



8 August 2023

To All Councillors

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993, that the next Ordinary Meeting of Council will be held in the Council Chambers, on Wednesday, 16 August 2023 at 6.30pm, for the purposes of transacting the undermentioned business.

AGENDA:

PAGE NO.

(1) ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS	
(2) OPENING PRAYER – Pastor DeWildt	
(3) RECEIPT OF APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE	
(4) CONFIRMATION OF MINUTES OF PREVIOUS MEETING	
Minutes of the Ordinary Meeting of Council held on 19 July 2023	6
(5) DISCLOSURES OF INTEREST	
DI7/2023 Disclosures Of Interest	36
(6) PETITIONS	
(7) PUBLIC ADDRESS	
(8) CONSIDERATION AND ADOPTION OF ALL REPORTS BY ENGLOBO	
(9) MAYORAL MINUTES	
(10) MOTIONS OF URGENCY	
MOU7/2023 Motions of Urgency.....	37
(11) GENERAL MANAGER'S UNIT	
GMU5/2023 Minutes of the Community Engagement, Awards and Grants Committee Meeting held 12 July 2023.....	38
(12) PLANNING AND ENVIRONMENT	
‡ PE27/2023 Hunter Estuary Coastal Management Program – Stage 1 Scoping Study	39
PE28/2023 Rotary Park Kurri Kurri Coloured Lighting System	43
PE29/2023 Comprehensive DCP Review - Draft Chapters: Administration and Legislative Context and Centres - For Exhibition	46

(13) CORPORATE AND COMMUNITY

	CC44/2023	Consideration of Councillor Numbers - 2024 Council Elections	51
	CC45/2023	Ward Boundaries - Adjustment to Enrolments	54
	CC46/2023	Local Government NSW Annual Conference 2023 – Request for Attendance and Motions.....	61
‡	CC47/2023	Investment Report - July 2023.....	64
	CC48/2023	Carry Forwards and Revotes.....	70
‡	CC49/2023	Disclosures of Interests in Written Returns	74
	CC50/2023	Minutes of the Aboriginal and Torres Strait Islander Committee Meeting held on 21 July 2023.....	77
‡	CC51/2023	Resolutions Tracking Report	83
	CC52/2023	Tender T2023-16 Concrete Footpath Construction and Kerbs..	84

(14) WORKS AND INFRASTRUCTURE

	WI27/2023	Tender T2023-27 - Wollombi Road Upgrade - Preliminary Engineering	92
	WI28/2023	Kitchener Poppethead Park Plan of Management	99

(15) COUNCILLORS' REPORTS

‡ - Denotes that Report is for notation only.



Principles for Local Government

Exercise of functions generally

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

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

Council's Values

- Integrity
- Accountability
- Respect
- Excellence
- Teamwork

Our Community's Vision

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

Cessnock – thriving, attractive and welcoming.

Our Community's Desired Outcomes

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



Council Code of Conduct

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

Generally, the Code outlines the following issues:

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



Notice of Copyright and Disclaimer

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

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

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

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

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

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

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

**MINUTES OF ORDINARY COUNCIL MEETING OF THE CESSNOCK CITY COUNCIL
HELD IN COUNCIL CHAMBERS ON WEDNESDAY, 19 JULY 2023, COMMENCING AT
6.30PM**

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

IN ATTENDANCE: General Manager
Director Planning and Environment
Director Corporate and Community Services
Director Works and Infrastructure
Development Services Manager
Strategic Planning Manager
Communications & Engagement Manager
Community Engagement Officer
Help Desk Support Officer
Council Services Senior Admin Officer
Acting, Executive Assistant Corporate & Community Services

Council Prayer:

Council Prayer was led by Pastor Wayne Kembery from Cessnock City Church.

**APOLOGY/LEAVE
OF ABSENCE:**

MOTION

Moved: Councillor Hawkins
Seconded: Councillor Moores

523
RESOLVED

That the apology tendered on behalf of Councillor Jackson, for unavoidable absence, be accepted and;

That a Leave of Absence be granted to Councillor Burke from 14 July to 21 July 2023 and,

That a Leave of Absence be granted to Councillor Jackson from 18 August to 14 November 2023.

FOR

AGAINST

Councillor Dunn
Councillor Moores
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Paynter
Councillor Watton
Councillor Olsen
Councillor Jurd
Councillor Suvaal

Total (11)

Total (0)

CARRIED UNANIMOUSLY

MINUTES:

MOTION

Moved: Councillor Hill
Seconded: Councillor Sander

524

RESOLVED

That the Minutes of the Ordinary Meeting of Council held on 21 June 2023, as circulated, be taken as read and confirmed as a correct record.

FOR

AGAINST

Councillor Dunn
Councillor Moores
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Paynter
Councillor Watton
Councillor Olsen
Councillor Jurd
Councillor Suvaal
Total (11)

Total (0)

CARRIED UNANIMOUSLY

DISCLOSURES OF INTEREST

DISCLOSURES OF INTEREST NO. DI6/2023

SUBJECT: DISCLOSURES OF INTEREST

Nil

PETITIONS

Nil

MAYORAL MINUTES

MAYORAL MINUTES NO. MM4/2023

**SUBJECT: AMENDMENT OF RURAL LANDS PLANNING PROPOSAL -
REINSTATE DUAL OCCUPANCIES AS A PERMISSIBLE LAND USE
WITHIN THE RU2 RURAL LANDSCAPE ZONE**

MOTION *Moved:* Councillor Suvaal

525

RESOLVED

1. That Council vary the Rural Lands Planning Proposal (PP-2022-1446) to reinstate dual occupancy development as a permissible land use within the RU2 Rural Landscape Zone, pursuant to Section 3.35(1) of the *Environmental Planning and Assessment Act, 1979*.
2. That Council forward the revised Planning Proposal to the Minister seeking an alteration to the current Gateway Determination pursuant to Section 3.35(2) of the *Environmental Planning and Assessment Act, 1979*.
3. That Council request authorisation from the Minister to utilise its Local Plan Making delegations for the making of the plan, pursuant to Section 3.31 of the *Environmental Planning and Assessment Act, 1979*.
4. That Council undertake additional agency and/or community consultation as directed by an altered Gateway Determination, as issued pursuant to Section 3.34 of the *Environmental Planning and Assessment Act, 1979*.
5. That Council resolve to finalise and make the plan, subject to there being no unresolvable submissions from agency and/or community consultation.

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

CARRIED

MOTIONS OF URGENCY

MOTIONS OF URGENCY NO. MOU6/2023

SUBJECT: MOTIONS OF URGENCY

Nil

PLANNING AND ENVIRONMENT

PLANNING AND ENVIRONMENT NO. PE24/2023

SUBJECT: DEVELOPMENT APPLICATION NO. 8/2022/904/1 PROPOSING A BOUNDARY ADJUSTMENT, REMOVAL OF FOUR TREES, CONSTRUCTION OF AN ATTACHED TWO-STOREY DUAL OCCUPANCY FOLLOWED BY A STRATA TITLE SUBDIVISION INTO TWO LOTS.

21 – 23 CARROLL AVENUE, CESSNOCK

MOTION
526
RESOLVED

Moved: Councillor Sander **Seconded:** Councillor Dunn

1. That:

- (i) (Development Application No. 8/2022/904/1 proposing a boundary adjustment, removal of four (4) trees, construction of an attached two-storey dual occupancy followed by a strata title subdivision into two (2) lots at 21 – 23 Carroll Avenue Cessnock, be approved pursuant to Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, subject to the conditions contained in Enclosure 2.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is a permitted land use in the R3 Medium Density zone under the *Cessnock Local Environmental Plan 2011*,
 - The proposal is consistent with the objectives of the R3 Medium Density zone under the *Cessnock Local Environmental Plan 2011*,
 - The proposal is consistent with the relevant provisions contained within the relevant State Environmental Planning Policies,
 - The proposal is generally compliant with the provisions of the Cessnock Development Control Plan 2010, and any variations are considered minor and justified,
 - The proposal incorporates adequate measures to ensure the development will not result in any adverse impacts on the natural and built environments,
 - The proposal incorporates adequate measures to ensure the development will not result in any adverse impacts on the social and economic locality,
 - The proposal is considered to be consistent with the public interest.

(iii) In considering community views, the following is relevant:

- The development proposed will have an acceptable impact on the amenity of the area,
- The proposed development will provide additional housing stock within the locality, and
- Some of the concerns in respect to the proposed development can be addressed via the imposition of conditions of consent.

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

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

CONDITIONS OF CONSENT

SCHEDULE 1

TERMS OF CONSENT

1. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2022/904/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Project No: 2215 Revision B Sheets: DA000 – DA004 DA050 – DA051 DA100 – DA102 DA300 – DA301 DA400 DA500 – DA502 DA700 DA800 – DA801 DA900	Shade	17 May 2023

Plan Reference	Prepared By	Dated
Arboricultural Assessment	Impact Harwood Tree Care and Consulting	Undated

2. CC, PC & Notice Required

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

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

3. BCA Compliance

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

4. BASIX Certificate

Development shall be undertaken strictly in accordance with all commitments specified in the current BASIX certificate.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with prior to the issue of a Construction Certificate:

5. Boundary Adjustment

Prior to issue of the *CC*, evidence is to be provided to the Certifier that the boundary adjustment between Lot 2 and Lot 4 DP 580045, has been registered.

6. 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 \$250,000 or more. The Long Service Levy is payable prior to the issue of a *CC*.

7. Section 7.11 Contributions Payable

A contribution pursuant to the provisions of Section 7.11 of the EP&A Act 1979 for the services detailed and for the amount detailed must be made to Council prior to the issue of a CC:

Fee Type Code	Contribution Type	Amount Payable
800	Open Space and Recreation Facilities	\$7,852.57
801	Community Facilities	\$1,217.16
802	Cycleway Facilities	\$7,506.24
803	Roads and Traffic	\$1,396.88
804	Plan Administration	\$311.16
	Total	\$18,284.00

A copy of Council's City Wide Infrastructure Contributions Plan 2020 may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

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

8. Stormwater – Detailed Design Requirements

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

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

9. Stormwater – Discharge (General)

The applicant shall collect all roof and stormwater runoff from the impervious areas on site, and any other drainage entering the site, and discharge it to Council's satisfaction in accordance with Council's 'Engineering Requirements for Development'.

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

10. Section 50 – Hunter Water Act 1991

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

11. Retaining Walls

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. Bedroom Windows – First Floor

The CC plans are to be amended to identify all west facing bedroom windows on the first floor of the building (being both Dwellings 1 and 2) as being constructed utilising high set windows with obscure glazing, along with a minimum sill height of 1500mm above the relative finished floor level.

13. Landscape Plan

Prior to issue of the CC a landscaping plan is to be lodged and approved by the Certifier.

PRIOR TO COMMENCEMENT OF WORKS

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

14. PC Signage and Contact Details

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

- a) Unauthorised entry to the work site is prohibited.
- b) The name of the principal contractor (or person in charge of the site) and a telephone number on which that person may be contacted at any time for business purposes and including outside working hours.
- c) The name, address and telephone number of the PC for the work.

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

15. Home Building Act Requirements

Pursuant to Section 4.17(11) (cf previous s 80A) of the *EP&A Act 1979*, where the development involves residential building work for which the Home Building Act 1989 requires a contract on insurance to be in force in accordance with Part 6 of that Act, building work authorised by this consent must not commence until such a contract of insurance has been obtained and is in force.

Residential building work must not be carried out unless the PC for the development to which the work relates (not being the council) has given the council written notice of the following information:

- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act

- b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information required by (a) or (b) becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the updated information.

This condition does not apply in relation to Crown building work that is certified, in accordance with Section 6.28 of the Act, to comply with the technical provisions of the State's building laws.

16. Relocation of Services

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

17. Public Liability Insurance

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

18. Section 138 Roads Act

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

19. Tree Removal

All recommendations listed in the submitted Arboricultural Impact Assessment Report prepared by Harwood Tree Care and Consulting are to be adopted prior to any works commencing.

DURING WORKS

The following conditions are to be complied with during works:

20. Construction Hours

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. No work is to be carried out on Sundays and public holidays.

21. Erosion and Sediment Controls

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

22. Stormwater Runoff

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

23. Waste Management

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

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of an Occupation Certificate.

24. Roads – Concrete Crossing

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

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

The initial fee will facilitate approval of the application and one (1) construction inspection (gravel in place but prior to sealing of the crossing).

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

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

25. Stormwater – Discharge to Kerb & Gutter

The registered proprietor of the land shall ensure that connection of the stormwater drainage to the kerb inlet pits in Carroll Avenue is carried out in accordance with the following:

- a) the connection point into the existing drainage pipe will be required to be sealed by the use of mortar, ensuring that no material can enter the drainage system around the connection point. The connection of the PVC pipe is to be flush with the interior of Council's drainage pipe so that there are no obstructions within Council's drainage pipe.
- b) Any excess mortar or concrete rubble caused from the connection into the pit is to be removed, at the expense of the person/s undertaking the works, from both the footpath and from within the pit.
- c) When working within the footpath, appropriate signage is to be displayed warning pedestrians of the works. The owners shall hold Cessnock City Council indemnified against any claims arising out of damage or injury to property or persons in the performance of the proposed works.
- d) Any disturbance to underground services is to be restored / replaced at the expense of the person/s undertaking the works.
- e) All disturbed areas within the footpath are to be restored to at least the condition before the commencement of any works. This expense is to be borne by the owner of the property.
- f) An inspection of the stormwater connection into the pit will be required by a Council employee. The Subdivision and Engineering Coordinator shall be notified at least 48 hours before the required time of inspection.
- g) All works are to be carried out in accordance with Cessnock City Council's 'Engineering Requirements for Development.'

Construction works are to be completed prior to the issue of an OC.

26. 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.

27. 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.

28. Fencing

Prior to issue of an OC, 1800mm high solid fencing is to be erected along the side and rear boundaries of the site and internally on the common boundary of proposed Lots 1 and 2 (excluding the front building setback).

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE FOR THE STRATA TITLE SUBDIVISION

The following conditions are to be complied with, prior to issue of a Subdivision Certificate.

29. Requirement for a Subdivision Certificate

Prior to the issue of a SC for the strata title subdivision, the applicant shall submit an original plan of subdivision in an electronic format for Council's endorsement.

The plan of subdivision must show street names and house numbering as allocated by Council. The following details are also to be submitted:

- a) Evidence that all conditions of Development Consent have been satisfied.
- b) Evidence of payment of all relevant fees.
- c) The 88B instrument.
- d) Lot numbers to correspond with street numbering.
- e) A copy of the final OC for the development.

