

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, Level 1, City Administration Centre, 12 Stewart Avenue, Newcastle West on Tuesday 8 December 2020 at 8.36pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen, C Duncan, J Dunn, K Elliott (*retired 11.01pm*), B Luke (*retired 10.24pm*), J Mackenzie, A Robinson (*retired 9.44pm*), E White and P Winney-Baartz.

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance), B Smith (Director Strategy and Engagement), F Leatham (Director People and Culture), A Jones (Director City Wide Services), J Baird (Museum Director), E Kolatchew (Manager Legal), M Bisson (Manager Regulatory, Planning and Assessment), S Moore (Acting Chief Financial Officer), L Duffy (Manager Parks and Recreation), M Murray (Chief of Staff), J Vescio (Executive Officer), M Meehan (Media Advisor), K Sullivan (Councillor Services/Minutes), A Knowles (Councillor Services/Meeting Support), E Horder (Councillor Services/Meeting Support) and G Axelsson (Information Technology Support).

APOLOGIES

MOTION

Moved by Cr Clausen, seconded by Cr Luke

The apology submitted on behalf of Councillor Rufo be received and leave of absence granted.

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Church

Councillor Church declared a significant non-pecuniary interest in Item 105 - Endorsement of Planning Proposal to Amend Newcastle Local Environmental Plan 2012 - 505 Minmi Road, Fletcher stating that he worked in the residential housing sector and would manage the conflict by leaving the Chamber for discussion on the item.

Councillor Elliott

Councillor Elliott declared a less than significant pecuniary interest in Lord Mayoral Minute Item 25 - Newcastle Offshore Wind stating that she worked in the renewable energy industry and any policy settings around renewable energy may benefit her business in the future. Councillor Elliott stated that she would leave the Chamber for discussion on the item.

The Lord Mayor, Cr Nelmes

The Lord Mayor declared a significant non-pecuniary interest in Item 105 - Endorsement of Planning Proposal to Amend Newcastle Local Environmental Plan 2012 - 505 Minmi Road, Fletcher based on her previous declaration on the item stating she would leave the Chamber for discussion on the item.

The Lord Mayor, Cr Nelmes

The Lord Mayor declared a significant non-pecuniary interest in Notice of Motion Item 29 - McDonalds based on her previous declaration on the item and, as she did at a previous meeting, would leave the Chamber for discussion on the item.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - PUBLIC VOICE COMMITTEE 17 NOVEMBER 2020

MINUTES - ORDINARY COUNCIL MEETING 24 NOVEMBER 2020

MOTION

Moved by Cr Byrne, seconded by Cr Mackenzie

The draft minutes as circulated be taken as read and confirmed.

Carried

Councillor Luke requested his name be recorded as having voted against adoption of the minutes.

LORD MAYORAL MINUTE

ITEM-25

LMM 08/12/20 - NEWCASTLE OFFSHORE WIND

Councillor Elliott left the meeting for discussion on the item at 8.39pm.

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Commends the NSW Parliament on the recent successful passing of the *Electricity Infrastructure Investment Bill 2020*, paving the way for the creation of the Hunter Renewable Energy Zone;
- 2 Notes that the legislation requires the Minister for Energy and Environment to 'prepare and provide a plan for the NSW renewable energy sector, in particular in relation to the operation of the sector and the manufacture and construction of infrastructure in the sector', in consultation with key Trade Unions;

- 3 Welcomes the recent emergence of large-scale offshore wind infrastructure as a viable renewable energy source with the potential to unlock \$30 billion of investment and create thousands of local, well paid jobs;
- 4 Notes that thousands of highly skilled workers that have traditionally been associated with the resources industry could see their jobs transferred directly into offshore wind, which has the potential to play a significant role in sustaining our state's future energy needs;
- 5 Notes that given the exceptional accessibility of the Port of Newcastle, and our existing local skills base, offshore wind provides a very real opportunity for an entirely new renewable energy infrastructure manufacturing industry to emerge in Newcastle and the Hunter, paving the way for our City to become a renewable energy hub of the entire Asia-Pacific region; and
- 6 Writes to the Minister for Energy and the Environment, the Hon. Matt Kean MP, asking for the both consideration of the inclusion of Offshore Wind in the recently announced Hunter Renewable Energy Zone, and to meet with a delegation of City of Newcastle, industry, business and Trade Union representatives to discuss the opportunities offshore wind presents for environmental sustainability, local jobs and economic diversification.

Carried

Councillor Elliott returned to the meeting at the conclusion of the item at 8.50pm.

