

CITY OF NEWCASTLE

Ordinary Council Meeting 24 May 2016

Page 1

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 24 May 2016 at 5.36pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors D Clausen D Compton, T Crakanthorp (arrived 5.37pm), T Doyle, J Dunn, B Luke, S Posniak, A Robinson, A Rufo, L Tierney (arrived at 5.41pm) and S Waterhouse.

IN ATTENDANCE

F Cordingley (Interim Chief Executive Officer), G Cousins (Director Corporate Services), K Liddell (Acting Director Infrastructure), P Chrystal (Director Planning and Regulatory), F Giordano (Manager Legal and Governance), P Moore (Manager Facilities and Recreation), A Glauser (Manager Finance), R Bales (Customer Service Manager), A Baxter (Manager Regulatory Services), P Nelson (Manager Commercial Property), K Hyland (Manager Communications and Engagement), N Baker (Chief of Staff to the Lord Mayor), G Sainsbury (Manager Projects and Contracts), I Challis (Contracts Management Specialist), K Baartz and B Johnson (Communications), A Leach (Council Services/Minutes) and K Sullivan (Council Services/Meetings Management).

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 Posniak, seconded by Cr Doyle

The apologies submitted on behalf of Councillor Osborne be received and leave of absence granted.

Carried

MOTION

Moved by Cr Luke, seconded by Cr Waterhouse

The apologies submitted on behalf of Councillor Tierney be received and leave of absence granted.

For the Motion: Councillors Compton, Doyle, Luke, Robinson, Rufo and Waterhouse

Against the Motion: Lord Mayor Councillor Nelmes and Councillors Clausen Crakanthorp, Dunn and Posniak

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Compton

Councillor Compton declared a significant non-pecuniary interest in Item-1 LMM 24/05/16 Novocastrian Pride and said as he was still employed by Port Stephens Council he would exit the Chamber when the item was discussed.

Councillor Luke

Councillor Luke declared a less than significant non-pecuniary interest in Item 48 Executive Monthly Performance Report, as Council may invest with businesses he is associated with. Councillor Luke said the interest was less than significant as the report to Council was to be received and he was not involved in any decision making processes.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - PUBLIC VOICE COMMITTEE MEETING 19 APRIL 2016

MOTION

Moved by Cr Dunn, seconded by Cr Clausen

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

Carried

MINUTES - ORDINARY COUNCIL MEETING 26 APRIL 2016

MOTION

Moved by Cr Dunn, seconded by Cr Clausen

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

Carried

LORD MAYORAL MINUTE

LMM 24/05/16 - NOVOCASTRIAN PRIDE

Due to his conflict of interest on this item Councillor Compton excused himself from the Chamber at 5.45pm.

MOTION

Moved by Cr Nelmes

That Council:

1. Rejects the recommendation of the NSW Government's Delegate Report on the forced amalgamation of the Newcastle and Port Stephens Local Government Areas to rename an amalgamated Council Area the "City of Hunter Coast".
2. Notes the Premier's commitment to give an elected council the final say on planning decisions involving the rail corridor land (Attachment A).
3. Rejects the recommendation of the NSW Government's Delegate Report on the forced amalgamation of the Newcastle and Port Stephens Local Government Areas to remove elected representatives from office and appoint an Administrator.
4. Writes to the Premier and Minister for Local Government (with copies to the State Members for Newcastle, Wallsend and Charlestown) requesting that a merged council be named The City of Newcastle or The City of Greater Newcastle should an amalgamation be forced as per our previous resolution and submission to the inquiry.
5. Seeks legal advice on options available to the City of Newcastle on both retaining the City's name as 'Newcastle' and the retention of an elected decision making body through the amalgamation process including consideration of the application of interim governance arrangements like those applied in other states where elected bodies remain in place.

Councillor Tierney moved a procedural motion that the motion be moved in seriatim and parts 1, 2, 3 and 5 be moved as part A and part 4 be moved as part B.

PROCEDURAL MOTION

Moved by Cr Tierney, seconded by Cr Crakanthorp

The motion be moved in seriatim with parts 1, 2, 3 and 5 moved as part A and part 4 moved as part B.

