

CITY OF NEWCASTLE

Ordinary Council Meeting 23 October 2018

Page 1

Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street Newcastle 2300 on Tuesday 23 October 2018 at 5.33pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen, C Duncan, J Dunn, K Elliott, B Luke, J Mackenzie, A Robinson, E White and P Winney-Baartz (retired 7.50pm).

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance), K Liddell (Director Infrastructure and Property and Interim Director Strategy and Engagement), F Leatham (Interim Director People and Culture), A Murphy (Director City Wide Services), J Vescio (Executive Officer, Chief Executive Office and Acting Manager Corporate and Community Planning), M Murray (Policy Officer, Lord Mayor's Office), C Field (Executive Officer, Lord Mayor's Office), M Bisson (Manager Regulatory, Planning and Assessment), J Rigby (Manager Assets and Projects), K Hyland (Manager Major Events and Corporate Affairs), A Jones (Chief Financial Officer), E Kolatchew (Manager Legal), D Fischetti (Communications), A Leach (Council Services/Minutes) and K Sullivan (Council Services/Webcasting).

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.

MESSAGE OF ACKNOWLEDGEMENT

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

APOLOGIES

MOTION

Moved by Cr Luke, seconded by Cr Byrne

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

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke

Councillor Luke declared a non-pecuniary less than significant conflict of interest in Item 98 - Executive Monthly Performance Report as it included the re-investment Surplus Funds Report which mentions multiple financial institutions that he had dealings with in his business. The declaration is less than significant as he noted he was not involved in determining where funds are invested and was just receiving a report.

Councillor Luke

Councillor Luke declared a non-pecuniary less than significant conflict of interest in Item-99 - Adoption of 2017/18 Annual Financial Statements stating that until recently his son

CITY OF NEWCASTLE

Ordinary Council Meeting 23 October 2018

Page 2

was an employee of Council's Auditor PriceWaterhouseCoopers and his daughter was an employee of another accounting firm which undertook audits for local government bodies and stated that the interest was less than significant as Council was not involved in deciding Council's Auditor.

Councillor Church

Councillor Church declared a significant and pecuniary interest in Item 102 Adoption of Draft Section 6.03 Wickham of Newcastle Development Control Plan 2012 and stated his employer was involved in the sales and marketing for the division of the suburb and would leave the Chamber for the discussion on the item.

Councillor Clausen

Councillor Clausen declared a significant non-pecuniary interest in Item 105 - 5 Hall Street Maryville, and stated that his employer, Hunter Water Corporation, was heavily involved in the development and would leave the Chamber for the discussion on the item.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - PUBLIC VOICE COMMITTEE 18 SEPTEMBER 2018

MINUTES - ORDINARY COUNCIL MEETING 25 SEPTEMBER 2018

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

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

Carried

LORD MAYORAL MINUTE

ITEM-19 - LMM 23/10/18 - RECOGNITION OF JILL EMBERSON AND HER CONTRIBUTION TO RAISING AWARENESS OF OVARIAN CANCER

MOTION

Moved by Lord Mayor, Cr Nelmes

That Newcastle City Council:

1. Recognises and thanks Jill Emberson, ABC Newcastle broadcaster for her contribution to raising awareness of ovarian cancer; and
2. Notes that Jill is raising awareness through her recent podcasts "Still Jill", which documents her deeply personal cancer journey.

**Carried
unanimously**

ITEM-20 - LMM 23/10/18 - SMART PARKING APP SUCCESS AND EXPANSION

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Acknowledges the success of the Easy Park Pay by Phone Application (Easy Park) which has seen over 45,000 parkings and over 5,000 unique user downloads since City of Newcastle (CN) began trialling the technology in March 2018;
2. Explores options to further incentivise the uptake of Easy Park, to increase parking simplicity and convenience for ratepayers and visitors across the City of Newcastle; and
3. Adds the Parking Area Code to parking zone signage, to make it more convenient for Easy Park users to identify their current Parking Area.

**Carried
unanimously**

REPORTS BY COUNCIL OFFICERS

ITEM-100 CCL 23/10/18 - TABLING OF PECUNIARY INTEREST RETURNS - ANNUAL REPORT

MOTION

Moved by Cr Mackenzie, seconded by Cr White

Council note the tabling of the annual register of pecuniary interest returns (for the financial year 2017/ 2018) by the Chief Executive Officer in accordance with s450A of the *Local Government Act 1993* (NSW).

