

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 8 December 2015 at 5.38pm.

PRESENT

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

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), P Nelson (Manager Commercial Property), G Sainsbury (Manager Projects and Contracts), K Hyland (Manager Communications and Engagement), K Baartz (Communications Manager), K Sullivan (Council Services/Minutes) and A Knowles (Council Services/Webcasting).

PRAYER

The Lord Mayor read a prayer and a period of silence was observed in memory of those who served and died so that Council might meet in peace.

APOLOGIES

MOTION

Moved by Cr Compton, seconded by Cr Waterhouse

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

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Lord Mayor

The Lord Mayor declared a non-pecuniary significant interest in Item 128 - 505 Minmi Road Fletcher - Adoption of Amendment to Newcastle Local Environmental Plan 2012. The Lord Mayor advised that a member of her family was a past member of the Green Corridor Coalition and that the family member had been today emailing Councillors advocating a position in respect to this matter. The Lord Mayor stated that she would absent herself from the Chamber for discussion on the item.

CONFIRMATION OF PREVIOUS MINUTES

CCL 8/12/15 - MINUTES OF PUBLIC VOICE COMMITTEE 17 NOVEMBER 2015
CCL 8/12/15 - MINUTES EXTRAORDINARY COUNCIL MEETING 17 NOVEMBER 2015

MOTION

Moved by Cr Clausen, seconded by Cr Posniak

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

Carried

MINUTES OF ORDINARY COUNCIL MEETING HELD 24 NOVEMBER 2015

MOTION

Moved by Cr Clausen, seconded by Cr Posniak

The draft minutes as circulated be taken as read and confirmed subject to the final paragraph noting that Councillor Luke was present in the Council Chamber and standing in the doorway.

Carried

LORD MAYORAL MINUTE

ITEM-8

LMM 8/12/15 - NATIONAL GEOGRAPHIC PARTNERSHIP

MOTION

Moved by Lord Mayor Cr Nelmes

Council

- a) Explore a partnership with National Geographic.

Project: ' Smart cities of the world: A National Geographic global initiative'

- b) Invites National Geographic to a workshop in February 2016.

Carried

REPORTS BY COUNCIL OFFICERS

ITEM-122

CCL 08/12/2015 - CODE OF CONDUCT COMPLAINTS STATISTICS REPORT

MOTION

Moved by Cr Osborne, seconded by Cr Posniak

Council receive and note the annual report on Code of Conduct complaints for the period 1 September 2014 to 31 August 2015 at **Attachment A**, about Councillors and the General Manager.

Carried

ITEM-126 **CCL 08/12/15 - FRANCES STREET / BOSCAWEN STREET,
WALLSEND - ROAD HUMP INSTALLATION**

MOTION

Moved by Cr Osborne, seconded by Cr Doyle

Council resolves to approve installation of a road hump at the bend of Frances Street/Boscawen Street, Wallsend.

Carried

ITEM-129 **CCL 08/12/15 - AMENDMENT TO SECTION 3.02 SINGLE
DWELLINGS - NEWCASTLE DEVELOPMENT CONTROL PLAN
2012**

MOTION

Moved by Cr Clausen, seconded by Cr Osborne

Council resolves to place the draft amendments to Section 3.02 Single Dwellings of Newcastle Development Control Plan 2012 as provided in **Attachment A** on public exhibition for 28 days.

For the Motion:

Lord Mayor Cr Nelmes, Councillors Clausen, Compton, Crakanthorp, Doyle, Dunn, Luke, Osborne, Posniak, Robinson, Rufo and Waterhouse.

Against the Motion:

Nil.

Carried

ITEM-133 **CCL 08/12/15 - ADOPTION OF SOCIAL STRATEGY 2016-2019**

MOTION

Moved by Cr Osborne, seconded by Cr Dunn

- 1 Adopt the draft Social Strategy 2016-2019 as provided in **Attachment A**.
- 2 Rescind the following policy documents as they are superseded by the adoption of the Community Strategic Plan Newcastle 2030 and the draft Social Strategy 2016-2019:
 - Human Services Policy 1994;
 - Community Development Policy 2005; and
 - Senior Novocastrians Policy 2007.

