

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 27 October 2015 at 5.37pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors D Clausen D Compton (*retired 9.50pm*), T Crakanthorp (*arrived 6.07pm*), T Doyle, J Dunn, B Luke (*retired approx. 9.48pm*), M Osborne, S Posniak, A Robinson (*retired 9.29pm*) and A Rufo (*retired 9.50pm*).

IN ATTENDANCE

K Gouldthorp (General Manager), G Cousins (Director Corporate Services), F Cordingley (Director Infrastructure), P Chrystal (Director Planning and Regulatory), L Burcham (Cultural Director), F Giordano (Manager Council and Legal Services), A Baxter (Manager Regulatory Services), R Bales (Customer Service Manager), J Gaynor (Manager Strategic Planning), G Sainsbury (Contracts and Projects Manager), D Fischetti (Communications), K Sullivan (Council Services/Minutes) and A Leach (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 Osborne, seconded by Cr Doyle

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

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke

Councillor Luke declared a less than significant non-pecuniary interest in Items 89- Executive Monthly Performance Report, as Council may invest with businesses he is associated with. Councillor Luke said the interest was less than significant as the report to Council was to be received and he was not involved in any decision making processes.

Councillor Luke

Councillor Luke declared a non-pecuniary less than significant interest in Item 90 - Adoption of 2014/15 Annual Financial Statements which included a report from Council's auditors PWC. Councillor Luke advised that his son had received a job offer from PWC to commence in the new year and regarded the interest less than significant.

Councillor Clausen

Councillor Clausen declared a less than significant non-pecuniary interest in Item 92 - Options for a Rainbow Crossing in a Public Space, relating the declaration to Clause 14 of the Code of Conduct and advised that he had received in kind support from the Newcastle Trades Hall during his election campaign and the Trades Hall Council had written a letter to all councillors in respect of that item.

Lord Mayor Councillor Nelmes

The Lord Mayor declared a less than significant non-pecuniary interest in Item 92 - Options for a Rainbow Crossing in a Public Space advising that she had received electoral funding from the Trades Hall Council in previous elections.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - EXTRAORDINARY COUNCIL MEETING 8 SEPTEMBER 2015

MINUTES - PUBLIC VOICE COMMITTEE HELD 15 SEPTEMBER 2015

MINUTES - BRIEFING COMMITTEE 15 SEPTEMBER 2015

MINUTES - ORDINARY COUNCIL MEETING 22 SEPTEMBER 2015

Councillor Clausen sought to lift confidentiality on Item 34 - CCL 22/09/15 - Newcastle City Council and Newcastle University Partnership to Promote International Training Opportunities, as contained in the minutes of 22 September 2015.

The General Manager advised that the minutes were a true and correct record of the decisions made at the meeting and suggested Councillor Clausen move the matter as a late item of business to lift confidentiality on the report.

Councillor Clausen indicated gave notice of a late item of business in this regard.

MOTION

Moved by Cr Clausen, seconded by Cr Osborne

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

Carried

REPORTS BY COUNCIL OFFICERS

ITEM-87 CCL 27/10/15 - TABLING OF PECUNIARY INTEREST RETURNS 2014-2015

MOTION

Moved by Cr Posniak, seconded by Cr Osborne

In accordance with the requirement of section 450A of the Local Government Act, the completed pecuniary interest returns that have been lodged with the General Manager by designated persons in respect of the period 1 July 2014 to 30 June 2015 and which are required to be kept on a register be:

- (a) formally tabled by the General Manager at the Council meeting to be held on 27 October 2015; and
- (b) noted by Council.

Carried

ITEM-88 CCL 27/10/15 - FEDERAL COURT PROCEEDINGS - AWABAKAL AND GURINGAI PEOPLE

MOTION

Moved by Cr Posniak, seconded by Cr Rufo

That Council resolves to:

- (a) receive this report; and
- (b) approve Council seeking the leave of the Federal Court to be joined as a respondent party in the Federal Court legal proceedings NSD780 of 2013.