FOR	AGAINST
Councillor Dunn	Councillor Moores
Councillor Grine	Councillor Paynter
Councillor Sander	Councillor Watton
Councillor Hill	Councillor Olsen
Councillor Hawkins	Councillor Jurd
Councillor Suvaal	
Total (6)	Total (5)

CARRIED

PLANNING AND ENVIRONMENT NO. PE25/2023

SUBJECT: DRAFT HUNTER POWER PROJECT (KURRI KURRI POWER STATION) PLANNING AGREEMENT

PROCEDURAL MOTION *Moved:* Councillor Hill *Seconded:* Councillor Sander
527

RESOLVED

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

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

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT NO. PE26/2023

SUBJECT: COMPREHENSIVE DCP REVIEW - TOURIST ACCOMMODATION ON RURAL AND ENVIRONMENTAL LANDS - DRAFT FOR EXHIBITION

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Grine
528

RESOLVED

1. That Council exhibits the draft DCP Chapter: 'Tourist and Visitor Accommodation in Rural and Environmental Lands' in accordance with clause 13 of the Environmental Planning and Assessment Regulation 2021 and for a period of 28 days.
2. That a further report is brought to Council for determination after the exhibition period is concluded.

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

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY

CORPORATE AND COMMUNITY NO. CC40/2023

**SUBJECT: LOCAL GOVERNMENT NSW ANNUAL CONFERENCE 2023 -
REQUEST FOR ATTENDANCE AND MOTIONS**

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Hawkins
529

RESOLVED

1. That Councillors wishing to attend the Local Government NSW Annual Conference 2023 make an application to attend the conference to the General Manager by 1 August 2023 so that Council can determine attendees at the meeting of 16 August 2023.
2. That Councillors consider possible motions for the conference and that they be provided to the General Manager by 1 August 2023 for consideration/endorsement by Council at the meeting of 16 August 2023.

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

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC41/2023

SUBJECT: AMENDMENT TO THE INSTRUMENT OF DELEGATION TO THE GENERAL MANAGER

MOTION Moved: Councillor Hawkins **Seconded:** Councillor Hill

That Council adopts the amended Instrument of Delegation to the General Manager.

AMENDMENT Moved: Councillor Olsen **Seconded:** Councillor Jurd

That this report be deferred until a report be brought to Council clarifying the total number of Local Traffic Committee resolutions that have been delayed in the past twelve months.

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

The Amendment was PUT and LOST.

The Motion was then PUT and CARRIED.

MOTION Moved: Councillor Hawkins **Seconded:** Councillor Hill

530

RESOLVED

That Council adopts the amended Instrument of Delegation to the General Manager.

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

CARRIED

CORPORATE AND COMMUNITY NO. CC42/2023

SUBJECT: INVESTMENT REPORT - JUNE 2023

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Dunn
531
RESOLVED

That Council receives the Investment Report for June 2023 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 \$73,085,190.**

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

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC43/2023

SUBJECT: RESOLUTIONS TRACKING REPORT

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Sander
532
RESOLVED

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

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

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE

WORKS AND INFRASTRUCTURE NO. WI22/2023

SUBJECT: NAMING OF BMX FACILITY AT CARMICHAEL PARK

MOTION **Moved:** Councillor Moores **Seconded:** Councillor Hawkins

533

RESOLVED

1. That Council endorse the proposal to name the upgraded BMX Facility within Carmichael Park the “Neville Tomlinson BMX Facility”.
2. That Council notifies those who made submissions during the public exhibition period of Council’s decision.
3. In line with the Geographic Names Board Place Naming Policy, the Board be notified of the BMX Facility name to ensure the name, position and origin is recorded in the Spatial Services’ Digital Topographic Database and the name shown on maps, where relevant.

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

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI23/2023

SUBJECT: KURRI KURRI NETBALL FACILITY

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

534

RESOLVED

1. That a grant application for Kurri Kurri Netball Facility Stage 1 works, as outlined within this report, be submitted via the Arts Investing in Our Communities Program.
2. That the General Manager continue to investigate funding opportunities for Kurri Kurri Netball Facility Stage 2 works and that a further report come back to Council.

FOR	AGAINST
Councillor Dunn	Councillor Olsen
Councillor Moores	Councillor Jurd
Councillor Grine	
Councillor Sander	
Councillor Hill	
Councillor Hawkins	
Councillor Paynter	
Councillor Watton	
Councillor Suvaal	
Total (9)	Total (2)

CARRIED

WORKS AND INFRASTRUCTURE NO. WI24/2023

SUBJECT: REQUEST FOR SPONSORSHIP & FEE WAIVING - AUSTRALIAN POSTIE BIKE GRAND PRIX

MOTION **Moved:** Councillor Hawkins **Seconded:** Councillor Grine
535

RESOLVED

That Council supports the Australian Postie Bike Grand Prix on the weekend of 4 and 5 November 2023 by providing the following in-kind support:

- a) **Waive all Council application fees in conjunction with the 2023 event by transfer of Tourism Related projects Reserve;**
- b) **Erection and removal of the relevant variable message boards and road closure/detour signage as required by Council and Transport for NSW, under the approved Traffic Management Plan and Traffic Control Plan; and**
- c) **Provide additional general waste bins throughout the main spectator and PIT areas of the circuit and remove the collected waste at the conclusion of the event.**

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

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI25/2023

SUBJECT: PAXTON PETITION FOR PATHWAY ON VARIOUS ROADS

MOTION **Moved:** Councillor Hawkins **Seconded:** Councillor Sander
536

RESOLVED

1. That Council notes the petition lodged on behalf of Paxton community members requesting that Council prioritise the construction of a footpath on Middle Road, Main Road, and Anderson Avenue, Paxton. Ideally to connect Paxton School, Paxton Playground and Paxton Bus Stops to ensure the safety, health and wellbeing of all residents.
2. That Council notes the outcome of the investigation into provision of pathways in Paxton.
3. That Council reiterates the previously resolved priorities for provision of pathways in accordance with the adopted Pedestrian Access Mobility Plan.
4. That the General Manager notifies the petition organiser of Council's plans and current efforts to secure funding for installation of the requested pathway.

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

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI26/2023

SUBJECT: MINUTES OF THE LOCAL TRAFFIC COMMITTEE MEETING HELD ON 19 JUNE 2023

MOTION **Moved:** Councillor Hawkins **Seconded:** Councillor Hill
537

RESOLVED

That the Minutes of the Cessnock Local Traffic Committee Meeting of 19 June 2023 be adopted as a resolution of the Ordinary Council.

- **TC33/2023 - That Council authorises the temporary regulation of traffic on McDonalds Road, Thompsons Road, Marrowbone Road and Oakey Creek Road, Pokolbin for the End2End Festival in accordance with Various Roads Pokolbin _ End2End Festival Traffic Control Plans.**
- **TC34/2023 - That Council authorises the removal of Disabled Parking Space signage on Crossing Street, Bellbird, in accordance with the Crossing Street Bellbird _ Signage Removal Diagram.**
- **TC35/2023 - That Council authorises installation of line marking on Oakey Creek Road Pokolbin, in accordance with the Oakey Creek Road Pokolbin _ Line Marking Diagram.**
- **TC36/2023 - That Council authorises installation of regulatory parking and intersection controls on various roads within Huntlee, in accordance with Various Roads North Rothbury _ Signage & Line Marking Diagrams.**
- **TC37/2023 - That Council authorises the installation of regulatory signage and line marking on Lumby Lane and Sawyers Gully Road, Sawyers Gully, in accordance with the Lumby Lane Sawyers Gully _ Signage & Line Marking Diagram.**
- **TC38/2023 -**
 - **authorises the installation of regulatory parking signage and line marking on Vincent Street, Cessnock in accordance with the Vincent Street Cessnock _ Signage & Line Marking Diagram; and**
 - **assesses the adequacy of the DA approved parking arrangements when the In Focus Radiology premises works are completed and the car park becomes fully operational.**

FOR**AGAINST**

Councillor Dunn
Councillor Moores
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Paynter
Councillor Watton
Councillor Olsen
Councillor Jurd
Councillor Suvaal
Total (11)

Total (0)

CARRIED UNANIMOUSLY

CORRESPONDENCE

CORRESPONDENCE NO. CO3/2023

**SUBJECT: BN12/2023 ADVOCATION FOR HEDDON GRETA CLIFTLEIGH
CORRIDOR PLAN SOLUTIONS**

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Sander
538
RESOLVED

That Council notes the correspondence received from Clayton Barr MP - State Member for Cessnock.

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

CARRIED UNANIMOUSLY

CORRESPONDENCE NO. CO4/2023

SUBJECT: MM1/2023 DAMAGING INCREASE IN EMERGENCY SERVICES LEVY COSTS

MOTION **Moved:** Councillor Hill **Seconded:** Councillor Sander
539

RESOLVED

That Council notes the correspondence received from Clayton Barr MP - State Member for Cessnock, The Hon. Ron Hoenig MP – Minister for Local Government and the Independent Pricing and Regulatory Tribunal NSW.

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

CARRIED UNANIMOUSLY

COUNCILLOR REPORTS

Councillor Dunn tabled on behalf of Councillor Jackson - Hunter Water Customer and Community Advisory Group (CCAG) Wednesday 28 June.

This meeting was held at Hunter Water's Burwood Beach Wastewater Treatment Works in Merewether.

Darren Cleary, Managing Director, gave us a Hunter Water operational update. The Seaham Weir Refurbishment and Modification Project has developed erosion solutions which improves water quality as well as the environment which is important for wildlife, flora and fauna. Hunter Water storage is at 94.1%. There will be a 7.5% increase in pricing from 1 July 2023. This is set by IPart with automatic indexing from March to March. A dam safety periodic assessment has been done on Chichester Dam which is 100 years old and Grahamstown dam which is 50 years old. Dams are assessed every 15 years as well as conducting daily visual inspections, monthly satellite inspections and yearly and 5 yearly inspections. Water conservation is a key focus along with recycled water as a part of the Lower Hunter Water Security Plan. The Belmont Desalination Plant and Glen Innes Water Treatment Plant contribute to this project.

Ms. Emma Turner, senior Economist and Dr. Clare Hogue, Senior Community Engagement Advisor gave a presentation built on previous updates to the CCAG on the development of Hunter Water's next pricing proposal to the Independent Pricing and Regulatory Tribunal. The presentation updated members on current community and customer engagement activities. Customers, the Community and Stakeholders had their say through simulation surveys, prioritised surveys, Focus Groups and Quarterly Community Surveys.

The last item was a site tour of the Burwood Beach WWTW which was led by Rahul Chillar, Group Manager Information Controls and Energy, and Chris White, Team Leader - External Communications. We were shown upgrades to the wastewater treatment plants which are a major driver of the capital expenditure program. The site tour introduced CCAG members to the current operation of the plant and we were also shown demonstrations how the Plant operates and the challenges they encounter including blockages due to wet wipes. After the water is treated, it goes through one last filter where the water is held in large outside tanks before being released to the sea. This water is so clean that many birds are floating on the surface enjoying and drinking the water.

This was a very interesting, eye-opening site tour.



The Meeting Was Declared Closed at 7:38pm

CONFIRMED AND SIGNED at the meeting held on 16 August 2023

.....**CHAIRPERSON**

.....**GENERAL MANAGER**

Disclosures Of Interest

Report No. DI7/2023

Corporate and Community Services



SUBJECT: *DISCLOSURES OF INTEREST*

RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

RECOMMENDATION

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

SUMMARY

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

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

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

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

ENCLOSURES

There are no enclosures for this report.

Motions of Urgency

Report No. MOU7/2023

Corporate and Community Services



SUBJECT: *MOTIONS OF URGENCY*

RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

RECOMMENDATION

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

SUMMARY

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

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

ENCLOSURES

There are no enclosures for this report.

General Manager's Unit

Report No. GMU5/2023

General Manager's Unit



SUBJECT: *MINUTES OF THE COMMUNITY ENGAGEMENT, AWARDS AND GRANTS COMMITTEE MEETING HELD 12 JULY 2023*

RESPONSIBLE OFFICER: *General Manager - Ken Liddell*

RECOMMENDATION

That Council endorse the recommendations of the Community Engagement, Awards and Grant Committee to offer opportunities for induction into the Freeman of the City of Cessnock in recognition of achievement and contribution to fields of endeavor.

The Community Engagement, Awards and Grant Committee (The Committee) met on 12 July 2023 to consider nominations for the Freeman of the City of Cessnock. The Freeman of the City of Cessnock recognizes individuals for their outstanding achievement and service.

Nominations for Freeman of the City of Cessnock are always open. The Committee assessed the nominations in accordance with the Hall of Fame Guidelines **Enclosure 1**.

The Committee's recommendations for induction into the Freeman of the City of Cessnock are detailed in the enclosed confidential meeting minutes at **Enclosure 2** and the Freeman of the City of Cessnock Nominations are provided as confidential **Enclosures 3 and 4**.

ENCLOSURES

- 1 ⇨ Freeman of the City Awards _ Guidelines
- 2 Minutes of the Community Engagement, Awards and Grants Committee Meeting Held 12 July 2023 - *This matter is considered to be confidential under Section 10A(2) (j) of the Local Government Act, as it deals with Council Policy. (Contains personal information of the Nominations under consideration by Council)*
- 3 Nomination & Supporting Documents _ Nomination 1 - *This matter is considered to be confidential under Section 10A(2) (j) of the Local Government Act, as it deals with Council Policy. (Contains personal information of the Nominations under consideration by Council)*
- 4 Nomination & Supporting Documents - Nomination 2 - *This matter is considered to be confidential under Section 10A(2) (j) of the Local Government Act, as it deals with Council Policy. (Contains personal information of the Nominations under consideration by Council)*

Planning and Environment

Report No. PE27/2023

Planning and Environment



SUBJECT: *HUNTER ESTUARY COASTAL MANAGEMENT PROGRAM - STAGE 1 SCOPING STUDY*

RESPONSIBLE OFFICER: *Strategic Planning Manager - Martin Johnson*

SUMMARY

Coastal Management Programs (CMP) are developed for estuaries under the *Coastal Management Act 2016*. The Hunter River is one such environment.

Cessnock LGA has a significant proportion of the water catchment that forms part of the Hunter River catchment area. Because of this, and the connectivity of our local watercourses to the Hunter River, Council Officers have partnered with a number of Councils within the Hunter River catchment area and other NSW Government organisations to develop a CMP for the Hunter River estuary. This collaborative partnership has resulted in the formation of the Hunter Estuary Alliance (HEAL) to assist and advocate for management of the estuary and surrounding water catchment. Council has become involved as a member of HEAL to enhance our knowledge base of the local water catchment and identify where improvements to local water quality and overall catchment management can be made.

The CMP framework requires a five-stage process. Stage 1 has been completed in the form of a scoping study that outlines key management issues for the Hunter River estuary currently and into the future. The scoping study also identifies additional research required in future stages to facilitate the certification of a Hunter Estuary CMP by the NSW State Government.

RECOMMENDATION

That Council endorses the Hunter Estuary Coastal Management Program- Stage 1 Scoping Study.

BACKGROUND

The Hunter River water catchment area is the largest coastal catchment in NSW. People generally think of the Hunter River as the main river channel that courses through Maitland and Newcastle. However, the wider water catchment area spans across an area of almost 21,500km² and across multiple Local Government Areas (LGA). Within Cessnock LGA there is over 6,400km of watercourses that form part of the Hunter River catchment and contribute to the health of the Hunter River estuary.

