol-free zones; and
- (iv) Avoidance of overlap in the establishment of alcohol-free zones.

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Enforcement of the Special Event Alcohol Free Zone is the responsibility of NSW Police.

OPTIONS

Option 1 – Adopt the Special Event Alcohol Free Zone and allow the event to proceed (this is the preferred option).

Option 2 – Do not adopt the Special Event Alcohol Free Zone, in which case the proponent will be unable to meet the conditions of development consent for the event.

CONSULTATION

In preparing the proposal for the establishment of the Special Event Alcohol Free Zone there was internal consultation between officers in Council's Infrastructure and Development Services sections.

In addition, Council undertook a public consultation process which involved the following:

- (i) Posting of the full proposal on Council's external website and publishing of a notice of the proposal in the 11 May 2022 edition of the Advertiser, allowing inspection of the proposal and inviting representations, or objections within 30 days from the date of publication.
- (ii) A copy of the proposal was available at Council's Customer Service area;
- (iii) A copy of the proposal was sent to:
 - The District Commander, Hunter Valley Police District; and
 - The Officer in Charge, Cessnock Police Station.

The Australian Postie Bike Grand Prix 2022 - Special Event Alcohol Free Zone - Notice of Proposal is attached as **Enclosure 2**.

In reply to this consultation Council received no responses from the community and an email from the Officer in Charge – Cessnock Police Station confirming that police have no objections to the proposal. This emailed correspondence is attached as **Enclosure 3**.

STRATEGIC LINKS

a. Delivery Program 2022-26

- 1.2.1 Continue to promote the range of community services across the local government area.
- 1.3.1 Participate in collaborative partnerships to prevent crime.
- 1.3.2 Carry out regulatory and education programs to protect residential amenity and community health and safety.
- 2.3.3 Support major community events and festivals
- 5.3.8 Carry out governance functions, provide advice and conduct educator programs to comply with legislator and best practice.

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b. Road Safety Strategic Plan 2020-2024

1.3. viii Ensure pedestrian management plans are developed and implemented by event organisers to include safe and equitable access for major events.

IMPLICATIONS

a. Policy and Procedural Implications

Establishment of the proposed Special Event Alcohol Free Zone is in keeping with the broad objectives of Council's Compliance and Enforcement Policy, in that it provides the framework for members of the NSW Police Force to proactively address issues associated with alcohol consumption and potential misconduct in public places during the running of a major event.

b. Financial Implications

It is anticipated that the implementation of the proposed Special Event Alcohol Free Zone will cost approximately \$500, being for the acquisition of update decals and posting of the associated signage. The organiser of the event has made a separate request to Council for assistance, which includes establishment of the Special Event Alcohol Free Zone.

c. Legislative Implications

The proposed establishment of the Special Event Alcohol Free Zone is in accordance with the provisions of Part 4 of the *Local Government Act 1993* and the Ministerial Guidelines on Alcohol Free Zones, produced under section 646 of the *Local Government Act 1993*.

d. Risk Implications

Approval for the running of the APBGP is contingent on the establishment of the proposed Special Event Alcohol Free Zone, as it is a condition of the development consent for the event.

e. Other Implications

It would be a significant departure from normal practice for Council to ignore or act contrary to suggestions contained within a NSW Police Force, Crime Risk Assessment.

CONCLUSION

In 2015, following the success of the inaugural event in 2014, the Cessnock Motorcycle Club secured DA approval to run the event for a further five (5) years. Following the expiration of that approval, given the popular public support for the race and its associated festivities, a further DA application to ensure that the event continues has been submitted and is currently being assessed.

The safe and successful annual running of the APBGP has proven to be magnificent in attracting visitors and showcasing the Cessnock LGA. 2018 saw the first all-female race, preceding the grand prix, adding an exciting new element to the day's activities.

In previous years Council received much positive media commentary and deserved accolades for its integral support and continued efforts in ensuring that the venture enjoys ongoing success.

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Unfortunately, due to COVID-19 restrictions the event was not held in 2020 and 2021, so it is expected that the return of the event in 2022 will be eagerly and enthusiastically welcomed by the community.

Unfortunately, as the popularity of the event increases, so does the potential for anti-social behaviour. In order to protect the reputation of the event, it is essential to ensure that it remains a well organised, safe and family-friendly experience.

Special Event Alcohol Free Zones are an early intervention measure to prevent the escalation of irresponsible street drinking and will serve to promote the use of treated areas in safety and without interference from street drinkers.

ENCLOSURES

- 1 [↓](#) Australian Postie Bike Grand Prix - Special Event Alcohol Free Zone Establishment Proposal 2022
- 2 [↓](#) Australian Postie Bike Grand Prix 2022 _ Special Event Alcohol Free Zone - Notice of Proposal
- 3 [↓](#) Australian Postie Bike Grand Prix 2022 - Special Event Alcohol Free Zone - Emailed response to consultation from Police



PROPOSAL TO ESTABLISH SPECIAL EVENT ALCOHOL-FREE ZONE

FOR THE 2022 AUSTRALIAN POSTIE BIKE GRAND PRIX

PROPOSAL TO ESTABLISH A SPECIAL EVENT ALCOHOL FREE ZONE FOR THE 2022 AUSTRALIAN POSTIE BIKE GRAND PRIX

1. The proposal of Council to establish a Special Event, Alcohol Free Zone, is in response to an application from the Cessnock Motorcycle Club, under section 644 of the *Local Government Act 1993*, pursuant to the imposed conditions of Development Consent for the Australian Postie Bike Grand Prix (APBGP).
2. The aim of the Special Event, Alcohol Free Zone, is to reduce the potential for the irresponsible consumption of alcohol by patrons at the APBGP and to promote responsible behaviour on the roads and footpaths and in the public car parks, in the area encompassed by the event.
3. Cessnock CBD has an existing Alcohol Free Zone which is in force from 1st November 2021 to 31st October 2025. The proposed Special Event, Alcohol Free Zone, would adjoin and extend the existing Alcohol Free Zone.

4. The proposed Special Event, Alcohol Free Zone, would apply to the following Cessnock Streets:
 - Hall Street, from Charlton Street to Darwin Street;
 - South Avenue, from North Avenue to Snape Street;
 - Darwin Street from South Avenue to North Avenue;
 - North Avenue from South Avenue to Keene Street.

See Annexure 1- Location of Special Event, Alcohol Free Zone – Australian Postie Bike GP
5. The period of the Special Event, Alcohol Free Zone is four (4) years. It is to apply on the day of the annual event only; for the forthcoming event, it would apply on 6th November 2022 and on a designated Sunday in October or November, in each of the ensuing years.
6. As required by the provisions of the *Local Government Act 1993*, Council is to undertake a public consultation process which involves the following:
 - (i) Publish a notice of the proposal in a newspaper circulating in the area, allow inspection of the proposal and invite representations or objections within 14 days for persons or groups and within 30 days for NSW Police from the date of publication.
 - (ii) Send a copy of the proposal to:
 - The Commander, Hunter Valley Police District and the Officer in Charge, Cessnock Police Station;
and
 - The holder of a licence in force under the *Liquor Act 2007*, for premises that border on, or adjoin, or are adjacent to, the proposed zone,
 - (iii) On receipt of submissions and/or objections, the Council will consider such at a meeting to be determined.
7. Pursuant to the *Local Government Act 1993* the Council may make a resolution to establish the Special Event, Alcohol Free Zone, as provided for in this proposal.
8. The Special Event, Alcohol Free Zone, will operate on the day of the Australian Postie Bike Grand Prix, as stated under point 5 and would be sign posted as follows, or similar:



