

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street, Newcastle on Tuesday 16 April 2019 at 5.30pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen, C Duncan (*retired 5.34pm*), J Dunn (*arrived 5.40pm*), K Elliott (*retired during confidential session*), B Luke, J Mackenzie, A Robinson (*arrived 5.33pm/retired unknown*), E White and P Winney-Baartz.

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance), F Leatham (Director People and Culture), J Rigby (Acting Director Infrastructure and Property), A Murphy (Director City Wide Services), E Kolatchew (Manager Legal), A Jones (Chief Financial Officer), J Vescio (Executive Officer, Chief Executive Office), M Murray (Policy Officer, Lord Mayor's Office), C Field (Executive Officer, Lord Mayor's Office), D Mills (Media Officer), M Goff (Budget Accounting Officer), A Goodwin (Finance Business Partner), C Cleary (Finance Business Partner), S Moore (Manager Business Partnering), K Arnott (Corporate Strategist), W Carmichael (Manager Service Design and Customer Experience), B Elliott (Digital Services Innovation), R Dudgeon (Project Management Coordinator), I Challis (Contracts Management Specialist), A Vine (Acting Manager Assets and Projects), A Knowles (Council Services/Minutes) and A Leach (Council Services/Webcast).

MESSAGE OF ACKNOWLEDGEMENT

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

PRAYER

The Lord Mayor read a prayer and a period of silence was observed in memory of those who served and died so that Council might meet in peace.

APOLOGIES

MOTION

Moved by Cr Luke, seconded by Cr Mackenzie

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

Carried

Councillor Duncan notified the Lord Mayor that she was required to leave the meeting due to a family matter.

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Luke

Leave of absence granted to Councillor Duncan.

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke

Councillor Luke declared a non-pecuniary less than significant conflict of interest in Item 26 - Executive Monthly Performance Report as it included the re-investment Surplus Funds Report which mentions multiple financial institutions that he had dealing with in his business.

Councillor Clausen

Councillor Clausen declared a significant non-pecuniary interest in Item 19 - Clean Seas Seabin Initiative stating it references his employer and he would leave the Chamber for discussion on the item.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - ORDINARY COUNCIL MEETING 26 MARCH 2019

MOTION

Moved by Cr Mackenzie, seconded by Cr Clausen

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

Carried

LORD MAYORAL MINUTE

ITEM-6

LMM 16/04/19 - NSW ELECTION RESULTS

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Acknowledges the re-election of the Premier, the Hon. Gladys Berejiklian MP, and the NSW Liberal National Government, following the 23 March 2019 poll;
2. Notes significant changes in portfolio responsibilities for a number of Minister's, including new Minister for Planning, the Hon. Rob Stokes MP, and new Minister for Local Government, the Hon. Shelley Hancock MP;
3. Notes that Minister Stokes holds portfolio responsibility for all Planning, Local Government, Environment and Crown Lands legislation (179 Acts in total) including the Environmental Planning and Assessment Act, Local Government Act, Growth Centres (Development Corporations) Act (which includes HCCDC), Crown Lands Management Act, Housing Act, National Parks and Wildlife Act, Coastal Management Act, Protection of Environment Operations Act);

4. Congratulates the following local Hunter Members of Parliament on their re-election:
 - Tim Crakanthorp MP, Member for Newcastle
 - Sonia Hornery MP, Member for Wallsend
 - Jodie Harrison MP, Member for Charlestown
 - Kate Washington MP, Member for Port Stephens
 - Jenny Aitchison MP, Member for Maitland
 - Yasmin Catley MP, Member for Swansea
 - Clayton Barr MP, Member for Cessnock
 - Greg Piper MP, Member for Lake Macquarie
 - Michael Johnsen MP, Member for Upper Hunter
5. Notes with disappointment the decision to abolish the position of Parliamentary Secretary for the Hunter and writes to the NSW Premier, advocating for the re-creation of a dedicated Minister for the Hunter;
6. Commits to continuing our collaborative working relationship with the NSW Government, the NSW Opposition to include cross bench and Independent Members of the NSW Parliament for the benefit of the people of the City of Newcastle.

**Carried
unanimously**

REPORTS BY COUNCIL OFFICERS

ITEM-32 CCL 16/04/19 - ROBESY STREET, MEREWETHER - PROPOSED ONE WAY AND PARKING RESTRICTIONS

MOTION

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

That Council:

- 1 Approves the proposed parking restrictions and one-way traffic signage on Robesy Street, Merewether as shown at **Attachment A**.