Carried

ITEM-101 CCL 23/10/18 - ADOPTION OF INTERNAL REPORTING - PUBLIC INTEREST DISCLOSURES POLICY

MOTION

Moved by Cr Mackenzie, seconded by Cr White

Council adopts the Internal Reporting - Public Interest Disclosures Policy as set out at **Attachment A**.

Carried

ITEM-104 CCL 23/10/18 - ADOPTION OF CITY MARKETING AND ENGAGEMENT STRATEGY

MOTION

Moved by Cr Elliott, seconded by Cr Byrne

Council adopts the 2018 - 2021 City Marketing and Engagement Strategy as at **Attachment A**.

Carried

ITEM-98 CCL 23/10/18 - EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

The executive monthly performance report for September 2018 be received.

Carried

ITEM-99 CCL 23/10/18 - ADOPTION OF 2017/18 ANNUAL FINANCIAL STATEMENTS

MOTION

Moved by Cr Duncan, seconded by Cr Dunn

Council receives and adopts City of Newcastle's (CN) Financial Statements and accompanying notes, in respect of the year ended 30 June 2018, together with the Auditor's Report (**Attachment A**).

**Carried
unanimously**

ITEM-102 CCL 23/10/18 - ADOPTION OF DRAFT SECTION 6.03 WICKHAM OF NEWCASTLE DEVELOPMENT CONTROL PLAN 2012

Councillor Church left the Chamber for the determination of the item.

MOTION

Moved by Cr Mackenzie, seconded by Cr White

Council resolves to:

- i) Adopt draft Section 6.03 Wickham (**Attachment A**) for inclusion into DCP.
- ii) Amend the area to which Section 6.01 Newcastle City Centre of DCP applies (**Attachment B**) by excluding the land to which draft Section 6.03 Wickham applies.

AMENDMENT

Moved by Cr Elliott, seconded by Cr Robinson

"Savings Provisions" section on page 1 of the Draft Section 6.03 Wickham changed to read:

If a Development Application has been made before the commencement of this plan in relation to land to which this plan applies and the application has not been finally determined before that commencement, the application must be determined as if the plan had not been commenced.

CITY OF NEWCASTLE

Ordinary Council Meeting 23 October 2018

Page 6

The amendment moved by Councillor Elliott and seconded by Councillor Robinson was put to the meeting.

For the amendment: Councillors Elliott and Robinson.

Against the amendment: Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Luke, MacKenzie, White and Winney-Baartz.

Defeated

The motion moved by Councillor MacKenzie and seconded by Councillor White was put to the meeting.

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

Against the Motion: Councillor Robinson.

Carried

Councillor Robinson did not vote for the item and as such his vote was recorded in the negative.

Councillor Church returned to the Chamber at the conclusion of the item.

ITEM-103 CCL 23/10/18 - ENDORSEMENT OF THE SUPERCARS 2017 IMPACT ASSESSMENT REPORT

MOTION

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

Council receives the report as at **Attachment A**.

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

Against the Motion: Councillors Church, Elliott, Luke, MacKenzie and Robinson.

Carried

**ITEM-105 CCL 23/10/18 - ENDORSEMENT OF PLANNING AGREEMENT -
5 HALL STREET MARYVILLE**

Councillor Clausen left the Chamber for the determination of the item.

MOTION

Moved by Cr White, seconded by Cr Mackenzie

Council resolves to:

- i) Endorse the Planning Agreement - 5 Hall Street Maryville (**Attachment A**).
- ii) Authorise the Chief Executive Officer to execute the Planning Agreement.

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

Against the Motion: Nil.

Carried

Councillor Clausen returned to the Chamber at the conclusion of the item.

**ITEM-106 CCL 23/10/18 - STEVENSON PARK CONCEPT LANDSCAPE
MASTERPLAN**

MOTION

Moved by Cr White, seconded by Cr Winney-Baartz

- 1 Council resolve that the Stevenson Park Masterplan (Masterplan) **Attachment A** be placed on public exhibition for a period of 21 days.
- 2 Following the exhibition period there will be a workshop for Councillors and a further report back to Council.