9. The Special Event, Alcohol Free Zone, would be subject to the maintenance of appropriate records, namely:
- (i) Documentation that all the steps for valid establishment have been undertaken;
 - (ii) Provision for removal of signs at the conclusion of the zone's operation;

- (iii) Identification of suspensions or cancellations of alcohol free zones;
 - (iv) Avoidance of overlap in the establishment of alcohol free zones;
 - (v) Provision of a reference base where re-establishment of an alcohol free zone is sought.
10. The enforcement of the Special Event Alcohol Free Zone is the responsibility of the NSW Police Force.
11. Submissions in support of this proposal or submissions objecting to the proposal should be directed to:

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

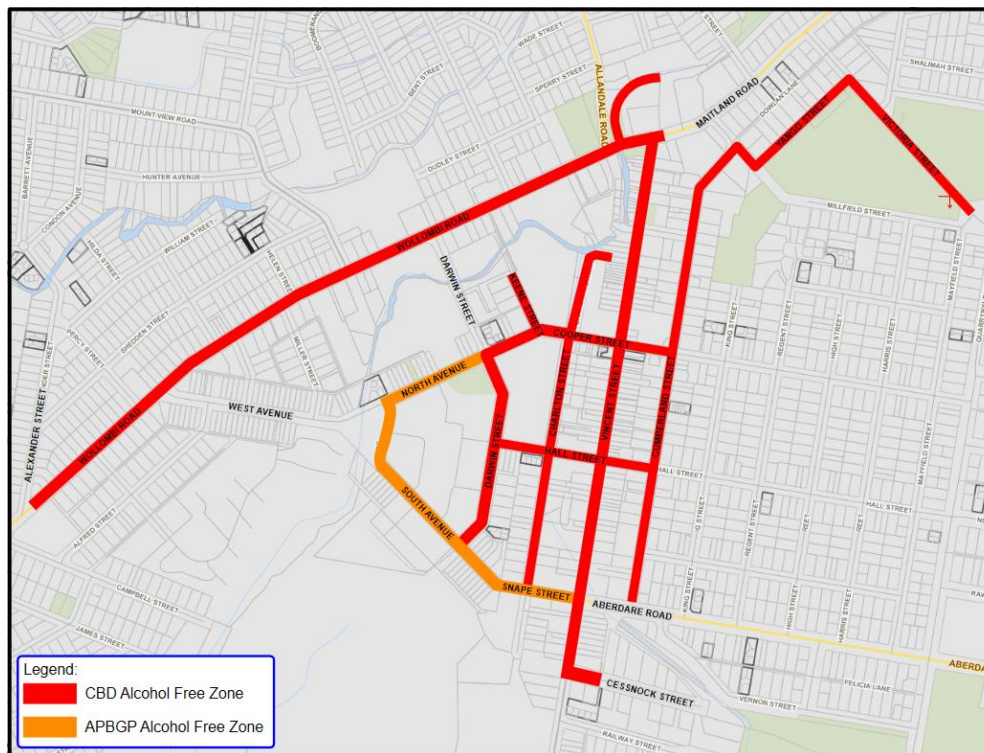
Endorsed: "Proposed Special Event Alcohol Free Zone"

General public submissions should be lodged on or before the 25 May 2022.

In the case of the NSW Police and licence holders under the *Liquor Act 2007*, within 30 days after receipt of this proposal.

Annexure 1

Location of Special Event, Alcohol Free Zone – Australian Postie Bike GP



SPECIAL EVENT ALCOHOL-FREE ZONE

Cessnock City Council proposes to establish a Special Event, Alcohol - Free Zone, under the provisions of the *Local Government Act 1993*, to operate in conjunction with the 2022 Australian Postie Bike Grand Prix.

The proposed Special Event, Alcohol - Free Zone, would apply to the following Cessnock Streets:

- Hall Street, from Charlton Street to Darwin Street;
- South Avenue, from North Avenue to Snape Street;
- Darwin Street from South Avenue to North Avenue;
- North Avenue from South Avenue to Keene Street.

The proposed zone includes roads, footpaths, nature strips and carparks adjacent to the carriageway along these roads.

The period of the proposed Special Event, Alcohol - Free Zone is four (4) years and it is to apply on the day of the annual event only; for the forthcoming event, it would apply on 6 November 2022.

The proposal may be inspected at Council's Customer Service Section, 62 – 78 Vincent Street Cessnock, during normal office hours and on Councils website for a period of **14 days from Thursday 12 May 2022 to 25 May 2022 (inclusive)**.

Comments on the proposal should be addressed in writing to the General Manager PO Box 152, Cessnock and must be received by 4.00pm on 25 May 2022. For further information please contact Council's Customer Service on 4994100.

PO BOX 152
CESSNOCK 2325

Robert Maginnity
GENERAL MANAGER

Distribution:	The Advertiser 11 May 2022
Contact Person:	Warren Jeffery
Phone No::	4993 4283
Fax No:	4993 2505
Today's Date:	27 June 2022
Job Number:	5154.9289.100

Warren Jeffery

From: Michael Gorman <gorm1mic@police.nsw.gov.au>
Sent: Wednesday, 11 May 2022 9:45 AM
To: Traffic and Transport
Subject: FW: Traffic & Transport _ Australian Postie Bike Grand Prix _ Special Event Alcohol Free Zone Establishment Proposal 2022 _ Warren Jeffery [SEC=OFFICIAL]
Attachments: Traffic & Transport _ Australian Postie Bike Grand Prix _ Special Event Alcohol Free Zone Establishment Proposal 2022 _ Warren Jeffery.PDF

Tracy,

I have reviewed the attached proposal and have no objection to the establishment of an extended alcohol free zone for the Postie Bike Grand Prix.

Regards



Chief Inspector Michael Gorman
Officer in Charge
Cessnock Police Station
1 Cumberland Street, CESSNOCK 2325
E: gorm1mic@police.nsw.gov.au P: **02 4991 0100** E: **71100** M: [0413 561 662](tel:0413561662)

From: Traffic and Transport <traffic@cessnock.nsw.gov.au>
Sent: Thursday, 5 May 2022 3:36 PM
To: Michael Gorman <gorm1mic@police.nsw.gov.au>
Cc: Amy Sweeney <swee1amy@police.nsw.gov.au>
Subject: Traffic & Transport _ Australian Postie Bike Grand Prix _ Special Event Alcohol Free Zone Establishment Proposal 2022 _ Warren Jeffery

Chief Inspector Michael Gorman
Please find attached proposal for the establishment of special event alcohol free zone for the 2022 Australian Postie bike Grand Prix. Council is undertaking public consultation as required by the Local Government Act 1993 and requests your review and feedback of the attached proposal.

Regards



Tracey Cocking Senior Business Support Officer
62-78 Vincent St | PO Box 152 | Cessnock NSW 2325
p 02 4993 4338 |
www.cessnock.nsw.gov.au



Integrity, Respect, Teamwork, Accountability and Excellence

I acknowledge Aboriginal people as the traditional custodians of the land on which Cessnock City Council offices and operations are located, and pay my respects to Elders past, present and future.