Carried

ITEM-89 CCL 27/010/15 - EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION

Moved by Cr Posniak, seconded by Cr Rufo

The report be received.

Carried

ITEM-95 CCL 27/10/15 - NEWCASTLE EYE HOSPITAL - ADOPTION OF AMENDMENT TO NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012

MOTION

Moved by Cr Rufo, seconded by Cr Posniak

Council resolves to:

- a) Endorse Planning Proposal PP_2015_NEWCA_002_00 for land at Lots 2, 3 & 4 DP 21366; Lot 7 DP 660745; Lot 8 DP 660746; Lots 1 & 2 DP 1114442 and Lots 100 and 101 DP 569322, with a street address of 174 - 182 Christo Road, Waratah and 114 - 116 Griffiths Road, Lambton to:
 - i) include 'health services facility' as an additional Schedule 1 permitted use.
 - ii) amend the height of buildings map to include a maximum permissible height of 10 metres over part of the land.

as outlined in the Planning Proposal at **Attachment A**.

- b) Forward Planning Proposal PP_2015_NEWCA_002_00 to the Department of Planning and Environment requesting that a draft Local Environmental Plan be prepared and made pursuant to Section 59(1) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.
- c) 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*.

For the Motion:

The Lord Mayor, Councillors Clausen, Compton, Doyle, Dunn, Luke, Osborne, Posniak, Robinson and Rufo.

Against the Motion:

Nil.

Carried

ITEM-98 CCL 27/10/15 - STREETS SAFE NIGHTTIME OUTREACH PILOT PROGRAM

MOTION

Moved by Cr Osborne, seconded by Cr Posniak

That Council resolves to:

- a) Note the Streetsafe Pilot Project and executed MOU with the Salvation Army.
- b) Council's intention to enter into a funding agreement with the Salvation Army for this project.
- c) Request a report back at the end of the trial period.

Carried

ITEM-100 CCL 27/10/15 - TEMPORARY SUSPENSION OF ALCOHOL FREE ZONES LAMAN STREET NEWCASTLE BETWEEN DARBY STREET AND DAWSON STREET

MOTION

Moved by Cr Rufo, seconded by Cr Osborne

Council approve the temporary suspension of the AFZ for Laman Street Newcastle between Darby Street and Dawson Street on Friday 27 November 2015 from 5.30pm to 10.30pm for the purpose of an Art Gallery exhibition opening event. This suspension is subject to the event organiser, Council's Newcastle Art Gallery, meeting all requirements of the NSW Police - Newcastle Local Area Command (LAC) and Council.

Carried

At this stage of the meeting Councillor Osborne gave notice of a late item of business relating to the IPART report on "Fit for the Future" NSW Government response.

The General Manager stated that he had tabled a late item of business in respect of the abovenamed report.

ITEM-90 CCL27/10/15 - ADOPTION OF 2014/15 ANNUAL FIANNCIAL STATEMENTS

MOTION

Moved by Cr Luke, seconded by Cr Compton

Council receives and adopts Council's Financial Statements and accompanying notes, in respect of the year ended 30 June 2015, together with the Auditor's Report (Attachment A).

Carried

Councillor Crakanthorp arrived at the meeting at 6.07pm.

Councillor Osborne gave notice of a late item of business that being the General Manager's Performance Review.

ITEM-91 CCL 27/10/15 - COUNCILLOR REPRESENTATION ENVIRONMENTAL ADVISORY COMMITTEE

MOTION

Moved by Cr Osborne, seconded by Cr Doyle

Councillor Clausen be appointed as a Council's representative on the EAC.

Carried

ITEM-92 CCL 27/10/2015 - OPTIONS FOR A RAINBOW CROSSING IN A PUBLIC SPACE

Councillor Crakanthorp

Councillor Crakanthorp declared a less than significant non-pecuniary interest in Item 92 - Options for a Rainbow Crossing in a Public Space advising that he had received electoral funding from the Trades Hall Council in previous elections.

