

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, Level 1, City Administration Centre, 12 Stewart Avenue, Newcastle West on Tuesday 23 March 2021 at 6.03pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen, C Duncan, J Dunn (*arrived 6.08pm*), K Elliott (*retired 8.38pm*), B Luke, J Mackenzie, A Rufo, E White and P Winney-Baartz.

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance), B Smith (Director Strategy and Engagement), F Leatham (Director People and Culture), K Liddell (Director Infrastructure and Property), A Jones (Director City Wide Services), S Moore (Acting Chief Financial Officer), E Kolatchew (Manager Legal), M Bisson (Manager Regulatory, Planning and Assessment), M Murray (Chief of Staff), E Dowswell (Media Officer), A Knowles (Councillor Services/Minutes), K Sullivan (Councillor Services/Meeting Support) and G Axelsson (Information Technology Support).

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

Nil.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Winney-Baartz

Councillor Winney-Baartz declared a non-significant, non-pecuniary interest in Item 23 - Nomination to list Newcastle Recreation Reserve (King Edward Park) on the State Heritage Register stating that she was a member of CN's Guraki Committee along with Rob Russell, Chief Executive Officer of the Awabakal Land Aboriginal Land Council and would manage the interest by remaining in the Chamber.

Councillor Winney-Baartz stated that failing to declare the interest would not be appropriate in her opinion.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - PUBLIC VOICE COMMITTEE MEETING 16 FEBRUARY 2021

MINUTES - BRIEFING COMMITTEE MEETING 16 FEBRUARY 2021

MINUTES - ORDINARY COUNCIL MEETING 23 FEBRUARY 2021

MOTION

Moved by Cr Mackenzie, seconded by Cr Clausen

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

**Carried
unanimously**

LORD MAYORAL MINUTE

**ITEM-6 LMM 23/03/21 - SUPPORT FOR A ROYAL COMMISSION INTO
VETERAN SUICIDE**

MOTION

Moved by Lord Mayor, Cr Nelmes, seconded by Cr Rufo

That City of Newcastle:

- 1 Notes with sadness that Australian Defence Force personnel have a suicide rate nearly twice that of the wider Australian community and that more veterans have died by suicide than in war over the past 20 years;
- 2 Notes that a motion to establish a Royal Commission into Veteran Suicide passed the House of Representatives on Monday, 22 March 2021, with the Federal Parliamentary Labor Party calling for a Royal Commission since December 2019;
- 3 Supports the Leader of the Opposition, the Hon. Anthony Albanese MP, and the Federal Parliamentary Labor Party's calls for the Prime Minister, the Hon. Scott Morrison MP, to listen to veterans and advocates, the will of the Australian Parliament, and establish a Royal Commission into Veteran Suicide immediately;
- 4 Writes to the Leader of the Opposition, the Hon. Anthony Albanese MP, thanking the Federal Opposition for their ongoing advocacy to establish a Royal Commission in Veteran Suicide; and
- 5 Writes to the Prime Minister, the Hon. Scott Morrison MP, calling on the Australian Government to immediately establish a Royal Commission into Veteran Suicide.

Carried

ITEM-7**LMM 23/03/21 - NEW ANNUAL FACTS****MOTION**

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Notes that misinformation, incorrect figures and ill-informed commentary regarding our inaugural New Annual Arts Festival, as published in the Newcastle Herald, by Cr John Church;
- 2 Sets the record straight, noting that attendance to New Annual was well over 30,000, and that independent economic analysis indicates that the festival generated a \$14 million economic impact for the local Newcastle economy, a strong boost for local businesses, including a 12 per cent lift in accommodation bookings;
- 3 Notes that the \$1 million invested into New Annual was a lifeline for the recovery of the city's arts sector who were heavily impact by the COVID-19 global pandemic, with the City's investment supporting the employment of more than 500 artists and 250 event staff; and
- 4 Calls on Cr Church to retract his factually incorrect letter in the Newcastle Herald, noting that Cr Church cannot both support the arts industry in this city and congratulate the artists and organisers of New Annual, while misrepresenting festival attendance figures and opposing funding for our amazing creative and performing arts industries in Newcastle.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Luke, Mackenzie, Rufo, White and Winney-Baartz.