**Carried
unanimously**

ITEM-26 CCL 16/04/19 - EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

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

Carried

ITEM-27 CCL 16/04/19 - EXHIBITION OF CODE OF MEETING PRACTICE

MOTION

Moved by Cr Byrne, seconded by Cr Mackenzie

That Council:

- 1 Places the draft Code of Meeting Practice (**Attachment A**) on public exhibition for the period 20 April 2019 to 1 June 2019.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That the Draft Code of Meeting Practice lays on the table until further information is obtained regarding the status and role of the Office of Local Government (OLG), noting that the Minister for Planning is presently responsible for the administration of the Local Government Act and that under the recent Machinery of Government changes the OLG has been abolished.

Carried

ITEM-28 CCL 16/04/19 - 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 Endorses the Planning Proposal (**Attachment A**) prepared in accordance with Section 3.33 of the Environmental Planning and Assessment Act 1979 (EP&A Act).
- 2 Forwards the Planning Proposal to the Department of Planning and Environment (DPE) seeking Gateway Determination pursuant to Section 3.34 of the EP&A Act.
- 3 Prepares a draft Planning Agreement, as per section 7.4 of the EP&A Act, consistent with the terms outlined in the attached Letter of Offer from Fidem Property Group (proponent) (**Attachment B**).
- 4 Exhibits the draft Planning Agreement for a period of 28 days, subject to Gateway approval of the aforementioned Planning Proposal.

- 5 Receives a report back on the outcomes of the public exhibition of both the Planning Proposal and draft Planning Agreement.

PROCEDURAL MOTION

Moved by Cr White, seconded by Cr Church

That Item 28 lays on the table until a public briefing is held on the proposal, the public benefit and principles of value capture.

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

Against the Motion: Councillors Luke and Mackenzie.

Carried

ITEM-29 CCL 16/04/19 - EXHIBITION OF AMENDMENTS TO DRAFT S7.12 NEWCASTLE LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN 2019

When moving the motion Councillor Clausen foreshadowed an additional substantive motion.

MOTION

Moved by Cr Clausen, seconded by Cr Byrne

That Council resolves to:

- 1 Place the draft Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019 (**Attachment A**) on exhibition for a minimum of 28 days.
- 2 Receive a report back to Council following exhibition.

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

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

Carried

MOTION

Moved by Cr Clausen, seconded by Cr Byrne

- 1 That Council notes Section 8 of the Draft Infrastructure Contribution Plan, and confirms its expectation that the proposed Honeysuckle Public Domain Plan incorporates principles that are consistent with the standards set within Council's adopted West End Public Domain Plan and City Centre Public Domain Plan.

- 2 That, while the draft Plan is on exhibition, a workshop is held with the Hunter and Central Coast Development Corporation (HCCDC) on their proposed Honeysuckle Public Domain Plan, and including plans for protection of the Wickham School of the Arts as a remnant of the original Honeysuckle village.

Carried

ITEM-30 CCL 16/04/19 - ADOPTION OF THE LIVE MUSIC STRATEGY 2019-2023

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That Council:

- A Adopts the Live Music Strategy 2019-2023 (Strategy) as provided at **Attachment A**.
- B That Council refers the Live Music Strategy to the Strategy and Engagement Advisory Committee to implement the establishment of an entertainment precinct to achieve the aims and action plan items.

PROCEDURAL MOTION

Moved by Cr Elliott, seconded by Cr Church

Council vote on parts A and B in seriatim.

Defeated

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

**Carried
unanimously**

ITEM-31 CCL 16/04/19 - PUBLIC EXHIBITION OF THE 2019/20 OUR BUDGET (OPERATIONAL PLAN AND DELIVERY PROGRAM)

MOTION

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

That

- 1 Council resolves to place the draft 2019/20 Our Budget (2018-2022 Delivery Program and 2019/20 Operational Plan) as at **Attachment A** and the draft 2019/20 Fees and Charges Register as at **Attachment B** on public exhibition for at least 28 days prior to final consideration by Council.

For the Motion:

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

Against the Motion:

Councillors Church and Luke.

Carried

ITEM-33 CCL 16/04/19 - ADOPTION OF THE LIBRARY STRATEGY 2019-2029

MOTION

Moved by Cr Byrne, seconded by Cr Mackenzie

That Council:

- 1 Adopts the Library Strategy 2019-2029 (**Attachment A**).

**Carried
unanimously**

ITEM-34 CCL 16/04/19 - NEWCASTLE BIA REVIEW - STAGE 2 - PUBLIC EXHIBITION

MOTION

Moved by Cr White, seconded by Cr Byrne

That Council:

- 1 Place Business Improvement Associations (BIAs) in Newcastle Implementation Report on public exhibition for a period of 28 days.
- 2 Invite presentations from members of the community to the Public Voice Committee meeting on 21 May 2019.

