

Minutes

Ordinary Council Meeting



Council Chamber, Level 1, City Administration Centre, 12 Stewart Avenue, Newcastle West, Tuesday, 12 December 2023 at 6:09pm.

1. ATTENDANCE

The Lord Mayor (Councillor N Nelmes), Councillors E Adamczyk, J Barrie, D Clausen, C Duncan, J Mackenzie, C McCabe, C Pull, D Richardson, P Winney-Bartz and M Wood.

J Bath (Chief Executive Officer), D Clarke (Executive Director Corporate Services and CFO), A Jones (Executive Director Creative and Community Services), C Thomson (Executive Director City Infrastructure), M Bisson (Executive Director Planning and Environment), E Kolatchew (Executive Manager Legal and Governance), S Moore (Executive Manager Finance, Property and Performance), L Duffy (Executive Manager Community and Recreation), R Dudgeon (Executive Manager Project Management Office), N Kaiser (Acting Executive Manager Media Engagement Economy and Corporate Affairs), T Ward (Executive Manager Assets and Facilities), M Kikken (Executive Manager Environment and Sustainability), M Meehan (Media Adviser), K Sullivan (Councillor Services/Minutes/Meeting Support), J Knight (Councillor Services/Meetings Support), L Barnao (Councillor Services/Meetings Support), R Williams (AV Support), K Bevan (AV Support) and A Clarke (Information Technology Support).

2. ACKNOWLEDGEMENT OF COUNTRY

The Lord Mayor read the message of acknowledgement to the Awabakal and Worimi peoples.

3. 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.

4. APOLOGIES / LEAVE OF ABSENCE / ATTENDANCE BY AUDIO VISUAL LINK

MOTION

Moved by Cr Barrie, seconded by Cr Pull

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

For the Motion: Councillors Barrie, Mackenzie, McCabe, Pull and Wark.

Against the Motion: Lord Mayor, Councillor Nelmes and Councillors Adamczyk, Clausen, Duncan, Richardson, Winney-Baartz and Wood.

Defeated

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

1. That the apology submitted on behalf of Councillor Church be received.
2. Requests that Council formally write to Councillor Church requesting an explanation for his poor attendance at Council meetings and non attendance at Council workshop and planning sessions in 2023, and its expectation that he will participate more fully in 2024.

For the Motion: Lord Mayor, Councillor Nelmes and Councillors Adamczyk, Clausen, Duncan, Richardson, Winney-Baartz and Wood.

Against the Motion: Councillors Barrie, Mackenzie, McCabe, Pull and Wark.

Carried

5. DISCLOSURES OF INTEREST

Councillor Clausen

Councillor Clausen declared a less than significant non pecuniary interest in Item 8.1 - Newcastle Art Gallery Expansion, Loan Contract Delegation stating that he was the city representative on the Newcastle Art Gallery Foundation Board and would manage the interest by remaining in the Chamber for discussion on the item.

Councillor Clausen

Councillor Clausen declared a less than significant non pecuniary interest in Item 8.7 - Adoption of Throsby, Styx and Cottage Creek Flood Study stating that his employer Hunter Water owned and operated a number of trunk drainage systems that work together with City of Newcastle. He stated that Hunter Water had made submissions and met with council staff and as he had not been involved in those meetings, would manage the interest by remaining in the Chamber for discussion on the item.

Councillor McCabe

Councillor McCabe declared a non significant non pecuniary interest in Item 8.2 - Adoption of Hunter Street Trial Cycleway - Stage 2 Design stating that she regularly cycled on the street.

Councillor McCabe

Councillor McCabe declared a non significant non pecuniary interest in Item 8.8 - Adoption of Newcastle Development Control Plan stating that lived in Tighes Hill and was a member of the Tighes Community Group and actively involved in advocating for the character study included in the DCP changes.