Against the Motion:

Councillors Elliott and Church.

Carried

ITEM-8**LMM 23/03/21 - TRANSFORM NEWY****MOTION**

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Notes that Newcastle has a reputation as a welcoming and inclusive city, including the highest 'Yes' vote for marriage equality outside a capital city. City of Newcastle has been part of ACON's Welcome Here project since 2015.;
- 2 Notes that Hunter New England Health recently established a multi-disciplinary health clinic to better support trans and gender diverse people. This clinic, located in Hamilton, will support young people from across Northern NSW;

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- 3 Notes that Hunter Gender Alliance were successful in receiving a Boost Your Place Grant as a part of our placemaking initiative aimed at maintaining connections amongst our community and within our public spaces, with a round of funding aimed at innovative and ways of maintaining social cohesion during the COVID-19 global pandemic;
- 4 Congratulates Hunter Gender Alliance, who were successful in receiving a Boost Your Place Grant for their TRANSform Newy initiative, aimed at improving the rights, health and live of trans and gender diverse (TGD) people, with a resource booklet (attachment A) with personal experiences and practical tips to help organisations TRANSform their places into a welcoming and safe environment for all;
- 5 Notes that Hunter Gender Alliance have asked that we take the TRANSform Newy Pledge, which reads: *"Transgender, gender diverse and non binary people are, and have always been, part of our communities. We pledge to recognise the equality of all genders. We pledge to improve our places so that they are equal. We pledge to use correct pronouns, have gender neutral forms, and consider gender neutral bathrooms. If we don't have lived experience, we pledge to speak not for, but with, those who do. We pledge to make our places better, and safer, for people of all genders."*;
- 6 Takes the TRANSform Newy Pledge, and commits to work with the Hunter Gender Alliance to implement positive changes for TGD people in Newcastle; and
- 7 Publishes the pledge on our website, with a copy of the TRANSform Newy resource booklet.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Elliott, Mackenzie, Rufo, White and Winney-Baartz.

Against the Motion:

Councillors Church and Luke.

Carried

ITEM-9

LMM 23/03/21 - RACISM NOT WELCOME CAMPAIGN

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Proudly reiterates our long and proud history as a progressive, welcoming city, including our official status as a Refugee Welcome Zone, and consistent advocacy as a local government leader when it comes to providing support for refugees and migrants settling in Newcastle;
- 2 Notes that our official Citizenship Ceremonies often see people from as many as 50 different nations welcomed as new Australian Citizens and Novocastrians, signifying the incredible cultural diversity of our city;

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- 3 Endorses the 'Racism Not Welcome' campaign, as recently endorsed by the City of Sydney and Inner West Council, and headed up by former Socceroos Captain, SBS commentator and human rights campaigner, Craig Foster;
- 4 Explores partnership opportunities with local multicultural organisations and peak bodies as well as grant funding opportunities to support the delivery of the campaign; and
- 5 Promotes the 'Racism Not Welcome' campaign on our website, social media channels and in our communication material.

**Carried
unanimously**

REPORTS BY COUNCIL OFFICERS

ITEM-19 CCL 23/03/21 - ADMINISTRATION OF 2021 COUNCIL ELECTIONS

MOTION

Moved by Cr Rufo, seconded by Cr Mackenzie

That Council:

- 1 Resolves, pursuant to section 296(2) and (3) of the *Local Government Act 1993 (NSW)* (the Act), that City of Newcastle enter into a contract with the NSW Electoral Commission to administer the 2021 election; and
- 2 Resolves, pursuant to section 296(2) and (3) of the Act, as applied and modified by section 18, that any Council poll arrangement and any constitutional referendum to be conducted during the 2021 election be entered into by contract for the Electoral Commission to administer for the Council.