CMP's are developed for estuaries under the *Coastal Management Act 2016*. The development of the Hunter Estuary CMP is being led by Maitland City Council, in collaboration with Cessnock City Council, City of Newcastle, Port Stephens Council, Dungog Shire Council, Hunter Water Corporation and Hunter Local Land Services. These Councils and NSW State Government stakeholders have formed the Hunter Estuary Alliance (HEAL) to provide a platform for collaboration to improve the health and resilience of the Hunter Estuary and catchment. HEAL aims to assist and advocate for management of the estuary and the surrounding water catchment, including the water catchment within Cessnock LGA.

Planning and Environment

Report No. PE27/2023

Planning and Environment



The Hunter Estuary CMP is being developed in a 5-stage process with the first stage completed. Stage 1 included the completion of a scoping study that outlines:

- a. The current state of the Hunter Estuary and its catchments
- b. The value of the Hunter Estuary,
- c. Key management issues and risks,
- d. Additional research required for stage 2 of the CMP process,
- e. A preliminary business case for preparing the CMP, and
- f. Community and stakeholder engagement strategy.

The following research has been identified to be undertaken in Stage 2 of the CMP:

- a. Business case for a lead project group for ongoing management of the Hunter Estuary,
- b. Mapping of impacts to the Hunter Estuary from predicted climate change,
- c. Habitat mapping and prioritisation of habitat projects,
- d. Evaluation of water quality within catchment areas and prioritising actions for those catchments,
- e. Evaluation of risk from carp and effectiveness of current carp management programs
- f. Evaluation of streambank erosion areas,
- g. Alignment of catchment management controls across Councils, and
- h. Socio-economic analysis to inform values of the estuary.

REPORT/PROPOSAL

Council have collaborated with Maitland City Council, City of Newcastle, Port Stephens Council, Dungog Shore Council, Hunter Water Corporation and Hunter Local Land Services to develop a scoping study as the first stage of a CMP for the Hunter River estuary. The scoping study outlines the current state of the Hunter River and its water catchment and highlights issues that impact the health of the estuary. The scoping study also outlines additional studies that are required for the next stage of the CMP process to progress towards the certification of the Hunter River Estuary CMP by the NSW State Government.

The member Councils/organisations of HEAL are seeking endorsement of the Hunter Estuary CMP scoping study so a common approach from the collaborative partners is shared and progress to the next stage of the CMP process.

CONSULTATION

Consultation undertaken during development of the scoping study is outlined in Section 7 of the Hunter Estuary CMP Stage 1 Scoping Study (See **Enclosure 1**). Consultation included the formation of an inter-agency Steering Committee and Project Management Group.

The scoping study also includes a Community and Stakeholder Engagement Strategy for future stages of the CMP.



STRATEGIC LINKS

a. Delivery Program

- Cessnock Community Strategic Plan 2036
- Objective 3.1 Protecting and enhancing the natural environment and rural character of the area
- Strategic direction 3.1.5 Our waterways and catchments are maintained and enhanced

b. Other Plans

- Local Strategic Planning Statement 2036
- Action 58 Apply for grant funding for projects that improve water security, water quality and the conditions of urban waterways
- Stormwater, Waterway and Floodplain Strategy 2018

IMPLICATIONS

a. Policy and Procedural Implications

Nil

b. Financial Implications

Council has previously provided funding to development of the CMP. No further funding is anticipated at this stage.

c. Legislative Implications

Nil

d. Risk Implications

Nil

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

Coastal Management Programs (CMP) are developed for estuaries under the *Coastal Management Act 2016*. Cessnock LGA has a significant proportion of the water catchment that forms part of the Hunter River catchment area. Council Officers have partnered with a number of Councils within the Hunter River catchment area and other NSW Government

Planning and Environment

Report No. PE27/2023

Planning and Environment



organisations to develop a CMP for the Hunter River estuary. This collaborative partnership has resulted in the formation of the Hunter Estuary Alliance (HEAL).

The CMP framework requires a five-stage process. Stage 1 has been completed in the form of a scoping study that outlines key management issues for the Hunter River estuary currently and into the future. The scoping study also identifies additional research required in future stages to facilitate the certification of a Hunter Estuary CMP by the NSW State Government.

ENCLOSURES

[1](#) Hunter Estuary Scoping Study

Planning and Environment

Report No. PE28/2023

Planning and Environment



SUBJECT: *ROTARY PARK KURRI KURRI COLOURED LIGHTING SYSTEM*

RESPONSIBLE OFFICER: *Economic Development & Tourism Manager - Tony Chadwick*

SUMMARY

The purpose of this report is to request a \$50,000 funding allocation be made from the Miscellaneous & Property Reserve (Tourism Related Projects Reserve) to install an automated coloured lighting system within Rotary Park, Kurri Kurri.

RECOMMENDATION

That Council allocates \$50,000 from the Miscellaneous & Property Reserve (Tourism Related Projects Reserve) to install an automated coloured lighting system within Rotary Park, Kurri Kurri.

BACKGROUND

Col Brown Rotary Park Stage 3 beautification works have started in accordance with the Kurri Kurri Commercial Centre Masterplan. The upgrade will improve the current space and make it more enjoyable for those visiting the park, while also ensuring all the best features of the park remain.

The works include:

- New pathways for better access
- More trees and landscaping
- Installation of new park furniture and signage
- Installation of new lighting (white lighting) to improve night time safety

Stage 3 upgrades primarily focus on the eastern end of the park and is being funded via a \$847,701 grant through Round 8 of the NSW Government's Resources for Regions program.

The Stage 3 design includes pole solar lighting but does not include tree feature lighting or automated coloured lighting. Following discussions with the project manager, additional electrical conduits have been added to the design to allow for future feature lighting to be added to the park.

REPORT/PROPOSAL

Every destination has its own unique natural features, significant tourist attractions, places to visit or cultural experiences that appeal to visitors. Providing public facilities and parks that are beautiful and appealing at key locations close to the Central Business Districts (CBD) will greatly improve the resident satisfaction levels and spend in those town centres by attracting more visitors.

Planning and Environment

Report No. PE28/2023

Planning and Environment



The Hunter Valley Destination Management Plan 2030 includes actions to introduce a hierarchy of lighting levels to encourage activation after dark. This includes feature uplighting to street trees, lighting of public art and additional illumination in alfresco dining areas.

The Col Brown Rotary Park Stage 3 construction works provides Council with an opportunity to introduce feature tree uplighting and coloured lighting as a way to enhance the beautification works already completed.

The proposed Col Brown Rotary Park coloured lighting system includes:

- Supply and installation of 9 LED Projector Floodlights at 3 locations (includes light cages for security),
- Supply and installation of a Touch Screen Controller for coloured lighting control,
- Supply and install a Modem Router, Transmitter and Receiver for wireless control of remote floodlights, and
- Expansion ability for additional lights to be added in the future.

A budget of \$50,000 is required to complete the Col Brown Rotary Park Coloured Lighting Project. The proposed source of funds is the Miscellaneous & Property Reserve (Tourism Related Projects Reserve).

OPTIONS

N/A

CONSULTATION

- Open Space and Community Facilities Manager,
- Team Leader Urban Parks Maintenance,
- Economic Development Officer,
- Chief Financial Officer, and
- Financial Planning Coordinator.

STRATEGIC LINKS

a. Delivery Program

This report aligns with the following Delivery Program 2022 – 2026 actions:

- A Sustainable and Prosperous Economy;
 - 2.1 Diversifying and growing our economy,
 - 2.2 Achieving more sustainable employment opportunities, and
 - 2.3 Increasing tourism opportunities and visitation in the area.

b. Other Plans

This report aligns with the following plans and strategies:

- Greater Cessnock Jobs Strategy 2036; and
- Hunter Valley Destination Management Plan 2030.

IMPLICATIONS

a. Policy and Procedural Implications

Nil

b. Financial Implications

The \$50,000 for this project is proposed to be taken from the Miscellaneous & Property Reserve (Tourism Related Projects Reserve) which has a current balance of \$158,006.

c. Legislative Implications

Nil

d. Risk Implications

Risk	Risk Ranking	Proposed Treatment	Proposed Risk Ranking
Reputation – Council fails to support projects that grow the visitor economy and support business	C1 Low	Adopt the recommendation	D1 Low
Reputation – Council is unable to deliver assigned actions from the Hunter Valley DMP	C1 Low	Adopt the recommendation	D1 Low

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

The Col Brown Rotary Park Stage 3 construction works have provided Council with a cost-effective way to introduce feature tree uplighting and coloured lighting to create an after dark feature for Kurri Kurri CBD.

\$50,000 is proposed to be taken from the Miscellaneous & Property Reserve (Tourism Related Projects Reserve) to fund the Col Brown Rotary Park Coloured Lighting Project.

ENCLOSURES

There are no enclosures for this report.

Planning and Environment

Report No. PE29/2023

Planning and Environment



SUBJECT: *COMPREHENSIVE DCP REVIEW - DRAFT CHAPTERS:
ADMINISTRATION AND LEGISLATIVE CONTEXT AND
CENTRES - FOR EXHIBITION*

RESPONSIBLE OFFICER: *Strategic Planning Manager - Martin Johnson*

SUMMARY

This report describes amendments to the Cessnock Development Control Plan 2010 (CDCP):

1. To include a new Administration and Legislative Context chapter; and
2. To restructure and provide generic development provisions for all centres (other than Huntlee) and area-specific development provisions for the Cessnock, Branxton, Kurri Kurri and Weston Town Centres.

RECOMMENDATION

1. That Council place draft Chapters "Introduction and Legislative Context and Development Base Provisions-Centres" of the Cessnock Development Control Plan 2010 on public exhibition for a period of 28 days.
2. That Council receive a further report following the public exhibition of the draft Chapters of Cessnock Development Control Plan 2010.

BACKGROUND

Council is undertaking a comprehensive review of the Cessnock Local Environmental Plan 2011 (LEP) and Development Control Plan 2010 (DCP). This is being undertaken in stages and generally in themes.

The draft chapters included within this report include a new/updated administration chapter and re-structured chapters providing development provisions for development in 'centres' across the Cessnock LGA (excluding Huntlee). New development provisions for Kurri Kurri and Weston are also incorporated into the draft chapters for centres.

REPORT/PROPOSAL

The DCP is structured around 4 parts:

1. Administration and legislative context,
2. Issue-based provisions,
3. Development-specific provisions, and
4. Area-specific provisions.

Planning and Environment

Report No. PE29/2023

Planning and Environment



Administration and Legislative Context

A new administration chapter has been drafted that:

- updates the existing administration chapter,
- addresses the legislative requirements under the *Environmental Planning and Assessment Act 1979* and its Regulation,
- explains how the DCP will be interpreted and applied, and
- outlines the transitional arrangements as the DCP is incrementally reviewed and updated.

Centre Chapters

'Centres' refer to all city and town centres across Cessnock including the Cessnock Commercial Precinct, Kurri Kurri, Branxton, Weston and Greta Town Centres and smaller neighbourhood centres like Heddon Greta, Abermain and Bellbird.

The intention of this review is to provide a new generic 'Centres' chapter which will apply to all development in any of the centres and only where there is a unique development issue for Cessnock, Branxton, Kurri Kurri or Weston, specific controls will be captured in the area-based provisions.

Council has prepared comprehensive master plans and public domain plans for Cessnock, Kurri Kurri, Weston and Branxton. Any development-related control for those centres will be captured in the area-based provisions. No master plan or public domain plan has been developed for Greta as yet, but if this is something that is undertaken in the future, an area-based chapter may be introduced for that centre.

The generic chapter for 'centres' addresses the following development issues:

- Active street frontages
- Addressing the Street and Public Domain
- Awnings
- Building materials, finishes and colours
- Built Form, Setbacks and Street Hierarchy
- Building height
- Roof form
- Gateways and landmark sites
- Site servicing
- Landscaping
- Sustainable Development and Water Sensitive Urban Design
- Parking and access

The area-based provisions for Cessnock, Branxton, Kurri Kurri and Weston primarily respond to the master plans and public domain plan for those areas.

No new controls or development provisions are proposed under the review (other than for Kurri Kurri and Weston) which are based on the adopted strategies/master plans/public domain plans. The reviews' primary purpose is to streamline and simplify the DCP for intended uses and to ensure appropriate development provision are identified for Cessnock's centres.

Planning and Environment

Report No. PE29/2023

Planning and Environment



When adopted, the draft chapters will replace the existing DCP Chapters for the Cessnock Commercial Precinct and Branxton Town Centre.

CONSULTATION

The draft DCP has been reviewed by internal sections of Council.

If endorsed by Council it will be placed on exhibition for a period of 28-days in accordance with the Council's Community Participation Plan.

STRATEGIC LINKS

a. Delivery Program

The proposal is consistent with the following objectives of the Community Strategic Plan 2036:

- Outcome 1: A connected, safe and creative community
- Outcome 2: A sustainable and prosperous economy
- Outcome 4: Accessible infrastructure, services and facilities

b. Other Plans

The proposal is consistent with the following planning priorities of the Local Strategic Planning Statement:

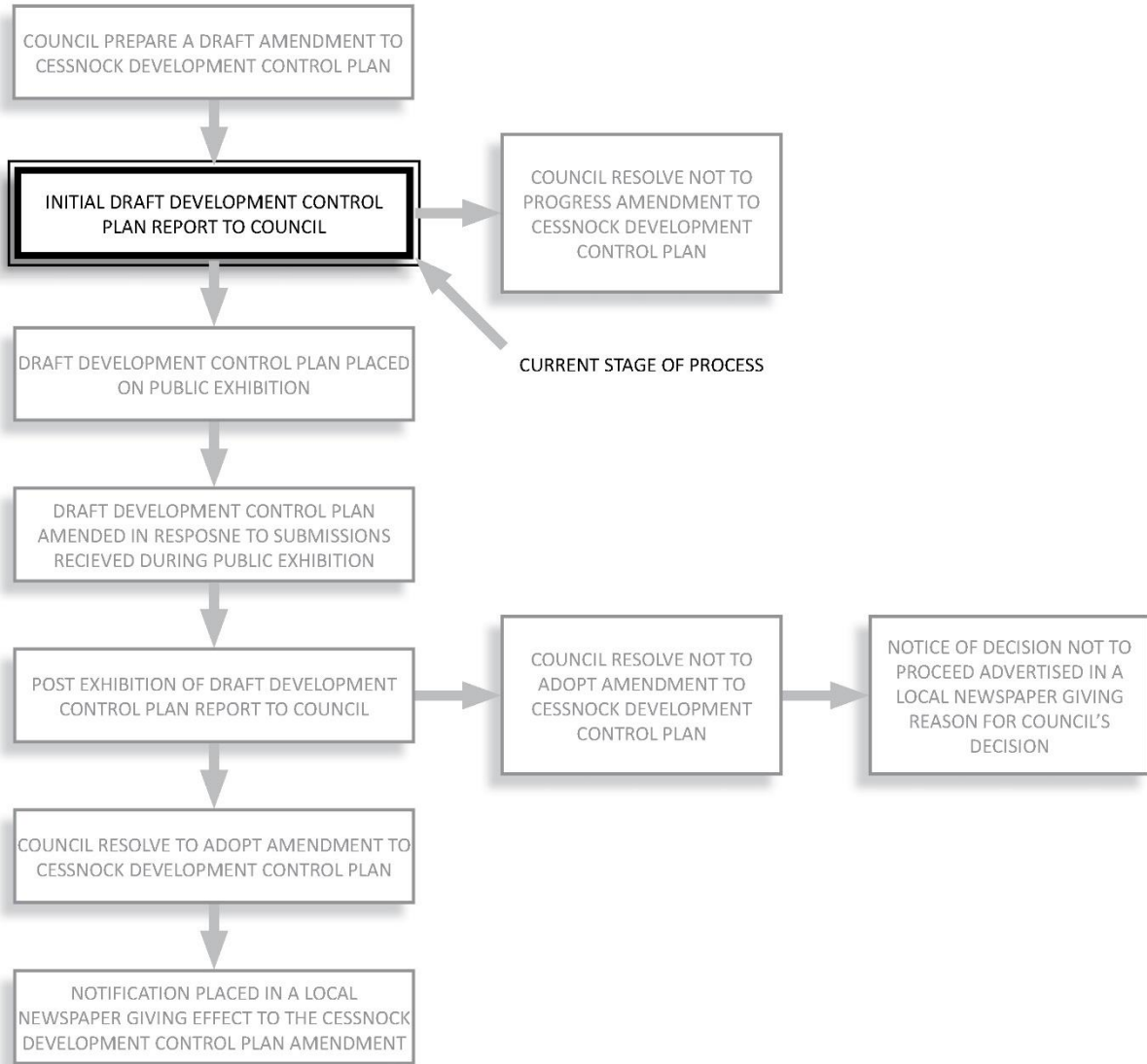
- Planning Priority 3: The character and vitality of our town centres and villages is protected and enhanced.
- Planning Priority 11: Our City has a defined hierarchy of commercial centres.



