

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held via video conferencing platform Zoom on Tuesday 28 July 2020 at 6.02pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen, C Duncan, J Dunn (*arrived 6.05pm*), 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), B Smith (Director Strategy and Engagement), A Jones (Manager City Wide Services), E Kolatchew (Manager Legal), S Moore (Acting Chief Financial Officer), M Bisson (Manager Regulatory, Planning and Assessment), J Rigby (Manager Assets and Projects), L Duffy (Manager City Wide Services), I Challis (Contracts Coordinator), E Horder (Councillor Services/Minutes), K Sullivan (Councillor Services/Meeting Support), A Knowles (Councillor Services/Meeting Support), G Axelsson (Information Technology Support) and S Ray (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

Nil.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - EXTRAORDINARY COUNCIL MEETING 12 MAY 2020

MINUTES - PUBLIC VOICE COMMITTEE 16 JUNE 2020

MINUTES - ORDINARY COUNCIL MEETING 23 JUNE 2020

MOTION

Moved by Cr Byrne, seconded by Cr Mackenzie

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

**Carried
unanimously**

LORD MAYORAL MINUTE

ITEM-14

LMM 28/07/20 - SAVE THE BIRDWOOD PARK HERITAGE FIGS

MOTION

Moved by Cr Nelmes, Lord Mayor

That City of Newcastle:

1. Notes that following a successful community petition, with more than 1,100 signatures of concerned local residents, the NSW Government has halted their decision to chop down 4 heritage fig trees in the local heritage precinct Birdwood Park to make way for an unnecessary \$1.4 million, gold-plated slip lane on the corner of King Street and Stewart Avenue, Newcastle West;
2. Supports the retention of the south west corner of Birdwood park and that our approved *West End Stage 1 Public Domain Plan*, adopted by Council following extensive community consultation, has no proposal for the removal of any heritage listed fig trees, and that the existing trees are fully incorporated into future upgrades of the west end streetscape as a very positive element of our proposed upgrades;
3. Thanks the Minister for Transport, the Hon. Andrew Constance MP, for assisting City of Newcastle to protect these important trees; and
4. Protects the heritage fig trees in Birdwood Park in perpetuity and calls on the NSW Government to abandon their project to create an unnecessary slip lane on the corner of King Street and Stewart Avenue.

For the Motion:

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

Against the Motion:

Nil.

**Carried
unanimously**

ITEM-15 **LMM 28/07/20 - CITY OF NEWCASTLE SUBMISSION TO THE INQUIRY INTO THE INTEGRITY EFFICACY AND VALUE FOR MONEY OF NSW GOVERNMENT GRANT PROGRAMS**

MOTION

Moved by Cr Nelmes, Lord Mayor

That City of Newcastle:

1. Notes that the Chair of the NSW Legislative Council Public Accountability Committee has invited council to make a submission to the *Inquiry into the integrity, efficacy and value for money of NSW Government grant programs*;
2. Continues to raise concerns regarding the uncertainty surrounding the status of the City of Newcastle, where we are classified as either 'regional' or 'metropolitan';
3. Notes that in March 2018, Council unanimously passed a Lord Mayoral Minute regarding the Status of the City of Newcastle, calling on the NSW Government to provide certainty regarding our eligibility for grant funding opportunities, acknowledging Newcastle's role as the State's second city;
4. Makes a submission to the *Inquiry into the integrity, efficacy and value for money of NSW Government grant programs*, highlighting the ongoing uncertainty regarding Newcastle's status, and raising concern about the significant amount of grant funding we have been deemed ineligible to receive; and
5. Provides a copy of our submission to local State and Federal Members of Parliament, the Premier of New South Wales, and the Prime Minister.