An alternate motion to the Officer's recommendation was tabled at the meeting by Councillor Posniak.

MOTION

Moved by Cr Posniak, seconded by Cr Osborne

- 1 The Officer's report be received.
- 2 Council reiterates its commitment to equality and to the provision of a rainbow crossing as a symbol of this commitment.
- 3 Council considers opportunities for delivery of a rainbow crossing as part of current renewal projects that would allow for it to be delivered at minimal additional expense to ratepayers.
- 4 Officer's discuss and report back to Council on the implementation of the proposal distributed to Councillors from Hunter Workers (attached).

Carried

ITEM-93 CCL 27/10/15 - ENDORSEMENT OF EXHIBITION OF DRAFT NEWCASTLE YOUTH COUNCIL COMMITTEE CHARTER

An alternate motion to the Officer's recommendation was tabled at the meeting by Councillor Clausen.

MOTION

Moved by Cr Clausen, seconded by Cr Osborne

- 1 Council places the Newcastle Youth Council Committee Charter on public exhibition for 28 days with the following modifications:
 - a Insertion of new clause 10.2: 'The Chairperson may use the title 'Youth Mayor''
 - b Amendment to clause 13.2.4: "Invitees approved by the General Manager or Facilitator including new members and applicants and individuals on the eligibility list (as defined in 8.4)"
 - c Rephrase clause 19.2: "Youth Council may also provide reports to Council's General Manager"

- d Amendment to clause 22.1: "The Lord Mayor and General Manager are the official spokespeople for the Council, in accordance with Council's Media Policy. No member of Youth Council should speak to the media or members of the public on behalf of Council.
 - e Insertion of clause 22.2: "The Chairperson is the official spokesperson of the Committee and may make media comment in consultation with the Facilitator and Council's Manager Communication and Engagement"
- 2 Council receives a report back on the outcomes of the public exhibition.
 - 3 Council congratulates Youth Mayor Ella Reed on her appointment to the Commonwealth Youth Council, and wishes her success on behalf of the City in relation to her standing for election as Vice-Chair - Inclusion and Engagement of the Commonwealth Youth Council.

Carried

ITEM-94 CCL 27/10/15 - PUBLIC ART ADVISORY COMMITTEE

An alternate motion to the Officer's recommendation was tabled at the meeting by Councillor Posniak.

MOTION

Moved by Cr Posniak, seconded by Cr Doyle

- 1 Council appoints Councillors Dunn, Doyle, Posniak and Rufo to the Public Art Advisory Committee.
- 2 That officers alongside appointed Councillors meet to discuss and revise the Public Art Advisory Committee Charter to ensure it is updated to reflect current Committee practices.
- 3 That officers report back to Council on the proposed update Charter at the December 2015 meeting.
- 4 The Public Art Advisory Committee constitution be amended to provide for four Councillors to be appointed to the Committee.

Carried

The Lord Mayor requested the motion be recorded as unanimous

ITEM-96 CCL 27/10/15 - EXHIBITION OF DRAFT MULTICULTURAL PLAN 2016-2019

MOTION

Moved by Cr Doyle, seconded by Cr Rufo
Council resolves to:

- a) Place the draft *Multicultural Plan 2016-2019* as provided in **Attachment A** on public exhibition for 4 weeks; and
- b) Receive a report back on the outcomes of the public exhibition.

Carried

ITEM-97 CCL 27/10/15 - FIRE KOORAGANG ISLAND AUGUST 2015

MOTION

Moved by Cr Crakanthorp, seconded by Cr Osborne

Council notes this report.

Carried

ITEM-99 CCL 27/10/15 - HUNTER REGIONAL PLAN 2016 - 2020

An alternate motion to the Officer's recommendation was tabled at the meeting by the Lord Mayor.