Carried

ITEM-135 **CCL 08/12/15 - ADOPTION OF YOUTH WEEK GRANT POLICY**

MOTION

Moved by Cr Clausen, seconded by Cr Doyle

Council adopts the Youth Week Grant Policy as provided in **Attachment A**.

Carried

ITEM-136**CCL 08/12/15 - TEMPORARY SUSPENSION OF ALCOHOL FREE ZONE FOR UPCOMING EVENTS****MOTION**

Moved by Cr Doyle, seconded by Cr Rufo

- (a) Council approve the temporary suspension of the AFZ for Nobbys Beach car parks 1 and 2, Horseshoe Beach car park and Wharf Road between Nobbys Road roundabout and the Pilot Station on Sunday 20 March 2016 from 6am to midnight for the purpose of Sundae Fundaze Festival at Camp Shortland. This suspension is subject to the event organiser, The Clarendon Hotel, meeting all requirements of the Newcastle Local Area Command (LAC) and Council.
- (b) Council approve the temporary suspension of the AFZ in Keightley Lane, Newcastle on Monday 25 April 2016 from 6am to 6pm for the purpose of allowing ANZAC Day activities. This suspension is subject to the event organiser, Newcastle Diggers Club, meeting all requirements of the Newcastle Local Area Command (LAC) and Council.

Carried

At this stage of the meeting, Councillors Rufo and Lord Mayor Cr Nelmes gave notice of late items of business.

ITEM-123**CCL 08/12/15 - NEWCASTLE SHOW HOLIDAY COMMUNITY ENGAGEMENT FEEDBACK****MOTION**

Moved by Cr Osborne, seconded by Cr Posniak

Council receives the report.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Crakanthorp

The report lay on the table to include previous Council's resolutions.

Carried

ITEM-124**CCL 08/12/15 - SUBMISSIONS FOR PROPOSED LEASE OF 33 SAMDON STREET HAMILTON TO ADAMSTOWN PRESCHOOL****MOTION**

Moved by Lord Mayor Cr Nelmes, seconded by Cr Clausen

- a) Council resolves to grant a lease for 33 Samdon Street, Hamilton in accordance with Section 47 of the Act to Adamstown Preschool Services (APS) subject to consent by the Minister for Local Government.
- b) In accordance with Section 47(6) of the Act Council agrees to forward the following for the Minister's information:

- a copy of the Heritage Places Plan of Management (PoM) for Gregson Park;
- details of all objections received and a statement setting out, for each objection, Council's decision and the reasons for its decision;
- a statement setting out all the facts concerning the proposal to grant the lease;
- a copy of the newspaper notice of the proposal;
- a statement setting out the terms, conditions, restrictions and covenants proposed to be included in the lease; and
- a statement setting out the manner in which and the extent to which the public's interest would, in the Council's opinion, be affected by the granting of the proposed lease, including the manner in which and the extent to which the needs of the area with respect to community land would, in the Council's opinion, be adversely affected by the granting of the proposed lease.

- c) Upon receiving consent from the Minister for Local Government for the lease to APS, authority be granted to the Interim Chief Executive Officer or his delegate to execute all relevant documentation to effect the transaction.

Carried

Councillors Osborne and Doyle requested their names be recorded against.

ITEM-125 CCL 08/12/15 - STREET TREE SELECTION MANUAL

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

A Council resolves to place the Street Tree Selection Manual on public exhibition for a period of 28 days (**Attachment A**).

B Council receives a public briefing from Council Officers on the Street Tree Master Plan prior to the February 2016 Ordinary Council meeting.

Carried

ITEM-127 CCL 08/12/15 - REVIEW OF COUNCIL GRANT AND SPONSORSHIP POLICIES

MOTION

Moved by Cr Osborne, seconded by Cr Clausen

Council resolves to place the new and amended sponsorship and grant policies on public exhibition during an extended period over December and January.

AMENDMENT

Moved by Lord Mayor Cr Nelmes

The Event Sponsorship Policy, Economic Development Sponsorship Policy and Community Assistance Grant Policy, to incorporate an amended clause in section 9 to read:

'That in the event the panel cannot reach agreement, the panel recommendations be forwarded to Council to determine.'