**Carried
unanimously**

ITEM-25 CCL 23/03/21 - SCHOLEY STREET, MAYFIELD - PROPOSED PEDESTRIAN / CYCLE REFUGE, ROAD CUSHIONS AND INTERSECTION REALIGNMENT

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Mackenzie

That Council:

- 1 Approve the pedestrian / cycle refuge and road cushions on Scholey Street, Mayfield near Nelson Street and realignment of the intersection, as shown at **Attachment A.**

**Carried
unanimously**

ITEM-26 **CCL 23/03/21 - WALLARAH ROAD AT YOUNG ROAD,
LAMBTON - PEDESTRIAN REFUGE**

MOTION

Moved by Cr Luke, seconded by Cr Rufo

That Council:

- 1 Approve the pedestrian refuge on Wallarah Road at Young Road, Lambton, as shown in the plan at **Attachment A**.

**Carried
unanimously**

ITEM-27 **CCL 23/03/21 - BERESFORD LANE AND COOPER STREET,
NEWCASTLE WEST - CHANGES TO TRAFFIC FLOW
DIRECTION**

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Rufo

That Council:

- 1 Approve the traffic flow changes of Beresford Lane, Newcastle West from eastbound to westbound between Stewart Avenue and Cooper Street and Cooper Street Newcastle West from two-way traffic flow to one-way southbound between Beresford Lane and Hunter Street as shown in **Attachment A**.

**Carried
unanimously**

ITEM-20 **CCL 23/03/21 - APPOINTMENT OF VOTING DELEGATE TO
THE 2021 NATIONAL GENERAL ASSEMBLY OF LOCAL
GOVERNMENT AND ENDORSEMENT OF MOTIONS**

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That Council:

- 1 Appoint the Lord Mayor to exercise Council's voting rights at the 2021 Australian Local Government Association's National General Assembly or to appoint a voting delegate from among the Councillor attendees; and
- 2 Endorse the motions for submission to the 2021 Australian Local Government Association's National General Assembly as set out at **Attachment B** and include the matter of the Racism Not Welcome Campaign (as per Lord Mayoral Minute Item 9 - Racism Not Welcome Campaign of 23/03/21) as an additional motion.

PROCEDURAL MOTION

Moved by Cr Rufo, seconded by Cr Luke

That the motion be dealt with in seriatim.

Carried

PART 1

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That Council:

- 1 Appoint the Lord Mayor to exercise Council's voting rights at the 2021 Australian Local Government Association's National General Assembly or to appoint a voting delegate from among the Councillor attendees; and

**Carried
unanimously**

PART 2

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

- 1 Superannuation Guarantee for Councillors and Mayors

That the National General Assembly calls on the Minister to:

- i Note that in New South Wales, Councillors, Mayors and Lord Mayors are not entitled to the Superannuation Guarantee Contribution, despite Councillors being paid the appropriate superannuation entitlements in jurisdictions such as Victoria and Queensland;
- ii Note that this sets a poor community standard and sends the wrong message to the community, given that superannuation should be a universal system to support all workers in Australia.
- iii Rationalise the Superannuation system for elected representatives from the local government level and ensure that all Councillors across Australia receive the Superannuation Guarantee Contribution.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Mackenzie, White and Winney-Baartz.

Against the Motion:

Councillor Church, Elliott, Luke and Rufo.

Carried

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

2 Local Government representation at the National Cabinet

That the National General Assembly:

- i Notes with disappointment that Local Government remains unrepresented on the National Cabinet and requests that First Ministers review the decision to exclude Local Government from the national decision making table.
- ii Recognise the importance of having local government representation on National Cabinet and the value of partnerships with Councils in achieving the objectives of the National Cabinet and the national reform agenda.
- iii Includes a representative from the Australian Local Government Association on the National Cabinet, to ensure local government's interests are strongly represented at the national level.