Carried

MOTION

Moved by Cr Nelmes

PART A

That Council:

1. Rejects the recommendation of the NSW Government's Delegate Report on the forced amalgamation of the Newcastle and Port Stephens Local Government Areas to rename an amalgamated Council Area the "City of Hunter Coast".
2. Notes the Premier's commitment to give an elected council the final say on planning decisions involving the rail corridor land (Attachment A).
3. Rejects the recommendation of the NSW Government's Delegate Report on the forced amalgamation of the Newcastle and Port Stephens Local Government Areas to remove elected representatives from office and appoint an Administrator.
4. Seeks legal advice on options available to the City of Newcastle on both retaining the City's name as 'Newcastle' and the retention of an elected decision making body through the amalgamation process including consideration of the application of interim governance arrangements like those applied in other states where elected bodies remain in place.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Clausen, Crakanthorp, Doyle, Dunn and Posniak

Against the Motion:

Councillors Luke, Robinson, Rufo, Tierney and Waterhouse.

Carried

CITY OF NEWCASTLE

Ordinary Council Meeting 24 May 2016

Page 5

MOTION

Moved by Cr Nelmes

PART B

That Council:

Writes to the Premier and Minister for Local Government (with copies to the State Members for Newcastle, Wallsend and Charlestown) requesting that a merged council be named The City of Newcastle or The City of Greater Newcastle should an amalgamation be forced as per our previous resolution and submission to the inquiry.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Clausen, Crakanthorp, Doyle, Dunn, Posniak, Robinson, Rufo and Tierney

Against the Motion:

Councillors Luke, and Waterhouse.

Carried

Councillor Compton returned to the Chamber at 6.14pm.

REPORTS BY COUNCIL OFFICERS

**ITEM-47 CCL 24/05/16 - QUARTERLY BUDGET REVIEW STATEMENT -
MARCH 2016**

MOTION

Moved by Cr Compton, seconded by Cr Waterhouse

Council receives the March Quarterly Budget Review Statement (**Attachment A**) and adopts the revised budget as detailed therein.

Carried

**ITEM-48 CCL 24/05/16 - EXECUTIVE MONTHLY PERFORMANCE
REPORT - APRIL 2016**

MOTION

Moved by Cr Luke, seconded by Cr Waterhouse

The report be received.

Carried

ITEM-49 CCL 24/05/16 - THIRD PARTY DELEGATIONS

MOTION

Moved by Cr Clausen, seconded by Cr Dunn

- 1 Council confirms acceptance of the third party delegation from Roads and Maritime Services (RMS) at **Attachment A**.
- 2 Council confirms delegation of the functions to the person who holds the position of Chief Executive Officer from time to time.

Carried

ITEM-50 CCL 24/05/16 - COUNCIL SUBMISSION ON NEWCASTLE LIGHT RAIL REVIEW OF ENVIRONMENTAL FACTORS

MOTION

Moved by Cr Crakanthorp, seconded by Cr Posniak

That Council endorses the Newcastle Light Rail REF submission, **Attachment A**.

AMENDMENT

Moved by Cr Doyle

- 1 A fourth option be included in Appendix B that has the light rail travelling along the length of the corridor as specified in Council's resolution of 26 April in the case of the State Government rejecting the mixed running option.
- 2 Change all text referring to Council's "Secondary Option" to "corridor Hybrid Option" throughout the submission, to ensure consistency with the relevant identifier for this option in the Option Comparison Summary Table in Appendix B of the submission.
- 3 Clarify the currently confusing (and apparently contradictory) references to "NCC option" and "Council proposal" in the Comment column ("Light Rail System" row) in the Table in Appendix B.
- 4 Remove all items identified in the submission under the heading "7. Other Measures for Urban Renewal" that have not been formally endorsed by Council and include relevant references for all items consequently retained in this section.
- 5 Include relevant support documentation with the submission including a copy of the Council's assessment of trip times and the impact of signal priority referred to in the Multi-Criteria Analysis in Table 1 of the submission.

Through the lack of a seconder, Councillor Doyle's amendment lapsed.

AMENDMENT

Moved by Cr Tierney, seconded by Cr Luke

Council form a delegation group made up of three Councillors to accompany the Interim Chief Executive Officer to meet with the Premier and the Parliamentary Secretary of the Hunter within the fortnight and present Council's light rail submission and discuss options that involve mixed running that vary from the Government proposal.

In the Lord Mayor's address she referred to the amendment as a *political stunt*.

Councillor Luke raised a point of order against the Lord Mayor's comment.

CITY OF NEWCASTLE

Ordinary Council Meeting 24 May 2016

Page 8

The Lord Mayor did not uphold Councillor Luke's point of order.

Councillor Luke moved dissent against the Lord Mayor's ruling and called for a vote by division.

For the Motion of dissent: Councillors Compton, Luke, Tierney and Waterhouse

Against the Motion of dissent: Lord Mayor, Cr Nelmes and Councillors Clausen, Crakanthorp, Doyle, Posniak, Robinson and Rufo.

