

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street, Newcastle on Tuesday 22 October 2019 at 5.40pm.

PRESENT

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

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance), K Liddell (Director Infrastructure and Property), F Leatham (Director People and Culture), A Jones (Interim Director City Wide Services), D Guest (Acting Manager Legal), S Moore (Acting Chief Financial Officer), A Williams (Manager Corporate Finance), M Bisson (Manager Regulatory, Planning and Assessment), L Duffy (Manager Parks and Recreation), S Gately (Manager Libraries and Learning), T Uren (Manager Waste Services), D Moldrich (Manager Customer Experience), S Grierson (Manager Transport and Compliance), D O'Hara (Manager Civic Services), A Abbott (Manager Corporate and Community Planning), D Manderson (Manager Civil Construction and Maintenance), N Kaiser (Media and Stakeholder Relations Manager), E Dowsdell (Media and Communications Advisor), M Murray (Policy Officer, Lord Mayor's Office), K Sullivan (Council Services/Minutes) and A Knowles (Council Services/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.

Especially remembered was former State Member for Newcastle, Bryce Gaudry, who served from 1991 to 2007. Mr Gaudry was remembered as a man of integrity, passion and advocacy for everyone in the community.

APOLOGIES

Nil.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke

Councillor Luke declared a less than significant non-pecuniary conflict of interest in Item 81 - Executive Monthly Performance Report - September as the item included the re-investment of Surplus Funds Report which mentions multiple financial institutions that he had dealings with in his business. The declaration is less than significant as he noted he was not involved in determining where funds are invested and was just receiving a report.

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Councillor Rufo

Councillor Rufo declared a significant and pecuniary interest in Item 21 - Lord Mayoral Minute - City of Newcastle Budget Submission stating that one of the items in the submission he had a conflict with and would leave the Chamber for discussion on the item.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - PUBLIC VOICE COMMITTEE 17 SEPTEMBER 2019
MINUTES - ORDINARY COUNCIL MEETING 24 SEPTEMBER 2019

MOTION

Moved by Cr Byrne, seconded by Cr Mackenzie

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

Carried

LORD MAYORAL MINUTE

ITEM-21 LMM 22/10/19 - CITY OF NEWCASTLE BUDGET SUBMISSIONS

Councillor Rufo left the Chamber for discussion on this item.

MOTION

Moved by Cr Nelmes, Lord Mayor

That City of Newcastle:

- 1 Notes that planning for the Federal and NSW 2020-2021 Budget's has begun, with advice received recommending that organisations should prepare Budget submissions to the Federal and NSW Treasurer's no later than 30 November 2019.
- 2 Prepares detailed Budget submissions for both Commonwealth and NSW Treasurers to consider as a part of their funding allocation, with projects including, but not limited to:
 - Stockton Coastal Erosion
 - Newcastle Art Gallery expansion project
 - Lower Hunter Freight Corridor
 - Expansion of Newcastle Light Rail
 - Hunter Sports and Entertainment Precinct
 - Affordable Housing initiatives
 - Rate rebates for pensioners
 - Local sporting amenity upgrades
 - Disability inclusion upgrades for local playgrounds
 - Diversification of Port of Newcastle
 - Ferry terminal at Newcastle Interchange
 - Active Transport infrastructure improvements – Cycling and walking

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- Flood mitigation at Wallsend
 - Newcastle Airport expansion
- 3 Notes that our funding priorities have remained consistent, with the City of Newcastle advocating for funding to deliver these projects across many budget cycles, as well as recently proposing for the inclusion of the Port of Newcastle expansion and diversification; Newcastle Airport expansion; active transport – cycling and walking infrastructure; Hunter Sports and Entertainment Precinct; Lower Hunter Freight Corridor; and Newcastle Art Gallery Expansion Project, in the Infrastructure Australia *Priority List 2020*.

**Carried
unanimously**

Councillor Rufo returned to the Chamber at the conclusion of this item.