Carried

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

3 Permanently Raise the Rate Higher

That the National General Assembly calls on the Federal Government to:

- i Note that the severe economic impacts of the COVID-19 pandemic have been cushioned by Commonwealth, State and Local policy interventions, including the JobSeeker and JobKeeper payments;
- ii Notes that prior to the \$550 per fortnight increase in the JobSeeker payment in April 2020, the JobSeeker/NewStart rate had not been increased in real terms in 26 years. Recipients were living well below the poverty line, unable to cover basic living costs such as rent, fresh food and medication;
- iii Notes that in February 2021, the Commonwealth increased the JobSeeker rate by just \$50 a fortnight, to \$307 per week for a single adult, still well below the poverty line in Australia, and also coinciding with the end of the \$75 per week coronavirus supplement, which will leave recipients \$50 a week worse off than they currently are;
- iv Calls on the Prime Minister, Treasurer and Commonwealth Parliament to permanently raise the rate of JobSeeker by between \$185 per week and \$275 per week.

Carried

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

4 Ban Nuclear Weapons Treaty ratification

That the National General Assembly:

- i Notes that the 2017 United Nations Treaty on the Prohibition of Nuclear Weapons is the first treaty to comprehensively outlaw nuclear weapons and provide a pathway for their elimination. This Treaty entered into force on 22 January 2021 and all national governments have been invited to sign and ratify the treaty;
- ii Notes that the Treaty entering into force is an important milestone on the path to a nuclear weapon-free world. It makes concrete the standard that nuclear weapons are illegal and illegitimate for all states, and a permanent part of international law.
- iii Welcomes the entry into force of the UN Treaty on the Prohibition of Nuclear Weapons on 22 January 2021, and calls on the Commonwealth Government to sign and ratify the treaty.

**Carried
unanimously**

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

5 'Racism Not Welcome' campaign

The National General Assembly calls on the Commonwealth Government to:

- i Endorse the 'Racism Not Welcome' campaign, headed up by former Socceroos Captain, SBS commentator and human rights campaigner, Craig Foster, at the national level, as a symbol of Australia's commitment to multiculturalism, inclusivity, and the International Day for the Elimination of Racial Discrimination.
- ii Partner with peak national bodies, including the Federation of Ethnic Communities' Councils of Australia, the Refugee Council of Australia, and the Inner West Multicultural Network, to implement the 'Racism Not Welcome' campaign on a national level.

**Carried
unanimously**

ITEM-21

CCL 23/03/21 - COUNCILLOR REPRESENTATION ON EXTERNAL COMMITTEE - HUNTER AND CENTRAL COAST REGIONAL PLANNING COMMITTEE

MOTION

Moved by Cr Clausen, seconded by Cr Duncan

That Council:

- 1 Notes Councillor Dunn's resignation from the Hunter and Central Coast Regional Planning Panel received on 16 March 2021; and
- 2 Nominates and appoints Councillor Winney-Baartz as City of Newcastle's representative on the Hunter and Central Coast Regional Planning Panel until the day before the next local government election.

Councillor Church foreshadowed a substantive motion to nominate Councillor Luke as City of Newcastle's representative.

Councillors Mackenzie and Rufo moved an additional substantive motion to nominate and appoint Councillor Luke as City of Newcastle's alternate representative.

The motion moved by Councillor Clausen, seconded by Councillor Duncan was put to the meeting.

Carried

The foreshadowed motion from Councillor Church lapsed.

MOTION

Moved by Cr Mackenzie, seconded by Cr Luke

That Council:

- 1 Nominates and appoints Councillor Luke as City of Newcastle's alternate representative on the Hunter and Central Coast Regional Planning Panel until the day before the next local government election.

