

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street Newcastle, on Tuesday 14 March 2017 5.35pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors D Clausen, D Compton, T Doyle, J Dunn, B Luke, S Posniak, A Robinson and A Rufo.

IN ATTENDANCE

F Cordingley (Acting Interim Chief Executive Officer), G Cousins (Director Corporate Services), K Liddell (Acting Director Infrastructure), A Baxter (Acting Director Planning and Regulatory), F Giordano (Manager Legal and Governance), J Gaynor (Manager Strategic Planning), P Nelson (Manager Strategic Property), N Baker (Lord Mayor's Chief of Staff), K Baartz (Communications Manager), B Johnson (Media Officer) and K Sullivan (Council Services/Minutes/ 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 Osborne and Waterhouse be received and leave of absence granted.

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

The Lord Mayor called for declarations of pecuniary and non-pecuniary interests. There being no declarations the Lord Mayor moved to the Lord Mayoral Minute.

LORD MAYORAL MINUTE

ITEM-5 LMM 14/03/17 - NEWCASTLE ART GALLERY

MOTION

Moved by Lord Mayor, Cr Nelmes

That Newcastle City Council:

- 1 Note and reiterate Council's commitment to the redevelopment of the Newcastle Art Gallery.

- 2 Meets with incoming Arts Minister Don Harwin to investigate opportunities for joint support of the redevelopment of the Art Gallery, noting the recent announcement by the NSW Government of a commitment to prioritise Cultural Infrastructure Funding in regional NSW.

Carried

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - ORDINARY COUNCIL MEETING 20 DECEMBER 2016

The adopted minutes of the Ordinary Council Meeting held on 20 December 2016 were resubmitted to Council for the purpose of seeking Council approval to adopt a corrected version of the procedural motion tabled by the Lord Mayor regarding the Lord Mayoral Minute on the appointment of an Interim Chief Executive Officer.

MOTION

Moved by Cr Doyle, seconded by Cr Clausen

The revised and corrected draft minutes of the Ordinary Council Meeting held on 20 December 2016 as circulated be taken as read and confirmed subject to the Procedural Motion tabled by the Lord Mayor being read as follows:

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.

Councillor Dunn requested to be advised why the minutes had been redacted.

The Acting Interim Chief Executive Officer stated that the redacted part of the minutes was considered confidential and subject to code of conduct issues.

PROCEDURAL MOTION

Moved by Cr Dunn, seconded by Cr Posniak

The minutes lay on the table until an accurate version of the minutes of 20 December 2016 can be presented to Council.

Carried

MINUTES - ORDINARY COUNCIL MEETING HELD 14 FEBRUARY 2017

MOTION

Moved by Cr Doyle, seconded by Cr Clausen

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

Carried

REPORTS BY COUNCIL OFFICERS

ITEM-15

CCL 14/03/17 - APPLICATION TO THE MINISTER NOT TO FILL THE CASUAL VACANCY IN THE OFFICE OF A WARD 1 COUNCILLOR

MOTION

Moved by Cr Posniak, seconded by Cr Rufo

That Council:

1. Endorses the lodgement of an application with the Minister for Local Government (Minister) in accordance with s. 294(2)(a) of the Local Government Act, 1993 that the Minister order that the casual vacancy in the office of the Ward 1 Councillor not be filled; and
2. Delegates authority to the Interim Chief Executive Officer to prepare and sign the s. 294(2)(a) application on behalf of Council and to lodge the application with the Minister.

Carried

ITEM-16

CCL 14/03/17 - SUMMERHILL WASTE MANAGEMENT CENTRE PROPOSED FEES AND CHARGES 2017/2018

MOTION

Moved by Cr Doyle, seconded by Cr Dunn

- A 1 Council endorses the draft amended 2017/2018 commercial Schedule of Fees and Charges for Waste Management collection, disposal and associated services at **Attachment A** being placed on public exhibition for 28 days.
- 2 Council approves the adoption of the 2017/2018 commercial Schedule of Fees and Charges for Waste Management collection, disposal and associated services as set out at **Attachment A**, if no significant adverse submissions are received during the public exhibition period. If significant adverse comments are received, then a further report to Council seeking approval will be required at the end of the public exhibition period.
- B Council write to the Premier seeking a change in legislation to shift more of the funding from the State Landfill Waste Levy back to Newcastle to allow the implementation of waste diversion technology funding.