**ITEM-22 LMM 22/10/19 - KICKSTARTING THE PRODUCTIVITY
CONVERSATION SUBMISSION**

MOTION

Moved by Cr Nelmes, Lord Mayor

That City of Newcastle:

- 1 Notes that the NSW Productivity Commissioner has released a Discussion Paper titled *Kickstarting the productivity conversation*, the first in a series of papers to shape the productivity reform agenda for New South Wales;
- 2 Notes that Greater Newcastle remains the economic engine room of the New South Wales economy, contributing over \$32 billion to the NSW economy, ranking above Tasmania, the Northern Territory and the Australian Capital Territory in terms of economic output;
- 3 Prepares a submission to the NSW Productivity Commissioner, providing City of Newcastle's feedback about how the NSW Government can best support continued growth in living standards for all Novocastrians, with specific reference to the *Greater Newcastle Metropolitan Plan 2036* noting that an opportunity exists for legislative reform and support that could expedite the implementation of the Plan.

**Carried
unanimously**

ITEM-23 **LMM 22/10/19 - LORD MAYOR'S UNIVERSITY OF
NEWCASTLE SCHOLARSHIP**

MOTION

Moved by Cr Nelmes, Lord Mayor

That City of Newcastle:

- 1 Notes that *the Lord Mayor's Scholarship for Women* was established on International Women's Day 2015 to assist women facing hardship to achieve their educational goals;
- 2 Notes that University of Newcastle Vice-Chancellor, Professor Alex Zelinsky AO has written to City of Newcastle to advise that the scholarship has been an outright success noting that the scholarship now attracts the highest number of applications for a single scholarship and that there is significant opportunity to expand the program further to provide additional support for disadvantaged students;
- 3 Accepts the proposal from the University of Newcastle, by supporting the expansion of the scholarship program to create *the Lord Mayor's Scholarship*, open to all students facing disadvantage, in addition to the *Lord Mayor's Scholarship for Women*.

**Carried
unanimously**

REPORTS BY COUNCIL OFFICERS

ITEM-74 **CCL 22/10/19 - TABLING OF DISCLOSURES BY DESIGNATED
PERSONS - ANNUAL REPORT**

MOTION

Moved by Cr Mackenzie, seconded by Cr Byrne

That Council:

- 1 Note the tabling of the annual disclosures of interest by designated persons returns (for the financial year 2018/2019) by the CEO.

Carried

ITEM-77 **CCL 22/10/19 - ADOPTION OF COMMUNITY PARTICIPATION PLAN**

MOTION

Moved by Cr Elliott, seconded by Cr White

That Council:

- 1 Adopt the Community Participation Plan (CPP) (**Attachment A**) and publish it on the NSW ePlanning portal by 1 December 2019.
- 2 Repeal Section 8 Public Participation of Newcastle Development Control Plan 2012 (NDCP 2012) effective on the date the CPP is published on the NSW ePlanning portal.

**Carried
unanimously**

ITEM-79 **CCL 22/10/19 - ACQUISITION OF 8A ALBERT STREET AND 161 RAILWAY STREET, WICKHAM**

MOTION

Moved by Cr White, seconded by Cr Byrne

That Council:

- 1 Resolves to accept the transfer of 8A Albert Street (Lot 51 DP830679) (116.4m²) and 161 Railway Street, Wickham (Lot 53 DP830679) (74.7m²) from Rail Corporation NSW for nil consideration.
- 2 Delegates to the Chief Executive Officer (CEO) authority to execute all relevant documentation to effect the transfer.

**Carried
unanimously**

ITEM-81 **CCL 22/10/19 - EXECUTIVE MONTHLY PERFORMANCE REPORT**

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Receives the Executive Monthly Performance Report for September 2019.

For the Motion:

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

Against the Motion:

Councillors Church, Elliott, Robinson and Rufo.

Carried

ITEM-73

CCL 22/10/19 - ADOPTION OF 2018/19 ANNUAL FINANCIAL STATEMENTS

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

A That Council

- 1 Receives and adopts CN's Financial Statements and accompanying notes, in respect of the year ended 30 June 2019, together with the Auditor's Report (**Attachment A**).

B That Council:

- 1 Notes that CN's Financial Reports 2018-19 were audited by the Auditor-General of New South Wales, who issued an Unmodified Audit opinion.
- 2 Notes that the Auditor-General's representative presented the financial statements to Councillors at a workshop on 15 October 2019, and told Councillors that the City's finances were in "very good nick".
- 3 Notes that Councillors Elliott, Church, and Robinson did not attend this session and did not submit an apology.
- 4 Thanks and acknowledges the substantial effort of CN's Interim Director City Wide Services, Director Governance, Interim Chief Financial Officer, Manager Corporate Finance, and the broader Finance Business Unit, and all other contributing members of CN staff, for their work to produce the annual accounts, and their preparation and support of the Independent auditing process.