**ITEM-26 LMM 08/12/20 - CITY OF NEWCASTLE COVID-19
TASKFORCE UPDATE**

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Notes that the City Taskforce was established in April to provide local leadership during the COVID-19 pandemic, and established five clear work streams including advocacy, direct industry support, developing a local evidence base, transforming the local skills base, and most importantly, providing a collaboration forum for new ideas.
- 2 Sincerely thanks City Taskforce Members - key city leaders from across manufacturing, small business, tourism, transport and logistics, arts and culture, workers, education, business and community sectors, for their valuable contribution to our City's recovery. Industries represented, and their representatives on the City Taskforce have been:
 - Mr Michael DiRienzo – CEO, Hunter New England Health
 - Hunter New England Health
 - Hunter Business Chamber, CEO Mr Bob Hawes
 - Hunternet, CEO, Mr Tony Cade
 - Port of Newcastle, CEO, Mr Craig Carmody

- Newcastle Airport, CEO, Mr Peter Cock
- University of Newcastle, Vice-Chancellor, Professor Alex Zelinsky AO
- Samaritans, CEO & Chair of Third Sector Group, Mr Brad Webb
- Alloggio, CEO Mr Will Creedon (Tourism industry)
- Independent Creative Alliance Newcastle, Board Members, Ms Justine Cogan.
- Newcastle Permanent, CEO, Ms Bernadette Inglis
- Greater Bank, CEO, Mr Scott Morgan
- NIB, CEO, Mr Mark Fitzgibbon
- Mr Daniel Wallace / Mr Leigh Shears – Secretary, Hunter Workers
- Mr Philip Gardner - CEO, Wests Group
- Mr Peter Macadam - Director, Colliers International Newcastle
- Ms Alison McGaffin - Director Regional NSW - State Government Coordination

4 Sincerely thanks the members of the City Taskforce Action Team for their contribution to our City's recovery, including:

- Mr Rob Russell, CEO, Awabakal Local Aboriginal Land Council (First Nations)
- Mr Philip Gardner, CEO, Wests Group (Sport & Hospitality)
- Mr Tony Cade, CEO, Hunternet (Industry)
- Ms Emma Granger, Executive Officer Samaritans (Community)
- Ms Amy Delore, Policy and Public Affairs Manager, Hunter Business Chamber (Business)
- Ms Jane Gray, Executive Director, Partnerships Innovation and Research, HNEH (Health)
- Mr Leigh Shears, Campaigns Organiser/Secretary, Hunter Workers (Industry/Unions)
- Mr Mark McClean, Deputy Director Regional Development, Hunter and Central Coast, Regional NSW (NSW Government)
- Mr Peter McAdam, Director in Charge Colliers International (Development & Property)
- Mr Stephen Crowe, Executive Manager Corporate Affairs Newcastle Airport (Industry),
- Ms Justine Cogan, Independent Creative Alliance Newcastle, (Arts)
- Mr Will Creedon, CEO Alloggio (Tourism)
- Mr James Cudmore, Chief Customer and Product Officer Newcastle Permanent (Finance)
- Ms Fiona Bastian, Head of Government Relations University of Newcastle (Education)
- Mr Matthew Neat, Head of Corporate Affairs & Investor Relations NIB (Finance)
- Mr Craig Newham, Group Executive Sales, Marketing and Distribution Greater Bank (Finance)
- Mr Ross Caddell, Special Project Director Port of Newcastle (Industry)
- Ms Anita Hugo - Regional Director Hunter Property Council (Development & Property)

- Mr Tim Cotter, Regional Manager, Hunter Central Coast and North Coast NSW AusIndustry (Innovation)
 - Mr Trevor Stuart, Australian Industry Group (Industry)
 - Mr Warrick Jordan, Hunter Region Employment Facilitator, Federal Department of Education, Skills and Employment (Employment)
 - Ms Kate David, President, Hunter Young Professionals (Youth / Young Adults)
 - Ms Annette Gebhardt, CEO - Hunter Multicultural Communities (Multicultural Communities)
 - Ms Danielle O'Neill Vice President – Hunter Young Professionals (Youth / Young Adults)
 - Ms Ashley Harrison - Youth Mayor, Newcastle Youth Council (Youth)
 - Mr David Belcher, Executive Officer, Community Disability Alliance Hunter (Disability Communities)
 - Mr David Bliss, Shop, Distributive and Allied Employees' Association (SDA Newcastle and Northern Branch (Industry/Unions/Retail Sector)
- 4 Recognises Hunter New England Health, through CEO Michael DiRienzo and Executive Director, Partnerships, Innovation and Research, for providing the City Taskforce and City Taskforce Action Team with critical public health updates at each
- 5 Recognises the work of Dr Anthea Bill, Lead Economist, Hunter Research Foundation Centre in providing a critically important economic update to the City Taskforce, with the latest economic data key to the decision making and action item prioritisation of the City Taskforce;
- 6 Notes that initiatives of the City Taskforce include the establishment of:
- The Greater Newcastle Youth Employment Charter, recognizing the severe impact of COVID-19 on youth employment
 - Advocacy Work Streams that share our local stories and experiences with key State and Federal Government decision-makers, with distinct and agreed upon asks of government to support particular sectors in Newcastle, including targeted policy and initiatives in the Community Sector, Tourism Sector, Youth Unemployment, Arts Sector and Innovation Economy
 - An Industry Response Program - \$500,000 was invested into targeted support for hard-hit industries, with successful initiatives including:
 - **University of Newcastle - Hometown Holiday:** The Hometown Holiday project will incentivise Newcastle residents to have a 'hometown holiday' inclusive of overnight accommodation and curated experience itineraries. Locals will be encouraged to visit Newcastle as tourists and engage with the City as a tourism destination, providing economic benefits to local tourism businesses.

