

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 24 November 2015 at 5.45pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors D Clausen D Compton (*retired 9.15pm*), T Crakanthorp, T Doyle, J Dunn, B Luke, M Osborne, S Posniak, A Robinson (*retired 8.43pm*), A Rufo (*retired 8.46pm*), L Tierney (*retired 9.15pm*) and S Waterhouse (*retired 9.15pm*).

IN ATTENDANCE

F Cordingley (Interim Chief Executive Officer), G Cousins (Director Corporate Services), G Essex (Acting Director Infrastructure), P Chrystal (Director Planning and Regulatory), F Giordano (Manager Council and Legal Services), J Gaynor (Manager Strategic Planning), A Glauser (Manager Finance), G Sainsbury (Manager Contracts and Projects), I Challis (Contracts Management Specialist), K Baartz (Communications Manager), 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.

Especially remembered were Gill Docking, Council's inaugural Art Gallery Director and victims of the recent terrorist events in Paris. The Lord Mayor read that 'we stand together in peace, remembrance and solidarity with Newcastle's French community as they overcome the Friday 13 November 2015 attacks in Paris.'

PROCEEDINGS IN BRIEF

The Lord Mayor officially welcomed Frank Cordingley to the meeting, in his new role as Interim Chief Executive Officer.

APOLOGIES

Nil.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke

Councillor Luke declared a less than significant non-pecuniary interest in Items 109 - 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.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES OF BRIEFING COMMITTEE 20 OCTOBER 2015 MINUTES OF ORDINARY COUNCIL MEETING 27 OCTOBER 2015

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

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

Carried

REPORTS BY COUNCIL OFFICERS

ITEM-106 CCL 24/11/15 - 2016 COUNCIL MEETING CYCLE AND DATES

MOTION

Moved by Cr Posniak, seconded by Cr Rufo

Council adopts the following meeting schedule for 2016 with meetings to commence from 5.30pm:

(a) For the period February to November:

Week 1 – Tuesday	No scheduled meetings
Week 2 – Tuesday	Workshops and community consultation events (as required)
Week 3 – Tuesday	Committee Meetings (as required): <ul style="list-style-type: none">• Inspection Committee• Public Voice Committee• Briefings Committee• Development Applications Committee
Week 4 – Tuesday	Ordinary Council Meeting
Week 5 – Tuesday	No scheduled meetings

(b) For December:

Week 1 – Tuesday (6 December 2016)	Committee Meetings (as required): <ul style="list-style-type: none">• Inspection Committee• Public Voice Committee• Briefings Committee• Development Applications Committee
Week 2 – Tuesday (13 December 2016)	Ordinary Council Meeting
Week 3 – Tuesday (20 December 2016)	No scheduled meetings
Week 4 – Tuesday (27 December 2016)	Christmas recess

Carried

**ITEM-108 CCL 24/11/15 - QUARTERLY BUDGET REVIEW STATEMENT -
SEPTEMBER 2015**

MOTION

Moved by Cr Tierney, seconded by Cr Rufo

Council receives the September Quarterly Budget Review Statement (**Attachment A**) and adopts the revised budget as detailed therein.

Carried

**ITEM-109 CCL 24/11/15 - EXECUTIVE MONTHLY PERFORMANCE
REPORT - OCTOBER 2015**

MOTION

Moved by Cr Tierney, seconded by Cr Posniak

The report be received.

Carried

ITEM-110 CCL 24/11/15 - ENDORSEMENT OF 2014/15 ANNUAL REPORT

In moving the motion, Councillors noted the corrections tabled in a memo from Director Corporate Services tabled 24 November 2015 would be incorporated in the final version of the Annual Report.

MOTION

Moved by Cr Clausen, seconded by Cr Rufo

Council receives Newcastle City Council's 2014/2015 Annual Report, in respect of the year ended 30 June 2015 and notes the submission to the NSW Minister for Local Government by 30 November 2015.

Carried

ITEM-115 CCL 24/11/15 FUTURE CITIES PROGRAM 2015 US STUDY TOUR**MOTION**

Moved by Cr Posniak, seconded by Cr Rufo

- 1 Council resolve to receive the report on the Future Cities - US Study Tour 2015 at Attachment A.
- 2 Council thanks the US Studies Centre and in particular Professor Ed Blakely and his support team for a successful Study Tour and for sharing their expertise and knowledge.
- 3 Council endorse Newcastle City Council's application for membership of the Future Cities Collaborative at the US Studies Centre, University of Sydney.