Carried

ITEM-17

CCL 14/03/17 - 4 MAYO STREET JESMOND - WITHDRAWAL OF PROPOSED AMENDMENT TO NEWCASTLE LEP 2012

MOTION

Moved by Cr Clausen, seconded by Cr Dunn

Council resolves to forward planning proposal PP_2016_NEWCA_001_00 (**Attachment A**) to the Minister for Planning and Environment with a request to not proceed under section 58(4) of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act).

For the Motion:

The Lord Mayor, Cr Nelmes, Councillors Clausen, Compton, Doyle, Dunn, Luke, Posniak, Robison and Rufo.

Against the Motion:

Nil.

Carried

**ITEM-18 CCL 14/03/17 - SECTION 7.09 ADVERTISING AND SIGNAGE -
ADOPTION OF AMENDMENT TO NEWCASTLE
DEVELOPMENT CONTROL PLAN 2012**

MOTION

Moved by Cr Luke, seconded by Cr Doyle

Council adopts the amended Section 7.09 Advertising and Signage of the Newcastle Development Control Plan 2012 as set out in **Attachment A**.

For the Motion: The Lord Mayor, Cr Nelmes, Councillors Clausen, Compton, Doyle, Dunn, Luke, Posniak, Robison and Rufo.

Against the Motion: Nil.

Carried

**ITEM-19 CCL 14/03/17 - SECTION 7.06 STORMWATER - ADOPTION OF
AMENDMENTS TO NEWCASTLE DEVELOPMENT CONTROL
PLAN 2012**

MOTION

Moved by Cr Clausen, seconded by Cr Doyle

Council adopts the amendments to Section 7.06 Stormwater and Section 9.00 Glossary of the DCP as set out in **Attachment A**.

For the Motion: The Lord Mayor, Cr Nelmes, Councillors Clausen, Doyle, Dunn, Posniak, Robinson and Rufo.

Against the Motion: Councillors Compton and Luke.

Carried

NOTICES OF MOTION

**ITEM-7 NOM 14/03/17 - COUNCIL'S SUPPORT FOR MAYFIELD
BOWLING CLUB AND DANGAR PARK AS OPEN SPACE
PROTECTED FROM PRIVATE DEVELOPMENT**

ORIGINAL MOTION

Noting that

- The Mayfield Bowling Club on the north end of Dangar Park is on public land that has been reserved since 1918 as land for “public parks or grounds for public recreation or as places for bathing.”
- An extraordinary meeting of the Mayfield Bowling Club was held on 8 January 2017 to authorise the club’s Board of Directors to “negotiate and use their discretion to allocate finances on the Clubs (sic) behalf for the possible redevelopment, lease, sale or acquisition of part or parts of the site located at 2A Ingall St Mayfield.”

Council:

- 1 States its strong and unambiguous support for all parts of Dangar Park, including the Mayfield Bowling Club land, to remain as a public park, free from commercial or private development.
- 2 Confirms its opposition to any sale, lease or other disposition of any of the public land on which the Mayfield Bowling Club site is located, and
- 3 Opposes the use of any part of the Mayfield Bowling Club site for commercial, residential or other private development that sees any of the site used for a purpose other than that for which it was reserved in 1918.
- 4 Reaffirms its belief that the provision of affordable housing is a priority issue for council planning but should not be at the expense of public parks and recreation reserves.

Councillors Doyle tabled an alternate motion at the meeting.

ALTERNATE MOTION

Moved by Cr Doyle, seconded by Cr Posniak

Noting that

- The Mayfield Bowling Club on the north end of Dangar Park is on public land that has been reserved since 1918 as land for “public parks or grounds for public recreation or as places for bathing.”
- An extraordinary meeting of the Mayfield Bowling Club was held on 8 January 2017 to authorise the club’s Board of Directors to “negotiate and use their discretion to allocate finances on the Clubs (sic) behalf for the possible redevelopment, lease, sale or acquisition of part or parts of the site located at 2A Ingall St Mayfield.”

A Council:

- 1 States its strong and unambiguous support for all parts of Dangar Park, including the Mayfield Bowling Club land, to remain as a public park.
- 2 Confirms its opposition to any sale, lease or other disposition of any of the public land on which the Mayfield Bowling Club site is located, and
- 3 Opposes the use of any part of the Mayfield Bowling Club site for residential or other private development that sees any of the site used for a purpose other than that for which it was reserved in 1918.

- B 1 Council notes recent legislative changes to Crown Lands, with the Government seeking to transfer ownership of Crown Land to local councils for management under the *Local Government Act 9* (see attachment).

