

MINUTES - ORDINARY COUNCIL MEETING 20 DECEMBER 2016 THAT WAS RECONVENED AFTER THE ADJOURNED ORDINARY COUNCIL MEETING HELD ON 13 DECEMBER 2016.

The meeting was held in the Council Chambers, 2nd Floor City Hall on Tuesday 20 December 2016 at 6.36pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors D Clausen, T Doyle, J Dunn, B Luke (retired at 7.30pm) , M Osborne, S Posniak and A Rufo.

IN ATTENDANCE

P Chrystal (Interim Chief Executive Officer), G Cousins (Director Corporate Services), F Cordingley (Director Infrastructure), A Baxter (Acting Director Planning and Regulatory), M Blackburn-Smith (Manager Development & Building Services), F Giordano (Manager Governance and Legal), N Baker (Chief of Staff), K Hyland (Manager Communications and Engagement), B Johnson (Media Officer), A Leach (Council Services/Minutes) and A Knowles (Council Services/Webcasting).

Mr Stephen Blackadder, Blackadder Associates.

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

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Posniak

Council recommit apologies for this meeting.

Carried

MOTION

Moved by Cr Osborne, seconded by Cr Posniak

The apologies submitted on behalf of Councillors Tierney and Waterhouse be received.

Carried

Councillor Dunn left the Chamber at 6.38pm and returned at 6.40pm

PROCEDURAL MOTION

Moved by Cr Nelmes

The Lord Mayoral Minute on the appointment of an Interim Chief Executive Officer lay on the table to the next Ordinary Council Meeting and that the matter be referred to an independent Office of Local Government accredited Conduct Reviewer for review, noting that the independent recruiter Stephen Blackadder who has more than thirty years' experience in local government, has attended Council on two evenings to outline the process, and has additionally provided a detailed written report addressing Councillor concerns. The Conduct reviewer is to additionally investigate actions by Councillors relating to the reported conversations between ■■■■■■■■, ■■■■■■■■ and ■■■■■■■■ prior to interviews and the fact that none of these 'concerns' were raised by ■■■■■■■■ during the process and the removal of confidential information from Council Chambers to ensure compliance with the requirements of the Local Government Act, Council's Code of Contact and Code of Meeting Practice.

Carried

REPORTS BY COUNCIL OFFICERS

ITEM-105 CCL 13/12/16 - ADOPTION OF AMENDED MEETING SCHEDULE FOR APRIL 2017

MOTION

Moved by Cr Osborne, seconded by Cr Clausen

That Council:

1. Amend its Ordinary Council Meeting schedule for the first and second quarters of 2017 so that:
 - a) Council meets on the fourth Tuesday in January;
 - b) Council meets on the second and fourth Tuesday in February, March, May and June; and
 - c) Council meets on the last Wednesday (26th) of April (to prevent a clash with school holidays and ANZAC Day).

Carried

ITEM-106 CCL 13/12/16 - TABLING OF PECUNIARY INTEREST RETURNS

MOTION

Moved by Cr Clausen, seconded by Cr Osborne

That Council notes the pecuniary interest returns as tabled by the Interim Chief Executive Officer for the period 1 July 2016 and 31 October 2016.

Carried

MOTION

Moved by Cr Posniak, seconded by Cr Osborne

That Council receive and note Council's Code of Conduct Statistics Report for the period 1 September 2015 to 31 August 2016 at **Attachment A**.

Carried

ITEM-107 CCL13/12/16 - CODE OF CONDUCT COMPLAINTS STATISTICS REPORT

MOTION

Moved by Cr Posniak, seconded by Cr Osborne

That Council receive and note Council's Code of Conduct Statistics Report for the period 1 September 2015 to 31 August 2016 at **Attachment A**.

Carried

ITEM-108 CCL 13/12/16 - AUDIT REPORT COMMITTEE AND INTERNAL AUDIT ANNUAL REPORT

MOTION

Moved by Cr Posniak, seconded by Cr Doyle

That Council receives the Audit Committee and internal audit annual report for the 2015/2016 financial year.

Carried

ITEM-109 CCL 13/12/16 - PROPOSED ROAD CLOSURE AND SALE OF PART OF LAND OFF NEWCOMEN STREET, NEWCASTLE

MOTION

Moved by Cr Osborne, seconded by Cr Clausen

- 1 (i) Council endorses the closure of the end of the lane off Newcomen Street, Newcastle, adjacent to Lot 1 DP 981842;

- (ii) Subject to receiving approval for the road closure from the Crown (NSW Department of Primary Industries - Crown Lands), Council approves the sale of the parcel of land to the adjoining owner for \$60,000 (plus GST) as determined by an independent certified valuer. All costs including legal, survey and service relocation will be borne by the applicant;
- (iii) Authority be granted to the Interim Chief Executive Officer or his delegate to execute all relevant documentation to effect the transactions; and
- (iv) The revenue received by Council from the sale of the land be transferred to the Land and Property Reserve.