IMPLICATIONS

a. Policy and Procedural Implications

PROCESS - CESSNOCK DEVELOPMENT CONTROL PLAN



b. Financial Implications

NIL

c. Legislative Implications

The amendment will be processed in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and its Regulation.

Planning and Environment

Report No. PE29/2023

Planning and Environment



By adopting the chapters, the following existing chapters will be repealed for the purposes of clause 16 of the *Environmental Planning and Assessment Regulation 2021*:

- Part A Introduction
- Chapter E16 Cessnock Commercial Precinct
- Chapter E19 Branxton Town Centre

d. Risk Implications

NIL

e. Environmental Implications

NIL

f. Other Implications

NIL

CONCLUSION

The Administration and Legislative Context Chapter is required to address requirements under the Act and Regulation and assist in the interpretation and application of the DCP.

The amendments provide a regulatory framework to assess development in centres across Cessnock. They will also provide specific provisions for development in those centres where Council has adopted strategies, master plans and public domain plans.

ENCLOSURES

- 1⇒ Comprehensive DCP Chapter _ Development Based Provisions _ Centres _ DRAFT FOR EXHIBITION
- 2⇒ Comprehensive DCP Chapter _ Administration and Legislative Context _ DRAFT FOR EXHIBITION

SUBJECT: *CONSIDERATION OF COUNCILLOR NUMBERS - 2024
COUNCIL ELECTIONS*

RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

SUMMARY

The purpose of this report is for Council to consider the number of Councillors for the following term of office.

RECOMMENDATION

That Council determines the number of Councillors to be maintained at 13 (one of whom is the Mayor) for the term of office to commence following the next ordinary election.

BACKGROUND

The *Local Government Act 1993* (Act) requires Council to determine the number of its Councillors for the following term of office not less than 12 months before the next ordinary election. The next election is planned for September 2024.

If the elected Council proposes to change the number of Councillors, it must, before determining the number, obtain approval for the change at a Constitutional Referendum as per section 224(3), noting that section 224 (1) prescribes that a Council must have at least 5 and not more than 15 Councillors (one of whom is the Mayor).

REPORT/PROPOSAL

This report seeks Councils' consideration of Councillor numbers as per the Act.

It should also be noted that in accordance with clause 244A(9) of the Act :

- (9) *A Council for an area that is divided into wards may not make an application under this section for a decrease in the number of Councillors that would result in the number of Councillors for each Ward being fewer than 3.*

Therefore, if Council did want to reduce the number of Councillors it would need to review the Ward system at the same time. This would be through reducing the number of actual Wards through boundary adjustments or abolishing Wards altogether.

The process to reduce the number of Councillors, after a Council has taken the issue to residents via a referendum is in accordance with clause 224A of the Act:

224A - Approval to reduce number of Councillors

- (1) *A Council may resolve to make an application to the Minister to approve a decrease in the number of Councillors within the limits referred to in section 224 (1).*
- (2) *The Council must give not less than 42 days' public notice of its proposed resolution.*

Corporate and Community

Report No. CC44/2023

Corporate and Community Services



- (3) *After passing the resolution, the Council must forward to the Minister a copy of the resolution, a summary of any submissions received by it and its comments concerning those submissions.*
- (4) *The Minister may approve the application without amendment or may decline to approve the application.*
- (5) *If the Minister approves the application, the number of Councillors of the Council is reduced to the number specified in the application with effect on and from the day appointed for the next ordinary election of Councillors after the application is approved.*
- (6) *Section 16 does not apply to a resolution of a Council to make an application to the Minister under this section.*
- (7) *An application may be made under this section after the commencement of the Local Government Amendment (Elections) Act 2011 but before the expiry of 5 months after that commencement.*
- (8) *Nothing in this section prevents a Council from making more than one application under this section or from taking action under section 224 to change the number of its Councillors.*
- (9) *A Council for an area that is divided into Wards may not make an application under this section for a decrease in the number of Councillors that would result in the number of Councillors for each Ward being fewer than 3.*

If Council propose any changes to Councillor numbers, a referendum at the 2024 elections would be required and the amended numbers would take effect from the 2028 election,

OPTIONS

1. That Council maintains the current number of Councillors being 13, including the popularly elected Mayor.
2. That Council decides on a different number of Councillors and undertakes a community consultation process to reduce the number of Councillors and take that proposal to a referendum at the next election, with any change being effective from the 2028 elections.

CONSULTATION

Governance
General Manager

STRATEGIC LINKS

a. Delivery Program

This report is linked to the Community's desired outcome under the Community Strategic Plan of *Civic Leadership and Effective Governance*.

b. Other Plans

Nil

IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

Reducing the number of Councillors would lead to reduced total Councillor allowances once the change became effective. Any saving would be dependent on the reduction in numbers and the level of allowance set by the Council at the time the reduction in numbers became effective. For the current financial year 2023-24, the annual Councillor allowance is \$26,070 per Councillor which is the maximum allowable allowance for a Regional Centre Council.

c. Legislative Implications

The relevant provisions of the Act are as follows:

Section 224 - How Many Councillors does a Council have?

- (1) A Council must have at least 5 and not more than 15 Councillors (one of whom is the Mayor).
- (2) Not less than 12 months before the next ordinary election, the Council must determine the number, in accordance with subsection (1), of its Councillors for the following term of office.
- (3) If the Council proposes to change the number of Councillors, it must, before determining the number, obtain approval for the change at a Constitutional Referendum.

d. Risk Implications

Failure to make a Council resolution to determine the number of its Councillors for the following term of office could be considered a breach of Section 224(2) of the Act.

e. Other Implications

Nil

CONCLUSION

This report provides information for Council's consideration in regards to Councillor numbers for the following term of office in accordance with section 224(2) of the Act and other associated statutory requirements.

ENCLOSURES

There are no enclosures for this report.

SUBJECT: *WARD BOUNDARIES - ADJUSTMENT TO ENROLMENTS*

RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

SUMMARY

The purpose of this report is for Council to determine a preferred option for ward boundary changes prior to the next election, in accordance with the *Local Government Act 1993* (NSW) (Act).

RECOMMENDATION

1. That Council acknowledges that a ward elector enrolment variation of greater than 10% currently exists with the variation as at 20 June 2023 being 24%.
2. That Council determines the preferred ward boundary option *[insert option #]* and seek NSW Electoral Commission endorsement to commence public exhibition of the proposed ward redistribution.
3. That Council on receipt of endorsement from the NSW Electoral Commission, commence public exhibition and report back to Council for final determination.

BACKGROUND

The Cessnock Local Government Area (LGA) is currently divided for election purposes into four Wards, with each Ward represented by three Councillors and a popularly elected Mayor. The next local government election is scheduled for September 2024.

At its meeting in November 2022, Councillors noted an elector variation of 18.82% and that a review would be required prior to the next election. In accordance with section 211 of the Act, the number of registered voters in each ward must not differ by more than 10 percent.

REPORT/PROPOSAL

Current electoral numbers

The LGA has experienced significant development since the last ward boundary adjustments in 2012, including an increase in registered voters which has led to significant voter variance across the wards.

Current ward enrolments and historical reported variations are shown below:

Table 1 – Ward enrolments over time

Note percentage variance is calculated as per OLG guidance

Ward	2 Oct 2018	19 Mar 2019	26 Aug 2019	26 Sep 2019	21 July 2022	20 Sep 2022	20 June 2023
A	10,969	11,048	11,237	11,241	12,026	12,005	12,264
B	10,002	10,036	10,019	9,988	10,336	10,306	10,590
C	10,838	11,015	11,198	11,231	12,644	12,695	13,148
D	9,985	10,111	10,303	10,326	11,560	11,594	12,009
Total	41,794	42,210	42,757	42,786	46,566	46,600	48,011
Highest	10,969	11,048	11,237	11,241	12,644	12,695	13,148
Lowest	9,985	10,036	10,019	9,988	10,336	10,306	10,590
Variance	984	1,012	1,218	1,253	2,308	2,389	2,558
%	8.97%	9.16%	10.84%	11.15%	18.25%	18.82%	24.15%

As at 20 June 2023, Ward C had the highest number of enrolments (n=13,148) and Ward B had the lowest number of enrolments (n=10,590). This represents a variance of 24.15%. The expected population increases in Ward A (Bellbird Heights, Millfield, Paxton and Kitchener), Ward C (Huntlee, North Rothbury, Greta, Abermain and Weston) and Ward D (Kurri Kurri, Cliftleigh and Heddon Greta) resulting from subdivision development in these areas indicate that the variance is likely to increase, rather than decrease over time.

As part of the preparations for determining a preferred option prior to public exhibition, proposed changes were workshopped with Councillors on 12 July 2023 with the options presented designed to not only align ward enrolments to less than the allowable 10% variation, but to also provide future proofing noting known development activity within some of the wards.

Review process

The Act requires Council to submit details of ward boundary alterations to, and consult with, the NSW Electoral Commission (NSWEC) prior to a public exhibition period of a ward boundary plan.

Council will consult with the NSWEC and the Australian Statistician on the proposed ward boundaries. To address the requirements of NSWEC, four goals were considered in developing the options:

1. to achieve a variance in enrolment distribution that is less than 10%;
2. adjust the distribution to accommodate predicted growth areas to delay any further redistributions;
3. the distribution aligns with statistical boundaries and provides a natural distribution of electors; and
4. minimise the number of community members affected by the change.

The proposed options for ward boundary adjustments have been made utilising the Australian Bureau of Statistics Statistical Area 1 Boundaries (SA1) and considering communities of interests as well as defined geographical features such as water courses, roads and railway lines.

Corporate and Community

Report No. CC45/2023

Corporate and Community Services



Council must resolve to put the proposed ward boundaries on public exhibition for a period of 28 days and consider any submissions made during the mandated 42 day consultation period. Any changes will be effective from the 2024 election.

At the conclusion of the public exhibition, Council will address any submissions, undertake further consultation with the NSWEC if any further changes are recommended and approve a final ward boundary plan for the next election. The NSWEC requires this process to be finalised by October 2023.

OPTIONS

Two options are presented for Council's consideration, with Option 1 being the recommended redistribution option. Maps outlining each option can be found in the enclosures to this report. An addition map showing the entire LGA and SA1 is also included (Map 1).

Ward Boundary Redistribution – Option 1

Proposes changes are detailed below and can be seen on Map 2:

Statistical Area Level 1	No. of Enrolments (20 June 2023)	From Ward	To Ward
1-0601-1108-26	211	C	B
1-0601-1111-22	241	C	B
1-0601-1111-24	352	C	B
1-0601-1111-25	377	C	B
1-0601-1111-42	10	C	B



Option 1 will change the enrolment distribution as shown in Table 3 below:

Table 3 - Option 1 (Enrolment numbers with proposed ward changes)				
Council Ward	Current Enrolment (20 June 2023)	Proposed enrolment after re-distribution	Proposed movement of enrolment	Enrolment growth to reach 0% variance (i.e. equal to proposed new highest enrolment)
A	12,264	12,264	0	0
B	10,590	11,681	1091	583
C	13,148	12,059	-1089	205
D	12,009	12,007	-2	187
Total	48,011	48,011		
Highest enrolment	13,148	12,264		
Lowest enrolment	10,590	11,681		
Variance	2,558	583		
Variance %	24.15%	5%		

Option 1 reduces the variation to an acceptable 5% and provides a buffer for future proofing growth. This option may not protect Council from needing to undertake a further redistribution in the next term of Council as the Wards with expected enrolment growth (A, C and D) will ultimately move the variance over the acceptable 10% over time. However, Option 1 addresses the immediate elector distribution problem, and has the least impact on the number of electors.



Ward Boundary Redistribution – Option 2

Proposes changes are detailed below and can be seen on Map 3:

Table 2 – Option 1			
Proposed ward changes			
Statistical Area Level 1	No. of Enrolments (20 June 2023)	From Ward	To Ward
1-0601-1107-07	1	B	A
1-0601-1107-07	3	C	A
1-0601-1107-30	292	C	A
1-0601-1107-33	270	C	A
1-0601-1108-64	556	B	A
1-0601-1109-14	156	D	A
1-0601-1108-01	432	A	B
1-0601-1108-21	1	C	B
1-0601-1108-26	109	C	B
1-0601-1108-33	7	A	B
1-0601-1108-34	76	A	B
1-0601-1108-37	527	A	B
1-0601-1108-43	308	A	B
1-0601-1108-44	303	A	B
1-0601-1108-45	333	A	B
1-0601-1111-25	377	C	B
1-0601-1107-08	2	B	C
1-0601-1111-36	120	D	C
1-0601-1111-43	24	D	C
1-0601-1111-44	21	D	C
1-0601-1109-06	69	C	D
1-0601-1111-42	10	C	D

Option 2 will change the enrolment distribution as shown in Table 5 below:

Table 5 - Option 2 (Enrolment numbers with proposed ward changes)				
Council Ward	Current Enrolment (20 June 2023)	Proposed enrolment after re-distribution	Proposed movement of enrolment	Enrolment growth to reach 0% variance (i.e. equal to proposed new highest enrolment)
A	12,264	11,546	-718	968
B	10,590	12,514	1924	0
C	13,148	12,184	-964	330
D	12,009	11,767	-242	747
Total	48,1011	48,011		
Highest enrolment	13,148	12,514		
Lowest enrolment	10,590	11,546		
Variance	2,558	968		
Variance %	24.15%	8.4%		

Option 2 reduces the variation to an acceptable 8.4%. As with Option 1, this option does not necessarily protect Council from needing to undertake a further redistribution in the next term of Council. Option 2 has a greater impact on electors in the short term however, does allow for future expansion to accommodate expected enrolment growth (in Wards A, C and D).