Carried

NOTICES OF MOTION

ITEM-15 NOM 16/04/19 - EXCLUDED

The Chief Executive Officer reported to Council on the item as per reasons listed in the business papers, stating:

"Clause 19.5 of the Code of Meeting Practice 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 (or the implementation of the business would be) unlawful".

Under the Model Code of Meeting Practice, I am required to report any exclusions to the next Council meeting without giving details of the item of business.

I reported my decision to exclude a Notice of Motion from the agenda via Memo and a notification of on the agenda, in my opinion, the implementation of the excluded notice of motion would be unlawful because it would disclose information that would breach commercial in confidence and confidentiality obligations to third parties. Third party consultation would be necessary under the *Government Information (Public Access) Act 2009* also known as GIPA."

ITEM-16 NOM 16/04/19 - LOCAL PLANNING MATTERS

MOTION

Moved by Cr Clausen, seconded by Cr Dunn

That City of Newcastle:

- 1 Notes that since 2013, the elected Council through the DAC has determined just 79 development applications. This represents just 1% of the total number of applications assessed by Council, and 7% (\$306m) of the total value of applications assessed by Council.
- 2 Confirms its position that Council, and its officers under delegation, should be the decision maker for planning matters that are not subject to determination by the Hunter and Central Coast Regional Planning Panel or the Minister for Planning.
- 3 Formally opposes the forced introduction of a mandatory IHAP for Newcastle, especially without consideration of the impacts on neighbouring councils in Greater Newcastle and the broader Hunter.
- 4 Writes to the incoming Minister for Planning, the Hon Dr Rob Stokes MP, and local State Members of Parliament requesting the Government reconsider its commitment to enacting Recommendation 3 of the Kaldas Review of Governance in the NSW Planning System, which would see a mandatory IHAPs installed in Newcastle.
- 5 Endorses the use of other measures to ensure openness, transparency, community participation and probity in local decision making, including by restricting active property developers and real estate agents from holding civic office, and ensuring a well-resourced Independent Commission Against Corruption.

AMENDMENT

Moved by Cr Church, seconded by Cr Elliott

That paragraph 5 be amended to remove reference to property developers and real estate agents.

Defeated

The motion moved by Councillor Clausen and seconded by Councillor Dunn was put to the meeting.

For the Motion:

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

Against the Motion:

Councillors Church, Elliott, Luke and Robinson.

Carried

ITEM-17 NOM 16/04/19 - SHIFTING THE CITY OF NEWCASTLE TO 100% RENEWABLE ENERGY

MOTION

Moved by Cr Mackenzie, seconded by Cr Byrne

That the City of Newcastle

- 1 Notes the progress on the Summerhill 5MW Solar Farm, and the significant contribution this construction makes to Council's extensive renewable energy generation infrastructure, including our eight existing solar installations at our Waratah Works Depot (91kW), the Art Gallery (86kW), City (44kW), Wallsend (80kW) and New Lambton (9.9kw) libraries, No.1 and No.2 Sportsgrounds (10.2 kW including 14kWh battery storage and 20.16 kW including 22kWh battery storage respectively) and Newcastle Museum (100kW), alongside the 2.2MW landfill gas generator and the 2.5kW wind turbine located at Summerhill Waste Management Facility.
- 2 Notes the extensive energy efficiency gains made by the Council under our commitment under the Cities Power Partnership, including the progressive replacement of sodium and mercury vapour street lights in residential areas with LEDs, saving around 10 per cent of Council's entire annual electricity usage.
- 3 Notes that the combination of renewable energy generation and energy efficiency improvements means that approximately 50% of Council's annual 14.1 gigawatt-hours of electricity usage is supplied by renewable energy.
- 4 Prepare a report, including a business case, for the consideration of Councillors on the cost of expanding to 100% of the electricity used across Council's operations produced from renewable sources, through a combination of Council produced renewable electricity from our own facilities, and purchased renewable electricity sourced from generators and suppliers in the market. The business case should compare the case for achievement of 100% renewable energy under an immediate, a 2025 and a 2030 scenario.

AMENDMENT

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

- 4 Commences the review of the City of Newcastle's 2000 Carbon and Water Management Action Plan, including an assessment of the feasibility costs, social impacts and benefits associated with 100 percent of the City's operational electricity being produced from renewable energy sources.

- 4.1 Assesses the impact that the City's electricity supply being from 100 per cent renewable sources will have on jobs in Newcastle and the Hunter, particularly in the mining, resources, power generation, electricity, transport and maritime industries and on local small businesses, the renewable energy sector and the local health sector.
- 4.2 Consults with relevant industry, community groups and trade unions regarding the impact of 100 percent of the City's operational electricity being produced from renewable energy sources.
- 4.3 Ensures that rigorous Just Transition best-practice principles are adhered to, when considering the impact of any changes to the city's energy and electricity supply, noting that, if elected, a Federal Labour Government will establish an independent Just Transition Authority to help plan for and co-ordinate the energy transition and diversification across the nation.