**Carried
unanimously**

NOTICES OF MOTION

ITEM-27 NOM 23/10/18 - VERGE GARDENS

MOTION

Moved by Cr Clausen, seconded by Cr Byrne

That Council:

- 1 Reiterate its commitment to urban greening, including its targets to increase the urban forest and promote community sustainability.
- 2 Notes the approach adopted by a number of major Australian local authorities that allow residents to establish verge gardens, with policies/guidelines that limit and remove adverse impacts on neighbors and the broader community.
- 3 Review best practice, and develop a draft Verge Garden Policy and any required guidelines for Council's consideration.

**Carried
unanimously**

**ITEM-28 NOM 23/10/18 - SKATE BOWL ON SOUTH NEWCASTLE
BEACH**

MOTION

Moved by Cr Church, seconded by Cr Elliott

That City of Newcastle

1. Investigates changes to the design of the Newcastle Beach infrastructure Project which would remove the inclusion of a skate bowl planned for construction on South Newcastle Beach
2. Reconvenes the Skate Park CRG and invites members of the local surfing community and local residents to attend and consult.
3. Seeks a second opinion from suitably qualified engineers about the environmental impacts of the proposed skate bowl on the beach and coastline and the ability of the proposed Skate Bowl to withstand storm events.
4. Provides councillors and the community with an estimate of the annual operating and maintenance costs for the Skate bowl.
5. Agrees to submit the project to a formal DA process to allow written submissions from the community and a public voice hearing should that be requested.

Councillor Clausen moved the Officer's recommendation in the Report on Notice of Motion - NOM 23/10/18 - Skate Bowl on South Newcastle Beach as a foreshadowed motion.

AMENDMENT

Moved by Cr Luke, seconded by Cr Mackenzie

The words "formal DA" be removed from part 5 of the motion.

Defeated

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

For the Motion:

Councillors Church, Elliott, Luke, MacKenzie and Robinson.

Against the Motion:

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

Defeated

Councillor Clausen moved the Forewshadowed Motion with the addition of a part 5 to conduct a broad community engagement plan.

MOTION

Moved by Cr Clausen, seconded by Cr White

Council

1. Notes that the Newcastle Beach Infrastructure Project's Skate facility has been developed in consultation with Newcastle's skateboarding community, and that the facility is designed to cater for a broad range of skaters. The focus group was specific to skating only and inclusion of board riders, or the wider community would not value add to this design process;
2. Notes that the structure is designed in accordance with Australian Standards for coastal requirement, and that the costs for maintenance activities at this location are within the City's operational budgets; and
3. Commits to a review and finalisation of the coastal engineering report to ensure that the proposed skate bowl does not negatively impact on the beach and coastline, and can adequately withstand storm events; and
4. Commits to the review of the required planning pathways for the proposed development noting the commencement of the *Coastal Management Act 2016*.
5. Conducts a broad community engagement plan.

Carried

ITEM-29 NOM 23/10/18 - WORKS PROGRAM FINANCIAL DETAILS

Councillor Winney-Baartz retired from the meeting at 7.50pm.

Councillor Dunn left the Chamber at 7.51pm and returned at 7.55pm.

MOTION

Moved by Cr Elliott, seconded by Cr Church

That City of Newcastle:

- 1 Reinforce its commitment to be open and transparent, in all its operations, especially in sharing with ratepayers how their rates are being spent.
- 2 In line with Part A, return to publishing a greater level of detail in Capital Works and Operational budgets. The level of detail to be similar to that shown in the 2015/16 Operational Plan. (See pages 91 to 102 in the document accessed through this link)
https://www.newcastle.nsw.gov.au/Newcastle/media/Documents/Council/1666-Operational_Plan_2015-16-FINAL-WEB.pdf

Councillor Clausen moved the Officer's recommendation in the Report on Notice of Motion - NOM 23/10/18 - Works Program Financial Details as a Foreshadowed Motion.

For the Motion: Councillors Church, Elliott and Luke.

Against the Motion: Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, MacKenzie and White.

Defeated

Councillor Robinson was absent from the Chamber for the vote on this motion and returned to the Chamber following the vote.

Councillor Clausen moved the Foreshadowed Motion.