Carried

The Lord Mayor requested the motion be recorded as unanimous

ITEM-116 CCL 24/11/15 - ALCOHOL FREE ZONES RENEWAL**MOTION**

Moved by Cr Osborne, seconded by Cr Posniak

That Council resolves to:

- (a) Adopt the proposal to re-establish from 18 November 2015 to 31 October 2019 existing Alcohol Free Zones across the LGA for a new four year period; and
- (b) Adopt the proposal to establish new Alcohol Free Zones in Mayfield, Merewether and New Lambton for a four year period until 2019.

Carried

ITEM-119

**CCL 24/11/15 - ENDORSEMENT OF PLANNING AGREEMENT -
HEXHAM TRAIN SUPPORT FACILITY**

MOTION

Moved by Lord Mayor Cr Nelmes, seconded by Cr Luke

Council resolves to:

- a) endorse the Planning Agreement for Hexham Train Support Facility as outlined in **Attachment A**.
- b) authorise the Interim Chief Executive Officer to execute the Planning Agreement.

Carried

ITEM-120

CCL 24/11/15 - GURAKI COMMITTEE REVIEW

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

- 1 Council place the revised draft Guraki Aboriginal Advisory Committee Charter on public exhibition for community feedback subject to the following amendments:
 - Reinstate Clauses 1.1.12, 6.3.2. These refer to the role of a “secretary” Reinstate all clauses that refer to the secretary
 - 2 Strategic Alignment
Strategic Alignment be changed to
“This committee aligns with strategic priorities identified by Council’s *Newcastle Community Strategic Plan (Newcastle 2030)* and is consistent with Council’s Reconciliation Action Plan
 - Change all references to 5 August 2015 to 2016
- 2 Re-launch Council's 1998 Commitment to Aboriginal and Torres Strait Islander Peoples during Reconciliation Week in May 2016.

Carried

ITEM-104

CCL 24/112015 - ELECTION OF DEPUTY LORD MAYOR

MOTION

Moved by Cr Posniak, seconded by Cr Dunn

- 1 Council approves the term of the Deputy Lord Mayor to be for a period taking effect from 24 November 2015 and concluding on 23 February 2016.
- 2 Council approves the conduct of an election of a Deputy Lord Mayor by ordinary ballot voting in accordance with the election procedures set out in Parts 1 and 2 of Schedule 7 of the *Local Government (General) Regulation 2005 (NSW)* at an election to be conducted at the Ordinary Council Meeting to be held on 24 November 2015.

Carried

The Interim Chief Executive Officer (as the returning officer):

- 1 Announced that nominations had been received for the position of Deputy Lord Mayor from Councillors Osborne and Rufo.
- 2 Distributed ballot forms and called for a vote in favour of each nominee by ordinary ballot.

PROCEDURAL MOTION

Moved by Cr Tierney, seconded by Cr Luke

Council adjourn for five minutes to allow the ballot papers to be distributed.

Carried

Council adjourned at 6.05pm and reconvened at 6.10pm.

The Interim Chief Executive Officer (as the returning officer):

- 3 Declared Councillor Osborne elected as Deputy Lord Mayor for a period from 24 November 2015 to 23 February 2016.

ITEM-105

CCL 24/11/15 - ADOPTION OF PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS POLICY

MOTION

Moved by Lord Mayor Cr Nelmes, seconded by Cr Luke

Council adopt the draft policy for the Payment of Expenses and Provision of Facilities to Councillors at **Attachment A**.

Carried

The Lord Mayor requested the motion be recorded as unanimous

ITEM-107

**CCL 24/11/15 - AUDIT REPORT COMMITTEE AND INTERNAL
AUDIT ANNUAL REPORT**

MOTION

Moved by Cr Dunn, seconded by Cr Osborne

- 1 Council receives the Audit Committee and internal audit annual report for the 2014/2015 financial year (**Attachment A**).
- 2 Council thanks the Audit Committee for its work and diligence since it was established in 2009.

AMENDMENT

Moved by Cr Tierney, seconded by Cr Luke

- 3 Council revert to the organisational structure adopted at the Ordinary Council meeting on 24 September 2013, as it ensures good governance and best practice by having the Internal Audit function reporting more directly to the CEO.

The Lord Mayor ruled the amendment out of order indicating that the issue of the organisational structure would be addressed in an item listed later on Council's agenda.

Councillor Tierney withdrew the amendment and gave notice of a foreshadowed motion.

AMENDMENT

Moved by Cr Luke, seconded by Cr Tierney

- 3 Council note the Audit Committee's comments about the positive results and success in delivering the strategy to return Newcastle City Council to financial sustainability. The Audit Committee commended the work of management and the elected Council over the past three years to achieve this goal. The Audit Committee acknowledged that this has required a sustained effort and that discipline has been maintained around some challenging areas.