- **Field Frequency - Smart City LIVE Music TV Show:** Field Frequency will produce a live-stream music series, using live-stream broadcast collaborations to maximise the recovery of the local arts and entertainment industry. The show will showcase a diverse range of established musicians and new talent growing the City's identity as a collaborative and inclusive community.
- **The Business Centre - Small Business Recovery Centre:** The COVID-19 Small Business Recovery Project will provide much needed support and advice to local businesses, curated and coordinated by the Business Centre and based at 265 King Street. The Centre will bring together government and non-government agencies, banks and financial services providers, mental health and well-being providers, to offer support and provide information, and services, that lead to sustainability and job creation, to small businesses during and after COVID-19.
- **Hunter Writers Centre Inc - Multi-arts activation:** Hunter Writers Centre will lead a multi-arts activation benefiting local arts, cultural, and tourism businesses. The project will include exhibition studio spaces for Indigenous and non-Indigenous writers, musicians, visual and digital artists to develop work for exhibitions of cultural and maritime history and stories of local sites.
- **The Olive Tree Market - The Olive Tree Virtual Online Platform:** The Virtual Olive Tree Market Platform, which will develop new income generating opportunities, capacity building and educational workshops for local creatives. Existing customers, supporters, and new online audiences will be targeted to buy local online, to re-connect and forge ongoing connections with creatives.

- 7 Notes that while it was intended for the City Taskforce to dissolve at the end of 2020, we recognise the immense benefit of collaborative, cross-sector decision making, and therefore request the functions of the Taskforce be transferred to the Strategy and Innovation Advisory Committee, Chaired by Deputy Lord Mayor, Cr Declan Clausen, as a mechanism to continue address COVID-19 pandemic matters as they arise.
- 8 Invites Dr Anthea Bill, Lead Economist, Hunter Research Foundation Centre, to present to Council in 2021 regarding Hunter Research Foundation Centre's City Taskforce Evaluation.

**Carried
unanimously**

REPORTS BY COUNCIL OFFICERS

ITEM-103 CCL 08/12/20 - ADOPTION OF 2021 COUNCIL MEETING CYCLE

MOTION

Moved by Cr Mackenzie, seconded by Cr Clausen

That Council adopts the following meeting schedule for 2021:

- 1 i) For the period February 2021 to May 2021, July 2021 to August 2021 and October 2021 to November 2021 with meetings taking place on Tuesday commencing at 6.00pm:

| | |
|---------------|--|
| Week 1 | Advisory Committees (Quarterly as scheduled) |
| Week 2 | Councillor Workshops |
| Week 3 | Committee Meetings (as required): <ul style="list-style-type: none">• Public Voice Committee• Briefings Committee• Development Applications Committee Councillor Workshops (as required) |
| Week 4 | Ordinary Council Meeting |
| Week 5 | No scheduled meetings |

- ii) For June 2021 with meetings taking place on Tuesday commencing at 6.00pm:

| | |
|---------------|--|
| Week 1 | Advisory Committees (Quarterly as scheduled) |
| Week 2 | Councillor Workshops |
| Week 3 | Committee Meetings (as required): <ul style="list-style-type: none">• Public Voice Committee• Briefings Committee• Development Applications Committee Councillor Workshops (as required) |
| Week 4 | No meetings due to National General Assembly Conference |
| Week 5 | Ordinary Council Meeting |

- iii) For September 2021 with the meeting taking place on Tuesday commencing at 6.00pm:

| | |
|--|--|
| Week 1 | No scheduled meetings due to Council Election |
| Weeks 2 and 3 | Commencement of Councillor Induction Program – no meetings |
| Week 4 (28 September 2021 OR Week 1 October pending declaration of the poll) | Ordinary Council Meeting (to be held in former Chamber at City Hall) |

- iv) For December 2021 with meetings taking place on Tuesday commencing at 6.00pm:

| | |
|-------------------------------------|--|
| Week 1 (7 December 2021) | Committee Meetings (as required): <ul style="list-style-type: none"> • Public Voice Committee • Briefings Committee • Development Applications Committee Councillor Workshops (as required) |
| Week 2 (14 December 2021) | Ordinary Council Meeting |
| Weeks 3 to 4 | No scheduled meetings |

- 2 The location of all meetings with the exception of the September 2021 Ordinary Meeting, will be the City Administration Centre, 12 Stewart Avenue, Newcastle West, unless otherwise determined by the Chief Executive Officer (CEO) in consultation with the Lord Mayor.
- 3 For the purposes of the Instruments of Delegation to the Lord Mayor and CEO, Council's 'Recess Period' commences at midnight on Tuesday 8 December 2020 and ceases at midnight on Monday 8 February 2021.
- 4 Clause 7.1 of City of Newcastle's (CN) Code of Meeting Practice relating to meeting duration be amended to omit 9:30pm and instead insert 10:00pm. This means Committee, Ordinary and Extraordinary Council Meetings are to conclude no later than 10:00pm unless a resolution is passed to extend the duration of the meeting.