Lord Mayor

The Lord Mayor declared a non pecuniary significant conflict of interest in Item 8.10 - Request the Minister Determine Planning Proposal PP-2021-2262 for Land at 505 Minmi Road Fletcher 2287 Not Proceed citing the same declaration she had made for the past eight years and would manage the conflict by leaving the Chamber for discussion on the item.

6. CONFIRMATION OF MINUTES

6.1. MINUTES - ORDINARY COUNCIL MEETING 28 NOVEMBER 2023

MOTION

Moved by Cr Mackenzie, seconded by Cr Duncan

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

Carried

7. LORD MAYORAL MINUTE

7.1 COP 28 - LOCAL CLIMATE ACTION SUMMIT

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Acknowledges that the United Nations Climate Change Conference, the Conference of the Parties (COP28), was recently held in Dubai, with the COP28 Presidency and Bloomberg Philanthropies inviting Local Government representatives from Australia to participate in the Local Climate Action Summit - the first time Mayors and City representatives have been invited to the table to represent our cities at this international forum, uniting subnational and national leaders to establish a new paradigm for fully integrated climate action between governments at all levels.
2. Notes the Summit brought together hundreds of national and subnational climate leaders to transform climate finance, enhance global action, fast-track the energy transition, and strengthen resilience and adaptation at the local level.
3. Welcomes the outcomes of the Summit, which recognised the critical role local government leaders play in reducing emissions, addressing climate risk and supercharging national efforts to move further and faster on climate progress, as councils across Australia and the world grapple with the enormity of the challenges, as well as the immense opportunities associated with the rapid transition away from fossil fuel-based industries.
4. Supports the *Coalition for High Ambition Multilevel Partnerships (CHAMP) for Climate Action Pledge* (Attachment 1), whose signatories undertake to enhance cooperation with their subnational governments in the planning, financing, implementation and monitoring of climate strategies to maximise climate action, including through coalitions with a view towards collectively

pursuing efforts to limit the temperature increase to 1.5oC above pre-industrial levels, and increase adaptation and resilience.

5. Notes that through Australia's strong advocacy, led by Climate Change and Energy Minister Chris Bowen and Assistant Minister for Climate Change and Energy Senator Jenny McAllister, the Summit secured a \$100 million commitment to assist local governments to implement climate change adaptation and risk mitigation initiatives at the city level.
6. Notes that upon securing this landmark deal, Mayor of Paris Anne Hidalgo said "if you want to achieve the Paris Agreement targets, we need to have cities in the room. What happened today is a major success. And to all of my colleagues, let's make sure Mayors remain in the room."
7. Reiterates our long-held commitment to the environment, sustainability and leading our community to take collective action to overcome the challenges of climate change.
8. Notes that our recently adopted Newcastle Environment Strategy (NES) is central to our efforts to meet the goals of the Paris Agreement and to drive the transformational change needed for a net zero emissions future.

Carried

7.2 PEACE IN ISRAEL AND PALESTINE

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Reiterates our community's strong and ongoing support for Peace, and notes that this week marks the 75th Anniversary of the United Nations Universal Declaration of Human Rights;
2. Acknowledges the concerns of Novocastrians regarding the ongoing Israel-Gaza Crisis, and the profound impact of ongoing hostilities on innocent civilians;
3. Notes that the Minister for Foreign Affairs, the Hon. Penny Wong, has condemned the 7 October brutal attacks by Hamas as abhorrent acts of terror, recognised the right of Israel to defend itself, expressed deep concern for the loss of Israeli and Palestinian life, stated that Israel must comply with international humanitarian law, and reaffirmed Australia's support for taking the necessary steps towards a ceasefire. We request the Federal Government continue to call for a ceasefire and a return to peaceful negotiations;
4. Notes the UN Women statement on Israel and Gaza of 1 December 2023 which expressed deep regret for the resumption of military operations in Gaza, and expressed alarm at the numerous accounts of gender-based atrocities and sexual violence during those attacks, and called for a return to a path of peace for the sake of everyone in the Occupied Palestinian Territory and Israel, and especially for women and children;
5. Supports the United Nations call for a return to a path of peace, a respect for international humanitarian and international human rights law, and an end to the suffering of people in Gaza and in Israel, and those families still waiting for their loved ones to return.