**Carried
unanimously**

ITEM-16 **LMM 28/07/20 - INFRASTRUCTURE AUSTRALIA 2021 PRIORITY LIST**

MOTION

Moved by Cr Nelmes, Lord Mayor

That City of Newcastle:

1. Notes that Infrastructure Australia's Infrastructure Priority List provides evidence-based advice to support an informed discussion about Australia's spending priorities;
2. Notes that Infrastructure Australia Chief Executive Officer, Romilly Madew AO, has written to the City of Newcastle, seeking a submission for the next update of the Infrastructure Priority List, which will be published in February 2021;

3. Notes that our infrastructure priority projects have been endorsed by Council and the City Taskforce, and sent to the New South Wales and Federal Treasurers, as well as the local Members of Parliament for consideration as stimulus projects to assist the economy recover from the effects of the COVID-19 global pandemic; and
4. Prepares a submission for consideration for the 2021 Infrastructure Priority List publication, outlining projects of significance to the City of Newcastle, and the Greater Newcastle Metropolitan Area (as outlined in the Greater Newcastle Metropolitan Plan 2036), including:
 - Coastal Management Planning and Erosion Management at Stockton beach
 - Flood mitigation at Wallsend
 - John Hunter Hospital - Stage 2
 - Newcastle Art Gallery Expansion
 - Newcastle Ocean Baths restoration
 - Lower Hunter Freight Corridor
 - Greater Newcastle Light Rail Expansion
 - Hunter Sports and Entertainment Precinct
 - Port of Newcastle Diversification
 - Newcastle Airport Expansion
 - University of Newcastle's Science, technology, engineering, mathematics, and medicine (STEMM) facility
 - Affordable housing initiatives
 - Local Sporting Amenity Upgrades
 - Local Playground upgrades for Disability Inclusion
 - Ferry Terminal at Wickham
 - Active Transport (Walking & Cycling) Improvements

**Carried
unanimously**

REPORTS BY COUNCIL OFFICERS

ITEM-43 **CCL 28/07/20 - EXHIBITION OF DRAFT NEWCASTLE DEVELOPMENT CONTROL PLAN 2012 SECTIONS: 4.02 BUSH FIRE PROTECTION; ASSOCIATED 9.0 GLOSSARY; 3.12 SEX INDUSTRY ESTABLISHMENTS; 7.03 TRAFFIC, PARKING AND ACCESS; 7.08 WASTE MANAGEMENT**

MOTION

Moved by Cr Mackenzie, seconded by Cr Byrne

1 That Council:

- i) Publicly exhibits the draft NDCP 2012 Section 4.02 Bush Fire Protection (**Attachment A**) and associated amendments to NDCP 2012 Section 9.0 Glossary (**Attachment B**), Section 3.12 Sex Industry Establishments (**Attachment C**), Section 7.03 Traffic, Parking and Access (**Attachment D**) and Section 7.08 Waste Management (**Attachment E**) for 28 days in accordance with the requirements of Clause 18 of the Environmental Planning and Assessment Regulation 2000.

- ii) Receives a report on feedback received during the public exhibition period and any further amendments made to respond to submissions as per Clause 21 of the Environmental Planning and Assessment Regulation 2000.

For the Motion:

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

Against the Motion:

Nil.

Carried

ITEM-44 **CCL 28/07/20 - TOURLE STREET, MAYFIELD - PROPOSED RAISED CROSSING AND PEDESTRIAN REFUGE AT MAITLAND ROAD, MAYFIELD**

MOTION

Moved by Cr Winney-Baartz, seconded by Cr White

That Council:

- 1 Approve the upgrade of the existing pedestrian crossing on Tourle Street at Maitland Road, Mayfield to a raised crossing with a pedestrian refuge and kerb extension, as generally shown at **Attachment A**.

**Carried
unanimously**

ITEM-45 **CCL 28/07/20 - WOODSTOCK STREET, MAYFIELD -
PROPOSED PEDESTRIAN REFUGE AT MAITLAND ROAD,
MAYFIELD**

MOTION

Moved by Cr Mackenzie, seconded by Cr White

That Council:

- 1 Approve construction of a pedestrian refuge on Woodstock Street at Maitland Road, Mayfield as generally shown at **Attachment A**.

**Carried
unanimously**

ITEM-41 **CCL 28/07/20 - PUBLIC EXHIBITION OF THE DRAFT 2025
CLIMATE ACTION PLAN**

MOTION

Moved by Lord Mayor Cr Nelmes, seconded by Cr Clausen

That Council:

- 1 Places the draft 2025 Climate Action Plan at **Attachment A** on public exhibition for 28 days.