Carried

ITEM-110 CCL 13/12/16 - ADOPTION OF HUNTER ESTUARY COASTAL ZONE MANAGEMENT PLAN

MOTION

Moved by Cr Osborne, seconded by Cr Posniak

Council adopts the Hunter Estuary Coastal Zone Management Plan (**Attachment A**).

Carried

ITEM-111 CCL 13/12/16 - WESTERN CORRIDOR DISTRICT SPORT AND RECREATION COMPLEX

MOTION

Moved by Cr Osborne, Cr Doyle

The item lay on the table until the status of the land is clarified.

Carried

ITEM-112 CCL 13/12/16 - ADOPTION OF THE GENERAL COMMUNITY USE PLAN OF MANAGEMENT

MOTION

Moved by Cr Posniak, seconded by Cr Osborne

The draft GCU PoM (Attachment A) be adopted in accordance with s.40 of the Local Government Act 1993.

Carried

**ITEM-113 CCL 13/12/16 - ADOPTION OF THE NEWCASTLE SAFE CITY
PLAN 2017 - 2020**

MOTION

Moved by Cr Posniak, seconded by Cr Clausen

Council resolves to adopt the Newcastle Safe City Plan 2017 - 2020 (Plan) as provided in **Attachment A**.

Carried

**ITEM-114 CCL 13/12/16 - AMENDMENT TO NEWCASTLE DCP 2012 -
NEW SECTION RESIDENTIAL ACCOMMODATION**

MOTION

Moved by Cr Clausen, seconded by Cr Doyle

1. Council resolves to place the draft amendments to Newcastle Development Control Plan 2012 (DCP), incorporating a new Section 3.03 Residential Accommodation as provided in **Attachment A** and consequential amendments to Part 3 Land Use Specific Provisions, Part 6 Locality Specific Provisions and Part 7 Development Provisions of the DCP, as provided in **Attachment B**, on public exhibition for a minimum of 28 days.
2. That Council receive a workshop on the proposal and feedback at the end of the public exhibition period.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Clausen, Doyle, Dunn, Luke, Osborne, Posniak and Rufo.

Against the Motion:

Nil.

Carried

**ITEM-115 CCL 13/12/16 - RECLASSIFICATION OF LAND AT 21
BRADFORD CLOSE KOTARA****MOTION**

Moved by Cr Dunn, seconded by Cr Posniak

1 Council resolves to:

- i) Endorse the attached planning proposal (**Attachment A**), pursuant to section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), in order to amend Newcastle Local Environmental Plan 2012 (LEP) for land at 21 Bradford Close, Kotara as follows:
 - a) Include the subject land within Part 1 – Land classified or reclassified, as operational land – no interests changed, Schedule 4 Classification and reclassification of public land, as follows:
 - Column 1 to read “*Kotara*”
 - Column 2 to read “Lot 182, DP 850168”
 - ii) Forward the planning proposal to the Minister for Planning and Environment (DPE) for Gateway Determination pursuant to section 56 of the EP&A Act.
 - iii) Advise the Secretary of the Department of Planning and Environment that Council does not seek to exercise delegations for undertaking section 59(1) of the EP&A Act.
 - iv) Receive a report back on the planning proposal following completion of the required consultation and noting section 29 of the Local Government Act 1993 requires a public hearing to be held in respect of the reclassification of land.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Clausen, Dunn, Luke, Posniak and Rufo.

Against the Motion:

Councillors Doyle and Osborne.

Carried

ITEM-116 CCL 13/12/16 - RECLASSIFICATION AND REZONING OF LAND AT 162A NEWCASTLE ROAD WALLSEND

MOTION

Moved by Cr Clausen, seconded by Cr Dunn

1 Council resolves to:

- i) Endorse the attached planning proposal (**Attachment A**), pursuant to section 55 of the *Environmental Planning and Assessment Act 1979 NSW* (EP&A Act), to amend Newcastle Local Environmental Plan 2012 (LEP) in order to reclassify land at 162A Newcastle Road, Wallsend, described as Lot 110 DP 9755, from community to operational and to rezone the land from RE1 Public Recreation to R3 Medium Density Residential.
- ii) Forward the planning proposal to the Department of Planning and Environment (DPE) requesting that a draft Local Environmental Plan be prepared and made pursuant to section 59(1) of the EP&A Act.
- iii) Advise the Secretary of the DPE that Council does not seek to exercise delegations for undertaking section 59(1) of the EP&A Act.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Clausen, Doyle, Dunn, Luke, Osborne, Posniak and Rufo.