The mover and seconder accepted the amendment into the motion.

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

Carried

ITEM-128 CCL 08/12/15 - 505 MINMI ROAD FLETCHER - ADOPTION OF AMENDMENT TO NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012

The Lord Mayor had declared a non-pecuniary significant interest in this item. The Lord Mayor left the Chamber at 6.26pm and asked the Deputy Lord Mayor, Cr Osborne, to take the Chair.

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

- 1 Council resolves not to proceed with the Planning Proposal.
- 2 Council requests the Minister for Planning and Environment to allow Council to discontinue the proposed amendments.

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

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

Carried

The Lord Mayor returned to the Chamber and resumed the Chair at the conclusion of this item at 6.32pm.

ITEM-130 CCL 08/12/15 - 162A NEWCASTLE ROAD WALLSEND - ENDORSEMENT OF PROPOSED AMENDMENT TO NEWCASTLE LEP 2012

MOTION

Moved by Cr Clausen, seconded by Cr Posniak

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 162A Newcastle Road, Wallsend as follows:
 - i. Amend the Land Zoning Map to rezone part of the site from RE1 Public Recreation to R3 Medium Density Residential;

- ii Amend the Height of Buildings Map to include a maximum permissible height of 10 metres over the land proposed to be zoned R3 Medium Density Residential;
 - iii Amend the Floor Space Ratio (FSR) Map to include a maximum permissible FSR of 0.9 over the land proposed to be zoned R3 Medium 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 R3 Medium Density Residential; and
 - v Include the subject land within Part 1 – Land classified or reclassified, as operational land – no interests changed within Schedule 4 Classification and reclassification of public land, as follows:
 - Column 1 to read “*Wallsend*”
 - Column 2 to read “Lot 110, DP9755, 162A Newcastle Road”.
- 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.

For the Motion:

Lord Mayor Cr Nelmes, Councillors Clausen, Compton, Crakanthorp, Dunn, Luke, Osborne, Posniak, Robinson, Rufo and Waterhouse.

Against the Motion:

Councillor Doyle.

Carried

ITEM-131

**CCL 08/12/15 - FRITH AND GAVEY STREETS MAYFIELD -
ENDORSEMENT OF PROPOSED AMENDMENT TO
NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012**

MOTION

Moved by Cr Osborne, seconded by Cr Crakanthorp

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 at 14-22 Frith Street, 18 and 40 Gavey Street and part of 8A Albert Street as follows:
 - i. amend the Land Zoning Map to rezone the land from IN3 Heavy Industrial to IN2 Light Industrial
- 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) Receive a report back if a written objection is received during consultation with the community as per the requirements of Section 57 of the *EP&A Act 1979*, otherwise forward the Planning Proposal to the Secretary, Planning and Environment requesting the proposed amendment to Newcastle LEP 2012 be made.

For the Motion:

The Lord Mayor Cr Nelmes, Councillors Clausen, Crakanthorp, Doyle, Dunn, Luke, Osborne, Posniak, Robinson, Rufo and Waterhouse.

Against the Motion:

Nil

Carried

**ITEM-132 CCL 08/12/15 - COAL RIVER PRECINCT HERITAGE
MASTERPLAN**

MOTION

Moved by Lord Mayor Cr Nelmes, seconded by Cr Osborne

- 1 Council resolves to provide in-principle support for the inclusion of the Coal River Precinct on the National Heritage List (NHL).
- 2 Council notes that the 2016-17 operational plan and budget will include a project to prepare a heritage master plan that presents the Coal River Precinct in a way that aligns with related Council activities including the city centre revitalisation program, the Aboriginal Heritage Management Plan, the review of the Destination Management Plan, the Bathers Way program and the walking trails project.

Carried

The Lord Mayor requested the motion be recorded as having been carried unanimously.

**ITEM-134 CCL 08/12/15 - ENDORSEMENT OF EXHIBITION OF THE
DRAFT ACCESS AND INCLUSION (DISABILITY PLAN) 2016-
2020**

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

Council resolves to:

- a) Place the draft Disability Access and Inclusion Plan as provided in **Attachment A** on public exhibition for 4 weeks; and
- b) Receive a report back on the outcomes of the public exhibition and on how Council can continue to liaise with the disability community in Newcastle about how the city can continue to meet their needs. Such consultation could be through the re-establishment of an access advisory committee.