Carried

ITEM-106**CCL 08/12/20 - URBAN DESIGN REVIEW PANEL****MOTION**

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Adopt the revised Charter for the operation and management of a new Urban Design Review Panel (UDRP) at **Attachment A**.
- 2 Grant delegation to the Chief Executive Officer (CEO) to appoint a UDRP under State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65), as outlined in the Minister for Planning's (Minister) Instrument of Delegation at **Attachment B**.

Carried

ITEM-108**CCL 08/12/20 - MARYLAND DRIVE, MARYLAND - PROPOSED PEDESTRIAN REFUGES NEAR GRANGE AVENUE AND HOLYWELL STREET****MOTION**

Moved by Cr Mackenzie, seconded by Cr Byrne

That Council:

- 1 Approve construction of a pedestrian refuge on Maryland Drive near Grange Avenue, Maryland, as shown at **Attachment A**.
- 2 Approve construction of a pedestrian refuge on Maryland Drive near Holywell Street, as indicated at **Attachment B**, subject to funding.

**Carried
unanimously**

ITEM-113**CCL 08/12/20 - LED STREET LIGHTING UPGRADE****MOTION**

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Resolves that, under section 55(3)(i) of the *Local Government Act 1993* (Act), calling tenders for the LED street lighting upgrade would not achieve a satisfactory outcome, as the monopoly nature of services means that there is only one company that could tender.
- 2 Enter into a contract with Ausgrid in the amount of \$4,000,000 to replace all remaining non-efficient residential and main road street lighting with LED lighting.

**Carried
unanimously**

ITEM-101**CCL 08/12/20 - CODE OF CONDUCT ANNUAL STATISTICS****MOTION**

Moved by Cr Byrne, seconded by Cr Dunn

That Council:

- 1 Notes City of Newcastle's Code of Conduct Complaints Statistics Report for the period 1 September 2019 to 31 August 2020 at **Attachment A**.

**Carried
unanimously**

ITEM-102**CCL 08/12/20 - 'STAIRWAY TO HEAVEN' CONCEPT****MOTION**

Moved by Lord Mayor, Cr Nelmes, seconded by Cr Clausen

That Council:

- 1 Endorses the 'Stairway to Heaven' concept, which seeks to open up connections and view lines from Newcastle foreshore and the Hunter Street Mall to Christ Church Cathedral.
- 2 Notes that City of Newcastle's (CN) 59 year old Mall Car Park is not proposed to be reconstructed as a stand-alone car park due to its poor structural condition and significant costs to make the building safe, compliant and operational.
- 3 Authorises the Chief Executive Officer (CEO) to undertake feasibility analysis and discussions to progress the 'Stairway to Heaven' concept, including:
 - i) Exploring the potential for the Mall Car Park site to be redeveloped to deliver the concept, the protection of public car spaces (estimated at 380) and social infrastructure to ensure these components are provided in any new concept;
 - ii) Entering into without prejudice discussions with Iris Capital regarding the potential for its adjoining development to integrate with redevelopment of the Mall Car Park site to deliver the concept;
 - iii) Assessing requirements for the provision of on-going public car parking capacity for CBD;
 - iv) Ensuring, and where necessary strengthening, controls in the Newcastle Development Control Plan 2012 (NDCP 2012) to protect view corridors to Christ Church Cathedral;

Ensuring an appropriate financial return and arrangements for CN and ratepayers.

- 4 Refers the matter to the Asset Advisory Committee and the Urban Design Consultative Group for advice.
- 5 Notes that any final decision to proceed will be subject to Council approval, and usual approval and public exhibition processes will apply to any development applications.

**Carried
unanimously**

As the time was nearing 9.30pm, the following procedural motion was moved.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

Council extend its meeting to 11.00pm.

Carried

**ITEM-104 CCL 08/12/20 - ADOPTION OF SECTION 7.12 NEWCASTLE
LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN 2019
(UPDATE DECEMBER 2020)**

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Adopts the Section 7.12 Local Infrastructure Contributions Plan 2019 (Update December 2020) (**Attachment A**).

For the Motion: Lord Mayor, Cr Nelmes and Councillors Byrne, Church, Clausen, Duncan, Dunn, Elliott, Luke, Mackenzie, Robinson, White and Winney-Baartz.

Against the Motion: Nil.

Carried

**ITEM-105 CCL 08/12/20 - ENDORSEMENT OF PLANNING PROPOSAL
TO AMEND NEWCASTLE LOCAL ENVIRONMENTAL PLAN
2012 - 505 MINMI ROAD, FLETCHER**

The Lord Mayor and Councillor Church left the meeting for discussion on the item at 9.25pm.

The Deputy Lord Mayor, Councillor Clausen, took the Chair.

In moving the motion, the Deputy Lord Mayor moved an alternate motion comprising Parts A, B and C.