Councillor Pull proposed the following amendment to the motion:

6. The City of Newcastle condemns the unprovoked attack by Hamas against the state of Israel.

The Lord Mayor agreed to amend point three to include that Council notes and supports the comments made by the Minister for Foreign Affairs condemning the 7 October attacks by Hamas.

The motion was put to the meeting.

Carried unanimously

8. REPORTS

8.1. NEWCASTLE ART GALLERY EXPANSION, LOAN CONTRACT DELEGATION

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

1. Approves the CEO to review, accept and execute a loan contract with NSW Treasury Corporation (TCorp) for \$12.6 million with funds to be utilised toward the Newcastle Art Gallery expansion project.

Carried

8.4. ADOPTION OF THE COUNCIL PROPERTY LEASE & LICENCE POLICY

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That Council:

1. Adopts the Council Property Lease and Licence Policy (Policy) as at Attachment A.

Carried unanimously

8.5. ANNUAL REVIEW AND ADOPTION OF THE INVESTMENT AND BORROWING POLICY

MOTION

Moved by Cr Clausen, seconded by Cr Duncan

That Council:

1. Adopts the Investment and Borrowing Policy at Attachment A.

Carried unanimously

This is page 5 of the Minutes of the Ordinary Council Meeting held Council Chamber, Level 1, City Administration Centre, 12 Stewart Avenue, Newcastle West on Tuesday, 12 December 2023 at 6.09pm.

8.7. ADOPTION OF THROSBY, STYX AND COTTAGE CREEKS FLOOD STUDY

MOTION

Moved by Cr Mackenzie, seconded by Cr McCabe

That Council:

1. Adopts the Throsby, Styx and Cottage Creek Flood Study (Rhelm, 2023) at Attachment A, with the amendment that flood mapping is identified as 'subject to further investigation' at John Parade, Merewether, and Kimbarra Close, Wallace Street and Gregory Parade, Kotara.
2. Adopts the 1% Annual Exceedance Probability (AEP) event in 2050 as the planning flood across the study area.
3. Endorses the removal of 47 properties in the study area with 0.01m² or less of probable maximum flood (PMF) extent within their boundary as flood affected.
4. Notes the Throsby, Styx and Cottage Creek Flood Study - Public Engagement and Submissions Report at Attachment B.

Carried

Councillor Barrie requested her name be recorded as having voted against the motion.

8.11. CODE OF CONDUCT ANNUAL STATISTICS

MOTION

Moved by Cr Clausen, seconded by Cr Duncan

That Council:

1. Notes City of Newcastle's Code of Conduct Complaints Statistics Report for the period 1 September 2022 to 31 August 2023 at Attachment A.

Carried unanimously

8.2. ADOPTION OF HUNTER STREET TRIAL CYCLEWAY - STAGE 2 DESIGN

MOTION

Moved by Cr Mackenzie, seconded by Cr Clausen

That Council:

1. Adopt the Cycleway Stage 2 design on Hunter Street and Maitland Road between National Park Street Newcastle West and Ivy Street Islington, as shown at Attachment A.

Carried unanimously

8.3. ADOPTION OF THE LONGWORTH AVENUE AND MINMI ROAD WALLSEND CONCEPT DESIGNS

MOTION

Moved by Cr Richardson, seconded by Cr Adamczyk

That Council:

1. Adopt the Longworth Avenue and Minmi Road widening concept designs, as shown in Attachments A and B.

Carried unanimously

8.6. ADOPTION OF THE OUTDOOR DINING POLICY & GUIDELINES

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Duncan

That Council:

1. Adopts the Outdoor Dining Policy 2023 and Outdoor Dining Guidelines 2023 (Attachments A and B).
2. Approves an annual fee of \$4,000 (venues with outdoor dining of 10.0 metres or less in length) and \$7,000 (venues with outdoor dining of 10.01 metres or more in length) to be charged if the venue wishes to install permanent fixtures in the public footway.
3. Repeals the Outdoor Trading Policy 2020.

