

## CITY OF NEWCASTLE

**Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street, Newcastle on Tuesday 10 December 2019 at 5.35pm.**

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### **PRESENT**

The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen, C Duncan, K Elliott, B Luke, J Mackenzie, A Rufo and P Winney-Baartz.

### **IN ATTENDANCE**

J Bath (Chief Executive Officer), D Clarke (Director Governance), K Liddell (Director Infrastructure and Property), F Leatham (Director People and Culture), A Jones (Interim Director City Wide Services), E Kolatchew (Manager Legal), S Moore (Acting Chief Financial Officer), M Bisson (Manager Regulatory, Planning and Assessment), L Duffy (Manager Parks and Recreation), S Gately (Manager Libraries and Learning), S Grierson (Manager Transport and Compliance), D Manderson (Manager Civil Construction and Maintenance), J Rigby (Manager Assets and Projects), D Moldrich (Manager Customer Experience), A Vine (Manager Property and Facilities), P Dickson (Chief Information Officer), K McKellar (Manager Depot Operations), D O'Hara (Manager Civic Services), P McCarthy (Urban Planning Section Manager), N Kaiser (Media and Stakeholder Relations Manager), E Dowswell (Media and Communications Advisor), M Murray (Chief of Staff, Lord Mayor's Office), K Sullivan (Council Services/Minutes) and A Knowles (Council Services/Webcasting).

### **MESSAGE OF ACKNOWLEDGEMENT**

The Lord Mayor read the message of acknowledgement to the Awabakal and Worimi peoples.

### **PRAYER**

The Lord Mayor read a prayer and a period of silence was observed in memory of those who served and died so that Council might meet in peace.

### **APOLOGIES**

#### **MOTION**

Moved by Cr Luke, seconded by Cr Rufo

The apologies submitted on behalf of Councillors Dunn, Robinson and White be received and leave of absence granted.

**Carried**

## **PRESENTATION**

### **Local Government NSW Excellence in the Environment Awards**

Councillor Clausen reported that on 3 December 2019 he had attended the Local Government NSW Excellence in the Environment Awards in Sydney along with the Director Strategy and Engagement and Manager Corporate and Community Planning.

City of Newcastle was awarded the major prize overall for local sustainability and the Louise Petchell Memorial award was individually awarded to City of Newcastle staff member, Adam Clarke, Program Co-ordinator Corporate and Community Planning. Mr Clarke was recognised for his work on solar farm, smart city, electric vehicle charging and smart pole delivery for innovation and sustainability.

Councillor Clausen presented the awards to the Lord Mayor and Mr Clarke.

## **PROCEEDINGS IN BRIEF**

Council adjourned to hold the Extraordinary Development Applications Committee at 5.42pm.

Council reconvened at 5.52pm.

## **DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS**

Nil.

## **CONFIRMATION OF PREVIOUS MINUTES**

**MINUTES - PUBLIC VOICE COMMITTEE 19 NOVEMBER 2019**

**MINUTES - ORDINARY COUNCIL MEETING 26 NOVEMBER 2019**

### **MOTION**

Moved by Cr Clausen, seconded by Cr Byrne

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

**Carried**

## **LORD MAYORAL MINUTE**

Nil.

## REPORTS BY COUNCIL OFFICERS

### ITEM-93 CCL 10/12/19 - CODE OF CONDUCT STATISTICS REPORT

#### MOTION

Moved by Cr Mackenzie, seconded by Cr Byrne

That Council:

- 1 Notes City of Newcastle's Code of Conduct Statistics Complaints Report for the period 1 September 2018 to 31 August 2019 at **Attachment A**.

**Carried  
unanimously**

### ITEM-94 CCL 10/12/19 - EMERGENCY MANAGEMENT CENTRE

#### MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Approves the construction of the Local Emergency Operations Centre (LEOC) as shown in the Level 6 Plan and Renders at **Attachment A**.

**Carried  
unanimously**

### ITEM-96 CCL 10/12/19 - AFFIXING COUNCIL SEAL TO DEEDS OF INDEMNITY FOR NEWCASTLE AIRPORT COMPANIES

#### MOTION

Moved by Cr Mackenzie, seconded by Cr Byrne

That Council:

- 1 Enter into, and affix Council's seal to the following:
  - i) Deed of Indemnity between Newcastle City Council and Port Stephens Council indemnifying Samantha Martin-Williams, Director of Greater Newcastle Aerotropolis Pty Ltd; and
  - ii) Deed of Indemnity between Newcastle City Council and Port Stephens Council indemnifying Samantha Martin-Williams, a Director of Newcastle Airport Pty Ltd;

on the grounds that the Deeds of Indemnity relate to the business of Council.