- 2 Council works with the NSW Government to pursue opportunities for Council to take ownership of identified Crown properties across the Newcastle LGA, particularly those where Council is already the Crown Land Manager.

PROCEDURAL MOTION

Moved by Cr Doyle, seconded by Cr Posniak

Parts A and B be dealt with seriatim.

Carried

MOTION

Moved by Cr Doyle, seconded by Cr Posniak

PART A

Council:

- 1 States its strong and unambiguous support for all parts of Dangar Park, including the Mayfield Bowling Club land, to remain as a public park.
- 2 Confirms its opposition to any sale, lease or other disposition of any of the public land on which the Mayfield Bowling Club site is located, and
- 3 Opposes the use of any part of the Mayfield Bowling Club site for residential or other private development that sees any of the site used for a purpose other than that for which it was reserved in 1918.

Carried

MOTION

Moved by Cr Clausen, seconded by Cr Posniak

PART B

- 1 Council notes recent legislative changes to Crown Lands, with the Government seeking to transfer ownership of Crown Land to local councils for management under the *Local Government Act 9* (see attachment).
- 2 Council works with the NSW Government to pursue opportunities for Council to take ownership of identified Crown properties across the Newcastle LGA, particularly those where Council is already the Crown Land Manager.

Defeated

CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Dunn

Confidential Item 3 - Confidential Report - Significant Civil Works Renewal Opportunity be held in open session excluding the details of the individual line amounts in the proposed budget column in the table in paragraph 14.

Carried

ITEM-20 CCL 14/03/17 - SIGNIFICANT CIVIL WORKS RENEWAL OPPORTUNITY (FORMER CONFIDENTIAL ITEM 3 - 14 MARCH 2017)

MOTION

Moved by Cr Posniak, seconded by Cr Clausen

Part A to be completed prior to the implementation of Part B.

- A
- 1 Council co-ordinate with Supercars and Destination NSW (DNSW) and consult with the community on the route selection and the potential to use the Shortland Esplanade route to maximise the view and natural advantage, and minimise heritage and residential concerns in the East End and report back to Council at the next Ordinary Council meeting on the outcome.
 - 2 The MOU that was to be enacted as a result of Council's resolution of July 2016 be executed prior the signing and execution of any contracts for reported works with DNSW.
 - 3 The Foreshore Park POM and Works are presented to Council to ensure the protection and provision of public amenity.
 - 4 Officers engage in legacy item discussions to ensure local benefit is achieved through legacy projects like the expansion of the playground at Foreshore Park, the expedition of the Bathers Way and Coastal Revitalisation Projects like skate facilities at South Newcastle Beach, that the canopy cover is significantly expanded in the East End, and public facilities are upgraded.
- B
- 1 Council approves the commercial in confidence agreement with DNSW to make a financial contribution towards the cost of the procurement and undertaking of renewal civil works within the City of Newcastle Local Government Area.
 - 2 Council authorises the Interim Chief Executive Officer, or his delegate, to execute the agreement with DNSW in respect of the making of the financial contribution together with any associated documentation for, and on behalf of, Council.

- 3 Council approves the financial contribution of \$8.8 million and the allocation of the funding from Council's Major Asset Preservation Program with the majority of the costs being attributable to the 2017/18 financial year.
- 4 Proposed renewal works at Zaara Street, Scott and Nobby's Road are replaced with works to accommodate the relocation of the track to Shortland Esplanade if the community consultation favours that option.
- 5 Council share the costs of relocating the track to Shortland Esplanade with DNSW and Supercars.
- 6 These works form part of the 2017/18 Council budgetary process and Council's surplus operating position is maintained.

PROCEDURAL MOTION

Moved by Cr Doyle, seconded by Cr Clausen

Parts A and Part B be dealt with seriatim.

Carried

Councillors addressed a proposal to realign the Supercars track to continue on Shortland Esplanade through to Wharf Road.

The Acting ICEO stated that as outlined in an All Councillor Memo issued to Councillors 14 March 2017, to change the track layout at this stage would not allow sufficient time to physically complete the work in time for the November 2017 race however an alternate route could be explored as a future option. In addition, the proposed renewal works that Council sought to bring forward and integrate with the proposed race track works being undertaken by Supercars needed to be approved tonight if they were to proceed this year.

Councillor Rufo proposed that if engagement and consultation resulted in a track relocation, Council pursue the implementation of the works program to allow the race to occur in 2017.

At this stage of the meeting the Lord Mayor asked the mover and seconder of the motion to consider deleting Part B(4) and adding a new point:

That if engagement and consultation results in track relocation that Council pursues the advice of the Acting Interim Chief Executive Officer regarding the works program to allow the race to occur in 2017.