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Works and Infrastructure
Report No. WI48/2022
General Manager's Unit



SUBJECT: *IMPLEMENTATION OF LGA SIGNAGE STRATEGY - ILLUMINATED SIGNAGE*

RESPONSIBLE OFFICER: *Economic Development & Tourism Manager - Tony Chadwick*
Principal Engineer - Traffic and Transport - Warren Jeffery

SUMMARY

The purpose of this Report is to inform Council of the economic development opportunities from the potential purchase of the Claude Neon (Aust) Pty Ltd illuminated signs and if Council can implement an illuminated signage strategy as a source of revenue.

RECOMMENDATION

1. That Council notes that the potential financial benefit of selling illuminated sign advertising does not exceed the opportunity cost of diverting staff resources and is not in accordance with Council adopted signage strategies;
2. That Council cease the hold-over use of the expired agreement for display of Claude Neon (Aust) Pty Ltd illuminated signage on 30 September 2022;
3. That Council serve notice to Claude Neon (Aust) Pty Ltd to revoke consent under Section 140 of the *Roads Act 1993* on 30 September 2022;
4. That Council requests a removal plan be provided for the removal from the public road reserve of illuminated signage owned by Claude Neon (Aust) Pty Ltd, by 30 September 2022; and
5. That Council in accordance with Section 124 of the *Local Government Act 1993*, directs removal from the public road reserve the illuminated signage owned by Claude Neon (Aust) Pty Ltd, by 30 June 2023.

BACKGROUND

At its Ordinary Meeting of 18 March 2022, Council when considering Report WI21/2022 resolved:

1. *That the General Manager brings back a report outlining economic development opportunities with the possible purchase of the current illuminated signs and how Council may implement an illuminated signage strategy as a source of revenue.*
2. *That the report includes detailed information around road laws and safety that might be impacted through this strategy.*

This report addresses items 1 and 2 of the above resolution.

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At its Ordinary Meeting of 18 February 2015, Council resolved (GMU4/2015):

1. ***That Council adopt the Hunter Valley Wine Country Signage Strategy and the Cessnock LGA Signage Strategy with the amendments outlined in this report.***
2. ***That Council undertake to complete the actions and tasks as outlined in this report as resources allow.***

Implementation of the Cessnock LGA Signage Strategy is being achieved with the roll out of new high quality street blades, community facility signs, and suburb signs.

As a further step in the implementation of the Strategy, this report seeks authorisation for the removal from the public road reserve of the existing privately owned, non-compliant, illuminated advertising signage owned by Claude Neon (Aust) Pty Ltd.

REPORT/PROPOSAL**Illuminated signage as a potential source of revenue**

Note: The 10 Claude Neon (Aust) Pty Ltd illuminated signs are inconsistent with the following Council strategies and documents:

- Cessnock LGA Signage Strategy
- Hunter Valley Wine Country Signage Strategy
- Cessnock Development Control Plan 2010, Chapter D.5 Outdoor Signage

If the above documents were not in place, then the following income could potentially be gained from advertising.

The current annual income to Council for the 10 illuminated signs is \$2,500. Retail income from advertising is dependent on sign location and the exposure to people traffic. Retail advertising income estimates for billboard advertising within the Cessnock LGA high traffic areas would range from \$1,000 to \$3,000 per annum per square metre.

Based on 10 double sided signs, 1.5 square metres in size with a 75% sale rate, the estimated annual income before expenses would be \$45,000.

Typical expenses related to the installation of advertising materials would include:

Expense Description	Expense Amount
Customers service and advertising contract processing – 8 hours per sign at \$65 per hour	\$10,400
Sign promotion and marketing – Including website updates	\$5,000
Liability insurance	\$2,500
Sign maintenance – Painting and graffiti etc	\$2,000
Artwork manufacture - \$450 per sign (10 new signs per year)	\$4,500
Artwork installation – 2 people 2 hours per sign at \$85 per hour (10 new signs per year)	\$3,400
Electricity – 8 hours per day, 80 watts per sign at 30 cents per kilowatt	\$700
Maintain website for advertising – 20hrs per year at \$65/hr	\$1,300
Total Expenses	\$29,800

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The potential net income to Council from utilising the existing 10 signs is \$15,200 per annum.

To enable Council to sell advertising using the 10 illuminated signs, the following one-off activities would need to be completed:

Expense Description	Expense Amount
Sign purchase from Claude Neon (Aust) Pty Ltd	By negotiation
Create and adopt an Advertising Policy – 300 hours at \$65 per hour	\$19,500
Obtain legal advice to create an advertising contract template	\$10,000
Create a webpage that contains advertising information, advertising rates and frequently asked questions – 50 hours at \$65 per hour	\$3,250
Update Councils Fees and Charges – 35 hours at \$65 per hour	\$2,225
Total Expenses (excluding any negotiated sign purchase cost if able to be achieved)	\$34,975

New advertising on Bus Shelters or in the Transport Corridor

Preliminary legal advice received by Council shows that there is not an approval pathway under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or the *State Environmental Planning Policy (Industry and Employment) 2021*, to display advertisements in Cessnock LGA bus shelters or transport corridors (refer Legislative Implications).

Original Advertising Agreement

At its Ordinary Meeting of 24 January, 2001, Council resolved through Report 12/2001 presented by Strategic & Community Services Committee that:

1. *The Following be put to Claude Neon as an agreement for their identilite structures;*
 - a) *The agreement will be for ten years with a review after that period,*
 - b) *\$250/sign/year – review after five years (Linked to CPI),*
 - c) *No cost to Council for the installation and maintenance of the signage,*
 - d) *\$10m Public Liability Insurance, and*
 - e) *New signs or variations to existing sign is upgraded or replaced, the opportunity be offered to Council to have a community service or road safety message placed on the sign in the appropriate location.*
2. *Council review the identilite Policy.*

On 11 April, 2001, in accordance with the above resolution, Council and Claude Neon (Aust) Pty Ltd entered an agreement allowing Claude Neon to display privately owned illuminated advertising (Identilite signs) and street name signs in the City of Cessnock.

Expired Advertising Agreement

Upon its expiry on 11 April, 2011, the licence agreement to display advertising and street names was extended to 30 April 2012.

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Since it expired in 30 April, 2012, this historical agreement has been in a holding state. While no ensuing extension has been granted, correspondence between subsidiary Claude Outdoor and Council's then General Manager, dated 10 March 2016, indicated that the licence agreement has been "holding over" since the expiration of the extension period.

Signage Strategies

In response to a proliferation of varied and dissimilar signage, and a desire to improve streetscape, the quality of urban design, and engender pride in the sense of place, Council worked with the community to prepare suitable signage strategies. The development involved extensive consultation with residents, property owners, businesses, local interest groups and key stakeholders.

On 18 February 2015, subsequent to the expiry of the above-mentioned agreement with Claude Neon (Aust) Pty Ltd, Council adopted the Cessnock LGA Signage Strategy and Hunter Valley Wine Country Signage Strategy to guide the design and placement of signage in the public domain.

The Strategies highlighted that signage is a powerful tool for communities to:

- develop a strong brand for their region;
- create a positive first impression for visitors;
- provide important information about an area; and
- assist navigation and way-finding.

These Strategies seek to ensure that the signage throughout the Cessnock LGA is of a high quality, design and finish that is uniform, consistent and clear. Reducing signage clutter, particularly in the public road reserve, will contribute to meeting this objective. The signage strategies provide designs, including materials and colour pallets to ensure standards compliant signage that is of a consistent style, quality, aesthetic and functionality.

The existing Identilite signs are:

- inconsistent with the *State Environmental Planning Policy (Industry and Employment) 2021*;
- inconsistent with Cessnock Development Control Plan 2010;
- not in accordance with the Cessnock LGA Signage Strategy; and
- not aligned with Council's adopted position on Climate Change.