Carried

ITEM-22 CCL 23/03/21 - STAIRWAY TO HEAVEN FEASIBILITY ANALYSIS

MOTION

Moved by Cr Duncan, seconded by Cr Luke

That Council:

- 1 Authorises the Chief Executive Officer (CEO) to enter into a Heads of Agreement (HoA) with Iris Capital to reach in-principle agreement on the terms and conditions under which the parties might progress the Stairway to Heaven concept to create a landmark public space to enhance the visual and physical connections to Christ Church Cathedral (Cathedral), through an integrated approach incorporating City of Newcastle (CN) owned land and Iris Capital owned land as outlined at **Attachment A**.

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- 2 Endorses entering into exclusive discussions with Iris Capital to develop the HoA in accordance with the Independent Commission Against Corruption (ICAC) Guidelines as outlined at **Attachment D**, and considers this report as providing public notice of CN's intention to enter into exclusive discussions with Iris Capital.

AMENDMENT

Moved by Cr Elliott, seconded by Cr Church

That the Heads of Agreement be brought back to Council before being ratified.

Defeated

The motion moved by Councillor Duncan, seconded by Councillor Luke was put to the meeting.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Church, Clausen, Duncan, Dunn, Luke, Mackenzie, Rufo, White, and Winney-Baartz.

Against the Motion:

Councillor Elliott.

Carried

ITEM-23

CCL 23/03/21 - SUPPLEMENTARY REPORT NOMINATION TO LIST NEWCASTLE RECREATION RESERVE (KING EDWARD PARK) ON THE STATE HERITAGE REGISTER

MOTION

Moved by Cr Clausen, seconded by Cr Duncan

That Council:

Part A

- 1 Endorses the nomination at **Attachment A** to list Newcastle Recreation Reserve on the NSW State Heritage Register (SHR).

Part B

- 1 Notes the nomination to list the Newcastle Recreation Reserve on the State Heritage Register is consistent with Council's adopted Heritage Strategy 2020-2030.
- 2 Notes that Council had previously resolved to nominate the Newcastle Recreation Reserve, including the Newcastle Headland Reserve, for listing on the State Heritage Register (28 June 2016).
- 3 Notes that this request was rejected in September 2020 when the Minister responsible for heritage determined not to list the Newcastle Recreation Reserve on the State Heritage Register.

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- 4 Recognises that the inclusion of items on the State Heritage Register is a matter for the NSW Government and the Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts (The Hon Don Harwin MLC).
- 5 Notes that regardless of its inclusion on the SHR, any future development of the Headland Reserve will need to be consistent with the City's zoning and planning controls. Any future development application will need to address and respond to both onsite heritage and the heritage values of adjoining parcels.
- 6 Refers the Public Voice presentations, and all submissions received on this matter, to the NSW Heritage Council for their consideration, noting that ultimately this matter will be resolved from (changed by to from) recommendation of the Heritage Council to the Minister for determination.

AMENDMENT

Moved by Cr Mackenzie, seconded by Cr Elliott

That Council:

Endorses the nomination at Attachment A to list Newcastle Recreation Reserve on the NSW State Heritage Register (SHR), with the inclusion of the King Edward Headland Reserve (former Newcastle Bowling Club – Lot 3109 DP755247).

Defeated

The motion moved by Councillor Clausen, seconded by Councillor Duncan was put to the meeting.

For the Motion:

Lord Mayor, Cr Nelmes and Councillor Byrne, Clausen, Duncan, Dunn, Elliott, Luke, Mackenzie, Rufo, White and Winney-Baartz.

Against the Motion:

Cr Church.