MOTION

Moved by Lord Mayor Cr Nelmes, seconded by Cr Clausen

Council endorse the following six priorities for Newcastle to be submitted to the RDA-H Regional Plan are:

- Revitalising Newcastle City Centre
- Revitalising the Newcastle Coast including surf lifesaving facilities
- Providing new cycle ways
- Improving swimming pools and parks including upgrade works on No. 1 Sportsground, No. 2 and rebuild the athletics track in order to support/encourage regional sporting events
- Expanding the Art Gallery
- Expansion of the proposed light rail project for Newcastle arising from the Lord Mayoral Minute adopted at the Council meeting of 22 September 2015.

Carried

NOTICES OF MOTION

ITEM-22 **NOM 27/10/15 - RAIL RETENTION**

Councillor Doyle moved an alternate motion to the motion printed in Council's business paper.

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

- 1 Council reaffirms its support for the retention of intercity rail service to Newcastle station.

- 2 That we call on the State Government to reaffirm its commitment to Newcastle City Council having the final planning consent for land use on the rail corridor.

Carried

CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Lord Mayor Cr Luke, seconded Cr Posniak

Council proceed into confidential session for discussion on Confidential Item 36 for the reasons outlined in the business papers:

- Con 27/10/15 - Provision of Security Services - Contract No. 2015/374T

Council resolved to move into confidential session at 7.15pm and reconvened into Open Council at 7.18pm and the General Manager announced the detail of the resolution approved in confidential session.

ITEM-36 **CON 27/10/2015 - PROVISION OF SECURITY SERVICES - CONTRACT NO. 2015/374T**

- 1 Council accept the tender of Sydney Night Patrol & Inquiry Co Pty Ltd for the provision of security services for Contract No. 2015/374T with payments to be made at the tendered unit rates.

- 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.

Resolved in confidential session

LATE ITEMS OF BUSINESS

ITEM-101 CCL 27/10/15 - IPART REPORT ON "FIT FOR THE FUTURE" NSW GOVERNMENT RESPONSE

The General Manager tabled a late item of business to provide Council with a brief on IPART's findings in respect to Newcastle City Council's Fit for the Future submission and related announcements from the Premier and Minister for Local Government.

PROCEDURAL MOTION

Moved by Cr Osborne, seconded by Cr Posniak

That the matter of *IPART Report on "Fit For The Future" NSW Government Response* be considered a late item of business because the Sydney-centric State Government only released their assessments of local government Fit for the Future proposals last Tuesday 20 October 2015 and Newcastle Council needs to respond.

Council adjourned at 7.23pm to consider the report tabled by the General Manager.

Council reconvened at 7.34pm.

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

- A An Extraordinary meeting of Council be held prior to 18 November 2015. That meeting will consider:
- 1 The ramifications and the implications of the IPART report on Newcastle.
 - 2 The issues to be addressed in any further submission as invited by the Minister
 - 3 Alternative proposals to address the issues raised in the report
- B That Council:
- 1 Notes that Newcastle meets all the financial criteria for future sustainability set by the State Government.
 - 2 Writes to IPART requesting a clear outline of the methodology used to ascertain the extent to which Newcastle Council satisfied the criterion of "Scale and Capacity".
 - 3 The Lord Mayor, Deputy Lord Mayor and General Manager liaise with neighbouring Councils to discuss boundary adjustments that would provide benefit to the community.

- 4 Consider a complete poll of electors, in accordance with Part 3 of the Local Government Act 1993, asking the question: "Should Newcastle City Council and Lake Macquarie City Council merge?"

Carried

**ITEM-102 CCL 27/10/15 - NEWCASTLE CITY COUNCIL AND
NEWCASTLE UNIVERSITY PARTNERSHIP TO PROMOTE
INTERNATIONAL TRAINING OPPORTUNITIES**

Councillor Clausen indicated that the matter of Newcastle City Council and Newcastle University partnership to promote international training opportunities was now in the public domain and sought to lift confidentiality on the confidential report, as referenced in part 3 of the resolution passed by Council on 22 September 2015.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Osborne

The matter of Newcastle City Council and Newcastle University Partnership to Promote International Training Opportunities be received as a late item of business due to matter being currently in the public domain and Council seek to lift confidentiality on the report.