Against the Motion:

Nil.

Carried

ITEM-117 CCL 13/12/16 - REPORT ON COUNCIL ATTENDANCE AT UNITED NATIONS CONFERENCE ON HOUSING AND SUSTAINABLE URBAN DEVELOPMENT

MOTION

Moved by Cr Osborne, seconded by Cr Clausen

- 1 Council resolves to receive the report on the conference.
- 2 The United Nations (UN) New Urban agenda (NUA) and sustainable development goals be considered in the preparation of the next Newcastle City Council community strategic plan.

Carried

NOTICES OF MOTION

ITEM-18 NOM 13/12/16 - OPEN AND TRANSPARENT GOVERNANCE STRATEGY

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

That Council:

- 1 A workshop regarding the Strategy will be held during February 2017 with input from the Office of Local Government (OLG), the New South Wales Ombudsman, and the Independent Commission Against Corruption.

- 2 That a communications plan will be developed regarding the Strategy, following the proposed Councillor workshop that communications plan to include:
 - A include the wording of councils decision on public exhibition as soon as possible, seeking relevant feedback, comment, ideas and suggestions from the community on the matters raised in that resolution, and on any other matters related to an effective "Open and Transparent Governance Strategy".

 - B Council develop an appropriate Newcastle Voice survey seeking similar feedback, comment, ideas and suggestions from the community during this period.

 - C Council conduct community workshops to foster community discussion on Council's governance and to gain further community input into Council's Governance Strategy.

3. That a draft Strategy and supporting communications plan be presented to the Ordinary Council Meeting on 28 February 2017.

**Carried
unanimously**

**ITEM-19 NOM 13/12/16 - POLICY AND BUDGETARY SUPPORT FOR
NEWCASTLE COMMUNITY ARTS DEVELOPMENT**

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

Council resolves to:

1. Develop guidelines designed to complement Council's *Cultural Strategy 2016 – 2019* and clearly define how funds can be distributed to those community arts groups who demonstrate capacity to advance the city's cultural landscape.
2. Allocate, within its next four-year planning cycle, provision for ongoing budgetary support with a sum of \$200,000 per annum to this Community Arts Development Program.

AMENDMENT

Moved by Cr Clausen

That Council resolves to:

1. Develop guidelines designed to complement Council's *Cultural Strategy 2016-2019* and clearly define how funds can be distributed to those community art groups who demonstrate capacity to advance the City's cultural landscape.
2. A workshop be held preferably in February but no later than March to discuss budget within the next four year planning cycle for this Community Arts Development Program, noting the *Growing Sustainable Arts and Cultural Organisations in Newcastle* policy presently being drafted for presentation to Council in March 2017.

The mover and seconder accepted the amendment provided it included that the workshop be held *no later than* March. The amendment became the motion before the Chair.

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

That Council resolves to:

1. Develop guidelines designed to complement Council's *Cultural Strategy 2016-2019* and clearly define how funds can be distributed to those community art groups who demonstrate capacity to advance the City's cultural landscape.
2. A workshop be held preferably in February no later than March to discuss budget within the next four year planning cycle for this Community Arts Development Program, noting the *Growing Sustainable Arts and Cultural Organisations in Newcastle* policy presently being drafted for presentation to Council no later than March 2017.

Carried

**ITEM-20 NOM 13/12/16 - OPEN AND TRANSPARENT GOVERNANCE -
LIFTING THE CORPORATE VEIL**

MOTION

Moved by Cr Osborne, seconded by Cr Doyle

1. That Council write to the Premier, the Minister for Local Government, and local State MPs, to encourage them to amend the Local Government Act 1993 to require companies that have dealings with councils across NSW to disclose transparency details of their directors and significant stakeholders;
2. Include on the agenda for the workshop with Councillors process as part of the Open and Transparent Governance Strategy during February 2017 to include:
 - a) Establishing procedure that ensures the highest level of transparency , accountability and probity in our City's governance by requiring that anyone who has dealings with Council through a Corporate entity (including through tenders, consultancies, development applications, planning agreements etc) provide sufficient company details so that names and addresses of all Directors and Major or significant beneficiary stakeholders are identified,
 - b) Options to publish in a Public Register the details of the nature of the dealings with Council, the Corporate entity involved, and the Directors and major or significant beneficiary shareholders.