Accordingly, it would be inappropriate to continue operating under an agreement that expired in 2012 and/or entering into a new agreement.

OPTIONS

In considering the current legislative and Council Policy positions it is appropriate that the:

- expired agreement for display of illuminated signage be retired; and
- outdated illuminated signage be removed.

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CONSULTATION

Internal Consultation: Internal consultation has occurred as follows:

- Traffic Engineering Officer, Infrastructure;
- Economic Development and Tourism Manager; and
- Development Services Manager.

External Consultation: External consultation has occurred as follows:

- Lindsay Taylor Lawyers;
- Public consultation;
 - Undertaken through the Signage Strategy development, exhibition, adoption and implementation processes, and
 - Undertaken by NSW Government during introduction of SEPP 64 and subsequent amendment/consolidation into the *State Environmental Planning Policy (Industry and Employment) 2021*.
- Claude Group;
 - At regular intervals since 2011, Claude Group were provided feedback, through direct communication with senior staff via phone conversations and face to face meetings,
 - In February 2014, Council's then Economic Development Manager provided advice to Claude Group regarding the development of a signage strategy for Cessnock,
 - Claude Group were also advised of the outcome of the consultation and the adoption of the Hunter Valley Wine Country Signage Strategy and the Cessnock LGA Signage Strategy,
 - On 24 July 2018, during a meeting held at Council with the Manager of Claude Outdoor, it was reiterated that the existing Identilite signage is inconsistent with relevant provisions and objectives of Council's Cessnock LGA Signage Strategy and the Hunter Valley Wine Country Signage Strategy, which were both adopted in 2015 and currently being implemented,
 - Similarly, it was pointed out that the Identilite signage is not aligned with the provisions of the *State Environmental Planning Policy (Industry and Employment) 2021* relating to advertising in transport corridors, and
 - In summary, Council's position, based on the prevailing policies and strategies, has been well communicated to Claude.
- Claude Group Clients;
 - No consultation has been undertaken with Claude Group clients. It would be inappropriate for Council officers to undertake this consultation as this matter with individual advertisers is linked to the subject illuminated signs, as this is a contractual matter between Claude Group and their clients/advertisers.

STRATEGIC LINKS

a. Delivery Program

Delivery Program 2022 - 26: The recommendation of this report aligns with the following objectives:

- 1.3 Promoting Safe Communities;
- 1.3.5 Improve the safety of the road network;
- 2.3 Increasing tourism opportunities and visitation in the area; and
- 2.3.3 Continue implementation of the Vineyard Signage Strategy.

b. Other Plans

Hunter Valley Wine Country Signage Strategy: The recommendation of this report aligns with the following sections:

Section 1.2 - Project Objectives
Section 4.1 - Principles of Good Signage
Section 5.1 - Removal of Existing Signage

Cessnock City Council - Road Safety Strategic Plan (2020 - 2024): The recommendation of this report aligns with the following objectives:

Safe Roads:

- 4 Provide safe and efficient management & maintenance of Council's road assets:
 - 4.1.1 Set priorities for road construction and maintenance through Council's Delivery Program & Asset Management.
 - 4.1.2 Ensure Council's road infrastructure works comply with Austroads Design Guidelines, Australian Standards and Transport for NSW Technical Directions.
 - 4.1.3 Conduct road safety audits as required.
- 5 Deliver safe, efficient and compliant road and transport infrastructure planning.
 - 5.2.1 Ensure compliant road design that delivers safe and efficient road and transport infrastructure that meets demand.
 - 5.2.2 Ensure design and construction of new or upgraded road and transport infrastructure associated with development is processed through Local Traffic Committee and Local Development Committee (Traffic) to facilitate mandatory compliance with Austroads Design Guidelines, Australian Standards and Transport for NSW Technical Directions.
 - 5.2.3 Ensure design and construction of new or upgraded road and transport infrastructure associated with Council works are processed through Local Traffic Committee to facilitate mandatory compliance with Austroads Design Guidelines, Australian Standards and Transport for NSW Technical Directions.
 - 5.2.4 Ensure event planning is assessed in accordance with the NSW Guide to Traffic and Transport Management for Special Events.

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- 5.3.1 Review, assess and respond to road safety concerns brought to Council's notice from members of the community.

IMPLICATIONS**a. Policy and Procedural Implications**

On 20 May 2020, Council adopted a Climate Change Policy, which outlines Council's position on climate change and seeks to reduce Council's carbon footprint. Use of electric light street blades and advertising does not align with Council's adopted Policy.

b. Financial Implications

Council currently receives an annual fee of \$2,500 from Claude Neon (Aust) Pty Ltd for the provision of illuminated street signs. There have been no CPI increases since its commencement on 11 April 2001.

Electricity supply charges for the illuminated signs are met by Claude Neon (Aust) Pty Ltd.

Adopting this recommendation will result a \$2,500 annual reduction of revenue.

Purchasing the 10 Claude Neon (Aust) Pty Ltd illuminated signs and selling advertising will have the following budget impacts:

- Year 1 advertising setup costs will have a negative budget impact of \$34,975; and
- Year 2+ advertising income will have a positive budget impact of \$15,200.

c. Legislative Implications

Although inconsistent with current Council strategies the 10 Claude Neon (Aust) Pty Ltd illuminated signs are approved for use in their current form.

Legislation and Policies relating to signage are shown in **Table 1** below.

Table 1 – Legislation and Local Policy Regulating Signage

Legislation / Instrument / Policy	Relevance	
<i>Local Government Act 1993</i>	Section 124	Sets out the circumstances in which a council may order a person to remove an object or matter from a public place or prevent any object or matter being deposited there.
<i>Local Government (General) Regulation 2005</i>	Division 9A of Part 11	Sets out specific provisions relating to activities that occur during the regulated periods of elections, including the display of election posters
	Schedule 12	Sets out the penalty for not complying with an order made pursuant to Section 124 of the <i>Local Government Act 1993</i> to remove an

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Legislation / Instrument / Policy	Relevance	
		object or matter from a public place. The relevant penalty is \$220.
<i>Environmental Planning and Assessment Act 1979</i>	Part 4 Division 4.1	Sets out the circumstances in which development requires consent.
	Part 9 Division 9.3	Sets out the circumstances in which a council may order a person to alter, obliterate, demolish or remove an advertisement and any associated advertising structure.
<i>Roads Act 1993</i>	Section 138	Sets out the circumstances in which approval is required for works and structures in the road reserve, including forms of signage.
	Section 140	Revocation of Consent A roads authority may at any time and for any reason revoke a consent under this Division (other than a street vending consent) by notice in writing served on the holder of the consent
<i>Impounding Act 1993</i>	Division 4 of Part 2	Sets out the circumstances in which council may impound articles, such as vehicles and illegal signage.
<i>State Environmental Planning Policy (Industry and Employment) 2021 – Advertising and Signage</i>	Section 3.9	Sets out that a person must not display an advertisement, except with the consent of the relevant authority.
	Section 3.7	Identifies that the <i>State Environmental Planning Policy (Industry and Employment) 2021</i> applies to all signage, other than: <ul style="list-style-type: none"> • business identification signage, • building identification signage, • signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, and • signage on vehicles.
	Section 3.30	Sets out certain exemptions for advertisements on transport corridor land, when carried out by or on behalf of RailCorp, NSW Trains, Sydney Trains, Sydney Metro or TfNSW.
<i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>	Division 2 of Part 2	Sets out exemptions for certain advertising and signage, including: <ul style="list-style-type: none"> • various forms of business identification signage, • community notice and public information signage, • temporary event signage, • real estate signage, and