Carried

MOTION

Moved by Cr Clausen, seconded by Cr Osborne

Confidential report Item 34 - CCL 22/09/15 - Newcastle City Council and Newcastle University Partnership to Promote International Training Opportunities become public and confidentiality be removed.

Carried

The Lord Mayor requested the motion be recorded as unanimous

ITEM-103**CCL 27/10/15 - GENERAL MANAGER PERFORMANCE REVIEW PANEL REPORT**

Councillor Osborne indicated that at its meeting on 22 September 2015 Council resolved in regard to *Review of General Manager's and Lord Mayor's delegations*, that the General Manager's Performance Review Panel be given until 27 October 2015 to further review the Lord Mayor's and General Manager's delegations and submit recommended changes to Council at the Ordinary Council meeting 27 October 2015.

Councillor Osborne advised that the item was not on Council's agenda and tabled a report from the General Manager's Performance Review Committee as a late item of business.

PROCEDURAL MOTION

Moved by Cr Osborne, seconded by Cr Posniak

- 1 That the report of the General Manager's performance review be received as a late item of business in accordance with Council's resolution of 22 September 2015.
- 2 That the item be discussed in seriatim.

Carried

Councillor Osborne tabled a motion that formed four parts, Parts A, B C and D.

PART A**MOTION**

Moved by Cr Osborne, seconded by Cr Posniak

That Council

- 1 Rename the role 'General Manager' as the 'Chief Executive Officer'. The role of the Chief Executive Officer will have the same meaning as that of a 'general manager' appointed under the *Local Government Act 1993*.
- 2 Adopt the Draft Instrument of Delegations to the Chief Executive Officer (Attachment A). These delegations supersede those adopted on 24 September 2013.
- 3 Adopt the Draft Instrument of Delegation to the Lord Mayor (Attachment B). These delegations supersede those adopted 24 September 2013.
- 4 Adopts the updated Organisational Structure (Attachment C).

The General Manager noted the reason why the General Manager Performance Review Panel Report was not included on the Agenda was because the report was not supplied to Council staff in accordance with the timeframe specified in the memorandum to Councillors dated 30 September 2015 from the Manager Council and Legal Services which had been issued to all Councillors on that date. The General Manager tabled the subject memorandum at the meeting.

The General Manager advised the Lord Mayor that amendments to delegations were not considered urgent and that it was not good governance to deal with the matter as a late item of business. He further expressed concern that Councillors had not had been given sufficient notice to review the draft amendments.

PROCEDURAL MOTION

Moved by Cr Luke, seconded by Cr Rufo

The matter lay on the table pending legal advice from the Manager Council and Legal Services as to the impact of the proposed delegations.

For the Motion: Councillors Compton, Luke, Robinson and Rufo.

Against the Motion: The Lord Mayor, Councillors Clausen, Crakanthorp, Doyle, Dunn, Osborne and Posniak.

Defeated

PROCEDURAL MOTION

Moved by Cr Doyle, seconded by Cr Luke

Consideration of the delegations as outlined in paragraphs 2 and 3 in Part A lay on the table until the next Council meeting to allow public review of the delegations.

For the Motion: Councillors Compton, Doyle, Luke, Robinson and Rufo.

Against the Motion: The Lord Mayor, Councillors Clausen, Crakanthorp, Dunn, Osborne and Posniak.

Defeated

During discussion Councillor Clausen proposed that Council exhibit the delegations for a period of 28 days.

The Lord Mayor indicated that an extensive process had already been undertaken by the Panel and suggested that if there were any issues in implementing the delegations, a report be brought back to the November Council meeting.

The mover and seconder, in concurrence with Councillor Clausen, agreed to incorporate the Lord Mayor's suggestion as point 5 to Part A of the motion.