For the Motion:

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

Against the Motion:

Councillors Church, Elliott and Robinson.

Carried

MOTION

Moved by Cr Clausen, seconded by Cr Byrne

That Council:

- 1 Notes that the \$1,150,896 (\$8.21 per elector) estimate provided by the NSW Electoral Commission is more expensive than the recommendation in IPART's Final Determination (Attachment C, \$6.70 per elector, an increase of 22%), and \$250,000 more than the 2017 Local Government Election cost (\$6.41 per elector, an increase of 33%).
- 2 Note that IPART's Final Determination recommended that the cost to CN for the 2020 Local Government election be \$821,000 (equal to \$6.70 per elector). This incorporated CN's share of a recommended \$15 million NSW Government grant to the NSW Electoral Commission. Minister Hancock's media release (Attachment B) states that the NSW Government ultimately provided the NSW Electoral Commission with \$19.9 million grant (\$5m more than IPART recommended), however this additional grant has not been passed on to CN with a lower quote.
- 3 Notes the extensive recent background, including the varying costs quoted by the NSW Electoral Commission and IPART during IPART's recent Review of Local Government Election Costs (summary at Attachment A).
- 4 Writes to the NSW Electoral Commission, the Department of Planning, Industry and Environment (Office of Local Government), and IPART as a matter of urgency, requesting clarification on these costs, and querying the discrepancy in the quoted figure.
- 5 Reiterates its preference for the NSW Electoral Commission to conduct the 2020 Local Government Election, and notes that S.296(5A)(b) of the *Local Government Act 1993* provides CN until 1 January 2020 to enter into a contract with the NSW Electoral Commission to administer the 2020 Local Government Election, providing an opportunity for this matter to be resolved before the contract is finalised.
- 6 Authorises the Chief Executive Officer to negotiate with the NSW Electoral Commission to achieve an outcome at least as favourable as the current quote, and pursuant to S.296(2) and S.296(5) of the *Local Government Act 1993*, authorises an election arrangement to be entered into by contract for the NSW Electoral Commissioner to administer the 2020 ordinary election of the Council.

**Carried
unanimously**

For the Motion:

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

Against the Motion:

Councillor Mackenzie.

Carried

**ITEM-80 CCL 22/10/19 - CARRINGTON GREENSPACE MASTERPLAN
PUBLIC EXHIBITION**

MOTION

Moved by Cr White, seconded by Cr Church

That Council:

- 1 Resolves that the draft Carrington Greenspace Masterplan (Masterplan) **Attachment A** be placed on public exhibition for a period of 60 days.
- 2 Considers a further report following the exhibition period.

**Carried
unanimously**

**ITEM-82 CCL 22/10/19 - GREATER NEWCASTLE AEROTROPOLIS PTY
LTD - APPOINTMENT OF COUNCIL'S SHAREHOLDER
REPRESENTATIVES**

MOTION

Moved by Cr Clausen, seconded by Cr Byrne

That Council:

- 1 In accordance with section 250D of the *Corporations Act 2001* (Cth) and clauses 1.1 and 1.2 of the Constitution of Greater Newcastle Aerotropolis Pty Ltd (GNAPL), in its capacity as one of the two shareholders of GNAPL, resolves to appoint Shareholder Representatives as follows:
 - i) Lord Mayor, Councillor Nuatali Nelmes, and
 - ii) Jeremy Bath, Chief Executive Officer.
- 2 In accordance with Clause 400(4) of the *Local Government (General) Regulation 2015* (NSW), approves and authorises Council's seal to be affixed to the Appointment of Shareholder Representative form on the grounds that such appointment relates to the business of Council.

For the Motion:

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

Against the Motion:

Councillors Church, Elliott, Robinson and Rufo.

Carried

NOTICES OF MOTION

ITEM-36 NOM 22/10/19 - NATIONAL PARK PLAN OF MANAGEMENT

MOTION

Moved by Cr White, seconded by Cr Duncan

That City of Newcastle:

1. Notes the importance of National Park precinct, in the heart of Newcastle's new CBD, for sporting, recreational, passive and educational uses;
2. Notes the community interest in being involved in the future planning of the National Park precinct, including the future use of the former Life Without Barriers and bowling club site; and
3. Commences the production of a site specific Plan of Management through comprehensive consultation with the community and relevant stakeholders.