**Carried  
unanimously**

**ITEM-99**                      **CCL 10/12/19 - DRAFT AMENDMENT TO NEWCASTLE DCP  
2012 - 233 WHARF ROAD AND 250 SCOTT STREET,  
NEWCASTLE**

**MOTION**

Moved by Cr Mackenzie, seconded by Cr Byrne

That Council:

- 1 Place the draft amendments to the NDCP 2012 (**Attachment A**) on public exhibition concurrently with the Planning Proposal for the subject land for 28 days.
- 2 Receive a report back to Council following public exhibition of the draft NDCP 2012 and Planning Proposal.

**For the Motion:**                      Lord Mayor, Cr Nelmes and Councillors Byrne, Church, Clausen, Duncan, Elliott, Mackenzie, Luke, Rufo and Winney-Bartz.

**Against the Motion:**                      Nil.

**Carried**

**ITEM-101**                      **CCL 10/12/19 - CLASSIFICATION OF COUNCIL LAND - 452  
KING STREET, NEWCASTLE WEST**

**MOTION**

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Resolve to classify 452 King Street, Newcastle (Lot 2 DP 1252378) as operational land for the purposes of the *Local Government Act 1993*.

**Carried  
unanimously**

**ITEM-95**                      **CCL 10/12/19 - ADOPTION OF PROCUREMENT POLICY**

**MOTION**

Moved by Lord Mayor, Cr Nelmes, seconded by Cr Winney-Bartz

That Council:

- 1 Adopts the Procurement Policy at **Attachment A**.
- 2 Sustainable procurement (26) needs further enhancement to preference suppliers that support the achievement of the United Nations SDGs and the monitoring and implementation of Part D & E are referred to the Strategy and Innovation Advisory Committee for a report back to Council.

- 3 Authorises the Chief Executive Officer, in consultation with the Lord Mayor, to make any administrative changes to the Policy, where necessary, to reflect changes in legislation or maintain business continuity for City of Newcastle (CN).

**Carried**

**ITEM-97 CCL 10/12/19 - ENDORSEMENT OF DRAFT LOCAL STRATEGIC PLANNING STATEMENT FOR EXHIBITION**

**MOTION**

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Place the draft Local Strategic Planning Statement (**Attachment A**), Housing Needs and Character Study Evidence Report (**Attachment B**) and Employment Lands Strategy (**Attachment C**) on public exhibition for 28 days.
- 2 Authorise the Chief Executive Officer to make minor amendments to the attached draft LSPS prior to public exhibition to reflect comments from Councillors and the Liveable Cities Advisory Committee.
- 3 Receive a report back to Council following public exhibition on the outcomes.

Councillor Mackenzie, Chair of the Liveable Cities Committee, tabled the following submission in respect to Part 2 of the motion.

*The Liveable Cities Advisory Committee reviewed the draft Local Strategic Planning Statement (LSPS) at its December 3rd meeting, noting:*

- a. that the emphasis on practical actions under the planning priorities that can be achieved by the City of Newcastle will enhance the strategic value and relevance of the Statement; and*
- b. the success of the preliminary engagement in targeting young people, especially the 16-19 age group.*

*The Advisory Committee recommended that:*

- a. The LSPS be amended to include more detailed consideration of appropriate measures and indicators to assess continual improvement and achievement against the identified land use planning goals. The Advisory Committee noted that while some potential measures have been provided in the draft LSPS, a more explicit linkage between these indicators and the outcomes of the Statement (that is, a smart, liveable, sustainable, connected city) is desirable.*

*The Committee recommended the development of a City of Newcastle Liveability Index based on these indicators and measures, noting that similar approaches have been adopted by cities nationally and globally.*

*For example, average commuter travel times by all transport types (including cars) should be considered as an indicator for an efficient and connected transport system.*

The motion moved by Councillors Clausen and Mackenzie, including the submission from the Liveable Cities Committee, was put to the meeting.