MOTION

Moved by Deputy Lord Mayor, Cr Clausen, seconded by Cr Byrne

PART A

That Council:

1. Does not endorse the Planning Proposal to rezone 505 Minmi Road Fletcher, and maintains current zoning for the site (E4) as per the Newcastle Local Environment Plan 2012.
2. Prior to being presented with any further planning proposals for this site, requires all required environmental studies and analysis be undertaken to: *“address the inherent constraints and hazards of the land and the interdependent analysis of these constraints ... [as these studies] may result in significant amendments to the Planning Proposal”* (Officers report, paragraphs 16-18).

PART B

That Council:

1. Notes correspondence from the NSW Minister for the Environment, The Hon Matt Kean MP, seeking Council's advice on land that may have strategic potential to be acquired by the State for inclusion as part of the NSW National Parks Estate.
2. Writes to Minister Kean and DPIE recommending that the NSW Government considers the inclusion 505 Minmi Road into the National Parks estate, noting the property's strategic importance to the Green Corridor, and its proximity to the existing Blue Gum Hills Regional Park and Hexham Wetlands National Park.

PART C

That Council:

1. Amends the adopted Local Strategic Planning Statement (LSPS) to remove references to 505 Minmi Road as a 'Housing Release Area', by reverting all references relating to 505 Minmi Road to those contained within the draft Plan (originally endorsed by Council in December 2019 – see Attachment 3).

For the Motion:

Deputy Lord Mayor, Cr Clausen and Councillors Byrne, Duncan, Dunn, Elliott, Mackenzie, White and Winney-Baartz.

Against the Motion:

Councillors Luke and Robinson.

Carried

The Lord Mayor and Councillor Church returned to the meeting at 9.44pm and the Lord Mayor resumed the Chair.

Councillor Robinson retired from the meeting at 9.44pm.

**ITEM-107 CCL 08/12/20 - IMPLEMENTATION OF LIVE MUSIC AND
AFTER DARK STRATEGIES - PLANNING CERTIFICATES**

In moving the motion, Councillor Duncan stated she was moving an additional Part B.

MOTION

Moved by Cr Duncan, seconded by Cr Clausen

PART A

That Council:

- 1 Notes that the notation provided at **Attachment A** will be placed on part (5) of section 10.7 Planning Certificates for all properties within the Newcastle Local Government Area (LGA), to notify future purchasers of properties of City of Newcastle's (CN) adopted Live Music Strategy and Newcastle After Dark Night-time Economy Strategy.
- 2 Notes that local conveyancers will be advised of the new notation and the benefits of purchasers obtaining the full section 10.7(2) and (5) Planning Certificates along with a Frequently Asked Questions fact sheet for purchasers.

PART B

- 1 Receive a briefing from the relevant NSW Government agency or Office of Live Music on the new laws.
- 2 Seeks a report from Officers at the next meeting of Council on the opportunities the new laws provide in the delivery of CN's Live Music Strategy and After Dark Strategy.

**Carried
unanimously**

ITEM-109

**CCL 08/12/20 - FORT SCRATCHLEY HISTORICAL SOCIETY
INCORPORATED - MEMORANDUM OF UNDERSTANDING**

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Duncan

That Council:

- 1 Endorses the Memorandum of Understanding with the Fort Scratchley Historical Society Incorporated as provided in **Attachment A** and delegates authority to the Lord Mayor to sign the document on behalf of Council.

For the Motion:

Lord Mayor, Cr Nelmes and Councillor Byrne, Church, Clausen, Duncan, Dunn, Elliott, Luke, Mackenzie, White and Winney-Baartz.

Against the Motion:

Nil.

Carried

ITEM-110

CCL 08/12/20 - ADOPTION OF STRATEGIC SPORTS PLAN

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Byrne

That Council:

- 1 Adopts the Strategic Sports Plan at **Attachment A**.

The Lord Mayor proposed a Part B to the motion.:

PART B

That Council includes the provision of both recreational and competition Basketball facilities in the Strategic Sports Plan.

Councillor Winney-Baartz and Councillor Byrne accepted the Lord Mayor's proposal to the motion.

For the Motion:

Lord Mayor, Councillor Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Luke, Mackenzie, White and Winney-Baartz.

Against the Motion:

Councillors Church and Elliott.

Carried

ITEM-111 CCL 08/12/20 - ADOPTION OF CARRINGTON GREENSPACE MASTERPLAN

MOTION

Moved by Cr White, seconded by Cr Mackenzie

That Council:

- 1 Adopts the Carrington Greenspace Masterplan at **Attachment A**.

**Carried
unanimously**

ITEM-112 CCL 08/12/20 - TENDER REPORT - PARKING METER SERVICES - 2021/125T

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That the recommendation at **Attachment A** be adopted.

The Chief Executive Officer reported the outcome of Item 98 - Tender Report – Provision of Security Services - 2020/232T.

- 1 Council resolves that, under section 55(3)(i) of the *Local Government Act 1993*, calling tenders for the provision of parking meter services would not achieve a satisfactory outcome, as the proprietary nature of services means that there is only one company that could tender.
- 2 City of Newcastle enters into a contract with Duncan Solutions in the amount of \$377,124 per annum (excluding GST) indexed over the life of the contract for the provision of Parking Meter Services pursuant to Contract No. 2021/125T as follows:
 - i) Parking Enterprise Management System (PEMS)
 - ii) PEMS Field Maintenance Module
 - iii) Credit Card Transaction Fees
 - iv) Supply of Replacement Parts

**Carried
unanimously**

Councillor Luke retired from the meeting at 10.24pm.