Carried

The Lord Mayor requested the motion be recorded as having been carried unanimously.

**ITEM-137 CCL 08/12/15 - URBANGROWTH NSW REVITALISING
NEWCASTLE FEEDBACK**

Councillor Doyle asked a question on notice requesting further explanation of graphs in section 3.2.3 on pages 32 and 33 of the revitalising Newcastle Engagement Outcomes Report, December 2015.

MOTION

Moved by Lord Mayor Cr Nelmes, seconded by Cr Rufo

Council receives the reports and notes the outcome of the community consultation.

Carried

The Lord Mayor requested the motion be recorded as having been carried unanimously.

PROCEEDINGS IN BRIEF

PROCEDURAL MOTION

Moved by Cr Luke, seconded by Cr Compton

Notice of Motion Item 25 - Notice of Motion to rescind Council Resolution - Item 103 Late Item of Business - CCL 27/10/15 - General Manager's Performance Review (Part A) be dealt with prior to Item 138 - Supplementary Report - Review Instrument of Delegations, as listed on Council's agenda 8 December 2015.

Carried

NOTICES OF MOTION

ITEM-25 NOM 08/12/15 - 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)

In moving the motion, Councillor Luke noted a misprint in the business paper and confirmed the three Councillors moving the rescission motion were himself and Councillors Compton and Rufo.

MOTION

Moved by Cr Luke, seconded by Cr Compton

Council rescinds the motion Part A, as outlined below, of Report of the General Manager's Performance Review Committee that refers to the delegations to the Chief Executive Officer or General Manager and Lord Mayor.

'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).
- 5 If there were any issues in implementing the delegations, a report be brought back to the November Council meeting.'

Councillor Rufo addressed the meeting and raised legal advice reported in the Newcastle Herald.

The Lord Mayor indicated that Councillor Rufo should not discuss legal advice and stated that she was aware three Councillors, namely, Waterhouse, Rufo and Luke had disclosed emails containing Council legal advice to unknown third parties.

Councillor Waterhouse raised a point of order that the Lord Mayor was making unsubstantiated allegations against herself and other Councillors.

The Lord Mayor stated that she was not making allegations against the three Councillors but a statement of fact.

Councillor Posniak gave notice of a substantive foreshadowed motion in respect of Item 138 - Supplementary Report - Review Instrument of Delegations.

The Lord Mayor indicated that in order to discuss a substantive motion regarding Item 138, Council needed to rescind only Part A (2), (3) and (4) of Council's resolution - Item 103 Late Item of Business - CCL 27/10/15 - General Manager's Performance Review Report.

The Lord Mayor asked the mover and seconder whether they would accept amending the rescission motion.

PROCEDURAL MOTION

Moved by Cr Compton, seconded by Cr Luke

Council adjourn for three minutes to allow Councillors to consider the amendment to the rescission motion.

Carried

Council adjourned at 7.25pm and reconvened at 7.28pm.

Councillors Luke and Compton stated that they would accept the amendment to the motion.

The Lord Mayor confirmed the motion before the Chair:

Council rescinds Part A (2), (3) and (4) of Item 103 Late Item of Business - CCL 27/10/15 - General Manager's Performance Review Report.

The motion was put to the meeting.

For the Motion:

The Lord Mayor Cr Nelmes, Councillors Clausen, Crakanthorp, Doyle, Dunn, Luke, Osborne, Posniak, Robinson, Rufo and Waterhouse.

Against the Motion:

Nil.