**Carried**

**ITEM-98                      CCL 10/12/19 - EXHIBITION OF DRAFT SECTION 7.11  
WESTERN CORRIDOR LOCAL CONTRIBUTIONS PLAN 2013**

**MOTION**

Moved by Cr Elliott, seconded by Cr Byrne

That Council:

- 1 Place the Draft Section 7.11 Western Corridor Local Infrastructure Contributions Plan 2013 (Draft Plan) (**Attachment A**) on exhibition for 28 days.
- 2 Receive a report back to Council to finalise the Draft Plan following exhibition.
- 3 Request the Minister for Planning and Public Spaces issue a revised Ministerial Direction to include the Planned Future Development Sites in Schedule 2 of the Ministerial Direction.

**AMENDMENT**

Moved by Cr Luke, seconded by Cr Church

**Attachment A**, Draft Section 7.11 Western Corridor Local Infrastructure Contributions Plan, Reference, 2.5 - Cap on monetary section 7.11 contributions, remove the following paragraph:

*City of Newcastle will request that the Minister for Planning and Public Spaces increase the cap to \$30,000 for areas identified in this Plan as 'Planned Future Development sites'. The remainder of infill development will be capped at \$20,000.*

**Defeated**

The motion moved by Councillor Elliott and seconded by Councillor Byrne was put to the meeting.

**For the Motion:**

Lord Mayor, Cr Nelmes and Councillors Byrne, Church, Clausen, Duncan, Mackenzie, Rufo and Winney-Bartz.

**Against the Motion:**

Councillors Elliott and Luke.

**Carried**

**ITEM-100**

**CCL 10/12/19 - CLASSIFICATION OF COUNCIL LAND -  
HONEYSUCKLE DOMAIN PLAN**

**MOTION**

Moved by Cr Clausen, seconded by Cr Byrne

That Council:

- 1 Resolve to classify the following properties as operational land for the purposes of *the Local Government Act 1993*:
  - i) Lot 11 DP 1113925;
  - ii) Lot 109 DP 1015391;
  - iii) Lot 110 DP 1015391;
  - iv) Lot 2 DP 1167364;
  - v) Lot 32 DP 1136586; and
  - vi) Lot 7 DP 1137661.

**PROCEDURAL MOTION**

Moved by Cr Church, seconded by Cr Mackenzie

The matter lay on the table pending a review of the pros and cons of the various classification options and Councillors receiving a report and briefing on the matter.

**For the Procedural Motion:**

Councillors Church, Elliott, Luke, Mackenzie and Rufo.

**Against the Procedural Motion:**

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

The Lord Mayor exercised the Chair's casting vote and declared the procedural motion defeated.

**Defeated**

**PROCEDURAL MOTION**

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

Council lay the item on the table pending consideration by the Liveable Cities Committee to look at parcels of land that could be potentially reclassified community land for resolution prior to the Ordinary Council meeting in February 2020, with a report back to Council.

The Lord Mayor proposed an amendment which addressed Councillor concerns about community land classification.

### **AMENDMENT**

Moved by Lord Mayor, Cr Nelmes

- B The matter be referred to the Liveable Cities Committee to look at the parcels of land that are not cycleways and footpaths and not needed for operational land classification with a report back to Council for potential reclassification as community land.

The mover and seconder of the motion accepted the amendment to the motion.

The procedural motion was withdrawn in favour of the amendment.

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

**For the Motion:** Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Luke, Mackenzie, Rufo and Winney-Baartz.

**Against the Motion:** Councillors Church and Elliott.

**Carried**

### **ITEM-102**

### **CCL 10/12/19 - REVIEW OF S.355 COMMITTEES**

#### **MOTION**

Moved by Cr Clausen, seconded by Cr Byrne

That Council:

- 1 Approves the dissolution of the following s.355 Committees based on a review of the required standards of governance:
  - i) Beresfield-Tarro Parks Committee
  - ii) Heaton-Birmingham Gardens Parks Committee
  - iii) Kotara Parks Committee
  - iv) New Lambton Ovals Board
  - v) Stevenson Parks Committee
  - vi) Stockton Parks Committee
- 2 Recognise the contribution that volunteers have made to the s.355 Committees over many years.

- 3 Establishes a Sports land Strategic Advisory Committee, to provide a vehicle for interested former members of s.355 committees to continue to provide strategic advice on the management of CN's sports lands, including on the development of CN's Strategic Sports Plan during 2020. Council appoints Cr Peta Winney-Baartz as Chair, and the Committee is to meet in February 2020, with invites to be distributed to previous s355 board committees before the end of 2019.