At this stage of the meeting, Councillor Clausen gave notice of a late item of business.

NOTICES OF MOTION

ITEM-29 NOM 24/11/20 - MCDONALDS

The Lord Mayor left the meeting for discussion on the item at 10.26pm.

The Deputy Lord Mayor, Councillor Clausen, took the Chair.

MOTION

Moved by Cr Elliott, seconded by Cr Church

That City of Newcastle:

Request that McDonalds Restaurants provide Councillors with a briefing on the safety, security and cleanliness measures that are in place at the King St, Newcastle West McDonalds' premises and any future measures currently being planned.

The Deputy Lord Mayor proposed the motion be reworded to read as follows:

Council invite McDonalds Restaurants to a workshop with Ward 1 Councillors on the safety, security and cleanliness measures that are in place at the King Street, Newcastle West McDonalds' premises and any future measures currently being planned. Representatives of the NewWest Community Group (2 or 3 representatives) be invited to participate.

Councillor Elliott and Councillor Church accepted the Deputy Lord Mayor's proposed wording as the motion.

The motion moved by Councillor Elliott and seconded by Councillor Church, as amended, was put to the meeting.

For the Motion: Deputy Lord Mayor, Cr Clausen and Councillors Church, Clausen, Duncan, Elliott, White and Winney-Baartz.

Against the Motion: Councillors Byrne and Dunn.

Carried

The Lord Mayor returned to the meeting at 10.37pm and resumed the Chair.

ITEM-34**NOM 08/12/20 - DOMESTIC VIOLENCE AND VIOLENCE AGAINST WOMEN AND CHILDREN**

In moving the motion, Councillor Duncan updated point one to reflect current statistics.

MOTION

Moved by Cr Duncan, seconded by Cr Winney-Baartz

That City of Newcastle:

- 1 Notes that, tragically, at least 50 women have been murdered in Australia this year due to gender-based violence (as at 3 December 2020).
- 2 Receives a report with an update on the actions of the unanimously supported Notice of Motion adopted on 24 July 2018, including an update on CN's policies or plans that support existing domestic violence support organisations and women's refuges within the CN LGA, including Got Your Back Sista, NOVA for Women and children, and others.
- 3 Ensure that CN workplace policies are reviewed to provide safe and effective mechanisms for staff to report incidents of inappropriate workplace behaviours, and that CN staff and Councillors are offered opportunities to engage in further learning about gender-based discrimination.
- 4 Write to the NSW Office of Local Government requesting explanation of measures in place to ensure the respect and protection of elected officials, particularly women, in their workplace and in the conduct of their duties.

As seconder of the motion, Councillor Winney-Baartz proposed that Notice of Motion Item 36 - Coercive Control be dealt with in conjunction with the item. Councillor Winney-Baartz proposed it form Part B with point 5 being amended as follows:

PART B

That City of Newcastle

- 1 Recognise that coercive control is a silent and dangerous problem for people in our city, particularly women and the elderly;
- 2 Recognise that not all people in unhealthy relationships or suffering coercive control are aware that it is happening to them, nor realise that there are support services available to them;
- 3 Recognise domestic violence is a continuing problem in our city, particularly for women and their children;
- 4 Applaud the services that are providing support and assistance to sufferers of domestic violence;

- 5 City of Newcastle partners with its charity partner 'Got Your Back Sista' to investigate and support the publication and promotion of a pocket guide in relation to coercive control.
- 6 Provide this pocket guide to a range of locations and to health and support service providers, to assist people to understand what help is available.

Councillor Duncan accepted Part B to the motion.

With the inclusion of Part B, Councillor Elliott indicated she would withdraw the substantive motion (Item 36).

The Lord Mayor proposed that Council write to the Member for Blue Mountains, Trish Doyle, Leader of the Opposition, Jodie Mackay and their requisite ministers as well as the Premier of NSW, Gladys Berejiklian to reiterate City of Newcastle's support for legislation that is currently being worked on regarding coercive control.

Councillors Duncan and Winney-Baartz accepted the Lord Mayor's proposal into the motion as Part C.

As the meeting was nearing 11.00pm, the following procedural motion was moved:

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Byrne

Council extend the meeting to 11.30pm.

Carried

The motion moved by Councillors Duncan and Winney-Baartz, as amended, was put to the meeting.

**Carried
unanimously**

Councillor Elliott retired from the meeting at 11.01pm.

ITEM-35 NOM 08/12/20 - VIRUS ESCAPEES SEEKING PROVINCIAL AUSTRALIA (VESPAS)

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That Council:

- 1 Notes that COVID-19 related flexible work arrangements has accelerated a previous trend of residents leaving capital cities for a 'sea change' or 'tree change'.