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

- 1 Council and the community will continue to receive YTD Budget to Actual results for all service units as part of the executive monthly performance report in accordance with the Financial Reporting Framework.
- 2 CN will continue to provide online monthly city works updates for the 2018/19 works program to inform Council and the community of works scheduled to commence and upcoming in that month.
- 3 A list of community facing projects in the 2019/20 works program will be included as an appendix to the 2019/20 budget document which will identify projects proposed to receive funding during the financial year.
- 4 CN will provide a quarterly update of the 2019/20 works program to Council and the community via its website.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Luke, MacKenzie and White.

Against the Motion:

Councillors Church, Elliott and Robinson.

Carried

ITEM-30 NOM 23/10/18 - AIRBNB

MOTION

Moved by Cr Elliott, seconded by Cr Robinson

That City of Newcastle:

- A Write to the NSW Minister for Planning and Minister for Better Regulation, acknowledging the changes to planning rules regarding short term rental accommodation and stating the important and appropriate role that Councils will play in managing the impacts in their local communities.
- B Write a submission to the NSW Government during the public exhibition period outlining our concerns at the impact on neighbourhoods and supporting a reduction in the number of nights for premises where no host is present.
- C Decreases the 365-day threshold for exempt development to 180 days per year where the host is not present and advise the NSW Department of Planning of this decision within eight weeks of the exhibition period which commenced on October 5, 2018. In order protect the quiet amenity of residential neighbourhoods.

Defeated

CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr White

Council move in Confidential Session for the reasons outlined in the business papers

Carried

Council moved into Confidential Session at 8.14pm.

During confidential session:

- for Item 21 CON 23/10/18 - Organisational Design and Structure Implementation Update all Council staff left the Chamber at 8.14pm with the exception of the Chief Executive Officer, Interim Director People and Culture, Manager Legal and Council Executive Support Officers.
- the report on Item 21 CON 23/10/18 - Organisational Design and Structure Implementation Update was tabled and Councillors given the opportunity to read the report.

Council reconvened at 8.40pm and the Chief Executive Officer reported the resolutions of confidential session.

ITEM-19 CON 23/10/18 - SALE OF LAND FOR UNPAID RATES AND CHARGES

MOTION

Moved by Cr Mackenzie, seconded by Cr Luke

- 1 City of Newcastle (CN) conduct a Public Auction to sell the properties to recover unpaid rates and charges in accordance with Section 713 of the Local Government Act 1993 (Act).
- 2 Any properties identified as for CN infrastructure or other purposes be subject to a CN bid at auction or otherwise dealt with in accordance with the provisions of the Act.
- 3 Authority be granted to the Chief Executive Officer or his delegate to negotiate the terms of any sale (even if reserve price is not reached) and to execute all relevant documentation to affect the resulting transactions.
- 4 Authority be granted to the Chief Executive Officer to, at his discretion, write off any rates or charges which are not recovered by the sale or acquisition of the properties.
- 5 This confidential report relating to the matters specified in Section 10A(2)(d) of the Act be treated as confidential and remain confidential until Council determines otherwise.

**Carried
unanimously**

ITEM-20 CON 23/10/18 - SOUTH STOCKTON ACTIVE HUB SKATE PARK AND PLAYGROUND - CONTRACT NO. 2019/001T

MOTION

Moved by Cr White, seconded by Cr Mackenzie

- 1 Council accept the tender of Convic Pty Ltd in the amount of \$1,697,687 (excluding GST) for South Stockton Active Hub Skate Park and Playground for Contract No. 2019/001T.
- 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 Council determines otherwise.

**Carried
unanimously**

**ITEM-21 CON 23/10/18 - ORGANISATIONAL REDESIGN AND
STRUCTURE IMPLEMENTATION UPDATE**

MOTION

Moved by Cr Mackenzie, seconded by Cr Robinson

1. The report on the Implementation of the Organisational Redesign and Structure Implementation Update in accordance with the decision of Council on 27 March 2018 be noted.
2. Council endorse the change in title of the current Regulatory and Assessment Service Unit to be retitled Regulatory, Planning and Assessment to better represent planning as a core component of the Service Unit.
3. 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 Council determines otherwise.

Carried

The meeting concluded at 8.41pm.