For the Amendment:

Councillors Compton, Luke, Robinson, Rufo, Tierney and Waterhouse.

Against the Amendment:

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

Defeated

The motion moved by Councillors Dunn and Osborne was put to the meeting.

For the Motion:

Lord Mayor Cr Nelmes, Councillors Clausen, Crakanthorp, Doyle, Dunn, Osborne and Posniak

Against the Motion:

Councillors Compton, Luke, Robinson, Rufo, Tierney and Waterhouse.

Carried

ITEM-111 CCL 24/11/2015 - WALLSEND LOCAL CENTRE PUBLIC DOMAIN PLAN

MOTION

Moved by Cr Dunn, seconded by Cr Compton

- 1 Council resolves to proceed with the preparation of a Wallsend Local Centre Public Domain Plan as part of a broader Wallsend Town Centre Masterplan.
- 2 Council allocates \$15,000 to undertake this work. \$12,127 of this will be provided from diverted budget from Councillor allowances.

Carried

The Lord Mayor requested the motion be recorded as unanimous

ITEM-112 CCL 24/11/2015 - CULTURAL STRATEGY 2016-2019

MOTION

Moved by Cr Luke, seconded by Cr Compton

Council adopt the Cultural Strategy 2016-2019 in the form as provided in **Attachment A.**

AMENDMENT

Moved by Cr Dunn, seconded by Cr Osborne

PART B

The appointment of a dedicated Art Gallery Director and dedicated Museum Director be considered as part of any future review of Council's organisational structure.

Carried

AMENDMENT

Moved by Cr Doyle

Clause 6.1, Actions

- Change to *establish local stories and cultural identity, including Aboriginal identity, as a criterion for the selection of cultural programming across Council.*

Clause 12.1, Actions

- Change to *establish the reference group of Aboriginal and Torres Strait peoples to advise on cultural development and programming development in consultation with Council's Guraki Committee*
- Add to the beginning of 12.2, 12.3 and 12.4 *in consultation with Council's Guraki Committee.*

The mover and seconder of the motion agreed to incorporate Councillor Doyle's amendment into the motion.

The Lord Mayor put the amended motion from Councillors Luke and Compton, Parts A and B, to the meeting.

Carried

ITEM-113 CCL 24/11/15 - REGIONAL COLLABORATION - CENTRAL EAST ZONE PUBLIC LIBRARIES

MOTION

Moved by Cr Clausen, seconded by Lord Mayor Cr Nelmes

- 1 The Council endorses the Memorandum of Understanding for Regional Collaboration.
- 2 The Council renews representation to the Central East Zone through nomination; and
- 3 The Council notes the application seeking project seed funding from the Public Library Infrastructure Grants to investigate a regional Library management system (OneLMS).

Carried

ITEM-114 CCL 24/11/15 - 4 MAYO STREET, JESMOND - ENDORSEMENT OF PROPOSED AMENDMENT TO NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012

Councillor Crakanthorp indicated that he had a relative living in the vicinity of 4 Mayo Street Jesmond and to avoid a perceived conflict of interest retired from the Chamber at 7.10pm.

MOTION

Moved by Cr Clausen, seconded by Lord Mayor Cr Nelmes

PART A

Council resolves to:

- a) Endorse the attached planning proposal (**Attachment A**), pursuant to Section 55 of the *Environmental Planning and Assessment Act 1979*, in order to amend Newcastle Local Environmental Plan 2012 for land at Part 4 Mayo Street Jesmond, as follows:
- i. Amend the Land Zoning Map to rezone part of the site from RE1 Public Recreation to R2 Low Density Residential.
 - ii. Amend the Height of Buildings Map to include a maximum permissible height of 8.5 metres over the land proposed to be zoned R2 Low Density Residential.
 - iii. Amend the Floor Space Ratio (FSR) Map to include a maximum permissible FSR of 0.75 over the land proposed to be zoned R2 Low Density Residential.
 - iv. Amend the Minimum Lot Size Map to reduce the minimum lot size of 40 hectares to 450m² over the land proposed to be zoned R2 Low Density Residential.
 - v. Amend the Minimum Lot Size Map to reduce the minimum lot size of 40 hectares to 4000m² over the land to remain RE1 Public Recreation.
 - vi. Include the subject land within Part 2 – Land classified or reclassified, as operational land – interests changed within Schedule 4 Classification and reclassification of public land, as follows:
 - Column 1 to read “*Jesmond*”
 - Column 2 to read “Part of Lot 20 DP 230341, being the land in Zone R2 Low Density Residential and part of 4 Mayo Street”.
 - Column 3 to read “Easement for sewage pipeline (R906718) as noted on *Certificate of Title Folio Identifier 20/10396*”.
- b) Forward the planning proposal to the Minister for Planning and Environment for Gateway Determination pursuant to Section 56 of the *EP&A Act 1979*.
- c) Advise the Secretary of Planning and Environment that Council does not seek to exercise delegations for undertaking Section 59(1) of the *EP&A Act 1979*.
- d) Consult with the community and relevant government agencies as instructed by the Gateway Determination, noting that section 29 of the Local Government Act 1993 requires a public hearing to be held in respect of the reclassification of the land.
- e) Receive a report back on the planning proposal following completion of the required consultation.