Carried

ITEM-24

CCL 23/03/21 - ADOPTION OF 2021-2025 DESTINATION MANAGEMENT PLAN

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Adopts the 2021-2025 Destination Management Plan at **Attachment A** subject to removing the first sentence under the heading '*Continuing the Night -Time Economy Recovery*' at Attachment A, "*The lockout conditions in Newcastle are considered by some to have had an adverse impact on the night-time economy, and reinforce a negative perception of the city.*"

**Carried
unanimously**

ITEM-28 CCL 23/03/21 - PUBLIC EXHIBITION OF THE 2021/22 DRAFT OUR BUDGET (DELIVERY PROGRAM 2018-2022 AND OPERATIONAL PLAN 2021/22)

MOTION

Moved by Lord Mayor, Cr Nelmes, seconded by Cr Clausen

That Council:

- 1 Resolves to publicly exhibit the draft 2021/22 Our Budget (2018-2022 Delivery Program and 2021/22 Operational Plan) as at **Attachment A** and draft 2021/22 Fees and Charges Register as at **Attachment B** for 28 days prior to final consideration by Council.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Church, Clausen, Duncan, Dunn, Elliott, Luke, Mackenzie, Rufo, White and Winney-Baartz.

Against the Motion:

Nil.

Carried

ITEM-29 CCL 23/03/21 - UPDATE TO SPECIAL BUSINESS RATE GUIDELINES

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That Council:

- 1 Adopt the updated Assessment Panel membership for the Special Business Rate Expression of Interest Guidelines at **Attachment A** subject to amending Clause 7.7 to read "Each CN officer and assessment panel member involved in the assessment and approval of applications under this section must comply with CN's Code of Conduct, in particular, the provisions covering Conflicts of Interest".
- 2 Appoints Councillors Church (Ward 1), Duncan (Ward 2), Winney-Baartz (Ward 3) and Byrne (Ward 4) as Council's ward representatives on the Assessment Panel.

Councillors Duncan, Winney-Baartz and Byrne accepted their nominations as ward representatives to the Assessment Panel. Councillor Church declined his nomination as the Ward 1 representative.

Councillor Mackenzie then accepted a nomination as the Ward 1 representative.

The motion moved by Councillor Clausen and seconded by Councillor Winney-Baartz, as amended, was put to the meeting.

Carried

ITEM-30 CCL 23/03/21 - EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION

Moved by Cr Clausen, seconded by Cr Byrne

That Council:

- 1 Receives the Executive Monthly Performance Report for February 2021.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Luke, Mackenzie, Rufo, White and Winney-Baartz.

Against the Motion:

Councillors Church and Elliott.

Carried

NOTICES OF MOTION

ITEM-5 NOM 23/03/21 - CITY OF NEWCASTLE WEBCAM NETWORK

MOTION

Moved by Cr Duncan, seconded by Cr Byrne

That Council:

- Notes Newcastle's visitor economy supports 5,000 local jobs with an economic output of \$945m.
- Notes the NSW Government's 'Smart Places' Program will co-invest up to \$45M over the next three years to accelerate the development of 'smart places' across NSW.
- Notes that research shows a significant increase in webcam-travel due to COVID-19 travel restrictions.
- Notes that this research suggests that webcam-travel leads to an increased likelihood to physically visit destinations in the future.

- Notes that recent information presented at the Council Strategic Planning Workshop to Councillors and ELT by CSIRO's Data61 strongly recommended AI be integrated into City of Newcastle (CN) strategies and projects. This is not including any form of identity of individuals.
- Seek NSW Government 'Smart Places' funding to support the establishment of a high-resolution live-stream webcam network in strategic Newcastle LGA locations to:
 - support opportunities for the visitor economy both domestically and from international visitors once covid restrictions are lifted.
 - explore how visual data from such a network could be used to inform future policy and strategy on issues surround parking and traffic congestion/patterns, pedestrian movements, citizen safety, weather events and other incidents.
 - explore how AI may be used to provide augmented experiences or information.