For the Motion: Lord Mayor, Councillor Nelmes and Councillors Adamczyk, Clausen, Duncan, Mackenzie, McCabe, Richardson, Winney-Baartz and Wood.

Against the Motion: Councillors Barrie, Pull and Wark.

Carried

8.8. ADOPTION OF NEWCASTLE DEVELOPMENT CONTROL PLAN 2023

The following memos were distributed to Councillors by Council Officers in respect to Item 8.8:

- Newcastle Development Control Plan 2023 - All-Electric Buildings
- Newcastle Development Control Plan 2023 - Local Character in Tighes Hill

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Adamczyk

Council adjourn for a five minute recess to allow Councillors time to read the memos.

Carried

Council reconvened at 7.46pm.

MOTION

Moved by Cr Adamczyk, seconded by Cr Wood

In moving the motion, Councillor Adamczyk indicated that she was moving the additional recommendation outlined in the Officers memo on Local Character in Tighes Hill.

That Council:

1. Adopts Newcastle Development Control Plan 2023 (NDCP) (Attachment A) subject to the following:

Council resolves to amend control 4.0 of Sub-section 9.0 in the Tighes Hill local character controls to read:

"Proposed new developments must be sympathetic to the architectural features of the building styles that positively contribute to their local character setting."

2. Resolves that NDCP 2023 is operational on 1 March 2024.
3. Resolves to repeal Newcastle Development Control Plan 2012.
4. Notes the table of submissions (Attachment B) received during public exhibition.

For the Motion: Lord Mayor, Councillor Nelmes and Councillors Adamczyk, Clausen, Duncan, Mackenzie, McCabe, Richardson, Winney-Baartz and Wood.

Against the Motion: Councillors Barrie, Pull and Wark.

Carried

8.9. PUBLIC EXHIBITION OF DRAFT NEWCASTLE AFFORDABLE HOUSING CONTRIBUTIONS SCHEME

MOTION

Moved by Cr Adamczyk, seconded by Cr Wood

That Council:

1. Endorses the Affordable Housing Contribution Scheme Planning Proposal (planning proposal) (Attachment A) to amend *Newcastle Local Environmental Plan 2012* (NLEP 2012) to allow City of Newcastle (CN) to levy affordable housing contributions under the Affordable Housing Contribution Scheme (draft scheme) (Attachment B).
2. Forwards the planning proposal to the Department of Planning and Environment (DPE) for Gateway determination under the *Environmental Planning and Assessment Act 1979* (the Act), including a request for Council to be the Local Plan Making Authority.
3. Notes the Gateway determination will outline the community and agency consultation for the planning proposal as it progresses, and it is anticipated that the planning proposal and draft scheme will be publicly exhibited for a minimum of 28 days.
4. Receives a report on the planning proposal and draft scheme, following public exhibition.

For the Motion: Lord Mayor, Councillor Nelmes and Councillors Adamczyk, Clausen, Duncan, Mackenzie, McCabe, Richardson, Winney-Baartz and Wood.

Against the Motion: Councillors Barrie, Pull and Wark.

Carried

8.10. REQUEST THE MINISTER DETERMINE PLANNING PROPOSAL PP-2021-2262 FOR LAND AT 505 MINMI ROAD FLETCHER 2287 NOT PROCEED

The Lord Mayor left the Chamber for discussion on the item and the Deputy Lord Mayor took the Chair.

MOTION

Moved by Cr Adamczyk, seconded by Cr Richardson

That Council:

1. Notes, as the planning proposal authority, City of Newcastle (CN) will be requesting the Minister not to proceed with the planning proposal for land at 505 Minmi Road Fletcher.

2. Notes CN's statutory obligations for this planning proposal are met.
3. Notes the request not to proceed is due to the proponent not having satisfied the Department of Planning and Environment's (DPE) Gateway determination conditions.