CONSULTATION

NSW Electoral Commission
 Councillors – briefing 12 July 2023

STRATEGIC LINKS

a. Delivery Program

This report is linked to the Community's desired outcome under the Community Strategic Plan of *Civic Leadership and Effective Governance*.

b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

Costs associated with public exhibition of ward boundary plan will be managed within the current budget.

c. Legislative Implications

Section 211 of the Act requires Councils to keep the ward boundaries under review and to consult with the NSWEC in regards to proposed ward boundary adjustments.

d. Risk Implications

Nil

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

The variance in distribution of electors within Council's electoral wards is above the 10% limit allowed under Section 211 of the Act and Council is required to redress the imbalance.

This report outlines ward redistribution options for consideration of Council prior to seeking concurrence from the NSWEC and undertaking public exhibition as required, with the final ward boundary proposal needing to be submitted to the NSWEC in October 2023.

ENCLOSURES

- [1](#) ⇒ Map 1 - LGA
- [2](#) ⇒ Map 2 - Option 1
- [3](#) ⇒ Map 3 - Option 2

Corporate and Community

Report No. CC46/2023

Corporate and Community Services



SUBJECT: *LOCAL GOVERNMENT NSW ANNUAL CONFERENCE 2023
- REQUEST FOR ATTENDANCE AND MOTIONS*

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

SUMMARY

The Local Government NSW (LGNSW) Annual Conference 2023 is scheduled to be held at the Rosehill Gardens racecourse from Sunday 12 November to Tuesday 14 November 2023. The purpose of this report is to confirm Councillor attendance and determine motions to be submitted to the Conference.

RECOMMENDATION

1. That Council determines delegates to attend the Local Government NSW Annual Conference 2023.
2. That Council determines the four voting delegates for the Local Government NSW Annual Conference 2023.
3. That Council determines motions, if any, to be submitted for referral to the Association for consideration at the Local Government NSW Annual Conference 2023.

BACKGROUND

Council needs to determine Councillor attendees and voting delegates to the LGNSW Annual Conference 2023. Council also needs to determine any motions for the conference, with a final submission deadline of 15 September 2023 to enable the conference agenda to be completed.

REPORT/PROPOSAL

The LGNSW 2023 Conference is to be held at Rosehill Racecourse from 12 - 14 November 2023. Conference details, 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 were requested to make application to the General Manager so that Council could determine the attendees and voting delegates at a subsequent Council meeting.

Requests to attend have been received from Mayor Suvaal and Councillors Dunn, Hill and Grine. Councillor requests are provided at **Enclosures 2-5** to this report.

Motions

Proposed motions for consideration at the Conference need to be submitted to the Association by 15 September 2023. The Board is seeking ways to ensure that the motions debate at the Conference is centred 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.

Motions will only be accepted for inclusion in the conference business paper where they:

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

Councillors were requested to notify the General Manager of any suggested motions by 1 August 2023 so that Council could determine the motions to be referred to the Association at the meeting of 16 August 2023. At the date of this report, there had been no motions submitted for Councils consideration.

CONSULTATION

General Manager
Councillors

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

IMPLICATIONS

a. Policy and Procedural Implications

Application for attendance to the LGNSW Annual Conference is in accordance with the adopted *Councillor Expenses and Facilities Policy*.

Corporate and Community

Report No. CC46/2023

Corporate and Community Services



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 LGNSW Annual Conference and provides Council with the opportunity to consider any motions to be submitted to the conference and for Councillors attendance.

ENCLOSURES

- 1 ➡ Councillor request to attend conference form
- 2 ➡ Councillor Request _ Mayor Suvaal
- 3 ➡ Councillor Request _ Councillor Paul Dunn
- 4 ➡ Councillor Request _ Councillor Mitchell Hill
- 5 ➡ Councillor Request _ Councillor Rosa Grine

SUBJECT: *INVESTMENT REPORT - JULY 2023*
RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

SUMMARY

Section 625 of the *Local Government Act 1993*, Clause 212 of the *Local Government (General) Regulation 2021* and Council's Investment Policy requires a monthly report to Council detailing all money invested.

RECOMMENDATION

That Council receives the Investment Report for July 2023 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 \$73,436,237.

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 officers monitors and manages the cash and investment portfolio by taking into consideration credit ratings of financial institutions, interest rates offered for periods of investment, counterparty exposures and cash flow requirements.

Following assessment of projected cash flow requirements, surplus funds are invested in accordance with Council's Investment Policy. Investment returns of the portfolio to the end of July 2023 are exceeding the budgets. As older term deposits mature and new term deposits are invested, yields are increasing compared to the last few years as demonstrated on Table 1 below.

Interest rates have been increasing since May 2022 compared to previous unprecedented low levels in recent years. At its meeting on 1 August 2023, the Reserve Bank of Australia decided to leave the cash rate unchanged at 4.10%, after an increase from 3.85% to 4.10% in its June meeting.

Corporate and Community

Report No. CC47/2023

Corporate and Community Services



During July, Council had a term deposit of \$4m mature which had been paying an average of 1.35% pa, well below current rates. Two new investments of \$5m each were made in July fetching an interest of 5.49% and 5.51% p.a.

Investment Portfolio Information

Table 1 Total cash and investments held by Council as at 31 July 2023

Invest No	Financial Institution Investment Held With	Invest Type	Interest Coupon Term	Maturity	Current Coupon Rate	Par Value \$'000
	Commonwealth Bank	CASH			3.75%	14,962
	Commonwealth Bank	At Call			4.10%	41
1243	AMP Bank	At Call			2.10%	507
1472	AMP Bank	TD	735	14-Sep-23	0.75%	1,000
1483	Commonwealth Bank	TD	533	12-Oct-23	2.81%	4,000
1484	Suncorp Bank	TD	504	21-Sep-23	2.85%	4,000
1486	Commonwealth Bank	TD	365	08-Aug-23	3.98%	5,000
1489	Westpac Bank	TD	365	27-Sep-23	4.66%	4,000
1490	Westpac Bank	TD	729	25-Sep-24	4.91%	4,000
1493	Suncorp Bank	TD	532	18-Apr-24	4.61%	2,000
1495	Westpac Bank	TD	365	24-Jan-24	4.46%	5,000
1496	National Australia Bank	TD	363	29-Jan-24	4.62%	5,000
1475a	Westpac Bank	TD	306	12-Dec-23	4.70%	4,000
1497	Westpac Bank	TD	356	19-Mar-24	4.99%	3,000
1498	National Australia Bank	TD	370	15-May-24	4.74%	3,000
1499	National Australia Bank	TD	201	22-Jan-24	5.49%	5,000
1500	National Australia Bank	TD	232	22-Feb-24	5.51%	5,000
1463	Treasury Corporation	Growth Fund				3,926
TOTAL						73,436

Table 2 Level of funds held and the percentage invested with financial institutions

Financial Institution	Credit Rating	Institution Maximum	Amount \$'000	% of Portfolio
Commonwealth Bank	AA-	40%	9,000	15.53%
Westpac Bank	AA-	40%	20,000	34.53%
National Australia Bank	AA-	40%	18,000	31.07%
Suncorp Bank	A+	40%	6,000	10.36%
AMP Bank	BBB	5%	1,000	1.73%
Treasury Corporation	Unrated	10%	3,926	6.78%
TOTAL			57,926	100.00%

In accordance with the Investment Policy, figures in Table 2 above exclude cash and at call balances in Council's main operating account held with the Commonwealth and AMP banks.

Investment in NSW Treasury Corporation (TCorp)

TCorpIM Funds are unit trusts. Distributions are made annually and are automatically reinvested into the fund to buy additional units. As this investment is held for medium to long-term capital appreciation, gains or losses will only be realised on redemption of the investment. However due to accounting requirements any unrealised gains or losses will be processed between investments and the operating statement.

The preliminary July 2023 unrealised return was a gain of \$36,429 or 0.94% (11.28% annualised). Rates of return will fluctuate each month and possibly be negative from time to time with the medium-term investment horizon.

The July performance summary was not available at the time of preparing this report. The fund performance summary as at 30 June 2023 is provided below. The benchmark used by TCorp is CPI + 2.00% p.a. (over rolling 5 years).

Table 3 NSW Treasury Corporation Performance Summary

	10 year (% pa)	7 year (% pa)	3 year (% pa)	1 year %	FYTD %	1 month %
IM Medium Term Growth Fund	4.24	3.62	2.58	6.3	6.13	0.18
Benchmark: CPI + 2.0% p.a. (over rolling 5 years)	4.59	4.74	6.29	8.21	8.21	0.56
Return above benchmark p.a.	(0.35)	(1.12)	(3.71)	(2.08)	(2.08)	(0.38)

Table 4 Investment types, risk, amount and percentage invested compared to total

Investment Type	Risk Assessment		Amount	% of
	Capital	Interest	\$'000	Portfolio
Term Deposits	Low	Low	54,000	73.53%
Cash/At Call Deposits	Low	Low	15,510	21.12%
Capital Growth Fund	Medium	Medium	3,926	5.35%
TOTAL			73,436	100.00%



Table 5 Comparison of interest rates, earnings and balances this year to last year

Performance Measures	This Year	Last Year
Investment Portfolio Average Interest Rate (year to date)	4.14%	0.52%
Actual Investment Interest Earned (for the current month)	\$238,834	\$60,729
Actual Investment Interest Earned (year to date) ^	\$238,834	\$60,729
Revised Budget Investment Interest (year to date)	\$115,010	\$31,677
Original Budget Investment Interest (annual)	\$1,380,122	\$1,380,122
Revised Budget Investment Interest (annual)	\$1,380,122	\$1,380,122
TCorp unrealised movement (year to date)	0.94%	3.02%

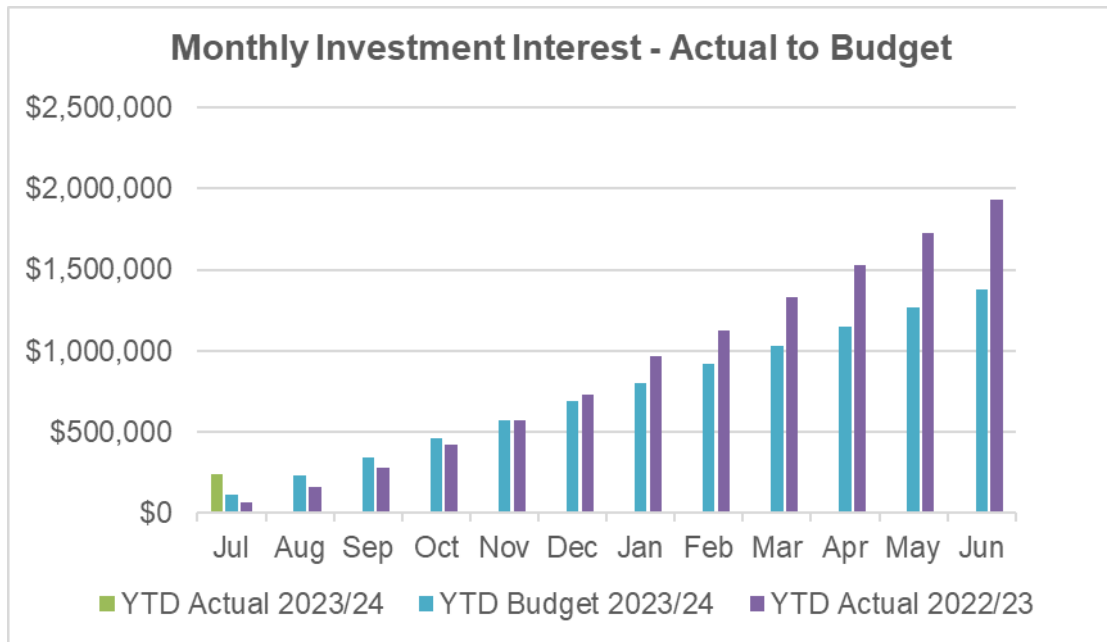
Investment and Cash Balances (Par Value) #	This Year	Last Year
Opening Balance as at 1 July	\$73,085,190	\$73,450,792
Closing Balance as at 31 July	\$73,436,237	\$75,646,273

* BBSW 90 day Bank Bill Reference Rate (performance measure as per Council's Investment Policy)

^ Excludes TCorp unrealised returns

Excludes Section 355 Committee cash held

Graph 1 Actual interest earned compared to revised budget and actual interest last year



Corporate and Community

Report No. CC47/2023

Corporate and Community Services



Table 6 Internal and external restrictions over cash and investments held

Month End Totals \$'000	July 2023*	June 2023*	May 2023	April 2023	March 2023	February 2023
Developer contributions	28,457	29,473	29,473	28,479	28,095	25,644
Committed developer contributions	3,601	2,412	2,412	2,711	3,592	3,684
RMS contributions	182	182	182	182	182	182
Specific purpose unexpended grants	7,654	7,514	7,514	8,489	8,359	6,507
Domestic waste management	430	430	430	430	430	430
Stormwater management	926	1,038	1,038	922	923	1,004
External Restrictions	41,250	41,049	41,049	41,213	41,581	37,451
Plant and vehicle replacement	2,400	2,982	2,982	2,949	3,016	3,582
Employees leave entitlement	2,446	2,446	2,446	2,446	2,446	2,446
Carry over works	390	548	548	783	934	956
Bridge replacement	76	-	-	118	372	440
Insurance provisions	761	896	896	896	896	896
Miscellaneous and property	809	859	859	862	857	857
Grant Fund Leverage	82	90	90	90	90	90
Energy efficiency	95	98	98	94	89	84
Operations and programs	472	444	444	429	431	412
Property investment fund	3,227	3,256	3,256	3,041	3,056	3071
Civil Works	2,195	730	730	748	716	743
Waste depot and rehabilitation	12,448	9,454	9,454	9,454	9,454	9,454
Committed projects (SRV)	207	642	642	747	889	1,000
Security deposits and bonds	4,155	4,077	4,077	4,060	4,085	4,171
Unexpended Loan Funds#	2,178					
Internal Restrictions	31,941	26,522	26,522	26,717	27,331	28,202
Unrestricted	245	5,514	4,363	3,390	6,893	14,592
Total Cash & Investments	73,436	73,085	71,934	71,320	75,805	80,245

Unrestricted cash figure is low due to the restriction of funds over the year end period. The first-rate instalments due in August will see this improve into August and September.

*The restricted funds shown above (for June and July) are provisional and are subject to change through the financial statement process. This will only be final once audited and published in the annual financial statements. Material changes will be advised to Council.

#Out of the \$4.3m new loan received from TCorp, \$2m was applied to the Airport works, and the remaining is for footpath and drainage/floodplain works

CONSULTATION

Director Corporate and Community Services
 Chief Financial Officer
 Finance staff

STRATEGIC LINKS

a. Delivery Program

Investment returns are an integral part of funding sources for future services and community expectations within the Delivery Program and Operational Plan. This report is a part of the organisation's governance framework – providing feedback on the progress against the investment policy and budget adopted by Council. This is in line with the community's desired outcome of: "*Civic Leadership and Effective Governance*" and more specifically links to strategic direction:

- 5.3.2: Our Council's processes are efficient and transparent;
- 5.3.3: Our Council is financially sustainable.