The Acting ICEO further requested that Part A to be completed concurrently with the implementation of Part B.

Councillors Posniak and Clausen accepted the changes.

MOTION

Moved by Cr Posniak, seconded by Cr Clausen

Part A to be completed concurrently with the implementation of Part B.

PART A

- 1 Council co-ordinate with Supercars and Destination NSW (DNSW) and consult with the community on the route selection and the potential to use the Shortland Esplanade route to maximise the view and natural advantage, and minimise heritage and residential concerns in the East End and report back to Council at the next Ordinary Council meeting on the outcome.
- 2 The MOU that was to be enacted as a result of Council's resolution of July 2016 be executed prior the signing and execution of any contracts for reported works with DNSW.
- 3 The Foreshore Park POM and Works are presented to Council to ensure the protection and provision of public amenity.
- 4 Officers engage in legacy item discussions to ensure local benefit is achieved through legacy projects like the expansion of the playground at Foreshore Park, the expedition of the Bathers Way and Coastal Revitalisation Projects like skate facilities at South Newcastle Beach, that the canopy cover is significantly expanded in the East End, and public facilities are upgraded.

Carried

MOTION

Moved by Cr Posniak, seconded by Cr Clausen

PART B

- 1 Council approves the commercial in confidence agreement with DNSW to make a financial contribution towards the cost of the procurement and undertaking of renewal civil works within the City of Newcastle Local Government Area.
- 2 Council authorises the Interim Chief Executive Officer, or his delegate, to execute the agreement with DNSW in respect of the making of the financial contribution together with any associated documentation for, and on behalf of, Council.
- 3 Council approves the financial contribution of \$8.8 million and the allocation of the funding from Council's Major Asset Preservation Program with the majority of the costs being attributable to the 2017/18 financial year.
- 4 Council share the costs of relocating the track to Shortland Esplanade with DNSW and Supercars.
- 5 These works form part of the 2017/18 Council budgetary process and Council's surplus operating position is maintained.

6 That if engagement and consultation results in track relocation that Council pursues the advice of the Acting Interim Chief Executive Officer regarding works program to allow the race to occur in 2017.

For the Motion: The Lord Mayor, Cr Nelmes, Councillors Clausen, Dunn, Posniak, Robinson and Rufo.

Against the Motion: Councillors Compton, Doyle and Luke.

Carried

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Posniak

Council proceed into confidential session for discussion on Confidential Item 2 for the reasons outlined in the business papers.

Carried

Council moved into confidential session at 8.05pm.

During confidential session Councillor Posniak declared a non-pecuniary, non-significant conflict of interest in Item 2 - Confidential Property Matter - Compulsory Acquisition of Crown Lands for Road Purposes stating that the report contained advice to and from Harris Wheeler to Council. Councillor Posniak stated that she was a former partner and employee of Harris Wheeler and would absent herself from the Chamber for the determination of the item.

Councillor Posniak left the Chamber.

In addressing the motion, Councillor Clausen highlighted the need for Council to have a discussion about Crown Lands. He foreshadowed a Notice of Motion for the next Council meeting.

Councillor Posniak returned to the Chamber at the conclusion of confidential session.

Council resumed at 8.10pm and the Acting Interim Chief Executive Officer reported on the outcome of confidential session.

ITEM-2

**CON 14/03/17 - CONFIDENTIAL PROPERTY MATTER -
COMPULSORY ACQUISITION OF CROWN LANDS FOR ROAD
PURPOSES**

MOTION

Moved by Cr Clausen, seconded by Cr Luke

- 1 Council proceed with the compulsory acquisition of the land described as Lot 20 DP 1224752 for the purpose of the dedication of the land as a public road known as 'Shortland Esplanade', Newcastle East, in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991.
- 2 Council resolves to make an application to the Minister and the Governor for approval to acquire Lot 20 DP 1224752 known as 'Shortland Esplanade', Newcastle East by compulsory process under section 177(2)(a) of the Roads Act 1993.
- 3 Council resolves to request the Minister for Local Government to approve a reduction in the notification period from 90 days to 30 days in accordance with s. 13(2) of the Land Acquisition (Just Terms Compensation) Act 1991.
- 4 Council delegates authority to the Interim Chief Executive Officer to execute all relevant documentation to effect the compulsory acquisition transaction.
- 5 This confidential report relating to the matters specified in s. 10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until Council determines otherwise.

Carried

The meeting concluded at 8.11pm.