PROCEDURAL MOTION

Moved by Cr Church, seconded by Cr Elliott

That the matter lay on the table. The report be revised to include budget guidelines and estimate of costs before progressing to public exhibition.

Defeated

The motion moved by Lord Mayor, Councillor Nelmes and seconded by Councillor Clausen, was put to the meeting.

Carried

ITEM-42

CCL 28/07/20 - SUPPLEMENTARY REPORT - 41 AND 47 THROSBY STREET, WICKHAM - ENDORSEMENT OF AMENDMENT TO NEWCASTLE LEP 2012 AND PROPOSED PLANNING AGREEMENT

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That Council:

- 1 Notes that City of Newcastle (CN) undertook an independent peer review and independent costing analysis of a proposed Letter of Offer to enter into a Planning Agreement for 41 and 47 Throsby Street Wickham to ensure the proposal, the public benefit and the principles of value capture have been adequately addressed, and that the proposal aligns with the intent of the Wickham Masterplan.
- 2 Endorses the Planning Proposal (**Attachment C**) prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).
- 3 Forwards the Planning Proposal to the Department of Planning Industry and Environment (DPIE) seeking Gateway Determination pursuant to Section 3.34 of the EP&A Act.
- 4 Prepares a draft Planning Agreement, as per section 7.4 of the EP&A Act, consistent with the terms outlined within the Letter of Offer from Fidem Property Group (Proponent) dated 26 May 2020 (**Attachment D**).
- 5 Exhibits the draft Planning Agreement for a period of 28 days, subject to Gateway Approval of the Planning Proposal.

For the Motion:

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

Against the Motion:

Councillor Church.

Carried

MOTION

Moved by Cr Duncan, seconded by Cr Winney-Baartz

Council adopt the Officer's recommendation at **Attachment A**.

PROCEDURAL MOTION

Moved by Cr Elliot, seconded by Cr Mackenzie.

That Council move into confidential session for the reasons outlined in the business papers for Items 46 and 47.

Carried

Council moved into confidential session at 7.11pm.

PROCEDURAL MOTION

Moved by Cr Byrne, seconded by Cr Mackenzie

Council move out of confidential session and lay Item 47 - Tender Report - Bathers Way South Newcastle Beach - 2020/240T on the table to resume discussion on Item 46.

Carried

Council resumed into open session at 7.42pm.

The motion moved by Councillor Duncan and seconded by Councillor Winney-Baartz regarding Item 46 was put to the meeting.

For the Motion:

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

Against the Motion:

Nil.

Carried

The Chief Executive Officer reported the outcome of Item 46 - Tender Report - No1 Sportsground Upgrade Contract No 2020/160T.

That Council:

- 1 Accept the tender of Scape Constructions Pty Ltd in the amount of \$5,257,751.82 (excluding GST) for the upgrade to No1 Sportsground for Contract No. 2020/160T.
- 2 This confidential report relating to the matters specified in s10A(2)(d) of the *Local Government Act 1993* be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

ITEM-47**CCL 28/07/20 - TENDER REPORT - BATHERS WAY SOUTH
NEWCASTLE BEACH - 2020/240T**

During confidential session, Councillors White and Winney-Baartz had moved the Officer's recommendation regarding Item 47 - Tender Report - Bathers Way South Newcastle Beach - 2020/240T.

After open Council had reconvened, the motion moved by Councillor White and seconded by Councillor Winney-Baartz was put to the meeting.

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

Against the Motion: Nil.

**Carried
unanimously**

The Chief Executive Officer reported the outcome of Item 47 - Tender Report – Bathers Way South Newcastle Beach – 2020/240T.

That Council:

- 1 Accept the tender of Lloyd Group Pty Ltd in the amount of \$10,997,895.45 (excluding GST) for Bathers Way at South Newcastle Beach for Contract No. 2020/240T.
- 2 This confidential report relating to the matters specified in s10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

ITEM-48**CCL 28/07/20 - EXECUTIVE MONTHLY PERFORMANCE
REPORT****MOTION**

Moved by Cr Clausen, seconded by Cr Dunn

That Council:

- 1 Receives the Executive Monthly Performance Report for June 2020.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Luke, Mackenzie, Robinson, Rufo, White and Winney-Baartz.