Carried

REPORTS BY COUNCIL OFFICERS

**ITEM-138 CCL 08/12/2015 - SUPPLEMENTARY REPORT - REVIEW
INSTRUMENT OF DELEGATIONS**

MOTION

Moved by Cr Posniak, seconded by Cr Osborne

- 1 Council adopts the Instrument of Delegations to the Chief Executive Officer and Lord Mayor at Appendix A of Item 138 with the following minor amendments:
 - a Amend clause 13 of Schedule 1 of the Instrument of Delegation to the Chief Executive Officer to read: 'the appointment of Senior Staff Contract positions unless prior consultation with Council has occurred (the CEO may make transitional or temporary arrangement);'
 - b Delete clause 14 of Schedule 1 of the Instrument of Delegations to the Chief Executive Officer.
 - c Amend clause 3(a) of the Instrument of Delegations to the Lord Mayor to read: 'to act as an official spokesperson of Council'.
 - d Amend clause 3(c) of the Instrument of Delegations to the Lord Mayor to read: 'provided that before a determination is made that a staff member should so represent Council, the Lord Mayor must consult with the Chief Executive Officer'
 - e Amend clause 4(a) of the Instrument of Delegations to the Lord Mayor to read as per clause 1.3 of the Instrument of Delegations to the Lord Mayor adopted 24 September 2013 (ie 'to exercise Council's functions under the Chief Executive Officer's Contract of Employment having regard to any functions of a performance review panel or policy in effect.'
 - f Delete clause 5(a)(i) of the Instrument of Delegations to the Lord Mayor.
- 2 Council adopts the Organisational Structure at Appendix B with amendment to include the 'Lord Mayor and Council' and the 'Lord Mayor's Office' within the Organisational Structure.
- 3 Council notes that from July 2015 there have been consistent resolutions to review the Instruments of Delegation.

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

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

Carried

NOTICES OF MOTION

ITEM-26 **NOM 08/12/15 - 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 B, C AND D)**

MOTION

Moved by Cr Rufo, seconded by Cr Waterhouse

Council rescind the motion Part B, C and D of the report of the General Manager's Performance Review Committee, 27 October 2015.

Councillor Posniak raised a point of order that the rescission motion was rejected by the meeting on 27 October 2015 and was out of order in accordance with Council's Code of Meeting Practice.

The Lord Mayor ruled the point of order upheld and the motion out of order.

Councillor Luke moved dissent against the Lord Mayor's ruling.

The motion of dissent was put to the meeting.

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

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

Defeated

The Lord Mayor declared the motion out of order.

ITEM-27 **NOM 08/12/15 - PUBLIC TRANSPORT IN NEWCASTLE**

MOTION

Moved by Cr Crakanthorp, seconded by Cr Posniak

That Council

- 1 Reiterate support for a geographically focused Hunter Transport Authority to provide a governance structure that
 - a) allows the region to determine public transport outcomes and

- b) investigates opportunities for further transport reform to support a focus on door-to-door customer journeys through greater focus on interchange and multi-modal integration.
- 2 Reiterates the importance of collaborating with Transport for NSW to establish an integrated transport management plan for the city and Region as a priority.
 - a) that integrates with land-use planning
 - b) including forward planning of the next stage of any light rail project, including community consultation on the proposed routes.
- 3 Supporting the continued public ownership, maintenance and operation of the current Hunter transport services including buses, trains, ferries and hubs/Interchanges.
- 4 Urges the NSW Government to consult with Newcastle City Council, our residents and community groups prior to any sale, lease, market engagement, public tender or expressions of interest of Newcastle Buses and Ferries.

Newcastle City Council respectfully requests consultation to include information on:

- any benefits of a fully privately operated network
- any cost implications of a privately operated network
- likely impact on employment of existing bus and ferry operators
- engagement with regional transport committees
- guaranteed bus service maintenance or improvement of bus services
- any proposed exclusion of Newcastle Buses and Ferries from tendering to be the provider of the Newcastle Transport Service.

Further, Newcastle City Council acknowledges and appreciates Lake Macquarie City Council's public support of public ownership, maintenance and operation of Hunter transport services including buses, trains, ferries and hubs/Interchanges

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

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

Carried

ITEM-28 NOM 8/12/15 - OPEN, TRANSPARENT AND ACCOUNTABLE COUNCIL PRACTICES

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

Council officers prepare a report of draft changes to the current *Code of Meeting Practice* for the February 2016 Ordinary Meeting that investigates the following measures:

- 1 Make Councillor/staff workshops and briefings open to the public, subject to requirements governing confidential matters.
- 2 Measures which will allow members of the public to address meetings on agenda items and ask questions at Council meetings, committee meetings and workshops.
- 3 Public notification of Workshops.
- 4 Procedures to be followed by the General Manager under current Code of Meeting Practice Clause 19.5 [LG (General) 2005 Regulation 240 (2)]. *The General Manager must not include in the Agenda for any Meeting any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report any such exclusion to the Meeting of the Council.* For example "If the business to be excluded is a Notice of Motion submitted by one or more Councillors, the General Manager must provide written notification to all Councillors of the decision to exclude the business and the relevant reasons, including the specific grounds on which the business would be unlawful, and any legal advice supporting the General Manager's opinion".
- 5 Provision for including the Terms of Reference for Strategic Advisory Committees and other Council Committees in the Code of Meeting Practice.
- 6 Provisions that will allow Strategic Advisory Committees and Working Parties to make regular reports and recommendations to Council.
- 7 Provision for Council to move into "Committee of the Whole" [Local Government (General) Regulation 259], where it is appropriate.

Carried

ITEM-29 NOM 8/12/15 - TIDYING UP HEADLAND RESERVE KING EDWARD PARK

MOTION

Moved by Cr Doyle, seconded by Cr Osborne

That:

- 1 Newcastle Council recognises that the site of the Headland Reserve (ex-bowling club site) at King Edward Park is of significant community, cultural, historic and tourist value to the city. As such, it deserves to be tidied up from its current neglected and degraded condition. The site should be returned to public enjoyment through the removal of the existing ineffectual fences and the re-establishment of some basic parkland amenities such as mown grass and the removal of access to informal car-parking on the site.

- 2 To this end, Council authorises the Interim Chief Executive Officer to liaise with the Minister responsible for Crown land and Officers of the relevant Crown lands department to bring about the basic rehabilitation of this site until such a time as the matter is finally decided.

Carried

The Lord Mayor requested the motion be recorded as having been carried unanimously.

ITEM-30 NOM 8/12/15 - PROTECTING OUR LAND AND OUR WATER

MOTION

Moved by Cr Osborne, seconded by Cr Doyle

That Council write to the Premier of NSW Mike Baird, Minister for Western Sydney, Anthony Roberts, Minister for Industry, Resources and Energy and Scot MacDonald MLC Parliamentary Secretary for the Hunter requesting that the State Government cancel, extinguish or buy back the petroleum exploration licence PEL 458 which is still in operation over most of the Newcastle local government area and a large proportion of the Lake Macquarie and Port Stephens local government areas.

Carried

CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Cr Posniak, seconded by Cr Doyle

Council proceed into confidential session for discussion on Confidential Items 39 to 41 for the reasons outlined in the business papers.

Carried

Council entered into confidential session at 8.30pm and reconvened at 8.44pm and the Interim Chief Executive Officer announced the detail of the resolutions approved in confidential session.

ITEM-39 CON 08/12/15 - SUMMERHILL WASTE MANAGEMENT CENTRE ORGANICS PROCESSING FACILITY DEVELOPMENT CONTRACT NO. 2016/099T

MOTION

- 1 Council resolves to not accept any tender for Contract No. 2016/099T nor enter into negotiations with any party with a view to entering into a contract. The tenders received were deemed not to be financially viable both from a capital expenditure and operational standpoint.
- 2 Council undertake an investigation to find alternative cost effective solutions for processing of organics.

- 3 This confidential report relating to the matters specified in s10A(2)(d) of the *Local Government (General) Regulation 2005* be treated as confidential and remain confidential until Council determines otherwise.

Carried

The Lord Mayor requested the motion be recorded as having been carried unanimously.

**ITEM-40 CON 08/12/2015 - SUMMERHILL WASTE MANAGEMENT
CENTRE LANDFILL CELL 09 CONSTRUCTION CONTRACT
NO. 2015/440T**

MOTION

- 1 Council accept the tender of Ditchfield Contracting Pty. Ltd in the amount of \$16,374,033 (excluding GST) for Construction of Landfill Cell 9 for Contract No. 2015/440T.
- 2 Council approves budget in the total amount of \$15,024,033 for continuation of the works in FY17, FY18 and FY19.
- 3 This confidential report relating to the matters specified in s10A(2)(d) of the *Local Government Act 1993* be treated as confidential and remain confidential until Council determines otherwise.