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Legislation / Instrument / Policy	Relevance	
		<ul style="list-style-type: none"> election signage. <p>Contains general requirements that must be satisfied, in order for signage to be considered exempt development.</p> <p>This includes the requirement for landowner consent and, in the case of signage that projects over public road reserves, approval from the relevant Roads Authority under Section 138 of the Roads Act 1993.</p> <p>In addition to the general requirements, specific development standards for each type of signage must also be satisfied in order for that signage to be considered exempt development.</p>
<i>State Environmental Planning Policy (Infrastructure) 2007</i>	Clause 20 A	Sets out provisions that must be satisfied in order for certain types of signage to be considered exempt development when carried out by public authorities.
<i>Cessnock Local Environmental Plan 2011</i>	Land Use Table	Identifies the land use zones in which signage is permitted with or without consent, or is prohibited.
Cessnock Development Control Plan 2010	Chapter D.5	Sets out controls for signage that requires development consent.
Australian Standard 1742, Part 5: Street Name and Community Facility Name Signs.	Section 3.	Sets out purpose of Community Facility signage, provides guidance on eligibility for such signs, and provides specifications for manufacture and installation.
Australian Standard 1742, Part 6: Service and Tourist Signs.	Section 2	Sets out purpose of signage for Tourist Information facilities, provides guidance on eligibility for such signs, and provides specifications for manufacture and installation.
	Section 3	Sets out purpose of signage for Tourist facilities, provides guidance on eligibility for such signs, and provides specifications for manufacture and installation.
	Section 5	Sets out purpose of signage for Service facilities, provides guidance on eligibility for such signs, and provides specifications for manufacture and installation.

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d. Risk Implications

Safety Risk: Presence of the signs gives rise to a safety risk. The existing illuminated signage and advertising contributes to signage clutter in the road corridor, which undermines the effectiveness of road safety and standardised way finding signage. Implementation of the Cessnock LGA Signage Strategy has seen the roll out of new highly reflective, standards compliant street blades to aid way finding and minimise signage clutter.

Reputational Risk: There is a high risk to Council in condoning and promoting signage within the LGA that is inconsistent with its own signage strategies and State policies. It is important that Council lead by example in compliance with legislation and adopted Policies.

Commercial Risk – There is no foreseeable commercial risk to Council as Council has no commercial obligation and no liability in respect of Claude's third party agreements with its customers. Direct contact with Claud Group's customers is not advised as Council may be construed to be offering alternate advertising arrangements, breaching commercial confidence and engaging in inappropriate dealings for a public authority.

e. Environmental Implications

Climate Change: Removal of the illuminated signs will result in lower electricity usage and the associated environmental benefits of reduced impacts of mining and less CO2 emissions.

f. Other Implications

Urban Design: Removal of the outdated illuminated signage will allow uniformity of street name signage throughout the LGA. This will improve streetscapes and result in more pleasant, and contemporary urban amenity.

CONCLUSION

Utilising the 10 illuminated signs to generate income for Council may result in a financial break even point of approximately two years and four months after project implementation. Annual income after the break even point is estimated at \$15,200. The implementation of the illuminated sign project will come at a one-off opportunity cost of 385 staff hours. There is currently no funding allocated to undertake such a project in Councils Operational Plan.

It is important that Council comply with legislated Policies and adopted Strategies to demonstrate our values to the community. Whilst the installation of the privately owned illuminated advertising signage was a worthy idea when instigated two decades ago, the signs are no longer contemporary, they are not uniform and they are inconsistent with Council strategies and the Cessnock Development Control Plan 2010. The need for illuminated way-finding signage has been superseded by advances in premium grade reflective non-illuminated signage which is being posted throughout the Cessnock and neighboring LGAs.

It is appropriate that Council systematically supports implementation of Cessnock LGA Signage Strategy by retiring the outdated illuminated signage and historical agreement allowing Claude Neon (Aust) Pty Ltd to display privately owned illuminated advertising and street name signs in the public road reserve.

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The financial benefit of selling illuminated sign advertising does not exceed the opportunity cost of diverting staff resources or in not following Council adopted signage strategies.

ENCLOSURES

There are no enclosures for this report.

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SUBJECT: *BUS SHELTER ADVERTISING*
RESPONSIBLE OFFICER: *Economic Development & Tourism Manager - Tony Chadwick*
Principal Engineer - Traffic and Transport - Warren Jeffery

SUMMARY

The purpose of this report is to inform Council of the outcome of the investigation into bus shelter advertising as a potential new revenue source for Council.

RECOMMENDATION

That Council notes that the display of advertising in transport corridors is generally restricted and is permissible only with development consent in strictly confined cases, as provided in *State Environmental Planning Policy (Industry and Employment) 2021*, and *Environmental Planning and Assessment Act 1979*.

BACKGROUND

At its Ordinary Meeting of 20 April 2022, Council when considering Report WI22/2022 Bus Shelter Advertising resolved:

- 1. That the General Manager brings back a report outlining economic development opportunities available from Bus Shelter advertising.***
- 2. That the report include detailed information around road laws and safety that might be impacted through this strategy.***
- 3. That the report include how community organisations might better access the bus shelter signs for local promotion of events and programs.***

This report addresses items 1, 2 and 3 of the above resolution.

REPORT/PROPOSAL

Bus Shelter Economic Development Opportunities

Council currently explores opportunities to generate revenue from advertising where it is practical and allowable to do so. During the 2020/2021 financial year the Hunter Valley Visitor Information Centre generated \$17,335 from advertising and \$25,185 in the 2021/2022 financial year. Additional advertising opportunities are offered at the Cessnock Performing Arts Centre and via Council flag poles as per Councils Fees and Charges.

Retail income from advertising is dependent on sign location and the exposure to people traffic. Estimates for billboard advertising within the Cessnock LGA high traffic areas would range from \$1,000 to \$3,000 per annum per square metre.

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Preliminary legal advice received by Council shows that there is not an approval pathway under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or the *State Environmental Planning Policy (Industry and Employment) 2021*, to display advertisements in Cessnock LGA bus shelters (refer Legislative Implications).

Community Organisation Advertising

Community organisation advertising on bus shelters is allowable in accordance with *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, Section 2.83, 2.100 and 2.101.

Council has a total of nine frames on bus shelters across the LGA to display educational and community information. Council staff can display information on these frames by gaining approval from the Media and Communication Team or the Ranger Team Leader. Council staff are responsible for installing and removing their posters once approval is received.

To maintain control of advertising material Council does not allow community groups to display notices in bus shelters unless approved by the General Manager.

Bus Shelter Advertising Road Laws and Safety

Adopted Bus Shelters Policy

Council's *Bus Shelters Policy* was adopted at Council's Ordinary Meeting of 20 October 2021, as an update and consolidation of the superseded and out of date *Bus Shelter Design* and *Street Seats and Bus Shelter Advertising* policies.

The update did not materially alter the intent of the policy, so far as it relates to bus shelter advertising. Point 6 of the *Bus Shelters Policy* states the following:

6. BUS SHELTER ADVERTISING

- 6.1 *Council will not enter into any commercial arrangements for the display of advertising materials on bus shelters.*
- 6.2 *Council's community service notices may be displayed on suitably equipped bus shelters with General Manager's approval.*

Adopted Signage Strategies

In response to a proliferation of varied and dissimilar signage, and a desire to improve streetscape, the quality of urban design, and engender pride in the sense of place, Council worked with the community to prepare suitable signage strategies. The development involved extensive consultation with residents, property owners, businesses, local interest groups and key stakeholders.