- 2 Notes the description of this accelerated trend as VESPAs – Virus Escapees Seeking Provincial Australia: early- to mid-career professionals (often in highly paid industries with young families) seeking the “safety, security, space, affordability, and lifestyle” of provincial cities within striking distance of capital cities.
- 3 Explores opportunities to accentuate the benefits of this trend to Newcastle, within existing economic development and marketing budgets, with the aim of promoting Newcastle to VESPAs as a lifestyle city for innovative and creative talent: given our close proximity to Sydney, attractive lifestyle and culture, relative affordability, and high quality of life.

**Carried
unanimously**

ITEM-36 NOM 08/12/20 - COERCIVE CONTROL

Item 36 - Coercive Control was dealt with in conjunction with Item 34 - Domestic Violence and Violence Against Women and Children.

Councillor Elliott had left the meeting 11.01pm and in her absence Councillor Church moved a procedural motion to withdraw Notice of Motion Item 36.

PROCEDURAL MOTION

Moved by Cr Church, seconded by Cr Mackenzie

Notice of Motion Item 36 - Coercive Control be withdrawn.

**Carried
unanimously**

LATE ITEMS OF BUSINESS

ITEM-37 NOM 08/12/20 - LOVE LAMBTON 150 YEARS EVENT

The Lord Mayor advised that she had been informed by Councillor Clausen of a late item of business and the business proposed was of great urgency on the grounds that the matter of *Notice of Motion - Love Lambton 150 Years Event*, submitted by Councillors Rufo, Clausen and Winney-Baartz was required to go before Council prior to the next scheduled Council meeting.

Councillor Clausen was asked to outline the reasons for Council to consider the late item of business:

- a decision of Council is required prior to the next scheduled Council meeting in February 2021, as the advance commitment of a modest sum of ratepayers' funds is vital to ensure this community event to mark the 150th anniversary of Lambton, can proceed in June next year.

- The funds would be used immediately to secure a range of entertainment providing certainty for the event organisers and the local community and, in turn, attracting additional support and potentially further funding in the form of local business sponsorship for the event.
- Waiting for the February Ordinary Council meeting to make a decision to commit these funds would not provide sufficient lead time for event organisers to properly plan, market and deliver this event and as such the event would almost certainly not take place. This would be a poor outcome for the Ward 3 community and is a view shared by his colleagues Councillors Rufo and Winney-Baartz.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

The matter of the Love Lambton 150 Years Event be heard as a late item of business in accordance with the Code of Meeting Practice and as outlined by Councillor Clausen.

**Carried
unanimously**

The Lord Mayor ruled the matter of Love Lambton 150 Years Event to be of great urgency on the grounds that it required a decision by Council before the next scheduled Council meeting.

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That City of Newcastle

1. Recognises the 150th anniversary of the Municipality of Lambton in June 2020.
2. Provides \$10,000 in cash and in-kind support to support the delivery of the event.

Carried

CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

Council move into confidential session for the reasons outlined in the business papers.

Carried

Council resolved into confidential session at 11.08pm.

During confidential session:

- All staff other than the Director of People and Culture, Manager Legal and Councillor Services left the Chamber or were removed to the waiting room on video conferencing platform Zoom for Item 12 - Chief Executive Officer Annual Performance Report.
- Mr Stephen Blackadder, Blackadder Associates, was present on video conferencing platform Zoom for Item 12 - Chief Executive Officer Annual Performance Report.
- All staff other than the Chief Executive Officer, Director Governance, Manager Legal, Councillor Services and IT Meetings Support left the Chamber or were removed to the waiting room on video conferencing platform Zoom for Item 13 - Code of Conduct Matter.
- Councillor Clausen (as the complainant) left the Chamber for discussion on Item 13 – Code of Conduct Matter at 11.52pm and returned to the meeting at 12.25am, Wednesday 9 December 2020
- Councillor Elliott (the respondent) to the complaint on Item 13 – Code of Conduct Matter) had retired from the meeting at 11.01pm and it was noted that she was unable to make an oral or written submission when she may ordinarily have that choice.
- As a result of Item 13 - Code of Conduct Matter being recommitted, Councillor Clausen (as the complainant) left the Chamber for discussion on the item at 12.27am, Wednesday 9 December 2020, and returned to the meeting at 12.36am, Wednesday 9 December 2020.

As the time was nearing 11.30pm, the following procedural motion was moved.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Byrne

Council extend the meeting to midnight.

Carried

At 11.52pm, the following procedural motion was moved.

PROCEDURAL MOTION

Moved by Byrne, seconded by Cr Mackenzie

Council extend the meeting to 12.30am.

**Carried
unanimously**

PROCEDURAL MOTION

Moved by Cr Byrne, seconded by Cr Winney-Baartz

Council move back into open Council.

Council reconvened open session at 12.25am, Wednesday 9 December 2020, and the Lord Mayor reported the outcomes of Item 12 - Chief Executive Officer Annual Performance Report in confidential session.

