

## CITY OF NEWCASTLE

**Minutes of the Extraordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street, Newcastle on Friday 31 March 2017 at 6.10pm.**

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### **PRESENT**

The Lord Mayor (Councillor N Nelmes), Councillors D Clausen, T Doyle, J Dunn, M Osborne and S Posniak.

### **IN ATTENDANCE**

P Chrystal (Interim Chief Executive Officer), G Cousins (Director Corporate Services), A Baxter (Acting Director Planning and Regulatory), F Giordano (Manager Legal and Governance), K Hyland (Manager Communications and Engagement) 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 Clausen, seconded by Cr Osborne

The apologies submitted on behalf of Councillors Compton, Luke, Rufo and Robinson 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 items listed on Council's agenda.

## **CONFIDENTIAL SESSION**

### **PROCEDURAL MOTION**

Moved by Cr Osborne, seconded by Cr Dunn

Council move into confidential session for the reasons outlined in the business papers.

**Carried**

Council entered confidential session at 6.15pm.

At the commencement of confidential session the Interim Chief Executive Officer declared a conflict of interest in both agenda items and stated he would absent himself from the Chamber for any further discussion.

The Interim Chief Executive Officer left the Chamber at 6.16pm.

The Director Corporate Services assumed the role of Acting Interim Chief Executive Officer.

Council staff present during confidential session were Acting Director Planning and Regulatory Andrew Baxter, Manager Legal and Governance Frank Giordano, and Council Executive Support Officer Kerry Sullivan.

### **PROCEDURAL MOTION**

Moved by Cr Osborne, seconded by Cr Clausen

Council deal with Confidential Item 5 - CON 28/03/17 - Outcome of Investigation into the Interim Chief Executive Officer Recruitment Process prior to Item 11 - LMM 13/12/16 - Interim Chief Executive Officer Recruitment Panel - Selection and Appointment of Interim Chief Executive Officer.

**Carried**

## **CONFIDENTIAL REPORT**

### **ITEM 2      ITEM 5 - CON 28/3/17 - OUTCOME OF INVESTIGATION INTO THE INTERIM CHIEF EXECUTIVE OFFICER RECRUITMENT PROCESS**

The Manager Legal and Governance tabled the individually named confidential reports to Lord Mayor, Cr Nelmes and Councillors Clausen, Doyle, Dunn, Posniak and Osborne.

He stated they were to be returned at the conclusion of confidential session.

The Lord Mayor allocated time for Councillors to read the report.

During confidential session Councillor Clausen declared two less than significant, non-pecuniary interests in relation to two candidates and both items on the agenda. He stated that he would remain in the Chamber for discussion on the items.

Following discussion a motion was put forward by Councillors Osborne and Dunn.

Council adjourned the meeting at 8.35pm to enable the Council Executive Support Officer to type up the motion and circulate a draft copy to Councillors and the Acting Interim Chief Executive Officer.

Council reconvened at 8.43pm.

**ITEM 1            ITEM 11 - LMM 13/12/16 - INTERIM CHIEF EXECUTIVE OFFICER  
RECRUITMENT PANEL - SELECTION AND APPOINTMENT OF  
INTERIM CHIEF EXECUTIVE OFFICER**

The Lord Mayor tabled the individually named Lord Mayoral Minutes to those present.

At this stage of the meeting, the Lord Mayor requested that only the Acting Interim Chief Executive Officer remain in the Chamber and the Acting Director Planning and Regulatory and Manager Legal and Governance left the Chamber.

Council voted on the recommendation in seriatim.

Council adjourned the meeting at 9.12pm to enable the Council Executive Support Officer to type up the motion and circulate a draft copy to Councillors and the Acting Interim Chief Executive Officer.

Council reconvened at 9.19pm.

**PROCEDURAL MOTION**

Moved by Cr Osborne, seconded by Dunn

Council move into open session.

**Carried**

Councillors returned their copy of the confidential Lord Mayoral Minute to the Lord Mayor.