Carried

ITEM-6 NOM 23/03/21 - MAINTENANCE OF STREET TREES UNDER AERIAL POWERLINES

MOTION

Moved by Cr Mackenzie, seconded by Cr Clausen

That City of Newcastle

- 1 Notes the contribution of Newcastle's street tree population to the city's urban forest, an intergenerational resource that provides multiple community benefits, and the need to improve practices and capacity to ensure these benefits.
- 2 Notes the responsibility of Council for the holistic management of urban forest assets owned or controlled by the City of Newcastle, as outlined in the Newcastle Urban Forest Policy.
- 3 Acknowledges the need for line clearance to ensure consistent and uncompromised electricity supply for our communities
- 4 Notes that numerous complaints have been received from the Newcastle community, including photos showing a significant loss in visual amenity, tree canopy benefits, and in some instances, increased risk of tree failure following Ausgrid's pruning activities, due to recent heavy pruning of a large portion of public trees under Ausgrid's powerline network (see attachments). Photos have been submitted showing the recent impact of Ausgrid pruning on street trees in Maryville, Wickham, Stockton, New Lambton, Waratah, Georgetown, Wallsend, Hamilton, Hamilton North and North Lambton.
- 5 Notes that this is not unique to Newcastle, including contact from Councils elsewhere in Ausgrid's network area who are experiencing similar issues with Ausgrid tree pruning practices.

- 6 Notes continued advocacy from the City of Newcastle, including motions submitted to and adopted by the LGNSW Annual Conference, and City of Newcastle's joint advocacy and participation on the Ausgrid Vegetation Management Working Group along with LGNSW, Sutherland Shire Council, Parramatta City Council, Willoughby Council, City of Sydney Council, Ku-Ring-Gai Council, Inner West Council, Strathfield Council, Burwood Council, Lake Macquarie City Council, Canterbury-Bankstown City Council, Woollahra Council, Mosman Council, Randwick City Council, North Sydney Council and Northern Beaches Council.
- 7 Writes to Ausgrid's CEO Richard Goss requesting that he provide Councillors with a briefing on current practice for street tree maintenance and management under aerial powerlines, including the use of alternative transmission line technologies that reduce the extent of and need for tree pruning such as insulated bundled wires and underground transmission lines. Council request the briefing explain the advantages, the limitations, and the cost of these technologies, and the criteria on which Ausgrid decides where and when these technologies will be rolled out.
- 8 Formally requests that Ausgrid:
 - a. Review current Ausgrid pruning practices,
 - b. Implement measures to prevent the current practices from continuing,
 - c. Compensate for street tree removal and replacement where current practices have been excessive, based on agreed public tree asset arboricultural assessments,
 - d. Understand and acknowledge the public value of our urban forest and requirement for ongoing collaboration with CN in developing long-term solutions, and
 - e. Create effective communication and notification for customers that confirms what they can expect and why, and where to direct their concerns if this expectation is not met.
- 9 Offers genuine collaboration to resolve this issue, including by making available staff and data sharing to achieve the above requests, and seeks Ausgrid's immediate attention to resolve the negative impacts on the management of the public urban forest.

**Carried
unanimously**

ITEM-7 NOM 23/03/21 - GIPA POLICY REVIEW

MOTION

Moved by Cr Mackenzie, seconded by Cr Byrne

That City of Newcastle:

- Notes the comments by University of Newcastle Professor Roberta Ryan in the Newcastle Herald that governments have "increasingly moved to using commercial in confidence as a way of making the rationale for their decision-

making a bit more opaque" (University of Newcastle professor urges financial transparency to build trust in government, Newcastle Herald, 10 March 2021).

- Endorses recent changes to the presentation of confidential items in the Council agenda and business papers to provide greater transparency to the community.
- Provide to Councillors a leading practice review of policies and measures in other LGAs to provide transparency and information disclosure under the Government Information (Public Access) Act 2009, specifically with regard to:
 - the use of open data platforms;
 - avoiding specific confidentiality clauses from commercial contracts;
 - establishing provisions in standard contracts with third parties allowing for the disclosure of data and information; and
 - minimising and waiving fees and charges associated with formal application and internal review requests, processing and administrative fees and legal work arising from information disclosure requests.