**PROCEDURAL MOTION**

Moved by Cr Mackenzie, seconded by Cr Church

The matter lay on the table to enable public voice.

**For the Procedural Motion:** Councillors Church, Elliott, Luke, Mackenzie and Rufo.

**Against the Procedural Motion:** Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan and Winney-Baartz.

The Lord Mayor exercised the Chair's casting vote and declared the procedural motion defeated.

**Defeated**

The motion moved by Councillor Clausen and seconded by Councillor Byrne was put to the meeting.

**For the Motion:** Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan and Winney-Baartz.

**Against the Motion:** Councillors Church, Elliott, Luke, Mackenzie and Rufo.

The Lord Mayor exercised the Chair's casting vote and declared the motion carried.

**Carried**

**NOTICES OF MOTION**

**ITEM-46 NOM 10/12/19 - LIVE MUSIC STRATEGY**

**MOTION**

Moved by Cr Duncan, seconded by Cr Byrne

That the City of Newcastle:

- 1 Notes that the Live Music Taskforce is preparing recommendations for Council to be presented at the February Ordinary Council meeting.
- 2 Acknowledge the importance of growing the city's \$1.36 billion night time economy and note the importance of robust planning guidance and controls in relation to noise.

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This is page 9 of the Minutes of the Ordinary Council Meeting held in the Council Chambers, City Hall, Newcastle on Tuesday, 10 December 2019 at 5.35pm.

- 3 Prioritise Action 2 of the CN endorsed Live Music Strategy and develop a suite of planning controls to reduce the risk of land use conflict including notification in Section 10.7 (5) Planning Certificates.
- 4 Prioritise Action 4 of the CN endorsed Live Music Strategy and provide improved noise assessment regulation and guidelines.
- 5 Receives a report at the next Ordinary Council Meeting to provide a detailed update of the progress of implementation of each of the agreed action items in the adopted Live Music Strategy.

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

**Against the Motion:** Nil.

**Carried**

**ITEM-47                      NOM 10/12/19 - SUBMISSION TO NATIONAL ENVIRONMENT LAW REVIEW**

**MOTION**

Moved by Cr Clausen, seconded by Cr Byrne

That Council:

- 1 Notes that the Commonwealth Government have commenced its 20-year review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) (**Attachment A**), with the release of a Review Discussion Paper (**Attachment B**)
- 2 Receives the Chifley Research Centre's report, Protecting the Future, recommending amendment/replacement of the EBPC legislation to safeguard Australia's unique environment (**Attachment C**)
- 3 Reviews the EPBC Review's Discussion Paper and the Protecting the Future report, and makes a submission to the Review prior to the 14 February 2020 deadline.

**For the Motion:** Lord Mayor, Cr Nelmes and Councillors Byrne, Church, Clausen, Duncan, Elliott, Mackenzie, Rufo and Winney-Baartz.

**Against the Motion:** Councillor Luke.

**Carried**

**ITEM-48****NOM 10/12/19 - DEVELOPING A HEATWAVE AND HOMELESSNESS**

In moving the motion, Councillor Mackenzie advised he was moving the recommendation of Council Officers as outlined in the business papers.

**MOTION**

Moved by Cr Mackenzie, seconded by Cr Byrne

That Council:

- 1 Notes the ongoing work of CN to address homelessness, including the resolution of the 27 February 2018 Ordinary Council Meeting in support of the Ending Homelessness Pledge, committing CN to ending homelessness, advocating for change and enlisting the support of partners to join this important effort.
- 2 Notes the City of Melbourne's homelessness specific plan for responding to extreme heat periods, including the Heatwave and Homelessness Program, which was piloted in 2014-15 and is now in its fourth year. Among other innovations, this Program provides access to cool spaces and places of respite through heat waves (such as pool passes) for people who are experiencing (primary, secondary, tertiary) homelessness.
- 3 Notes further that this program aims to:
  - a) provide a coordinated process to guide the preparedness and activation of partner agency responses and flow of communication in relation to heatwave events;
  - b) minimise heat related illness and death by raising awareness of the hazards of heat and heat stress and the necessity for building community resilience; and
  - c) minimise the impact of extreme heat events on people experiencing homelessness.
- 4 Notes the Hunter Joint Organisation of Councils' Regional Heatwave Resilience Project.
- 5 That the development of a Heatwave and Homelessness Program be referred to the Strategy and Innovation Advisory Committee for consideration and recommendation which includes an evaluation on resourcing and costing.