On 18 February 2015, Council adopted the Cessnock LGA Signage Strategy and Hunter Valley Wine Country Signage Strategy to guide the design and placement of signage in the public domain.

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The Strategies highlighted that signage is a powerful tool for communities to:

- develop a strong brand for their region;
- create a positive first impression for visitors;
- provide important information about an area; and
- assist navigation and way-finding.

The placement of commercial advertising signs in public bus shelters is inconsistent with the objectives and provisions of these adopted strategies.

Similarly, advertising in bus shelters is inconsistent with the provisions of *the (State Environmental Planning Policy (Industry and Employment) 2021)* and *Environmental Planning and Assessment Act 1979*. Relevant provisions of these documents are detailed in the 'Legislative Implications' section below.

OPTIONS

N/A

CONSULTATION

The draft *Bus Shelters Policy* was placed on public exhibition from 2 July 2021 to 1 August 2021. During the exhibition period, copies of the draft documents were made available for viewing on Council's Website.

Internal Consultation: Internal consultation on this matter has occurred with Council officers as follows:

- Principal Engineer - Traffic & Transport, Infrastructure;
- Principal Engineer – Design & Project Management, Infrastructure;
- Media and Communication Coordinator;
- Building Projects Coordinator; and
- Engineering Officer, Traffic & Transport.

External Consultation: External consultation on this matter has occurred as follows:

- Lindsay Taylor Lawyers;
- Public transport providers; and
- Transport for NSW (TfNSW).

STRATEGIC LINKS

a. Delivery Program

Delivery Program 2022 - 26: The recommendation of this report aligns with the following objectives:

- 1.3 Promoting Safe Communities; and
- 1.3.5 Improve the safety of the road network.

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b. Other Plans

Cessnock City Council - Road Safety Strategic Plan (2020 - 2024): The recommendation of this report aligns with the following objectives:

- 4 Provide safe and efficient management & maintenance of Council's road assets:
 - 4.1.1 Set priorities for road construction and maintenance through Council's Delivery Program & Asset Management;
 - 4.1.2 Ensure Council's road infrastructure works comply with Austroads Design Guidelines, Australian Standards and Transport for NSW Technical Directions; and
 - 4.1.3 Conduct road safety audits as required.
- 5 Deliver safe, efficient and compliant road and transport infrastructure planning:
 - 5.2.1 Ensure compliant road design that delivers safe and efficient road and transport infrastructure that meets demand;
 - 5.2.2 Ensure design and construction of new or upgraded road and transport infrastructure associated with development is processed through Local Traffic Committee and Local Development Committee (Traffic) to facilitate mandatory compliance with Austroads Design Guidelines, Australian Standards and Transport for NSW Technical Directions;
 - 5.2.3 Ensure design and construction of new or upgraded road and transport infrastructure associated with Council works are processed through Local Traffic Committee to facilitate mandatory compliance with Austroads Design Guidelines, Australian Standards and Transport for NSW Technical Directions; and
 - 5.3.1 Review, assess and respond to road safety concerns brought to Council's notice from members of the community.

IMPLICATIONS

a. Policy and Procedural Implications

Council's *Bus Shelters Policy* was developed to ensure consistency and compliance with the *Environmental Planning and Assessment Act 1979*.

Any amendment to allow bus shelter advertising would cause Council to be in contravention of this legislation and its subordinate *State Environmental Planning Policy (Industry and Employment) 2021*.

b. Financial Implications

N/A

c. Legislative Implications

Council staff obtained preliminary legal advice regarding bus shelter advertising on 9 June 2022. A summary of the legal advice received was:

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- Advertising sign approval requirements are complicated and require the development of a checklist to determine if a specific advertising sign proposal meets legislative requirements;
- In some circumstances public notices and community organisation advertising is exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*; and
- *State Environmental Planning Policy (Industry and Employment) 2021*, Chapter 3 Advertising and signage, regulates and restricts the display of advertisements in transport corridors unless exempt development applies or the advertising is on behalf of TfNSW.

Legislation and Policies relating to signage are shown on **Table 1** below:

Table 1 – Legislation and Local Policy Regulating Signage

Legislation / Instrument / Policy	Relevance	
<i>Environmental Planning and Assessment Act 1979</i>	Part 4 Division 4.1	Sets out the circumstances in which development requires consent.
	Part 9 Division 9.3	Sets out the circumstances in which a council may order a person to alter, obliterate, demolish or remove an advertisement and any associated advertising structure.
<i>Roads Act 1993</i>	Section 138	Sets out the circumstances in which approval is required for works and structures in the road reserve, including forms of signage.
<i>State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage</i>	Clause 3.6	Sets out that a person must not display an advertisement, except with the consent of the relevant authority.
	Clause 3.7	Identifies that the SEPP applies to all signage, other than: <ul style="list-style-type: none"> • business identification signage, • building identification signage, • signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, and • signage on vehicles.
	Clause 3.14	Sets out certain exemptions for advertisements on transport corridor land, which are carried out by or on behalf of RailCorp, NSW Trains, Sydney Trains, Sydney Metro or TfNSW.
	Division 3 of Part 3.3	Sets out requirements for specific types of advertising signage.
<i>Cessnock Local Environmental Plan 2011</i>	Land Use Table	Identifies the land use zones in which signage is permitted with or without consent, or is prohibited.

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Legislation / Instrument / Policy	Relevance	
Cessnock Development Control Plan 2010	Chapter D.5	<p>Sets out controls for signage that requires development consent.</p> <p>5.1.3 Signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes: (a) building identification signs, and (b) business identification signs, and (c) advertisements, but does not include traffic signs or traffic control facilities.</p> <p>5.2.2 Prohibited Locations. h. Signs on public property or footpaths.</p>
<i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>	Division 2	<p>2.83 General requirements (1) To be exempt development under this code, development specified in this Division must comply with (a) – (i).</p> <p>2.100 Specified development - The construction or installation of a sign that provides information on, or advertises services or activities on a site for, a public or community institution or organisation is development specified for the purposes of this code. 2.101 Development standards - The standards specified for that development are that the development must— (a) not result in more than one sign facing any road frontage, and (b) not have a surface area of more than 3.5m², and (c) not be higher than 5m above ground level (existing), and (d) be located wholly within the boundaries of the site, and (e) be securely fixed and installed in accordance with— (i) AS/NZS 1170.0:2002, Structural design actions, Part 0: General principles, and (ii) AS/NZS 1170.2:2011, Structural design actions, Part 2: Wind actions, and (f) if on the site of a heritage item or draft heritage item—not be attached to a building, and (g) not be illuminated.</p>

Importantly, **Table 1** is not exhaustive and other legislation may apply in relation to the erection of signage in NSW.

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d. Risk Implications

Safety Risk:

The presence of advertising signage on transport corridors contributes to signage proliferation and clutter which has the potential to cause driver visual distraction and reduce the effectiveness of authorised regulatory and warning signage in the public road reserve.

Reputational Risk:

Council would be exposed to reputational risk in authorising the installation of signage that is contrary to plans, policies and statutory provisions. As a public authority it is imperative that Council leads by example in compliance with legislation and adopted policies.