IMPLICATIONS

a. Policy and Procedural Implications

Investments are held in accordance with Council's Investment Policy.

b. Financial Implications

Investment returns are included in Council's Delivery Program and Operational Plan. Amendments are affected 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.

CONCLUSION

The report details investments held at month end and meets Council's reporting obligations.

ENCLOSURES

There are no enclosures for this report.

SUBJECT: *CARRY FORWARDS AND REVOTES*
RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

SUMMARY

As per the Project Authorisation and Revotes Policy, the Responsible Accounting Officer is required to report to Council outlining requested revote requests. Approved revotes are added to the council budget for the 2023/24 financial year.

RECOMMENDATION

That Council approve the following additions to the 2023-24 budget:

- Carry forward operating expenditure totaling \$207,356 as outlined in the report.
- Carry forward capital expenditure of \$3,522,895 for capital projects commenced prior to 30 June 2023 as outlined in the report.
- Revote of capital expenditure of \$1,039,696 for capital programs as outlined in the report.

BACKGROUND

The Project Authorisation and Revotes Policy (Policy) applies to programs or projects which have approved budgets that are, or are likely to be, either a work in progress, not commenced, or not commenced but be at least contracted to be carried out or provided at the end of the financial year. The Policy covers the scope of Clause 211 of the *Local Government (General) Regulation 2021*.

REPORT/PROPOSAL

Expenditure under the regulation is divided into two categories:

1. Work in Progress – these are projects that have incurred a cost or a commitment as at the end of the financial year. Council terminology is that these are noted as carry forward expenditure.
2. Unspent allocations – projects that have not incurred a cost or a commitment as at the end of the financial year. Council terminology is that these are noted as a revote.

Council's finance team worked with all departments to determine amounts required to be carried forward or revotes for the current financial year 2023/24. Managers were required to provide a rationale for the needed expenditure which were subsequently reviewed against future budget allocations. As per the Policy, the Executive Leadership Team (ELT) were provided details on proposed carry forwards and revotes for endorsement prior to Council submission.

Corporate and Community

Report No. CC48/2023

Corporate and Community Services



Operating Expenditure

As a general rule, operating expenditure is not accepted unless for unspent grant funded programs due to the additional operating expenditure having a negative effect on council's operating result.

\$207,356 of carry forward operating expenditure was endorsed by the ELT as outlined below. This consists of \$128,524 of grant funds and \$78,832 of general funds.

Program	\$ Carry Forward
Tech Savvy Seniors Program Grant	3,539
Crown Lands Plans of Management \$30,000 (Recreation Strategic Asset Planning) 2019 to 2021	726
Biosecurity - Weeds Grants Camphor Laurel - Brunkerville	13,861
Biosecurity - Weeds Grants LPMA Grant Funds	3,946
Biosecurity - Weeds Grants HR03459 - Weed Control Brunkerville Ck	13,474
Waste Levy Programs Better Waste & Recycling	60,813
Cessnock Aboriginal Heritage Study Grant	21,000
Bushfire Recovery Project	4,590
Cessnock Express digitisation	2,402
PACC - Covid Relaunch	13,872
Queens Jubilee Grant	2,482
Support Local Product Champion Program	5,004
Digitisation of Records	45,504
School Leaders Breakfast	7,328
Intranet Protocol and Upgrade	2,500
Aboriginal Communities Grant	6,315
Total	207,356

Capital Expenditure

By their nature capital projects tend to be completed across multiple financial years. The ELT endorses \$4,562,591 of capital expenditure. Of this:

- \$3,522,895 in commenced projects. (Carry forwards)
- \$1,039,696 in projects not commenced. (Revotes)

\$2,968,704 of this expenditure is from grant funded projects with \$1,067,339 of general funds. The balance is from a mix of Developer Contributions and other reserves.

Corporate and Community

Report No. CC48/2023

Corporate and Community Services



The programs for the capital expenditure are listed below:

Capital Expenditure Program	\$ Carry Forward
Community Buildings Renewal Program (RBC)	241,265
Other Fixed Assets (OFA)	129,432
Bridge Construction Program (CBS)	436,952
Floodplain Management Program (PMF) Capital	75,868
Local Road Renewal Program (RRL)	180,000
Natural Disaster - Capital	174,753
Pathways Construction Program (CPW)	296,363
Community Buildings Renewal Program (RBC)	375,993
Pool Facilities Renewal Program (RFP)	145,610
Recreation Facilities Construction Program (CFR)	1,217,199
Waste Facility Construction Program (CFW)	148,790
Cultural and Community Buildings Construction Program	100,670
Total	3,522,895

Capital Expenditure Program	\$ Revote
Other Fixed Assets (OFA)	65,000
Cemetery Facilities Construction Program (CFC)	27,739
Community Buildings Renewal Program (RBC)	146,590
Recreation Facilities Construction Program (CFR)	140,000
Waste Facility Construction Program (CFW)	660,367
Total	1,039,696

OPTIONS

Council can choose to adopt the recommendation or change additional budgeted expenditure. It is not recommend changing any carry forward programs as Council has commenced or committed expenditure to the projects.

CONSULTATION

Management team
 Council finance staff
 Executive Leadership Team

STRATEGIC LINKS

a. Delivery Program

Requested expenditure touch on all areas of the Delivery Program.

b. Other Plans

Nil

IMPLICATIONS

a. Policy and Procedural Implications

Project Authorisation and Revotes Policy outlines requirements for Council to approve carry forward and additional expenditure

b. Financial Implications

Financial implications are as outlined in the report.

c. Legislative Implications

Local Government (General) Regulation 2021

d. Risk Implications

Refusal to approve carry forward expenditure exposes Council to having to potentially repay grants or breach contracted payments and may deprive the community of projects outlined in the previous Operational Plan.

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

Council is required to authorise the requested additional expenditure as outlined in the report as per the Regulation and Council Policy.

ENCLOSURES

There are no enclosures for this report

SUBJECT: *DISCLOSURES OF INTERESTS IN WRITTEN RETURNS*

RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

SUMMARY

The purpose of this report is to table returns received for the quarter from designated persons for the period 1 May – 31 July 2023 as per the Code of Conduct (the Code).

RECOMMENDATION

That Council notes the tabling of the disclosures of interests written returns for the period 1 May – 31 July 2023 in accordance with Council's Code of Conduct.

BACKGROUND

Part 4 of the Code governs matters concerning disclosures of interests in written returns. Clause 4.24 of the Code requires the General Manager to keep a register of returns lodged by Councillors and designated persons and to table them at a meeting of Council.

REPORT/PROPOSAL

In accordance with the Code, Councillors and designated persons are required to lodge a written return in the form set out in schedule 2 of the Code within three months after becoming a Councillor or a designated person.

Clause 4.8 of the Code provides that designated persons are:

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

In addition, clause 4.21 of the Code requires a Councilor or designated person to lodge an updated return within three months of becoming aware of an interest not previously disclosed. Returns in this period have been received from:

Corporate and Community

Report No. CC49/2023

Corporate and Community Services



Designated Staff	Return
Mayor Jay Suvaal – Mayor	Updated return
Cameron Martin – Asset Planning Manager	Commencing
Paul McLachlan – Director Works & Infrastructure	Commencing
Jonathan Childs – Communications & Engagement Manager	Commencing

The register of returns is available for public inspection at Council’s Administration Centre at 62-78 Vincent St, Cessnock in accordance with the *Government Information (Public Access) Act 2009* (NSW).

OPTIONS

N/A

CONSULTATION

Designated persons were provided the Self-Help Guide from the Office of Local Government to assist them in the completion of their returns.

STRATEGIC LINKS

a. Delivery Program

Completion of the written returns for the period links to the community’s desired outcome of “*Civic Leadership and Effective Governance*”, and in particular, it links to:

- Strategic action 5.3.7 within the Operational Plan 2023-2024 – *Continue to manage Council governance functions and statutory requirements.*

b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

Clause 4.24 of the Code requires the General Manager to keep a register of returns lodged and clause 4.25 requires the General Manager to table such returns at the first meeting of Council after the last day the returns are required to be lodged.

On the day following the meeting, the register of returns may be accessed by members of the public (at Council’s Administrative Centre) during business hours. At all other times, the register of returns is available for inspection in accordance with the *Government Information (Public Access) Act 2009* (NSW).

b. Financial Implications

N/A

Corporate and Community

Report No. CC49/2023

Corporate and Community Services



c. Legislative Implications

N/A

d. Risk Implications

Failure to table the register of written returns could constitute Council not meeting its legislative obligations.

e. Environmental Implications

N/A

f. Other Implications

Tabling the register of returns and allowing access to it demonstrates Council's commitment to openness and transparency, and is a crucial element of Council's civic leadership and effective governance.

CONCLUSION

Tabling of the register of returns satisfies requirements under the Code of Conduct.

ENCLOSURES

There are no enclosures for this report.

Corporate and Community

Report No. CC50/2023

Corporate and Community Services



SUBJECT: *MINUTES OF THE ABORIGINAL AND TORRES STRAIT ISLANDER COMMITTEE MEETING HELD ON 21 JULY 2023*

RESPONSIBLE OFFICER: *Community & Cultural Development Manager - Natalie Drage*

RECOMMENDATION

1. That the Minutes of the Aboriginal and Torres Strait Islander Committee meeting held on 21 July 2023 be adopted as a resolution of Ordinary Council.
2. That Council adopts the revised Aboriginal and Torres Strait Islander Committee Charter.
3. The Council receives and notes the Aboriginal and Torres Strait Islander Committee Performance Review and that the approved performance review report will be included in the Annual Report.
4. That Council acknowledges that a national referendum will be held to formally recognise Aboriginal and Torres Strait Islander peoples in the Australian Constitution.
5. That Council support the community to make an informed decision at the referendum by making available at Cessnock Library Branch, Kurri Kurri Library Branch, Cessnock City Council Administration Building and on its social media sites, Australian Government voice.gov.au fact sheets including the wording of the referendum question and constitutional amendment, and how will an Aboriginal and Torres Strait Islander Voice to Parliament work.
6. That Council promote to the community the importance of registering on the Australian Electoral Commission (AEC) to have a say on the Voice to Parliament.

MINUTES OF ABORIGINAL AND TORRES STRAIT ISLANDER COMMITTEE MEETING OF THE CESSNOCK CITY COUNCIL HELD IN ANTE ROOM ON FRIDAY, 21 JULY 2023, COMMENCING AT 10.10AM

PRESENT: The Mayor, Councillor Suvaal
Councillor Jurd
Ms Tara Dever (Community Representative)
Uncle Richard Edwards (Community Representative)
Ms Sonia Sharpe (Community Representative)
Ms Tracey Skene (Community Representative) arrived 10:22am

Corporate and Community

Report No. CC50/2023

Corporate and Community Services



IN ATTENDANCE: Councillor Paynter
Robert Maginnity – Director Corporate and Community Services
Martin Johnson – Strategic Planning Manager (left at 10:38am)
Mark Manning – Senior Environmental Planner
Warren Ambrose – Principal Community Planner
Natalie Drage – Community & Cultural Development Manager

INVITEES: Nil

ABSENT: Councillor Grine

APOLOGIES

Ms Lucy Reed (Community Representative)
Ms Cheryl Kitchener (Community Representative)
Councillor Burke

ELECTION OF CHAIRPERSON

Mayor Suvaal was nominated and elected as Chairperson for the meeting.

CONFIRMATION OF MINUTES

MINUTES: **RECOMMENDED** that the Minutes of the Aboriginal and Torres Strait Islander Committee held on 12 May 2023, as circulated, be taken as read and confirmed as a correct record.

MOTION **Moved:** Councillor Jurd **Seconded:** Ms Dever

CARRIED

DISCLOSURES OF INTEREST

Disclosure of interest tabled by Ms Dever who advised she is the CEO of a Local Aboriginal Land Council and Report AACLM6/2023 Aboriginal Heritage Management Plan Update references Local Aboriginal Land Councils.

Corporate and Community

Report No. CC50/2023

Corporate and Community Services



LISTED MATTERS

LISTED MATTERS - COMMITTEE NO. AACLM6/2023

SUBJECT: ABORIGINAL CULTURAL HERITAGE MANAGEMENT PLAN UPDATE

MOTION **Moved:** Ms Sharpe **Seconded:** Councillor Jurd

RECOMMENDATION

That the Committee note the feedback on potential consultation activities to assist in engaging in the community for the Aboriginal Cultural Heritage Management Plan.

CARRIED

Commentary: It was discussed that scheduled meetings be sought by Council staff with Local Aboriginal Land Councils and a webinar could be held bringing people together to discuss the Aboriginal Cultural Heritage Management Plan. It was asked if Council would consider an hourly rate of payment for the seeking of cultural knowledge and time required by the Local Aboriginal Land Councils for assistance with and consultancy on the development of the Aboriginal Cultural Heritage Management Plan. It was noted that a preferred time for engagement may be after September with all Aboriginal Land Councils currently preparing their annual reporting requirements.

Martin Johnson left the meeting upon completion of the report at 10:38am.

Corporate and Community

Report No. CC50/2023

Corporate and Community Services



LISTED MATTERS - COMMITTEE NO. AACLM7/2023

SUBJECT: REVIEW OF CESSNOCK CITY COUNCIL ABORIGINAL AND TORRES STRAIT ISLANDER ADVISORY COMMITTEE PERFORMANCE AS REQUIRED BY THE CHARTER

MOTION **Moved:** Ms Dever **Seconded:** Uncle Richard

RECOMMENDATION

1. That the Committee note the discussion of the Committee Charter and the Performance Review and both will be circulated for approval by the Committee.
2. The Committee notes the Committee Coordinator will include the approved performance review report in the annual report to the elected Council

CARRIED

Commentary: It was discussed that Committee meetings held in the middle of the month would allow the Committee to confirm the draft minutes and be tabled to the following Council meeting. The Committee discussed raising within Council Business Units the knowledge of the Aboriginal and Torres Strait Islander Committee membership and encourage further items to be included on the Agenda including opportunities discussed at the time of reviewing the previous Reconciliation Action Plan, for example employment and tourism.

Changes were suggested to the Charter in relation to election of Chairperson for the meeting and strengthening section dealing with conduct of members and attendees at meetings. Both the performance review and proposed Charter changes are to be distributed to members out of session for comment/endorsement before being presented to Council for consideration.

Corporate and Community

Report No. CC50/2023

Corporate and Community Services



LISTED MATTERS - COMMITTEE NO. AACLM8/2023

SUBJECT: VOICE TO PARLIAMENT

MOTION **Moved:** Ms Sharpe **Seconded:** Ms Dever

RECOMMENDATION

That the Committee recommends to Council:

1. That Council acknowledges that a national referendum will be held to formally recognise Aboriginal and Torres Strait Islander peoples in the Australian Constitution.
2. That Council support the community to make an informed decision by making available at Cessnock Library Branch, Kurri Kurri Library Branch, Cessnock City Council Administration Building and on its social media sites, Australian Government voice.gov.au fact sheets including the wording of the referendum question and constitutional amendment, and how will an Aboriginal and Torres Strait Islander Voice to Parliament work.
3. That Council promote to the community the importance of registering on the Australian Electoral Commission (AEC) to have a say on the Voice to Parliament.