**Carried**

**ITEM-49****NOM 10/12/19 - BROADMEADOW LOCOMOTIVE DEPOT**

In moving the motion, Councillor Mackenzie advised he was moving the recommendation of Council Officers as outlined in the business papers.

**MOTION**

Moved by Cr Mackenzie, seconded by Cr Byrne

That Council:

- 1 Requests that a report be provided to the Liveable Cities Advisory Committee on the current status and any future plans of Transport for NSW or Transport Heritage NSW in relation to the Broadmeadow Locomotive Depot.

**Carried**

**PETITION**

Councillor Church tabled a petition on 'Save Our Ocean Baths - Newcastle and Merewether NSW'.

**LATE ITEMS OF BUSINESS**

The Lord Mayor advised that she had been informed by the Chief Executive Officer of a late item of business and the business proposed was of great urgency on the grounds that it was required to go before Council prior to the next scheduled meeting.

The Lord Mayor stated that a legal matter arose late Friday afternoon and an urgent briefing was required to be provided to Councillors in confidential session.

**PROCEDURAL MOTION**

Moved by Cr Clausen, seconded by Cr Mackenzie

The matter of Confidential Report Item 13 – Briefing on Legal Matter be heard as a matter of urgency.

**Carried  
unanimously**

## **CONFIDENTIAL REPORTS**

### **PROCEDURAL MOTION**

Moved by Cr Winney-Baartz, seconded by Cr Mackenzie

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

**Carried**

Council resolved into confidential session at 7.41pm.

During confidential session:

- All staff except the Director People and Culture, Manager Legal and Meeting Secretaries were present at the meeting when discussion took place on Item 12 - Chief Executive Officer Performance Review
- The Director of People and Culture distributed Confidential Item 12 - Chief Executive Officer Performance Review
- The Lord Mayor noted the attendance at the meeting of Stephen Blackadder, Blackadder Associates Pty Ltd for Confidential Item 12 - Chief Executive Officer Performance Review
- The Director of People and Culture collected Confidential Item 12 - Chief Executive Officer Performance Review at the conclusion of the item
- The Chief Executive Officer, Directors and remaining staff returned to the Chamber for Confidential Item 13 - Briefing on Legal Matter
- The Meeting Secretaries distributed Confidential Item 13 - Briefing on Legal Matter
- A procedural motion moved by Councillor Mackenzie and seconded by Councillor Luke to move into Committee to hear a briefing with respect to Confidential Item 13 - Briefing on Legal Matter was carried
- Council received a briefing on Item 13 - Briefing on Legal Matter
- A procedural motion moved by Councillor Luke and seconded by Councillor Rufo to move out of Committee and into confidential Council was carried
- The Meeting Secretaries collected Confidential Item 13 - Briefing on Legal Matter at the conclusion of the item

### **PROCEDURAL MOTION**

Moved by Cr Luke, seconded by Cr Rufo

Council move out of confidential session.

**Carried**

Council reconvened at 9.19pm and the Lord Mayor reported the resolution of confidential session in respect to Item 12 - Chief Executive Officer Performance Review.

**ITEM-12**                      **CON 10/12/19 - CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW**

**MOTION**

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

- 1 Council receives the 2019 CEO annual performance review report 'Performance Review - City of Newcastle Chief Executive Officer 2019' submitted by Blackadder Associates Pty Ltd (**Attachment A**).
- 2 Council endorses the performance increase of 1.75% in acknowledgement of the CEO's performance over the last 12 months.
- 3 Council acknowledges the increase to the CEO's total remuneration package will be effective from the CEO's anniversary date of 13 December 2019.
- 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.

**Carried**

The Chief Executive Officer reported the resolution of confidential session in respect to Item 13 - Briefing on a Legal Matter.

**ITEM-13**                      **CON 10/12/19 - BRIEFING ON LEGAL MATTER**

**MOTION**

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Notes the briefing provided by staff in relation to a current legal matter.
- 2 This confidential report relating to the matters specified in s10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

**Carried  
unanimously**

**The meeting concluded at 9.20pm.**