AMENDMENT

Moved by Cr Mackenzie, seconded by Cr Elliott

3. Commences the production of a site specific Plan of Management with relation to Life Without Barriers, the bowling club and the tennis court sites.
4. Seek to commence in the first half of 2020 the development of the National Park POM.

Defeated

The motion moved by Councillor White and seconded by Councillor Duncan was put to the meeting.

**Carried
unanimously**

ITEM-37 **NOM 22/10/19 - EMERGENCY EGRESS FOR HIGHRISE OCCUPANTS WITH A DISABILITY**

MOTION

Moved by Cr Mackenzie, seconded by Cr Byrne

That City of Newcastle

- 1 Note the commencement of the review of the City of Newcastle's Disability Inclusion Action Plan 2016-2019, and the preparation of the draft revised plan for the period 2020-2024.
- 2 Note the successful pilot program of events and activities to acknowledge International Day of People with Disabilities under the title of "Count Us In Newcastle" over the past month.
- 3 Receive a report on emergency and evacuation egress for occupants or visitors with a disability in high-rise buildings, including options for amendments to City of Newcastle planning documents and advocacy opportunities, to ensure safe, dignified and independent egress for all.

**Carried
unanimously**

ITEM-38 **NOM 22/10/19 - CONTRACTS WITH VALUE OF \$1 MILLION OR MORE**

MOTION

Moved by Cr Church, seconded by Cr Elliott

That City of Newcastle

1. Notes that City of Newcastle has entered into numerous contracts for IT services in 2019 valued at more than \$10 million.
2. Notes that this coincides with a major restructure of the IT department and the move of council's administration staff to rented premises at 12 Stewart Avenue, Newcastle West.
3. Notes that 2 of the largest contracts are for values of \$2,050,000 and \$2,781,857 and that these contracts did not go to formal tender and were not approved by the elected council.
4. Notes The City of Newcastle's ongoing commitment to improving Corporate Governance through greater transparency and accountability.
5. Resolves that all contracts valued at \$1million or more must come to the fully elected council for approval before being awarded, regardless of the tendering process used for the procurement.

Councillor Clausen gave notice of a foreshadowed motion.

The motion moved by Councillor Church and seconded by Councillor Elliott was put to the meeting.

For the Motion: Councillors Church, Elliott, Luke, Robinson and Rufo.

Against the Motion: Lord Mayor, Councillor Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Mackenzie, White and Winney-Baartz.

Defeated

MOTION

Moved by Cr Clausen, seconded by Cr Duncan

That Council:

- 1 Notes the City of Newcastle's ongoing commitment to improving governance through greater transparency and accountability, in accordance with legislative and policy requirements.
- 2 Resolves that all tenders called by City of Newcastle pursuant to section 55(1) of the Act valued at \$1 million or more, are awarded by the elected Council, in accordance with legislative requirements and the CEO's Instrument of Delegation.

Carried

ITEM-39 NOM 22/10/19 - NEWCASTLE MARITIME MUSEUM SOCIETY - EXCLUDED

This item was excluded in accordance with clause 21.5 of the Code of Meeting Practice which provides "The CEO must not include in the agenda for any Meeting any business of which due notice has been given if, in the opinion of the Chief Executive Officer, the business is (or the implementation of the business would be) unlawful". This item was excluded as, in the opinion of the Chief Executive Officer, the implementation would breach the Code of Meeting Practice clause 17.1 which stipulates that any person wishing to address Council apply either to the Public Voice Committee or the Briefings Committee.

ITEM-40**NOM 22/10/19 - CBRE BUSINESS CASE FOR MOVE INTO RENTED PREMISES AT 12 STEWART AVENUE, NEWCASTLE WEST - EXCLUDED**

This item was excluded in accordance with clause 21.5 of the Code of Meeting Practice which provides "The CEO must not include in the agenda for any Meeting any business of which due notice has been given if, in the opinion of the Chief Executive Officer, the business is (or the implementation of the business would be) unlawful". This item was excluded as, in the opinion of the Chief Executive Officer, the implementation would be unlawful because it would disclose information that would breach commercial in confidence and confidentiality obligations to third parties. As communicated in regard to previous similar requests to make the lease details public, third party consultation is necessary under the Government Information (Public Access) Act 2009. This was previously undertaken in February 2019 with the lessor unwilling to waive his right to commercial in confidence.

CONFIDENTIAL REPORTS

Nil

The meeting concluded at 7.50pm.