Against the Motion: Councillors Church and Elliott.

Carried

NOTICES OF MOTION

ITEM-14

NOM 28/07/20 - RENAMING CITY OF NEWCASTLE BUILDINGS AND OTHER FEATURES

MOTION

Moved by Cr Duncan, seconded by Cr Winney-Baartz

That Council:

1. Reiterates its commitment to meaningful reconciliation, addressing disadvantage and attaining justice for Aboriginal Australians and First Nations People within its community.
2. Recognises that some names accorded to City of Newcastle assets may no longer meet community expectations and have the potential to cause distress, to members of the community.
3. Seeks expert advice and engages with CN's Guraki Committee and community and cultural representatives to develop a clear policy and process for addressing questions of renaming as they arise.
4. Conducts community consultation on the renaming of the "Captain James Cook Memorial Fountain" in Civic Park – formerly known simply as the "Civic Park Fountain" – given it bears two plaques stating that Captain James Cook 'discovered the East Coast of Australia'.
5. Continues to work with the NSW Geographical Names Board where necessary to liaise on namings that are not within the immediate control of CN.

Councillor Winney-Baartz moved that Notice of Motion Item 15 – Removal of Plaques be included as Part B to the motion.

As author of Notice of Motion Item 15, Councillor Mackenzie agreed that the motion be dealt with in conjunction with this item.

Councillor Duncan accepted Part B into the motion.

With the addition of Part B, the substantive motion read as follows:

PART A

That Council:

1. Reiterates its commitment to meaningful reconciliation, addressing disadvantage and attaining justice for Aboriginal Australians and First Nations People within its community.
2. Recognises that some names accorded to City of Newcastle assets may no longer meet community expectations and have the potential to cause distress, to members of the community.

3. Seeks expert advice and engages with CN's Guraki Committee and community and cultural representatives to develop a clear policy and process for addressing questions of renaming as they arise.
4. Conducts community consultation on the renaming of the "Captain James Cook Memorial Fountain" in Civic Park – formerly known simply as the "Civic Park Fountain" – given it bears two plaques stating that Captain James Cook 'discovered the East Coast of Australia'.
5. Continues to work with the NSW Geographical Names Board where necessary to liaise on namings that are not within the immediate control of CN.

PART B

That City of Newcastle notes the following and refers Part B to the Guraki Committee:

That City of Newcastle

1. Reaffirms the principles and actions outlined in CN's 1998 Commitment to Aboriginal and Torres Strait Islander people of Newcastle, including promoting activities which increase cultural sensitivity and awareness of Aboriginal and Torres Strait Islander people.
2. Removes the two Captain James Cook memorial plaques attached to the Civic Park Fountain.

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

For the Motion: Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Mackenzie, Rufo, White and Winney-Baartz.

Against the Motion: Councillors Luke, Church, Elliott and Robinson.

Carried

ITEM-16 NOM 28/07/20 - 1080, PINDONE AND PEST MANAGEMENT REVIEW

MOTION

Moved by Cr Mackenzie, seconded by Cr Byrne

That City of Newcastle

- Notes that the City currently uses bait agents 1080 and Pindone across the local government area as part of invasive animal population control measures, in accordance with the regulatory requirements as set by Australian Pesticides and Veterinary Medicines Authority (APVMA) and Local Land Services.

- Commits to manage invasive animals humanely.
- Provides a leading practice review of the use of animal bait poisons, including the use of 1080 and Pindone poisons, for the management of animal populations in relation to:
 - Humaneness;
 - Potential impacts on non-target species, including humans and pets; and
 - Effectiveness in terms of management of target animal populations.
- Phases out the use of animal poisons that are inhumane or are otherwise ineffectual in animal population control.

Councillor Luke foreshadowed the Officer's recommendation as outlined in the business papers.

The motion moved by Councillor Mackenzie and seconded by Councillor Byrne was put to the meeting.

Carried

CONFIDENTIAL REPORTS

Nil.

The meeting concluded at 8.50pm.