Carried

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

For the Motion:

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

Against the Motion:

Councillors Church, Elliott and Luke.

Carried

ITEM-18 NOM 16/04/19 - GREEN ROOFS, GREEN WALLS AND LIVING BUILDINGS

MOTION

Moved by Cr Mackenzie, seconded by Cr White

That the City of Newcastle

- 1 Develop a policy to support an increase in the installation of green roofs, green walls and living building features in the City of Newcastle local government area.
- 2 Based on the policy, prepare a Living Buildings Implementation Plan which sets out the context for the policy as well as the specific actions Council will take to ensure the policy is effectively implemented, including a detailed list of actions and timeframes. The implementation plan should include actions to:
 - a) Identify and address barriers to the adoption of green roof, green wall and living building technology;
 - b) Collaborate with the design community, industry and other stakeholders in the promotion of living buildings, and develop appropriate information and educational materials for the community about green roofs and walls;

- c) Amend the s7.02.06 Green walls and roof space of the Newcastle DCP as required to meet current best-practice design
- d) Develop guidance and guideline resources that will fill gaps in technical and general information
- e) Identify opportunities to install green roofs and walls on Council properties;
- f) Monitor, evaluate and report on progress.

- 3 That this motion is referred to the Liveable Cities Advisory Committee to consider amendments to Part 7 Clause 7.5 of the Newcastle Local Environment Plan to include the provision of green roofs, green walls and other living building features as matters for consideration for design excellence.

**Carried
unanimously**

ITEM-19 NOM 16/04/19 - CLEAN SEAS SEABIN INITIATIVE

Councillor Clausen left the Chamber for discussion on the item.

MOTION

Moved by Cr Byrne, seconded by Cr Dunn

That City of Newcastle:

- 1 Notes our recent endorsement of the UN Environment Clean Seas campaign which will see the phase out of all single-use plastic from City-managed enterprises, activities and events by 2020;
- 2 Acknowledges recent successful technological advances in ocean plastic removal, such as the Seabin Foundation Initiative, whose Seabin prototype is removing tonnes of floating rubbish from our oceans;
- 3 Explores partnerships with Newcastle Cruising Yacht Club, the Port of Newcastle, the Port Authority of NSW, Transport – Roads and Maritime Services and Hunter Water as well as industry and the community, to establish a plastic and rubbish removal initiative in Newcastle Harbour and Throsby Creek.

**Carried
unanimously**

Councillor Clausen returned to the Chamber at the conclusion on the item.

CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Cr White, seconded by Cr Winney-Baartz

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

Carried

Council moved into confidential session at 8.06pm.

During confidential session:

- Council Services distributed Confidential Item 1 - Tender Report - 12 Stewart Avenue Office Fit-Out - Contract 2019/280T to Councillors and staff and collected the report at the conclusion of the item.
- The Lord Mayor allowed Councillors sufficient time to read the report.
- Councillor Elliott declared a significant interest in Confidential Item 1 - Tender Report - 12 Stewart Avenue Office Fit-Out - Contract 2019/280T as one of the submitters listed in the report was a client of hers and left the Chamber and did not return prior to the conclusion of the meeting.

PROCEDURAL MOTION

Moved by Cr Dunn, seconded by Cr Winney-Baartz

Council move back into open session.

Carried

Council reconvened in open session at 9.17pm and the Chief Executive Officer reported the resolutions of confidential session.

ITEM-1 CON 16/04/19 - TENDER REPORT - 12 STEWART AVENUE OFFICE FIT-OUT - CONTRACT 2019/280T

MOTION

Moved by Cr Dunn, seconded by Cr Clausen

That Council:

- 1 Accept the tender of Graphite Projects Pty Ltd in the amount of \$8,232,387.73 (excluding GST) for the fit-out of 12 Stewart Avenue Office and Council Chamber for Contract No. 2019/280T.
- 2 Note a payment of \$372,256.50 (excluding GST) will be reimbursed to City of Newcastle from the lessor for the purpose of purchasing and installing carpet under this Construction Management fit-out contract and therefore has the effect of offsetting the fit-out cost by \$372,256.50.
- 3 Note that an interim Probity Audit Report contains an opinion that a qualified Tender Assessment Panel followed a consistent and transparent tender process in accordance with City of Newcastle's documented tender procedures and the requirements of the Local Government (General) Regulation 2005, Part 7 Tendering.
- 4 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 (CEO) determines otherwise.

For the Motion:

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

Against the Motion:

Councillors Church and Luke.

Carried

The meeting concluded at 9.18pm.