In addition, facilitating advertising signage, contrary to statutory requirements may compromise the community's perception of Council's compliance and enforcement staff, in the execution of their functions with respect the unauthorised display of advertising signage in public spaces.

e. Environmental Implications

Signage clutter compromises visual aesthetics and is a recognised negative environmental affectation.

f. Other Implications

N/A

CONCLUSION

Preliminary legal advice received by Council shows that there is not an approval pathway under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or the *State Environmental Planning Policy (Industry and Employment) 2021*, to display advertisements in Cessnock LGA bus shelters.

Community organisation advertising on bus shelters is allowable in accordance with *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Council staff can display community information in bus shelters by gaining approval from the Media and Communication Team or the Ranger Team Leader. To maintain control of advertising material Council does not allow community groups to display notices in bus shelters unless approved by the General Manager.

As a public authority it is imperative that Council complies with relevant legislation, policies and statutory plans. Accordingly, it is concluded that facilitating bus shelter advertising is not a viable source of revenue to council.

ENCLOSURES

There are no enclosures for this report.

Business With Notice
Report No. BN21/2022
General Manager's Unit



BUSINESS WITH NOTICE No. BN21/2022

SUBJECT: ***ADDRESSING HOMELESSNESS AND BASIC SERVICES FOR THE
NEEDY IN CESSNOCK LGA***

COUNCILLOR: ***Paul Paynter***

MOTION

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.

It is my intention to move the above motion at the next Ordinary Meeting of Council on 20 July 2022.

RATIONALE

That the homeless in our area will have a far greater chance of obtaining housing and employment if they are to access basic hygiene recourses. With inflation and increased cost of housing in the short to medium term, this need will only continue to increase in the coming months and years.

Possible solution to this is a company called "container domes" or refurbished demountables from Cessnock Correctional Centre.

SOURCE OF FUNDING:

State Government grant funding or business and community donations.

DELIVERY PROGRAM:

- 1.2.2 Collaborate with the community to develop and deliver services.
- 4.3.1 Advocate for health services on behalf of the community.

Sgd: Paul Paynter

Date: 17 June 2022

ENCLOSURES

There are no enclosures for this report.

Notices Of Motion

Report No. BN22/2022

General Manager's Unit



NOTICES OF MOTION No. BN22/2022

SUBJECT: *DEVELOPER CONTRIBUTIONS*

COUNCILLOR: *Ian Olsen*

MOTION

That the General Manager supply an itemised report to Council of all contribution, \$25 million, currently held in Council's accounts listing what areas these funds are identified for improvements. The report is to contain:-

- 1) Total funds for each project
- 2) Years money has been in Council's accounts
- 3) Total funds spent per year on what projects
- 4) Any plans for future expenditure
- 5) This report to come back to the next Council meeting
- 6) That a report to come back every year in May for reference before setting the budget.

It is my intention to move the above motion at the next Ordinary Meeting of Council on 20 July 2022.

RATIONALE

As Councillors we should be supplied this information on an annual basis so we know what is available for projects that may be a priority for future improvements and we may be able to direct money in the direction to complete and utilise these funds.

Developers pay their share when required and it can sit there for many years and not used. If I was a developer I would be asking why Council takes this money and just puts it in the bank.

SOURCE OF FUNDING:

Not required.

DELIVERY PROGRAM:

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

Sgd: Ian Olsen
Date: 8 July 2022

ENCLOSURES

There are no enclosures for this report

Notices Of Motion

Report No. BN23/2022

General Manager's Unit



NOTICES OF MOTION No. BN23/2022

SUBJECT: *HERITAGE TOURISM*

COUNCILLOR: *Ian Olsen*

MOTION

That the General Manager organise a meeting with the Cessnock Chamber of Commerce to work on improving Vincent Streets appeal with the possibility of improving the current buildings to Heritage Style to encourage more businesses to open and visitors to utilise the area.

It is my intention to move the above motion at the next Ordinary Meeting of Council on 20 July 2022.

RATIONALE

We have tried putting in new tiles, painting alley ways and even putting in speed humps and a new roundabout without much change to the area. With an organised approach and use of resources Council currently pay for we may be able to encourage a better street appeal for current owners that bring in more business to the area.

I am sure there are grants available to improve the facades of the current buildings to improve these shop fronts back to original styles. We need to support local business to encourage more growth in employment.

SOURCE OF FUNDING:

Not required.

DELIVERY PROGRAM:

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

Sgd: Ian Olsen

Date: 8 July 2022

ENCLOSURES

There are no enclosures for this report

Correspondence

Report No. CO9/2022

Corporate and Community Services



SUBJECT: ***DONATION TO FLOOD AFFECTED COMMUNITIES - WILLOUGHBY COUNCIL***

RESPONSIBLE OFFICER: ***Acting Director Corporate & Community Services - Darrylen Allan***

RECOMMENDATION

That Council notes the correspondence received from the Mayor Tanya Taylor, Willoughby City Council.

Correspondence has been received from Mayor Tanya Taylor, Willoughby City Council advising that Willoughby Council has donated \$5,000 through the GIVIT platform to assist people affected by flooding, and has also encouraged their own community to help support flood affected communities in NSW by making a cash donation via givit.org.au.

A copy of the correspondence and the response are attached to this report.

ENCLOSURES

- [1](#) Supporting Flood Affected Victims _ Mayor Taylor - Willoughby City Council
- [2](#) Response to Mayor Taylor _ Mayor Suvaal

June 1st, 2022

Cessnock City Council
Mayor Jay Suvaal
62-78 Vincent Street
Cessnock NSW 2325

Dear Mayor Jay Suvaal,

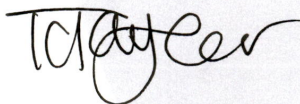
I am writing to you in light of the recent flooding events and scenes that have unfolded in your local government area.

In a recent Council meeting, I put forward a Mayoral Minute that Council support flood affected communities across New South Wales. We are aware of how much communities, like yours, are in need of cash donations so that people can buy the items they need to survive and recover.

Willoughby Council has donated \$5,000 through the GIVIT platform to help facilitate this, and we have also encouraged our own community to help support flood affected communities in NSW by making a cash donation via givit.org.au. Although these are small gestures, we hope they help your community in some way.

I wish you all the best over the coming months in keeping the spirit of your community going and hope that you achieve some sense of normality as soon as possible.

Yours sincerely,



Mayor Tanya Taylor
Willoughby City Council
PO Box 57 Chatswood NSW 2057
E Tanya.Taylor@Willoughby.nsw.gov.au



**WILLOUGHBY
CITY COUNCIL**



Tanya Taylor

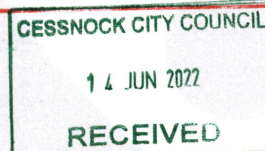
Willoughby City Mayor

Level 6, 31 Victor Street
Chatswood NSW 2067
PO Box 57
Chatswood NSW 2057

Phone 02 9777 1001

Tanya.Taylor@Willoughby.nsw.gov.au
www.willoughby.nsw.gov.au

Twitter: @tanyactaylor
LinkedIn: Tanya Taylor
facebook.com/mayortanyataylor
instagram.com/mayortanyataylor



Representing the people in the Local Government Area of Willoughby City, consisting of the suburbs:

Artarmon
Castle Cove
Castlecrag
Chatswood
Chatswood West
Lane Cove North (part)
Middle Cove
Naremburn
North Willoughby
Northbridge
Roseville (part)
St Leonards
Willoughby





30 June 2022

Willoughby City Council
Mayor Tanya Taylor
Po Box 57
Chatswood NSW 2057
Tanya.Taylor@willoughby.nsw.gov.au

Contact: Mayor's Office
Our Ref: DOC2022/100867

Dear Mayor Taylor

Recent Flooding Event support

Thank you for your letter dated 1 June 2022 regarding the recent flooding events that affected several parts of our local government area.