CARRIED

Commentary: The report to the Committee noted a range of positions on the Voice to Parliament adopted by other Councils. It was discussed that consideration be given to raising awareness with young people now eligible to vote that they can register with the Australian Electoral Commission (AEC) to have a say on the Voice to Parliament. The usage of Australian Government voice.gov.au fact sheets would be at nil cost to Council, with these documents allowing residents to make their own informed decision on how to vote at the Referendum.

Corporate and Community

Report No. CC50/2023

Corporate and Community Services



CORRESPONDENCE

CORRESPONDENCE - COMMITTEE NO. AACCO2/2023

**SUBJECT: CORRESPONDENCE FROM THE HON KRISTY MCBAIN MP,
MINISTER FOR REGIONAL DEVELOPMENT**

MOTION **Moved:** Councillor Jurd **Seconded:** Ms Skene

RECOMMENDATION

That the Committee notes the correspondence from The Hon Kristy McBain MP, Minister for Regional Development, Local Government and Territories, regarding The Voice to Parliament and the upcoming referendum.

CARRIED

Commentary: The correspondence discussed what Councils can do to raise awareness of the referendum on Voice to Parliament and the Committee considered this in discussion on the previous Agenda item.

The Meeting Was Declared Closed at 11:35am.

ENCLOSURES

- [1](#) ➡ Performance Review of the Aboriginal and Torres Strait Islander Committee
- [2](#) ➡ Revised Charter _ Review 21 July 2023

Corporate and Community
Report No. CC51/2023
Corporate and Community Services



SUBJECT: *RESOLUTIONS TRACKING REPORT*
RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

SUMMARY

The enclosure contains pending actions from previous meetings as well as completed actions for period 11 July 2023 to 7 August 2023.

RECOMMENDATION

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

ENCLOSURES

- [1](#) ⇨ Completed Actions
- [2](#) ⇨ Outstanding Actions

Corporate and Community

Report No. CC52/2023

Corporate and Community Services



SUBJECT: *TENDER T2023-16 CONCRETE FOOTPATH CONSTRUCTION AND KERBS*

RESPONSIBLE OFFICER: *Chief Financial Officer - Matthew Plumridge*

SUMMARY

Evaluation and selection of tender for Tender No. T2023-16 Concrete Footpath Construction and Kerbs.

RECOMMENDATION

1. That Council accept the Tender panel of suppliers below in no order of preference for T2023-16 – Concrete Footpath Construction and Kerbs.
 - All Kerbs & Concrete Pty Ltd
 - Bolla Contracting
 - Bulga Civil Earthmoving and Concreting
 - Civil and Sons
 - Conex Group Pty Ltd
 - Kingsline Pty Ltd
 - NSW Building and Civil Pty Ltd
 - State Civil Pty Ltd
2. That Council notes the contract term for T2023-16 Concrete Footpath Construction and Kerbs is 27 September 2023 to 27 September 2025 (2 years) with an option for 1x one-year extension based on satisfactory supplier performance.

BACKGROUND

The initial tender T2021-12 Concrete Construction, Footpaths and Kerb is due to expire in September 2023. The expenditure for this tender has been in excess of \$2,000,000 over the term of contract.

The new tender is for a panel of suppliers that Council will be able to seek quotes through VendorPanel for the construction of concrete footpaths, kerbs and associated works that complies with legislative expenditure requirements.

The Contract will run for three years in total (two years, with an option for 1x one-year extension based on supplier performance).

Corporate and Community

Report No. CC52/2023

Corporate and Community Services



REPORT

Request for Tender

The Request for Tender (RFT) documents were prepared by Council officers, and reviewed by the Tender Audit Panel (TAP) before tenders were called. The form of contract selected was *NSW Government GC21 General Conditions of Contract*. The RFT called for suppliers to submit a schedule of rates for the tender concrete construction footpaths and kerbs which is to be used for evaluation purposes only. Each specific job will be called as a separate quote under the tender from the panel of suppliers.

Invitation

Tenders were invited on Tuesday, 9 May 2023 on Council's VendorPanel Portal and advertised in the following publications:

Publication	Day	Date
Newcastle Herald	Saturday	13 May 2023
Sydney Morning Herald	Tuesday	16 May 2023

Addenda

No addendums

Closure

Tenders closed 2pm Tuesday 13 June 2023.

Evaluation of Tenders

Tender Evaluation Team: In accordance with *CCC Procurement Guidelines*, a Tender Evaluation Team (TET) was formed with the following members:

- Project Manager, Works and Infrastructure
- Construction Coordinator, Works and Operations
- Procurement Coordinator, Finance and Administration

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

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

The evaluation criteria and their weightings were documented in the Contract Initiation and Development Plan / Tender Evaluation Plan, reviewed by the Procurement Coordinator prior to tenders being invited.



1. Assessment of Receipt

Tenders were received and assessed against the first threshold criteria:

Threshold Criteria	
Criterion 1	Submission on time

The following tenders were received and are listed in alphabetical order.

Tender	Tenderer	Business Address	Criterion 1
1	All Kerbs & Concrete Pty Ltd	Cliftleigh	On time
2	Bolla Contracting Pty Ltd	Mount Vincent	On time
3	Bulga Civil Earthmoving and Concreting	McDougalls Hill	On time
4	Civil and Sons	Bardwell Valley	On time
5	Conex Group Pty Ltd	Seven Hills	On time
6	D Digian Company ATF D Digian Family Trust t/as Form & Pour	Horsley Park	On time
7	Hunter Wide Civil Pty Ltd	Muswellbrook	On time
8	Kingsline Pty Ltd	Greenfield Park	On time
9	NSW Building and Civil Pty Ltd	Beverley Park	On time
10	Planet Civil Pty Ltd	Arncliffe	On time
11	State Civil Pty Ltd	Bardwell Valley	On time

All eleven tenders were received on time and met threshold Criterion 1.

2. Assessment of Conformance

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

Threshold Criteria	
Criterion 2	Conformance with the RFT

One tender was considered non - conforming in threshold Criteria 2 as the returnable schedules were not submitted, only a excel pricing sheet, from Tender 10 - Planet Civil Pty Ltd as requested therefore was non-conforming.

3. Shortlisting

Shortlisting was conducted as part of the evaluation. Two tenders were removed based on the site establishment cost.

6	D Digian Company ATF D Digian Family Trust t/as Form & Pour
7	Hunter Wide Civil Pty Ltd

Eight tenders progressed to the next stage of evaluation.

4. Weighted Evaluation

Tenders were evaluated using the following weighted evaluation criteria:

Criterion 3	Tendered Price – Project 1
Criterion 4	Tendered Price – Project 2
Criterion 5	Previous Experience
Criterion 6	Work Health & Safety Performance
Criterion 7	Environmental Management
Criterion 8	Quality Assurance

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

A panel of suppliers was identified allowing competitively scoring on all other weighted criteria.

The selected panel is identified as the preferred tenders in no order of preference;

- All Kerbs & Concrete Pty Ltd
- Bolla Contracting
- Bulga Civil Earthmoving and Concreting
- Civil and Sons
- Conex Group Pty Ltd
- Kingsline Pty Ltd
- NSW Building and Civil Pty Ltd
- State Civil Pty Ltd

5. Due Diligence

Past performance was requested in the tender documents as well job size and value of past projects to ensure suppliers have the capability to satisfactorily complete the work.

6. Evaluation Result

Following steps 1 to 5 of the evaluation process, the TET found that, a Tender Panel of suppliers selected from:

- All Kerbs & Concrete Pty Ltd
- Bolla Contracting
- Bulga Civil Earthmoving and Concreting
- Civil and Sons
- Conex Group Pty Ltd
- Kingsline Pty Ltd
- NSW Building and Civil Pty Ltd
- State Civil Pty Ltd

met the requirements of the RFT and recommended acceptance of T2023-16 Concrete Construction Footpaths and Kerbs.

Corporate and Community

Report No. CC52/2023

Corporate and Community Services



7. Independent Review

The evaluation process and recommendations were reviewed by the TAP and determined to be in accordance with relevant documents and legislation:

- *Cessnock City Council Procurement Policy,*
- *Cessnock City Council Procurement Guidelines,*
- *Local Government Act 1993, and*
- *Local Government (General) Regulation 2021.*

TIME FRAME

The contract term for T2021-16 – Concrete Construction Footpaths and Kerbs is 27 September 2023 to 27 September 2025 (2 years) with an option for 1 x one-year extension based on satisfactory supplier performance.

LOCAL CONTENT

Local preference was not applied as this is a panel contract, however it should be noted that of the eight suppliers, three are based in the Hunter region.

OPTIONS

Option 1

That Council accept the Tender panel of suppliers below in no order of preference for T2023-16 – Concrete Footpath Construction and Kerbs.

Option 2

That Council decline to accept any offers and negotiate with other service providers. This is not preferred as will impact on operational activities.

CONSULTATION

The following officers were consulted during the tender process:

- Project Manager, Works and Infrastructure
- Construction Coordinator, Works and Operations
- Procurement Coordinator, Finance and Administration

STRATEGIC LINKS

a. Delivery Program

Acceptance of the tender will contribute to achieving the *2023/2024 Delivery Program* objectives of:

- Objective; 4.1.3 Continue implementation of the Pedestrian Access and Mobility Plan.

IMPLICATIONS

a. Policy and Procedural Implications

The tender process has been carried out in accordance with:

- *Cessnock City Council Procurement Policy,*
- *Cessnock City Council Procurement Guidelines,*
- *Tendering Guidelines for NSW Local Government 2009, and*
- *NSW Government – Code of Practice for Procurement 2005.*

b. Financial Implications

Financial implications are as outlined in the report. Spending with the suppliers will be as per budgeted capital and maintenance projects as approved via annual Operational Plans.

c. Legislative Implications

The tender process has followed the legislative provisions, referenced in *Cessnock City Council Procurement Policy* and *Cessnock City Council Procurement Procedure*, as follows:

- *Local Government Act 1993*
- *Local Government (General) Regulation 2021*

In particular, reference is made to Part 7, Division 4, Clause 178 of the *Local Government (General) Regulation 2021 (Acceptance of tenders)*:

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

Corporate and Community

Report No. CC52/2023

Corporate and Community Services



- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,
 - (f) carry out the requirements of the proposed contract itself.
4. If a Council resolves to enter into negotiations as referred to in sub clause (3) (e), the resolution must state the following:
- (a) the Council's reasons for declining to invite fresh tenders or applications as referred to in sub clause (3) (b)–(d),
 - (b) the Council's reasons for determining to enter into negotiations with the person or persons referred to in sub clause (3) (e).

d. Risk Implications

To minimise Council's exposure to business risks, the RFT required:

- Satisfactory financial capacity, and
- Adequate levels of insurances.
- Modern Slavery

The authenticity of the Contractor's certificates of currency for the following insurance policies will be verified:

- Workers Compensation,
- Public Liability (\$20M or greater),
- Comprehensive Motor Vehicle,
- Professional Indemnity, and
- Insurance of the Works.

Risks identified in relation to safety, environment and quality are mitigated by the RFT requirement for adherence to the following system standards:

- *AS/NZS ISO 45001:2018 Occupational Health and Safety Management Systems,*
- *AS/NZS ISO 14001:2015 - Environment Management Systems, and*
- *AS/NZS ISO 9001:2008 - Quality Management Systems.*

Regarding safety, the RFT requires the Contractor to prepare and implement a Site Specific Safety Management Plan including:

- Traffic Management Plan to manage broader traffic implications such as heavy vehicles and delays,
- Traffic Control Plans to manage interactions between public and construction traffic and a staging plan to maintain access to the weighbridge and landfill,
- Requirements for on-site workers to have current general construction induction cards (white card) and licences/tickets and inducted to the site, and
- Safe Work Method Statements, kept on site, and discussed at daily tool box talks.

Corporate and Community

Report No. CC52/2023

Corporate and Community Services



e. Other Implications

Social: Access to a modern WTS will benefit the community with increased opportunities for awareness about sustainability and participation in recycling.

Modern Slavery: Compliance to Modern Slavery Legislation

CONCLUSION

That Council accept the Tender panel of suppliers for T2023-16 – Concrete Footpath Construction and Kerbs and notes the contract term is 27 September 2023 to 27 September 2025 (2 years) with an option for 1x one-year extension based on satisfactory supplier performance.

The anticipated expenditure for this contract with program works is in excess of \$2,000,000. Acceptance of this contract panel offers the best value for money for the T2023-16 – Concrete Construction Footpaths and Kerbs. The contract sum and contingency are fully funded from the project budgets identified the annual Operational Plan.

ENCLOSURES

- 1** T2023-16 Evaluation Matrix - *This matter is considered to be confidential under Section 10A(2) (c) (di) 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; AND commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it. (Contains tender documentation)*

Works and Infrastructure

Report No. WI27/2023

Works and Infrastructure



SUBJECT: *TENDER T2023-27 - WOLLOMBI ROAD UPGRADE - PRELIMINARY ENGINEERING*

RESPONSIBLE OFFICER: *Infrastructure Manager - Cameron Clark*

SUMMARY

Evaluation of Tender T2023-27 – Wollombi Road Upgrade Preliminary Engineering.

RECOMMENDATION

That Council accepts the tender (T2023-27) from Kellogg Brown & Root Pty Ltd for the lump sum of \$1,682,704.93 (including GST) for the Preliminary Engineering of the Wollombi Road Upgrade, over Stages 1 and 2.

BACKGROUND

Council has commenced the planning stage for the upgrade of a 4.0 km section of Wollombi Road to improve safety and ease traffic congestion. The upgrade will increase capacity and reduce travel times between Abbotsford Street, Bellbird and West Avenue, Cessnock as well as associated intersection improvements. The upgrade will also deliver new upgraded cycleways, footpaths, kerbs, bus stops and improvements to current parking arrangements.

This upgrade of Wollombi Road will deliver high-quality, fit for purpose infrastructure to support the growing local community needs. The primary objective of the project is to accommodate current and forecasted traffic growth and to alleviate congestion.

REPORT

Request for Tender

The Request for Tender (RFT) documents were prepared by Council officers, and reviewed by the Tender Audit Panel (TAP) before tenders were called. The form of contract selected was AS4122-2010. The RFT called for a lump sum tender for the Preliminary Engineering of the Wollombi Road Upgrade, Stage 1 and Stage 2.

Invitation

Tenders were invited on Monday 22 May 2023 on Council's VendorPanel and advertised in the following publications:

Publication	Day	Date
Newcastle Herald	Saturday	27 May 2023
Sydney Morning Herald	Tuesday	30 May 2023
Pre-tender Meeting	Tuesday	6 June 2023

Works and Infrastructure

Report No. WI27/2023

Works and Infrastructure



Addenda

The following addenda were issued via the VendorPanel Portal to all prospective tenderers during the invitation period:

No.	Date	Description
1	22 June 2023	Hunter Water Corporation advice

Closure

Tenders closed 2pm Tuesday 11 July 2023.