PROCEDURAL MOTION

Moved by Cr Luke, seconded by Cr Compton

Council adjourn for ten minutes to consider the late report from the General Manager's Performance Review Committee.

For the Motion: The Lord Mayor, Councillors Clausen, Compton, Crakanthorp, Doyle, Luke, Osborne, Robinson and Rufo.

Against the Motion: Councillors Dunn and Posniak.

Carried

Council adjourned at 8.52pm and reconvened at 9.03pm.

Councillor Luke foreshadowed a rescission motion in respect of Part A.

The motion moved by Councillors Osborne and Posniak incorporating Part A, points 1 to 5 was put to the meeting.

For the Motion: The Lord Mayor, Councillors Clausen, Crakanthorp, Dunn, Osborne and Posniak.

Against the Motion: Councillors Compton, Doyle, Luke, Robinson and Rufo.

Carried

PROCEDURAL MOTION

Moved by Cr Osborne, seconded by Cr Posniak

That the meeting be closed under Section 10A(2)(a) and Section 10A(2)(a) of *the Local Government Act*, and that the General Manager and staff (except for the Minutes Secretary) be excluded from the meeting for the duration of this item, as the discussion relates directly to both the General Manager's Performance and Terms of Employment under Section 376(3) of the *Local Government Act*.

That Council receives a report from the General Manager's Performance Review Committee.

(Note: The latter was referenced as Part B of the tabled motion from Councillor Osborne).

At this stage of the meeting, the General Manager advised the Lord Mayor that there were limitations on when the CEO could be excluded from the meeting and the business to be discussed was not about the performance review of the General Manager.

The Lord Mayor requested the General Manager to be seated and proceeded to put the vote on the procedural motion.

For the Motion: The Lord Mayor, Councillors Clausen, Crakanthorp, Doyle, Dunn, Osborne and Posniak.

Against the Motion: Councillors Compton, Luke, Robinson and Rufo.

Carried

The General Manager requested that the Lord Mayor allow one senior staff member to remain in the meeting for the purpose of overseeing proceedings.

The Lord Mayor stated that she had legal advice providing that all staff except the Council meeting secretaries were to leave the meeting.

Council entered into confidential session at 9.15pm.

The General Manager, senior staff, other Council officers (except the meeting secretaries) and members of the public left the Council Chambers at the request of the Lord Mayor.

In accordance with Council's Code of Meeting Practice, at 9.25pm, Council resolved to extend the meeting to 10.00pm.

PROCEDURAL MOTION

Moved by Cr Crakanthorp, seconded by Cr Doyle

The meeting be extended to 10.00pm if required.

Resolved in confidential session

Councillors Robinson and Luke left the meeting at 9.29pm.

Councillor Robinson did not return to the Council Chamber prior to the meeting's close. Councillor Luke returned when confidential session reconvened at 9.43pm.

Confidential Council adjourned at 9.32pm.

Councillor Rufo left the Chamber at 9.33pm.

Confidential Council reconvened at 9.43pm and the elected members present were the Lord Mayor Councillor Nelmes, Councillors Clausen, Compton, Doyle, Dunn, Luke, Osborne and Posniak.

PROCEDURAL MOTION

Moved by Cr Doyle, seconded by Cr Osborne

Council move out of confidential session.

Resolved in confidential session

Open Council reconvened at 9.46pm.

Members of the public were invited back into the meeting and the Directors and Councillor Rufo joined the meeting.

In the General Manager's absence the Lord Mayor reported back on the items resolved by Council during confidential session.