PART 2

- a) The net proceeds of any future sale of 4 Mayo Street Jesmond be credited to the Land and Property Reserve to be used to upgrade open space areas in Jesmond.
- b) A report be presented to Council proposing local park improvements including to remaining sections of Maclure Reserve and nearby Heaton Park.

Councillor Luke gave notice of a foreshadowed motion.

Following discussion Councillor Clausen withdrew Part 2(a) from the motion.

Part 2 of the motion was then confirmed by the Lord Mayor as:

B A report be presented to Council proposing local park improvements including to remaining sections of Maclure Reserve and nearby Heaton Park.

The amended motion moved by Councillors Clausen and seconded by Lord Mayor Councillor Nelmes was put to the meeting.

For the Motion: Lord Mayor Cr Nelmes, Councillors Clausen, Compton, Dunn, Luke, Posniak, Robinson, Rufo, Tierney and Waterhouse.

Against the Motion: Councillors Doyle and Osborne.

Carried

Councillor Crakanthorp returned to the meeting at the conclusion of this item at 7.31pm.

ITEM-117 CCL 24/11/15 - HERITAGE CONSERVATION AREA REVIEW PROJECT

MOTION

Moved by Cr Luke, seconded by Cr Waterhouse

- 1 Council place the draft Review of Heritage Conservation Areas Report provided in **Attachment A** on public exhibition for a period of six weeks'
- 2 Council commence an extensive community consultation process to notify residents in the various heritage conservation areas about the content and recommendations of the draft report; and
- 3 Council to receive a report on the outcomes of the public exhibition process and the final report.

For the Motion: Lord Mayor Cr Nelmes, Councillors Clausen, Compton, Crakanthorp, Doyle, Dunn, Luke, Osborne, Posniak, Robinson, Rufo, Tierney and Waterhouse.

Against the Motion: Nil.

Carried

ITEM-118 CCL 24/11/15 - HEIGHT OF BUILDINGS - ENDORSEMENT OF PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2012

MOTION

Moved by Lord Mayor Cr Nelmes, seconded by Cr Osborne

Council resolves to:

- a) Endorse the attached Planning Proposal (**Attachment A**), prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), to amend Newcastle LEP 2012 for land in Newcastle City Centre, as follows:
 - i. amend the height of building map for land bounded by Hunter, Newcomen, King and Perkins Streets as identified on the site map in the Planning Proposal at **Attachment A**, to have a maximum building height of 24m; and
 - ii. insert clause 7.9(4) to allow the building height to be exceeded in certain circumstances to a maximum height of 40m AHD.
- b) Forward the Planning Proposal to the Minister for Planning and Environment for Gateway Determination pursuant to Section 56 of the EP&A Act.
- c) Receive a report back on the Planning Proposal after the public consultation period has concluded.

For the Motion: Lord Mayor Cr Nelmes, Councillors Clausen, Compton, Crakanthorp, Doyle, Dunn, Osborne, Posniak and Rufo.

Against the Motion: Councillors Luke, Robinson, Tierney and Waterhouse.

Carried

ITEM-121 CCL 24/11/15 - REVIEW OF THE INSTRUMENTS OF DELEGATION

ITEM-23 NOM 24/11/15 - NOTICE OF MOTION TO RESCIND A COUNCIL RESOLUTION - ITEM 103 LATE ITEM OF BUSINESS - CCL 27/10/15 - GENERAL MANAGER'S PERFORMANCE REVIEW PANEL REPORT (PART A)

Item 121 - CCL Review of the Instruments of Delegation was dealt with in conjunction with Notice of Motion to Rescind a Council Resolution - Item 103 Late Item of Business - CCL 27/10/15 - General Manager's Performance Review Panel Report (Part A).