ITEM-12 CON 08/12/20 - CHIEF EXECUTIVE OFFICER ANNUAL PERFORMANCE REPORT

MOTION

Moved by Cr Mackenzie, seconded by Cr Duncan

- 1 Council receives the 2020 CEO annual performance review report 'Performance Review - City of Newcastle Chief Executive Officer 2020' submitted by Blackadder Associates Pty Ltd (**Attachment A**).
- 2 Council notes the Performance Review Panel's recommendation that the CEO has performed at a very high level and is to be congratulated on the outcomes achieved in 2020.
- 3 Council notes the CEO request not to apply any increase in remuneration this year arising from the annual review of performance and recognising the impact of COVID-19 on the organisation.
- 4 This confidential report relates to the matters specified in section 10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until Council determines otherwise.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Mackenzie, White and Winney-Baartz.

Against the Motion:

Councillor Church.

Carried

ITEM-13 CON 08/12/20 - CODE OF CONDUCT MATTER

The Chief Executive Officer proceeded to report the outcome of Item 13 - Code of Conduct Matter in confidential session.

In the report back to Council, the Chief Executive Officer commenced reading recommendations 1 - 6 of the confidential report.

Councillor Church raised a point of order stating that Council had resolved to lay the item on the table and did not endorse the recommendations of the confidential report.

The Lord Mayor did not uphold the point of order stating that she believed the procedural motion as resolved comprised recommendations 1 - 6 in addition to the matter being laid on the table and the request for a memo.

As mover and seconder of the procedural motion, Councillors White and Winney-Baartz confirmed that recommendations 1 - 6 were included in the resolution to lay the matter on the table and that the matters specified in section 10A(2)(i) of the Local Government Act 1993 outlined in the report and attachment would remain confidential.

Councillor Church stated that the confidential recommendations were sourced from the report and covered by confidentiality and should not be read in the public domain.

Given confusion around the confidential discussion, the Lord Mayor suggested that the item be recommitted.

As the time was nearing 12.30am, the following procedural motion was moved.

PROCEDURAL MOTION

Moved by Cr White, seconded by Cr Winney-Baartz

The meeting be extended to 1.00am.

Carried

PROCEDURAL MOTION

Moved by Cr Church, seconded by Cr Byrne

Council recommit Confidential Item 13 - Code of Conduct Matter.

Carried

PROCEDURAL MOTION

Moved by Cr White, seconded by Cr Winney-Baartz

Council move into confidential session for the reasons outlined in the business papers.

Carried

Council moved into confidential session at 12.27am, Wednesday 9 December 2020.

PROCEDURAL MOTION

Moved by Cr Mackenzie, seconded by Cr Byrne

Council move back into open Council.

Council moved back into open session at 12.36am, Wednesday 9 December 2020, and the Chief Executive Officer reported the outcomes of Item 13 - Code of Conduct Matter in confidential session.

ITEM-13

CON 08/12/20 - CODE OF CONDUCT MATTER

PROCEDURAL MOTION

Moved by Cr White, seconded by Cr Winney-Baartz

- 1 That Council lays on the table recommendations 1 - 6.
 - 1 notes that an investigation was undertaken into a Code of Conduct complaint against Councillor Kath Elliott. The investigation was undertaken by a Conduct Reviewer independent of City of Newcastle (CN), in accordance with the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW;
 - 2 receives the Final Investigation Report of the Conduct Reviewer in relation to the complaint at **Attachment A**;
 - 3 notes that Councillor Elliott was consulted by the Conduct Reviewer throughout the investigation and that prior to imposing a sanction, Councillor Elliott was provided with a formal opportunity to make a written or oral submission to Council;
 - 4 accepts the finding of the Conduct Reviewer in relation to the complaint that at the Extraordinary Council meeting held on 11 February 2020, Councillor Elliott breached clause 20.5 of the Code of Meeting Practice and clause 3.1(b) of the Code of Conduct for Councillors, by removing confidential papers from the confidential session of the meeting and refused to return the confidential papers when requested;
 - 5 in accordance with section 440G of the Local Government Act 1993 and based on the findings and recommendation of the Conduct Reviewer:
 - (i) formally censures Councillor Elliott for breaching clause 20.5 of the Code of Meeting Practice and clause 3.1(b) of the Code of Conduct for Councillors, on the grounds that Councillor Elliott engaged in the following forms of conduct:
 - (a) did not return the confidential Business Papers at the conclusion of the Meeting as directed under the Code of Meeting Practice; and
 - (b) conducted herself in a manner that is contrary to statutory requirements, or CN's administrative requirements or policies; and

(ii) due to the repeated and serious nature of this matter, refers the matter to the Office of Local Government for further action under the misconduct provisions of the Local Government Act 1993;

6 treats this confidential report and attachment relating to the matters specified in section 10A(2)(i) of the Local Government Act 1993 as confidential.

to ensure procedural fairness to Councillor Elliott noting both the time of night and some Councillors were unable to be present when they ordinarily may choose to be present, and given the time of year procedural fairness may not be able to be afforded to Councillor Elliott.

2 Councillors request a memo about the impact to the reputation and punitive impacts on the City of Newcastle given the serious nature of the allegation.

**The meeting concluded at 12.41am.
Wednesday 9 December 2020.**