We appreciate your kind donation through the GIVIT platform, which I am sure will be accessed by our broader community in need of various items. I appreciate Willoughby City Council's support and assistance regarding our March 2022 Natural Disaster event.

I wish you all the best over the next few days with the forecasted weather.

Yours sincerely

A handwritten signature in black ink, appearing to read "Jay Suvaal".

Jay Suvaal
Mayor of the City of Cessnock

t: 02 4993 4100 f: 02 4993 2500
p: PO Box 152 Cessnock NSW 2325
e: council@cessnock.nsw.gov.au w: www.cessnock.nsw.gov.au
ABN 60 919 148 928

Correspondence

Report No. CO10/2022

Corporate and Community Services



SUBJECT: *MM10/2022 - PARKING ADVOCACY - AMENDMENT TO RULE 197 OF THE ROAD RULES 2014*

RESPONSIBLE OFFICER: *Acting Director Corporate & Community Services - Darrylen Allan*

RECOMMENDATION

That Council notes the correspondence received from the Member for Cessnock, Clayton Barr MP, regarding the Parking Advocacy – Amendment to Rule 197 of the Road Rules 2014.

At its Ordinary Meeting of 15 June 2022 Council considered MM10/2022 – Parking Advocacy – Amendment to Rule 197 of the Roads Rules 2014 and resolved:

That Council write to the Hon David Elliott MP, Minister of Transport, and Clayton Barr MP, Member for Cessnock, requesting an addition of an “exemption” to Rule 197 of the NSW Road Rules 2014 allowing participating Councils to provide for parking on nature strips.

Correspondence has been received from the State Member Clayton Barr MP, advising that he has made representations on Council's behalf to the NSW Minister for Transport, David Elliott, MP, seeking consideration of the resolution.

A copy of the correspondence is attached to this report.

ENCLOSURES

[1](#) Park Advocacy Amendment _ Clayton Barr MP



Clayton Barr, MP

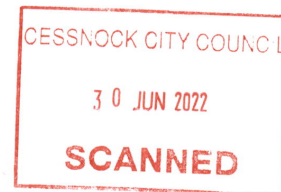
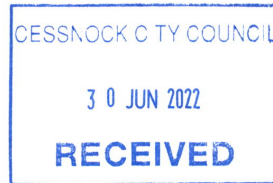
STATE MEMBER FOR THE ELECTORATE OF CESSNOCK



Our Ref: CB2-CessnockCityCouncil-Tra-20220623-0308

23 June 2022

Cr Jay Suvaal
Mayor
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325



Dear Cr Suvaal 

Thank you for the recent correspondence (Council's ref: DOC2022/093893) on behalf of Cessnock City Council. It is noted that Council have raised their concerns relating to the 15 June 2022 resolution of Council – Report Number MM10/2022 – park advocacy – amendment to Rule 197 of the Roads Rules 2014.

It is appreciated that you have brought Council's concerns to my attention and wish to advised that I have made representations on Council's behalf to the NSW Minister for Transport, David Elliott, MP, seeking consideration of the resolution.

I shall contact you again once I have received a response.

Yours sincerely

CLAYTON BARR, MP
State Member for the
Electorate of Cessnock

118 Vincent Street (PO Box 242), Cessnock NSW 2325
P (02) 4991 1466 | 1300 550 114 F (02) 4991 1103 E cessnock@parliament.nsw.gov.au

Country Labor - thinking outside of the City

Correspondence

Report No. CO11/2022

Corporate and Community Services



SUBJECT: *MM05/2022 - SUPPORT FOR HART ROAD, NORTH RAMPS - HUNTER EXPRESSWAY*

RESPONSIBLE OFFICER: *Acting Director Corporate & Community Services - Darrylen Allan*

RECOMMENDATION

That Council notes the correspondence received from the Deputy Secretary, Planning Policy Brett Whitworth for the Minister for Planning, the Hon Anthony Roberts MP, as delegated by the Premier Hon Dominic Perrottet MP, supporting fast tracking of the Hart Road Northern Ramps infrastructure additions to the Hunter Expressway.

At its Ordinary Meeting of 20 April 2022 Council considered MM05/2022 – Support for Hart Road, North Ramps - Hunter Expressway and resolved:

- 1. That Council supports the fast tracking of the Hart Road Northern Ramps infrastructure additions to the Hunter Expressway, to support the increase of permanent local jobs within our Local Government Area.**
- 2. That Council writes to the Prime Minister, Federal Leader of Opposition, Premier Perrottet and State Leader of Opposition Chris Minns, in support of fast-tracking this project, at no cost to Council.**

Correspondence has been received from Brett Whitworth for the Minister of Local Government the Hon Anthony Roberts MP, noting that the Department will take into consideration the expected benefits of the proposal, along with the State and regional infrastructure needs, as part of the rezoning process. The Department will continue working with your Council and State infrastructure agencies to identify the infrastructure needs to support the redevelopment, including appropriate infrastructure funding arrangements. Any investment decision regarding delivery of key infrastructure, such as improved access to the Hunter Expressway, will be subject to the NSW Government's investment planning and assurance processes.

A copy of the correspondence is attached to this report.

ENCLOSURES

- [1](#) MM05/2022 - Hart Road, North Ramp _ Brett Whitworth for Hon Anthony Roberts MP



Your ref: DOC2022/059695
Our ref: MDPE22/1014

Councillor Jay Suvaal
Mayor
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Via email: jay.suvaal@cessnock.nsw.gov.au

Dear Mayor

Thank you for your correspondence to the Hon. Dominic Perrottet MP, Premier of NSW, regarding the redevelopment of the former Kurri Kurri Hydro Aluminium Smelter site and the proposed northbound ramps at the Hunter Expressway Hart Road Interchange. As these matters relate to the Planning portfolio, your correspondence was referred to the Hon. Anthony Roberts MP. The Minister asked me to respond on his behalf.

I acknowledge the expected social and economic benefits of the Regrowth-Kurri Kurri project outlined in your correspondence. I also note that the site will be subject to a rezoning proposal before any redevelopment can progress. The Department will take into consideration the expected benefits of the proposal, along with the State and regional infrastructure needs, as part of the rezoning process.

The Department will continue working with your Council and State infrastructure agencies to identify the infrastructure needs to support the redevelopment, including appropriate infrastructure funding arrangements. Any investment decision regarding delivery of key infrastructure, such as improved access to the Hunter Expressway, will be subject to the NSW Government's investment planning and assurance processes.

As part of the rezoning process, the Department can secure a reasonable contribution from the development towards key State and regional infrastructure. This can be achieved through a planning agreement to be entered into before the planning controls are changed, or by identifying the site as an Urban Release Area in the planning controls. In these areas there must be satisfactory arrangements in place for the provision of State infrastructure before development consent can be granted (for example, a planning agreement).

If you have any questions you are welcome to contact Mr Jeremy Dwyer, Manager, Infrastructure Partnerships, at the Department of Planning and Environment on 9995 6940.

Yours sincerely


Brett Whitworth
Deputy Secretary
Planning Policy

30 June 2022