For the Motion: Deputy Lord Mayor, Councillor Clausen and Councillors Adamczyk, Barrie, Duncan, Mackenzie, McCabe, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion: Councillor Pull.

Carried

The Lord Mayor returned to the Chamber at the conclusion of the item.

8.12. TENDER REPORT - EAST END PUBLIC DOMAIN STAGES 2 AND 5 REFURBISHMENT - CONTRACT 2023/169T

MOTION

Moved by Cr Mackenzie, seconded by Cr Pull

That Council:

1. Rejects all tenders received for the East End Public Domain Stages 2 and 5 Refurbishment for Contract No. 2023/169T. This is due to receipt of only one conforming tender which significantly exceeds the project budget of \$4M and currently poses financial and program risks due to contractual departures. CN require sufficient time to seek clarifications and re-pricing to mitigate risk and enable a satisfactory outcome for CN.
2. Endorses not calling for fresh tenders as retendering is unlikely to introduce additional competitive complying tenders considering the complexities of the site, and further tender processes would significantly delay delivery of the project.
3. Authorises the Chief Executive Officer or their delegate to enter into negotiations with Daracon Contractors Pty Ltd, or other contractors, that can provide submissions in a suitable timeframe with the intent of forming a contract with reduced risk to CN and a more acceptable tender price.
4. Notes that on resolution of the contract value, the amended project budget will be reflected in the 2023/24 adopted program budget and draft 2024/25 budget.
5. The confidential attachments relating to the matters specified in s10A(2)(d) of the *Local Government Act 1993* be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

Carried

9. NOTICES OF MOTION

9.1. MEREWETHER BEACH EMERGENCY FIRST RESPONSE SAFETY MEASURES

MOTION

Moved by Cr Barrie, seconded by Cr Wark

- That City of Newcastle review and install surf safety signage "DANGEROUS RIP - NO SWIMMING" to be a soft barrier to non-swimmers who continually swim at Merewether Beach in the dangerous swimming area where there is a permanent rip. Due to there have been a high number of multiple rescues that occur after hours and on public holidays, between 6pm and 7pm when lifeguards have finished, and patrols are over in busy summer school holidays and public holidays.
- Location for signage: "The rock platform in front of Merewether Surf House that includes the historic Ladies Pool"; near the rocks on the southern edge of Merewether Beach near the Merewether Ocean Baths; on the rock shelf further south of Merewether's patrolled beach.
- Notes that City of Newcastle extend paid City of Newcastle Lifeguards on all beaches in the City of Newcastle to work a split shift working in conjunction with volunteers of Hunter Branch Surf Life Saving. Initially in this Notice of Motion City of Newcastle work with the Merewether Surf Lifesaving Club volunteers to cover 7 days a week, working up to 7.00pm throughout the busy summer holiday period. This would include all the main public holidays and the duration of the school holiday period in December until NSW school resumes in February.
- Notes the proposed time frame would be to commence from 22/12/2023–31/1/2024, and that the City of Newcastle investigate and submit a budget to Council for the entire daylight savings period from 7.00am to 7.00pm throughout October 2024 to March 2025 in the next financial year 2024/2025.
- Notes that City of Newcastle review the best option for "after hours rescue equipment" on all six city beaches that have an operational Surf Lifesaving Club and volunteers; (refer to photo example – Attachment A currently used in Sawtell, Coffs Harbour, Gerringong) and in many other NSW Local Government areas including Northern Beaches. As City of Newcastle is the caretaker / landowner of Crown Land, options for the installation of after-hours lifesaving rescue equipment be installed in collaboration and explore funding of the rescue equipment with NSW Surf Life Saving, Hunter Surf Life Saving Branch, and the Merewether Surf Life Saving Club due to the increased numbers of after-hours rescues off the southern end of Merewether Beach.