ITEM-103 - CCL 27/10/15 - GENERAL MANAGER PERFORMANCE REVIEW PANEL REPORT

PART C

- 1 That the General Manager's contract of employment be terminated forthwith.
- 2 That pending the appointment of a new Chief Executive Officer (General Manager) the Lord Mayor be delegated authority to appoint an Interim Chief Executive Officer.
- 3 That the Interim Chief Executive Officer undertakes all steps:
 - a Secure the General Manager's Office allowing the General Manager to remove personal items only
 - b Recover all Council property (including intellectual property) in the possession of the General Manager, including property located at the General Manager's residence
 - c Remove the General Manager's access to Council's servers and electronic equipment
- 4 That the Lord Mayor be delegated the authority to negotiate a settlement with the General Manager under the General Manager's Contract of Employment dated 17 September 2013 and execute on behalf of Council any agreement as to the termination of the General Manager.
- 5 That the quantum of any settlement be paid out of the staff redundancy reserve or equivalent.
- 6 That the Lord Mayor communicate this decision to the General Manager and staff.

PART D

- 1 That Council appoint a Chief Executive Officer Recruitment Panel consisting of the Lord Mayor, Councillor Michael Osborne and Councillor Stephanie Posniak.
- 2 That the Chief Executive Officer Recruitment Panel be delegated authority to:

- a Ensure the Chief Executive Officer's position description is current and evaluated in terms of salary to reflect the responsibilities of the position
- b Advertise the position according to the requirements of the Act and guidelines
- c Shortlist and undertake preliminary interviews of shortlisted candidates
- d Present two final shortlisted candidates to Council for final decision

At its discretion, the Chief Executive Officer Recruitment Panel (in consultation with the Interim Chief Executive Officer) may engage a recruitment agency to undertake this task.

Resolved in confidential session

The Lord Mayor also reported that in confidential session a matter of great urgency was received and a rescission motion was submitted by three Councillors to rescind CCL 27/10/15 - *General Manager Performance Review Panel Report, Parts A, B, C and D*.

The matter was held in closed session as it was considered to be in accordance with Section 10A(2)(a) and Section 10A(2)(a) of *the Local Government Act*, as the discussion related directly to both the General Manager's Performance and Terms of Employment under Section 376(3) of the *Local Government Act*.

The Lord Mayor advised that the rescission motion was defeated and Council's decision in respect to Parts A to D upheld.

In the interests of open governance and transparency, the Lord Mayor, requested Councillor Clausen recommit the rescission motion given that Parts A and B were earlier dealt with in open Council.

NOTICE OF MOTION 27/10/15 - NOTICE OF MOTION TO RESCIND A COUNCIL RESOLUTION - CCL 27/10/15 - GENERAL MANAGER PERFORMANCE REVIEW PANEL REPORT

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Osborne

The item of late business which was a rescission motion in respect to CCL 27/10/15 - *General Manager Performance Review Panel Report, Parts A, B, C and D* be recommitted on the following basis:

"A late item of business is allowed under Clause 241.3 of the Local Government Regulation 2005 and page 40 of the Office of Local Government Meeting Practice notes issued as Number 16. Both allow rescission motions to be held as late items of business when they are of great urgency.

In relation to the Code of Meeting Practice, Clause 3.3, I believe, of Newcastle City Council's Code of Meeting Practice, states that where there is an inconsistency between the Guidelines and the Regulation and Council's Code of Meeting Practice then the Regulations and the Guidelines prevail therefore the putting of a rescission motion to the Council as a late item of business of great urgency is in line with both the Act, the Regulation and the Guidelines and therefore should be upheld this evening".

Councillor Luke retired from the meeting following the recommittal of Councillor Clausen's rescission motion.

Councillor's Compton and Rufo then retired from the meeting at 9.50pm.

The Lord Mayor advised that she was of the understanding Council was voting on the motion as read verbatim by Councillor Clausen.

The Lord Mayor requested those Councillors to vote in favour of rescinding Parts A, B, C and D of the General Manager's Performance Review. She then called for those Councillors voting against.

For the Motion: Nil.

Against the Motion: The Lord Mayor Cr Nelmes, Councillors Clausen, Crakanthorp, Doyle, Dunn, Osborne and Posniak.

Defeated

The Lord Mayor declared the rescission motion defeated and Parts A, B, C and D of the motion standing as a resolution of Council and as such to be enacted forthwith.

The meeting concluded at 9.53pm.