Councillors returned their copy of the confidential report to the Council Executive Support Officer.

At 9.21pm the Interim Chief Executive Officer, Acting Director Planning and Regulatory and Manager Legal and Governance returned to the Chamber following confidential session.

Council resumed at 9.22pm and the Acting Interim Chief Executive Officer reported on the resolutions of confidential session.

**ITEM 2      ITEM 5 - CON 28/3/17 - OUTCOME OF INVESTIGATION INTO THE  
INTERIM CHIEF EXECUTIVE OFFICER RECRUITMENT PROCESS**

**MOTION**

Moved by Cr Osborne, seconded by Cr Dunn

- 1 Council notes that the two investigations of the ICEO Recruitment process did not find anything improper or unethical in the process, with the second investigation noting:
  - These preliminary findings are set out in accordance with the Procedural Motion provided by Council, which formed the basis of this investigation.
  - There is insufficient evidence to making a finding that prior to or during the recruitment process to hire an Interim Chief Executive Officer of Council between the period of 25 October 2016 and 20 December 2016, employees and/or elected officials of the Newcastle City Council breached the Newcastle City Council Code of Conduct by failing to adhere to General Conduct Provisions by acting in an improper or unethical manner (4.1.3).
- 2 Council notes the professionalism and detail provided in the 'Report on Process and Outcome' by Blackadder Associates Independent CEO Recruiter.
- 3 Councillors be provided of a full copy of the first investigation report.
- 4 Councillors be provided with a full cost breakdown of the first investigation, second investigation and the legal advice attached to the Confidential Council Report - Item 5 - Outcome of Investigation into the ICEO Recruitment Process.
- 5 Council notes the resolution of 20 December 2016 that Council was to conduct an investigation not additional Code of Conduct reviews. Newcastle City Council Code of Conduct requires a different process.
- 6 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  
Unanimously**

**ITEM 1      ITEM 11 - LMM 13/12/16 - INTERIM CHIEF EXECUTIVE OFFICER  
RECRUITMENT PANEL - SELECTION AND APPOINTMENT OF  
INTERIM CHIEF EXECUTIVE OFFICER**

**MOTION**

Moved by Lord Mayor Cr Nelmes, seconded by Cr Osborne

- 1      Council vote on the recommendations in seriatim.
- 2      Council receives a briefing from the ICEO Recruitment Panel (Panel) on the candidate that the Panel selected as the most suitable candidate for the role of Interim Chief Executive Officer (ICEO).
- 3      Subject to the completion of all background checks and satisfactory results being received in respect of each of the background checks, Council offer the position of the Interim Chief Executive Officer to the ICEO recruitment Panel's recommended candidate and authorise the Lord Mayor to negotiate and enter into a contract of employment for up to 12 months based on the standard contract of employment issued by the Division of Local Government.
- 4      Council approve the ICEO be delegated with all delegations accorded to that role pursuant to the Instrument of Delegation to the Chief Executive Officer dated 8 December 2015.
- 5      The recommended candidate's name remains confidential until the position is accepted by the recommended candidate and the Lord Mayor announces the appointment of the Interim Chief Executive Officer. All other information presented and discussed in closed session relating to the matters specified in S.10A(2)(a) of the Act remains confidential until Council determines otherwise.
- 6      Council resolved to appoint Mr Peter Chrystal as ICEO at the Ordinary Council meeting held on 25 October 2016 as a short term measure to enable the establishment and appointment of an Interim CEO Recruitment Panel, constituted by Councillors Nelmes, Osborne and Rufo, for the purposes of running a merit selection process for the recruitment of an Interim CEO for a term of up to 12 months. The appointment of Mr Peter Chrystal remain in effect if the preferred candidate does not accept the offer.
- 7      Council recommend the recruitment of a permanent Chief Executive Officer be a matter for the newly elected Council after 9 September 2017.

**Carried**

**The meeting concluded at 9.28pm.**