**Carried
unanimously**

ITEM-8 NOM 23/03/21 - CONSISTENT PROCEDURES FOR SENSITIVE DEVELOPMENT

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Amends relevant procedures so that the elected Council is notified via memo when:
 - a) A development application is received that involves the demolition or destruction of a Heritage Item
 - b) A planning proposal is received
- 2 This notification process is to be consistent with the current practice of councillor notification for development involving the sale of alcohol, or the removal of significant trees (Notifiable Tree Process).
- 3 Nothing in these procedures is to prevent councillors from calling a development application in for determination by the Development Applications Committee (DAC), in accordance with the adopted DAC Delegations.

**Carried
unanimously**

CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Cr Winney-Baartz, seconded by Cr Mackenzie

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

Carried

Council moved into confidential session at 9.02pm.

During confidential session for Item 2 – Confidential Supplementary Report – Code of Conduct Matter:

- All staff other than the Chief Executive Officer, Director Governance, Manager Legal, Councillor Services and IT Support left the Chamber.
- Councillor Clausen (as the complainant) left the Chamber at 9.02pm and returned to the meeting at 9.08pm.
- Councillor Elliott (the respondent) to the complaint retired from the meeting at 8.38pm and it was noted that she was unable to make an oral or written submission when she may ordinarily have had that choice.

PROCEDURAL MOTION

Moved by Cr Byrne, seconded by Cr Winney-Baartz

Council move back into open Council.

Carried

Council moved back into open session at 9.08pm and the Chief Executive Officer reported the outcomes of Item 2 - Confidential Supplementary Report – Code of Conduct Matter.

ITEM-2 CON 23/03/21 - CONFIDENTIAL SUPPLEMENTARY REPORT - CODE OF CONDUCT MATTER

PROCEDURAL MOTION

Moved by Cr White, seconded by Cr Rufo

That Council lays on the table recommendations 1 – 6.

- 1 notes that an investigation was undertaken into a Code of Conduct complaint against Councillor Kath Elliott. The investigation was undertaken by a Conduct Reviewer independent of City of Newcastle (CN), in accordance with the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (Procedures);
- 2 receives the Final Investigation Report of the Conduct Reviewer in relation to the complaint at **Attachment A**;

- 3 notes that Councillor Elliott was consulted by the Conduct Reviewer throughout the investigation and that prior to imposing a sanction, Councillor Elliott was provided with a formal opportunity to make a written or oral submission to Council;
- 4 accepts the finding of the Conduct Reviewer in relation to the complaint that at the Extraordinary Council meeting held on 11 February 2020, Councillor Elliott breached clause 20.5 of the Code of Meeting Practice and clause 3.1(b) of the Code of Conduct for Councillors, by removing confidential papers from the confidential session of the meeting and refused to return the confidential papers when requested;
- 5 in accordance with section 440G of the Local Government Act 1993 (Act) and based on the findings and recommendation of the Conduct Reviewer:
 - (i) formally censures Councillor Elliott for breaching clause 20.5 of the Code of Meeting Practice and clause 3.1(b) of the Code of Conduct for Councillors, on the grounds that Councillor Elliott engaged in the following forms of conduct:
 - (a) did not return the confidential Business Papers at the conclusion of the Meeting as directed under the Code of Meeting Practice; and
 - (b) conducted herself in a manner that is contrary to statutory requirements, or CN's administrative requirements or policies; and
 - (ii) due to the repeated and serious nature of this matter, refers the matter to the Office of Local Government for further action under the misconduct provisions of the Act;
- 6 treats this confidential report and attachment relating to the matters specified in section 10A(2)(i) of the Act as confidential to ensure procedural fairness for Councillor Elliott given her current absence from the Ordinary Meeting and provide her an opportunity to respond at the next available Council meeting.

Carried

The meeting concluded at 9.11pm.