- Notes the rescue equipment to be used could be a floatation rescue tube, a buoy and in connection with defibrillation devices located outside for use in an emergency.
- Notes this is to ensure that lifesaving rescue equipment is readily available to the public after hours when the beaches are no longer patrolled.
- Notes this would be in conjunction with what other NSW Surf Lifesaving clubs/local councils are using to ensure that best practice surf signage and supply of suitable equipment is followed. Naturally additional safety signage would need to be installed at Merewether Beach to ensure anyone using the equipment would be using it at their own risk and to call first the 000-emergency phone number before entering the water and at becoming yet another drowning statistic.

In moving the amendment, Councillor Duncan stated she was moving the recommendation of Council Officers as outlined in the business papers.

AMENDMENT

Moved by Cr Duncan, seconded by Cr McCabe

That Council:

1. Notes that City of Newcastle regularly monitors water safety signage at its six patrolled beaches in accordance with the conditions within the Office of Local Government's Water Safety Practice Note 15.
2. Notes that water safety signage for the southern access point to Merewether Beach is currently being developed and will be installed before the end of December.
3. Notes City of Newcastle provides a 7 day a week professional lifeguard service at all six patrolled beach locations within the Newcastle LGA during the extended summer season.
4. Notes current beach patrol hours are 7am to 5.30pm with the exception of Stockton being 9am to 5.30pm (7am start from 18 December) and Sunday patrol hours being 9am to 5.30pm which all include a risk management process that enables staff to extend daily patrol hours when conditions and user demand require it.
5. Notes that Lake Macquarie City Council last year trialled extended patrol hours over the Christmas period from 7am to 6.30pm and that as a result has changed its hours to 9am to 6pm for this Summer period.
6. Notes that any change to the work hours of CN lifeguards must be done under the terms of the City of Newcastle Enterprise Agreement 2023, and a failure to consult with parties to that agreement as well as staff would be a breach of the EA.
7. Notes Surf Life Saving NSW is responsible for after-hours rescues on all beaches within the Newcastle LGA.
8. Recognises that Merewether Surf Club complies with Surf Life Saving NSW's requirement that it have emergency response equipment available 24/7.

9. Writes to Surf Life Saving NSW seeking advice on the provision of an Emergency Response Beacon at the city's beaches to enhance communication to the State Operations Centre.

During discussion it was suggested that Council hold a workshop with City of Newcastle (CN) Aquatic's team including representatives of CN's professional lifeguard team, Surf Life Saving NSW and Hunter Surf Life Saving to better understand current best practice recommendations and limitations for provision of progressive, new and/or improved water safety at the city's beaches.

Councillors Duncan and McCabe indicated that they would include the request for a workshop in the amendment.

The amendment moved by Councillor Duncan, and seconded by Councillor McCabe, was put to the meeting.

Carried

The amendment then became the motion.

The motion moved by Councillor Barrie and seconded by Councillor Wark, as amended by Councillors Duncan and McCabe, was put to the meeting.

Carried

At this stage of the meeting, the Executive Manager Legal and Governance gave notice of a Late Item of Business - Outcome of Code of Conduct matter to be discussed in confidential session.

10. CONFIDENTIAL REPORTS

10.1. OUR SUSTAINABLE WASTE STRATEGY - MATERIAL RECOVERY FACILITY AND ORGANICS PROCESSING FACILITY

10.2. LATE ITEM - OUTCOME OF CODE OF CONDUCT MATTER

The Executive Manager Legal and Governance gave the reason for urgency for Item 10.2 was in light of the upcoming Council recess and to ensure the matter was dealt with in a timely matter, the item should not be deferred until the February Council meeting.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Duncan

The matter of Outcome of Code of Conduct matter be heard as a late item of business.

Carried

The Lord Mayor ruled the matter of Outcome of Code of Conduct Matter be heard as a late item of business in accordance with the Code of Meeting Practice and the reason outlined above.