Carried

**ITEM-21 NOM 13/12/16 - RE-ESTABLISHMENT OF COUNCIL'S
CYCLING WORKING PARTY AND CONVERT TO ADVISORY
COMMITTEE**

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

- 1 Notes this report;
- 2 Establish the Cycling Advisory Committee;
- 3 Approves the Cycling Advisory Committee Charter in the form as attached at **Attachment A**; and
- 4 Council appoints Councillors Clausen, Doyle and Luke as Council's representatives on the Cycling Advisory Committee.

Carried

Councillor Luke gave notice that he had to retire from the Chamber and took leave of the meeting at 7.30pm.

**ITEM-22 NOM 13/12/16 - INCREASING DOG LEASH FREE AREAS
INCLUDING ENCLOSED AREAS**

MOTION

Moved by Cr Osborne, seconded by Cr Doyle

That Council, as a priority:

1. Review the number of Dog Leash Free Areas across the city, with a focus on enclosed off leash areas and the aim to increase the number of designated areas to meet the growing demand.
2. Review the Sportsland Plan of Management, as part of the proposed new Community Land Plan of Management, to allow specific ovals to be used as time-restricted Dog Leash Free Areas (for example, sunrise to 9am, and 5pm to sunset), including regularising the arrangement that was recently in place at Connelly Park in Carrington.
3. Report back to the April 2017 meeting with a draft Community Land Plan of Management to be placed on public exhibition, to outline the timeframe to roll out the new Dog Leash Free Areas (including enclosed areas) and to include any necessary expenditure in the 2017-18 Council Budget process.

AMENDMENT

Moved by Cr Nelmes,

That Council, as a priority:

1. Review the number of Dog Leash Free Areas across the city, with a focus on enclosed off leash areas and the aim to increase the number of designated areas to meet the growing demand.
- 2 Report to the April 2017 meeting to place the proposed new Community Land Plan of Management on public exhibition, to outline the timeframe to roll out the new Dog Leash Free Areas (including enclosed areas) and to include any necessary expenditure in the 2017-18 Council Budget process such a draft Community Land Plan of Management to include consideration of specific sportsgrounds/ovals to be used as time-restricted Dog Leash Free Areas including Connelly Park in Carrington, Novocastrian Park in New Lambton and Waratah Park in Waratah

The mover and seconder accepted the amendment which became the motion before the Chair.

MOTION

Moved by Cr Osborne, seconded by Cr Doyle

That Council, as a priority:

1. Review the number of Dog Leash Free Areas across the city, with a focus on enclosed off leash areas and the aim to increase the number of designated areas to meet the growing demand.
- 2 Report to the April 2017 meeting with a draft Community Land Plan of Management to be placed on public exhibition, to outline the timeframe to roll out the new Dog Leash Free Areas (including enclosed areas) and to include any necessary expenditure in the 2017-18 Council Budget process such a draft Community Land Plan of Management to include consideration of specific sportsgrounds/ovals to be used as time-restricted Dog Leash Free Areas including Connelly Park in Carrington, Novocastrian Park in New Lambton and Waratah Park in Waratah.

**Carried
unanimously**

CONFIDENTIAL REPORTS

ITEM-37 **CON 13/12/16 - CONTRACT FOR FURTHER INVESTIGATION
OF FORMER WARATAH GASWORKS SITE - CONTRACT NO.
2017/222T**

MOTION

Moved by Cr Clausen, seconded by Cr Osborne

Council move into confidential session at 7.47pm.

Carried

Council reconvened into open session at 8.02pm.

MOTION

Moved by Cr Clausen, seconded by Cr Osborne

1 Council resolves to:

- i) Authorise the Interim Chief Executive Officer (Interim CEO) to award Contract 2017/222T for \$307,500 (exc GST) to AECOM Australia Pty Ltd (AECOM) for a further detailed site contamination investigation of the former Waratah Gasworks site.
- ii) Decide in accordance with s.55(3)(i) of the Local Government Act (Act) that by reason of the extenuating circumstances a satisfactory result would not be achieved by inviting tenders for that contract.
- iii) State for the purposes of s.55(3)(i) of the Act the reasons for that decision are as follows:
 - a) AECOM are the recognised industry experts in gasworks investigation and rehabilitation and currently hold much of the relevant information with respect to this former gasworks site; and
 - b) In order to promptly manage and respond to any risks the investigations need to be carried out expeditiously.

2 This confidential report relating to the matters specified in sections and 10A(2)(d) of the Act be treated as confidential and remain confidential until Council determines otherwise.

Carried

The meeting concluded at 8.05pm