Evaluation of Tenders

Tender Evaluation Team: In accordance with *CCC Procurement Guidelines*, a Tender Evaluation Team (TET) was formed with the following members:

- Project Manager – Wollombi Road Upgrade
- Infrastructure Manager, Works & Infrastructure
- Procurement Coordinator, Corporate & Community Services
- Project Manager – Wollombi Road Upgrade

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

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

The evaluation criteria and their weightings were documented in the T2023-27 – Wollombi Road Upgrade Preliminary Engineering Contract Preparation Checklist/Tender Evaluation Plan, reviewed by the Procurement Coordinator prior to tenders being invited.

1. Assessment of Receipt

Tenders were received and assessed against the first threshold criteria:

Threshold Criteria	
Criterion 1	Submission on time

Works and Infrastructure

Report No. WI27/2023

Works and Infrastructure



The following tenders were received and are listed in alphabetical order.

Tenderer	Business Address	Criterion 1
BG&E Pty Limited	SYDNEY, NSW 2000	On time
Kellogg Brown & Root Pty Ltd	SYDNEY, NSW 2000	On time
SMEC Australia Pty Ltd	NEWCASTLE, NSW 2300	On time

All three tenders were received on time and met threshold Criterion 1.

2. Assessment of Conformance

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

Threshold Criteria	
Criterion 2	Conformance with the RFT

All three tenders included a number of qualifications that were subsequently clarified and all tenders were considered conforming in threshold Criteria 2 and were progressed to the next stage of evaluation.

3. Shortlisting

With three competitive tenders received, shortlisting was not considered necessary. All tenders were progressed to the next stage of evaluation.

4. Weighted Evaluation

Tenders were evaluated using the following weighted evaluation criteria:

Criterion 3	Lump sum of Tendered amount
Criterion 4	Contract Program
Criterion 5	Safety Management Performance and Systems
Criterion 6	Experience, past performance, management and staff resources offered
Criterion 7	Environmental management performance
Criterion 8	Referees

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

Works and Infrastructure

Report No. WI27/2023

Works and Infrastructure



Tender Two (Kellogg Brown & Root Pty Ltd) scored highest for the tendered amount, as well as scoring competitively on all other weighted criteria. With the highest score, Tender Two (Kellogg Brown & Root Pty Ltd) was identified as the preferred tender on the matrix.

5. Due Diligence

Referees, provided by the preferred tenderer, were contacted and positive comment on past performance was received. Performance on other known work was also considered.

Online interviews were carried out with three (3) tenders to clarify the submission and the proposed program.

Equifax Australasia Credit Ratings Pty Ltd was engaged to independently assess the preferred tenderers' financial capacity. The assessment confirmed conformance with threshold Criterion 4, having current financial capacity to satisfactorily complete the work.

6. Evaluation Result

Following steps 1 to 5 of the evaluation process, the TET found that Tender from Kellogg Brown & Root Pty Ltd met the requirements of the RFT and recommended acceptance of Tender T2023-27.

7. Independent Review

The evaluation process and recommendations were reviewed by the TAP and determined to be in accordance with relevant documents and legislation:

- *Cessnock City Council Procurement Policy,*
- *Cessnock City Council Procurement Guidelines,*
- *Local Government Act 1993,*
- *Local Government (General) Regulation 2021, and*
- *Project Control Group (Inclusive of Department of Planning & Environment).*

TIME FRAME

Preliminary design will commence September 2023 for completion March 2024.

LOCAL CONTENT

Local content scoring was not applicable to this tender.

OPTIONS

Option 1: Accept the tender from Kellogg Brown & Root Pty Ltd in the amount of \$1,682,704.93 Tendered amount (including GST). This is the preferred option.

Option 2: Decline to accept any offers and negotiate with other service providers. This option is not recommended as it will negatively impact on the project program.

Works and Infrastructure

Report No. WI27/2023

Works and Infrastructure



CONSULTATION

The following officers were consulted during the tender process:

- Project Manager – Wollombi Road Upgrade
- Infrastructure Manager, Works & Infrastructure
- Procurement Coordinator, Corporate & Community Services
- Project Manager – Wollombi Road Upgrade

A communications plan has been developed for the project and communication about progress of the works will be ongoing. Regular information regarding the project will be provided to the key user groups on site as required. For residents and businesses generally, full consultation is ongoing. Council's website will provide information and access to a *Community Newsletter*, and Council's Facebook Page offers opportunity for feedback.

STRATEGIC LINKS

a. Delivery Program

Acceptance of the tender will contribute to achieving the following objectives of:
2022-26 Delivery Program:

Objective 1.3 – Improve the safety of the road network

1.3.5.a - Provide designs and documentation for traffic facilities and road works listed in the adopted Capital Works Program to improve the safety of the road environment

Objective 4.1 – Better Transport Links

- We have access to a range of public and community transport
- Our communities are linked by walking and bike tracks
- Our Airport acts as a key transport, emergency response and business hub
- Our transport network is integrated and supported by appropriate infrastructure

Objective 4.2 – Improving the Road Network

- We have an acceptable, safe and affordable road network

IMPLICATIONS

a. Policy and Procedural Implications

The tender process has been carried out in accordance with:

- *Cessnock City Council Procurement Policy,*
- *Cessnock City Council Procurement Guidelines,*
- *Tendering Guidelines for NSW Local Government 2009, and*
- *NSW Government – Code of Practice for Procurement 2005.*

b. Financial Implications

This is fully budgeted in the 2022/23 Operational Plan.

Works and Infrastructure

Report No. WI27/2023

Works and Infrastructure



c. Legislative Implications

The tender process has followed the legislative provisions, referenced in *Cessnock City Council Procurement Policy* and *Cessnock City Council Procurement Procedure*, as follows:

- *Local Government Act 1993*
- *Local Government (General) Regulation 2021*

In particular, reference is made to Part 7, Division 4, Clause 178 of the *Local Government (General) Regulation 2021 (Acceptance of tenders)*:

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

d. Risk Implications

To minimise Council's exposure to business risks, the RFT required:

- Satisfactory financial capacity, and
- Adequate levels of insurances.
- Modern Slavery

Works and Infrastructure

Report No. WI27/2023

Works and Infrastructure



The authenticity of the Contractor's certificates of currency for the following insurance policies will be verified:

- Workers Compensation,
- Public Liability (\$20M or greater),
- Comprehensive Motor Vehicle,
- Professional Indemnity, and
- Insurance of the Works.

Risks identified in relation to safety, environment and quality are mitigated by the RFT requirement for adherence to the following system standards:

- *AS/NZS ISO 45001:2018 Occupational Health and Safety Management Systems*
- *AS/NZS ISO 14001:2015 - Environment Management Systems*
- *AS/NZS ISO 9001:2008 - Quality Management Systems*

Regarding safety, the RFT requires the Contractor to prepare and implement a Site Specific Safety Management Plan including:

- Traffic Management Plan to manage broader traffic implications such as heavy vehicles and delays,
- Traffic Control Plans to manage interactions between public and construction traffic and a staging plan to maintain access to the weighbridge and landfill,
- Requirements for on-site workers to have current general construction induction cards (white card) and licences/tickets and inducted to the site, and
- Safe Work Method Statements, kept on site, and discussed at daily tool box talks.

e. Other Implications

NIL

CONCLUSION

The tender from Kellogg Brown & Root Pty Ltd, in the lump sum amount of **\$1,682,704.93 (including GST)** offers the best value for money for the Wollombi Road Preliminary Engineering. The contract sum and contingency are fully funded from the available project budget identified in this report.

ENCLOSURES

- 1** T2023-27 - Evaluation Matrix - *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. ((Tender specifications))*

Works and Infrastructure

Report No. WI28/2023

Works and Infrastructure



SUBJECT: *KITCHENER POPPETHEAD PARK PLAN OF MANAGEMENT*

RESPONSIBLE OFFICER: *Open Space and Community Facilities Manager - Kate Harris*

SUMMARY

The Kitchener Poppethead Park Plan of Management provides a framework for the future development, use and management of the Park. The purpose of this report is to present the Kitchener Poppethead Park Plan of Management, an outline of the submissions received during the public exhibition period, and seek Council's adoption of the plan.

RECOMMENDATION

- 1. That Council adopt the Kitchener Poppethead Park Plan of Management pursuant to section 40 of the *Local Government Act 1993* in accordance with 3.23(6) of the *Crown Land Management Act 2016*.**
- 2. That a copy of the Kitchener Poppethead Park Plan of Management be forwarded to the Department of Planning and Environment - Crown Lands.**
- 3. That Council notifies those who made submissions of Council's decision.**

BACKGROUND

Kitchener Poppethead Park (the Park) is a Regional Park in the Cessnock Local Government Area and is a popular destination for the community and tourists. The Park is the site of the former Aberdare Central Colliery that operated from 1914 to 1961 and is a Crown Reserve with Council being the Crown Land Manager.

In line with the *Crown Land Management Act 2016* and *Local Government Act 1993*, a site-specific Plan of Management has been developed for the Park and is provided under separate cover.

REPORT/PROPOSAL

In line with the *Crown Land Management Act 2016*, Ministerial consent was required prior to the draft Kitchener Poppethead Park Plan of Management (Plan of Management) being placed on public exhibition.

Ministerial consent to place the Plan of Management on public exhibition was received from the Department of Planning and Environment - Crown Lands on 5 June 2023. Subject to no changes following public exhibition, consent was provided to Council to adopt the Plan of Management under clause 70B of the *Crown Land Management Regulation 2018*.

Works and Infrastructure

Report No. WI28/2023

Works and Infrastructure



The Plan of Management was publicly exhibited from 14 June 2023 to 25 July 2023 (42 days). The public exhibition of the draft Plan of Management was promoted through:

- Council's Together Cessnock webpage,
- Cessnock Advertiser Advertisement, and
- Direct notification to site stakeholders.

Council's Together Cessnock webpage for the draft Plan of Management received 382 visits and 204 participants downloaded the document for review.

A total of six submissions were received from community members and local community groups. An outline of the submissions received and subsequent Council responses has been provided as **Enclosure 1**.

The submissions Council received were overwhelmingly supportive of the draft Plan of Management and highlighted Kitchener Poppethead Park's potential, historical significance and unique qualities. Many of the submissions also made suggestions relating to specific site infrastructure, improvements, programs, or future engagement and collaboration opportunities.

All suggestions, comments and recommendations were reviewed and assessed as either:

- Supported by the draft Plan of Management.
- In conflict with the draft Plan of Management's actions, or
- Relevant for consideration as part of the key actions identified within the Action Plan (e.g. Park Masterplan, Interpretation Strategy, planting and weed control programs).

Following the review of submissions, no amendments have been identified for the Kitchener Poppethead Park Plan of Management following the exhibition period.

The adoption of the Kitchener Poppethead Park Plan of Management will enable the future development and management of the site and serve as a tool to:

- Manage and conserve the environmental and historical significance of the land,
- Identify and address the legal and policy requirements of managing the land,
- Identify and manage risks, and
- Promote, and protect the intended use of the land.

OPTIONS

Nil

CONSULTATION

Consultation was undertaken in the development of the draft Plan of Management. There was a substantial delay to this project due to the introduction of the *Crown Land Management Act 2016*, and a requirement to ensure the Plan of Management aligned with this legislation.

A number of engagement methods were employed in the development of the Plan of Management including online and in person questionnaires (119 responses), a community stakeholder meeting, a Together Cessnock webpage and the public exhibition process.

Works and Infrastructure

Report No. WI28/2023

Works and Infrastructure



Key external stakeholders consulted included:

- Representatives from NSW Department of Primary Industries,
- Office of Environment & Heritage,
- National Parks & Wildlife,
- Remaining members of the Kitchener Poppethead Restoration Committee,
- Cessnock Tidy Towns,
- Property owners in the vicinity of the Park, and
- Users of the Park.

Extent Heritage Pty Ltd and Lands Advisory Services Pty Ltd were also engaged to complete plans and reports that informed the Plan of Management.

In preparing the Plan of Management, internal consultation was also undertaken with the following Council staff:

- Open Space & Community Facilities Manager,
- Economic Development Manager,
- Principal Recreation Planner,
- Recreation & Community Facilities Coordinator,
- Parks and Reserves Coordinator,
- Vegetation and Civic Spaces Coordinator, and
- Senior Property Officer.

STRATEGIC LINKS

a. Delivery Program

The Plan of Management is aligned with the following objectives in Council's 2022-26 Delivery Program:

- Objective 3.1 Protecting and enhancing the natural environment and rural character of the area
- Objective 3.2 Better utilisation of existing open space

b. Other Plans

Other Council strategic documents relevant to the Plan of Management include:

- Recreation and Open Space Strategic Plan 2019,
- Kitchener Poppethead Park Conservation Management Plan 2018,
- Cessnock Skate and BMX Strategy 2020, and
- Cessnock Trails Strategy 2020.

IMPLICATIONS

a. Policy and Procedural Implications

Nil

Works and Infrastructure

Report No. WI28/2023

Works and Infrastructure



b. Financial Implications

No detailed cost analysis has been undertaken to develop the Plan of Management however, based on an internal strategic assessment the anticipated cost to manage, maintain and operate the Park is estimated to be \$25,500 per annum. Proposed improvement works identified in the plan are currently unfunded in the Long-Term Financial Plan (LTFP). The proposed works will need to compete against other projects within Council's Delivery Program and subsequent annual Operational Plans for actions to be delivered should Council be unsuccessful with submissions for appropriate grant programs.

c. Legislative Implications

The Plan of Management has been developed in accordance with the *Crown Land Management Act 2016*, *Local Government Act 1993*, *Crown Land Management Regulation 2018* and *Local Government (General) Regulation 2021*. Council as a Crown Land Manager has also considered the *Native Title Act 1993* and the *Aboriginal Land Rights Act 1983* in the development of this Plan.

d. Risk Implications

The development of Plans of Management for community land is a legislative requirement. Without a Plan of Management for Kitchener Poppethead Park, Council's ability to undertake upgrades, conservation work, and issue approvals for the site's use will be significantly impacted.

e. Environmental Implications

The Werakata State Conservation Area adjoins Kitchener Poppethead Park. There are also a number of Endangered Ecological Communities (Lower Hunter Spotted Gum, Hunter Lowland Redgum Forest and Cabbage Gum Floodplain Woodland) within the reserve.

The Plan of Management has been developed considering these ecological communities and has a strong focus on maintaining ecological values of the site and ensuring that future works do not compromise its unique environmental setting.

f. Other Implications

Nil

CONCLUSION

Kitchener Poppethead Park is a site of cultural, recreation and historical significance. The adoption of the Plan of Management will ensure this great asset is preserved, improved and maintained well in to the future.

ENCLOSURES

- [1](#) Summary of Submissions - Draft Kitchener Poppethead Park Plan of Management
- [2](#) Kitchener Poppethead Park Plan of Management