PROCEDURAL MOTION

Moved by Cr Barrie, seconded by Cr Duncan

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

Carried

All staff with the exception of Councillors, Executive Director Corporate Services, Executive Manager Legal and Governance, Governance Manager and Council meeting support staff left the meeting for discussion on Item 10.2 - Late Item - Outcome of Code of Conduct Matter.

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

Council resolved into confidential session at 9.39pm.

As the time was nearing 10.00pm a procedural motion was moved to extend the meeting.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

Council extend the meeting to conclude all business on the agenda.

Carried

PROCEDURAL MOTION

Moved by Cr Winney-Baartz, seconded by Cr Barrie

Council resolve into open session.

Carried

Council resolved into open session at 11.13pm and the Acting Chief Executive Officer read the resolution of the partial confidential report (refer resolution at 8.12) and Confidential Items 10.1 and 10.2 below.

10.1. OUR SUSTAINABLE WASTE STRATEGY - MATERIAL RECOVERY FACILITY AND ORGANICS PROCESSING FACILITY

MOTION

Moved by Cr Clausen seconded by Cr Winney-Baartz

That Council:

1. Rescinds its decision of 23 May 2023 to accept the tender of IQRenew for the proposed MRF at the Summerhill Waste Management Centre.

2. Reject all tender submissions for the MRF Bulk Earthworks Contract 2023/102T on the grounds that planning consent has not been obtained in the expected timeframe anticipated at the time of the tender and postpone the proposal for the contract.
3. Reject all tender submissions for the OPF Bulk Earthworks Contract 2023/147T on the grounds that planning consent has not been obtained in the expected timeframe anticipated at the time of the tender and postpone the proposal for the contract.
4. CN will provide an update to Council in relation to the proposed future direction for the MRF as part of an Our Sustainable Waste Strategy Refresh workshop to be held in February 2024.

Carried unanimously

10.2. LATE ITEM - OUTCOME OF CODE OF CONDUCT MATTER

MOTION

Moved by Cr Richardson, seconded by Cr Barrie

That Council:

1. Notes in accordance with the resolution of Council dated 25 July 2023 and the letter from the Minister for Local Government dated 26 July 2023, that an independent investigation has been undertaken into alleged Code of Conduct breaches by City of Newcastle's (CN) Chief Executive Officer (CEO);
2. Notes that in accordance with CN's Procedure for Administration of the Code of Conduct (which is consistent with the Office of Local Government's Model Procedure for Administration of the Code of Conduct) (Procedure), the matter was referred to an external Conduct Reviewer, independent of CN, for assessment and investigation;
3. Notes that on 7 December 2023 the Conduct Reviewer issued the investigation report and noted:
 - There is no evidence that Mr Bath incentivised the author of the articles to reveal confidential information contained in the letters to the Newcastle Herald.
 - There is no evidence that Mr Bath directly contributed to the letters.

The outcome of the investigation is as follows:

"Having considered the available evidence, the investigation found insufficient evidence to support the allegations. Accordingly, both allegations were Not Substantiated."

4. Notes the Conduct Reviewer referred allegations of how confidential electoral roll details about Council staff and their friends and family came into the

possession of journalists to appropriate external agencies to determine next steps;

5. Notes the Procedure does not provide for the Conduct Reviewer to take action or make a referral in relation to the Code of Conduct for Members of the Legislative Assembly;
6. Notes the matter is considered finalised in accordance with clause 7.43 of the Procedure;
7. Notes CN will advise the Minister for Local Government and relevant external agencies of the outcome of the investigation;
8. Notes the investigation report remains confidential and the Procedure does not provide for Councillors to receive a copy of the investigation report where the finding is there is no breach of the Code of Conduct.
9. Notes CN will proactively consider and seek advice to determine whether the outcome letter and investigation report issued by the Conduct Reviewer in part or full can be released publicly in accordance with the Government Information (Public Access) Act 2009; and
10. Treats this confidential report and attachment relating to the matters specified in section 10A(2)(i) of the Local Government Act 1993 as confidential.

Carried

The meeting concluded at 11.21pm.