PROCEDURAL MOTION

Moved by Lord Mayor Cr Nelmes, seconded by Cr Clausen

- 1 That Item 121 - Review of the Instruments of Delegation, lay on the table (with copies to be made available on Council's website, at Council's City Administration Centre Reception and libraries), pending Council arranging the conduct of a Councillor Workshop to be held on Tuesday 1 December 2015 to discuss with Councillors the various operational, relevant issues and improvements to the Instruments of Delegation to the Chief Executive Officer and the Lord Mayor proposed at the Ordinary Council Meeting held on 27 October 2015 with Item 121 being brought back to the Ordinary Council meeting to be held on 8 December 2015 and that the Instruments of Delegation to the General Manager and the Lord Mayor that applied prior to 27 October 2015 continuing to remain in place pending a Council resolution to be passed on 8 December 2015 on this subject; and

- 2 That the Rescission Motion - Item 23 also lay on the table pending its consideration at the Ordinary Council meeting to be held on 8 December 2015.

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

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

Carried

NOTICES OF MOTION

ITEM-24 **NOM 24/11/15 - ZONING OF RAIL CORRIDOR FOR PUBLIC USE**

PROCEDURAL MOTION

Moved by Cr Doyle, seconded by Cr Osborne

The following motion lay on the table until UrbanGrowth has provided their community feedback findings.

Council officers prepare a planning proposal for gateway determination on the railway corridor site that would zone the land for "Special Infrastructure Purposes", including allowances for open space, active transport modes (pedestrian and cycleways), and developments, such as "pop-up" installations and cafes, that will not compromise the eventual return of rail, whether light rail or otherwise to the corridor.

Carried

CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Cr Posniak, seconded by Cr Compton

Council proceed into Confidential session for discussion on Confidential Items 37 and 38 for the reasons outlined in the business papers.

Carried

PROCEEDINGS IN BRIEF

- A Council entered into confidential session at 7.55pm.
- B During confidential session:
 - Councillor Rufo gave notice of a rescission motion, those being Parts B, C and D of Council's resolution of 27 October 2015 in respect to Item 103 - General Manager's Performance Review Panel
 - Councillor Robinson retired from the meeting at 8.43pm
 - Councillor Rufo retired from the meeting at 8.46pm
 - The Lord Mayor left the Council Chamber at 9.01pm and the Deputy Lord Mayor took the Chair
- C Council reconvened at 9.13pm.
- D The Lord Mayor returned to the Chair when Council reconvened into open Council at 9.13pm.
- E The Interim Chief Executive Officer announced the detail of the resolutions approved in confidential session.

Prior to the report from the Interim Chief Executive Officer, Councillors Compton, Tierney and Waterhouse retired from the meeting at 9.15pm.

ITEM-37

**CON 24/11/15 - CITY HALL SOUTHERN & EASTERN FACADE
CONSERVATION CONTRACT 2016/056T**

MOTION

- 1 Council accept the tender of Stone Mason and Artist Pty Ltd in the amount of \$5,150,252.00 (excluding GST) for Newcastle City Hall Southern and Eastern Façade Conservation for Contract No. 2016/056T.
- 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

ITEM-38

**CON 24/11/15 - CHANGING CIRCUMSTANCES WITH
RESPECT OF SETTLEMENT OF FORMER GENERAL
MANAGER'S TERMINATION**

MOTION

- 1 The Lord Mayor's delegation to negotiate the settlement terms of the former General Manager's termination be amended by Council resolving to delegate authority "to a Settlement Review Panel comprising any two Councillors and the Interim Chief Executive Officer, to "negotiate a settlement with the former General Manager in respect of his contract of employment dated 17 September 2013 and all other claims against Council and its Councillors, and to delegate to the Interim Chief Executive Officer to execute on behalf of Council any agreement or Deed of Settlement in respect of the settlement of all claims by the former General Manager in respect of his termination and all other claims against Council and its Councillors."; and
- 2 Councillors Dunn and Posniak are nominated and appointed to the Settlement Review Panel in addition to the Interim Chief Executive Officer.
- 3 This confidential report relating to the matters specified in s10A(2)(g) of the *Local Government Act 1993* be treated as confidential and remain confidential until Council determines otherwise.

Carried

The Lord Mayor thanked Councillors Clausen, Crakanthorp, Doyle, Dunn, Osborne and Posniak for remaining for the conclusion of the Council meeting.

The Lord Mayor expressed Council's dismay at the absence of the Councillors Compton, Luke, Robinson, Rufo, Tierney and Waterhouse who had retired early.

The Lord Mayor noted that Councillor Luke was in the Chamber.

The meeting concluded at 9.17pm.