Carried

The Lord Mayor requested the motion be recorded as having been carried unanimously.

**ITEM-41 CON 8/12/15 - SETTLEMENT OFFER RE STANDARD AND
POOR'S CLASS ACTION CLAIM BY COUNCIL**

MOTION

Moved by Cr Luke, seconded by Cr Osborne

- 1 Council to receive the report.
- 2 Council approves the settlement of the Standard and Poor's Class Action on the basis of the two offers proposed and delegates authority to the Interim Chief Executive Officer to sign the two forms relating to settlement of the Standard and Poor's Class Action on Council's behalf prior to 11 December 2015 deadline for responses.
- 3 This confidential report relating to the matters specified in s10A(2)(d) of the *Local Government Act 1993* be treated as confidential and remain confidential until Council determines otherwise.

Carried

LATE ITEMS OF BUSINESS

ITEM-139 ANY AND ALL LEGAL ADVICE RECEIVED ON THE RUNNING OF COUNCIL MEETING 27 OCTOBER 2015

The Lord Mayor gave an apology to Councillors Luke, Rufo and Waterhouse.

Councillor Rufo stated that he had taken extreme exception to the accusation by the Lord Mayor in reference to Notice of Motion Item 25. He stated that in his three years as a Councillor he had never released confidential information.

PROCEDURAL MOTION

Moved by Cr Rufo, seconded by Cr Luke

The item of Any and All Legal Advice Received on the running of the Council Meeting 27 October 2015 be heard as a late item of business due to the urgent need for open transparency and the community deserving of information that was supplied to Council that has not been supplied to date.

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

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

The Lord Mayor exercised her casting vote and declared the motion defeated.

Defeated

ITEM-140 COASTAL REVITALISATION CONSULTATIVE COMMITTEE MEMBERSHIP

PROCEDURAL MOTION

Moved by Lord Mayor Cr Nelmes, seconded by Cr Osborne

The matter of the Coastal Revitalisation Consultative Committee Membership be heard as a late item of business on the grounds of urgency as the upcoming Committee meeting is scheduled to be held on 17 December 2015 and Council does not have its full complement of three Councillor representatives on the Committee due to Councillor Luke's effective Committee membership termination as a consequence of failing to attend the last three Committee meetings. The other Councillor representatives on the Committee are Councillors Nelmes and Rufo.

Clause 5.2.5 of the Committee's Terms of Reference provides that a person ceases to be a Committee member 'if a person or an alternative fails to attend three meetings without leave a person ceases to be a Committee member'.

For the last Coastal Revitalisation Consultative Committee meeting, a quorum has not been achievable due to Councillor Brad Luke's absence. No apologies were provided by Councillor Luke to the Committee Chair prior to these scheduled meetings being held. To ensure that the next scheduled Committee meeting to be held on 17 December 2015 can proceed with a quorum it is essential that Council appoint a Councillor to the Coastal Revitalisation Consultative Committee as Councillor Luke's replacement.

Carried

Councillors Compton and Doyle expressed their interest in nominating for membership of the Committee.

MOTION

Moved by Lord Mayor Cr Nelmes, seconded by Cr Osborne

- A That Council appoints Councillor Compton to the Coastal Revitalisation Consultative Committee to replace Councillor Luke whose membership has ceased.
- B That Council appoints Councillor Doyle to the Coastal Revitalisation Consultative Committee as an alternate Councillor representative to Councillor Compton.

Carried

The Lord Mayor requested the motion be recorded as having been carried unanimously.

The meeting concluded at 8.59pm.

NOTE: THE ORDINARY COUNCIL MEETING MINUTES DATED 8 DECEMBER 2015 WERE CONFIRMED BY THE ORDINARY COUNCIL MEETING HELD TUESDAY 23 FEBRUARY 2016 SUBJECT TO AMENDMENTS DOCUMENTED AND RESOLVED AT THAT MEETING AND AS SUBSEQUENTLY AMENDED AND RESOLVED AT THE ORDINARY COUNCIL MEETING OF 24 MAY 2016