Defeated

Councillor Tierney's amendment was put to the meeting and a vote by division was called.

For the amendment: Councillors Compton, Luke, Tierney and Waterhouse

Against the amendment: Lord Mayor Cr Nelmes and Councillors Clausen, Crakanthorp, Doyle, Dunn, Posniak, Robinson and Rufo.

Defeated

The Lord Mayor thanked Council staff for delivering the thorough written submission and requested it be recorded in the minutes.

The motion was put to the meeting and a vote by division was called.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Clausen, Crakanthorp, Posniak, Robinson and Rufo

Against the Motion: Councillors Compton, Doyle, Luke, Tierney and Waterhouse.

Carried

NOTICES OF MOTION

**ITEM-5 NOM 24/05/16 - SOCCEROOS WORLD CUP QUALIFIER
MATCH FOR NEWCASTLE IN 2017**

MOTION

Moved by Cr Crakanthorp, seconded by Cr Posniak

That Newcastle City Council support the call to grant Newcastle the rights to host an upcoming Socceroo's World Cup qualifier match in 2017.

That Council write to both the Premier and Football Federation Australia citing our support for Newcastle in the negotiations for the qualifier match.

**Carried
Unanimously**

**ITEM-6 NOM 24/05/16 - TIME RESTRICTED OFF LEASH AREA FOR
NOVOCASTRIAN PARK, NEW LAMBTON**

MOTION

Moved by Cr Clausen, seconded by Cr Crakanthorp

That Council:

- 1 Notes that Officers are presently undertaking a review of the Sportsland Plan of Management which is intended to be publicly exhibited in the third quarter of 2016 as part of a new Community Land Plan of Management.
- 2 Requests that public consultation on the new Community Land Plan of Management consider the implementation of a time restricted off-leash area at Novocastrian Park, New Lambton. Consultation should include dog owners, park neighbours and other park users such as sports users.

Carried

CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Cr Posniak, seconded by Cr Doyle

Council move into confidential session to discuss items 17, 18, 19 and 20.

Councillor Luke stated that he did not agree that Council should move into confidential session for Item 17 Supplementary report on Item 33 26 April 2016 Correction to Council minutes 8 December 2015 and gave notice of a foreshadowed motion.

Following discussion, the Interim Chief Executive Officer advised Councillors that he understood it to be good practice and was past practice for legal advice to be kept confidential.

For the procedural Motion: Lord Mayor, Cr Nelmes and Councillors Clausen, Crakanthorp, Dunn, Posniak and Robinson

Against the procedural Motion: Councillors Compton, Doyle, Luke, Tierney, Rufo and Waterhouse.

The Lord Mayor used her casting vote and declared the procedural motion carried.
Procedural motion carried

Council moved into confidential session at 7.23pm.

**ITEM-17 CON 24/05/16 - SUPPLEMENTARY REPORT ON ITEM-33 26
APRIL 2016 - CORRECTION TO COUNCIL MINUTES 8
DECEMBER 2015**

MOTION

- 1 Council correct the minutes of the Ordinary Council Meeting of 8 December 2015 - *Item 138 Supplementary Report - Review of Instrument of Delegations* by removing the words "as advised by the Acting Interim Chief Executive Officer."
- 2 This confidential report relating to the matters specified in s.10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until Council determines otherwise."

Carried

**ITEM-18 CON 24/05/16 - TABLING OF FIRE AND RESCUE NSW
REQUEST FOR INSPECTION AND REPORT FOR THE
PREMISES DATED 23 FEBRUARY 2016 IN ACCORDANCE
WITH SECTION 119T OF THE ACT**

MOTION

- 1 Council note the FRNSW Request for Inspection and Report for the Premises dated 23 February 2016 in accordance with Section 119T of the Environmental Planning and Assessment Act, 1979 (The Act).
- 2 Council to determine and ratify the exercise its powers to give order No 6 in the Table to Section 121B of the Act.

Carried

**ITEM-19 CON 24/05/16 - NEWCASTLE OCEAN BATHS PAVILION
REDEVELOPMENT TENDER 2015/411 T**

MOTION

- 1 Council rejects all tenders received for the Redevelopment of Newcastle Ocean Baths Pavilion, Contract No. 2015/411T and enters into negotiations with Stronach Property Pty Limited (Stronach Property) with a view to entering into a contract. The Stronach Property tender was the only conforming tender, but cannot be accepted as submitted as some aspects of its proposal, relating to financial, design, planning and legal conditions do not meet the requirements of Council and Crown Lands. Therefore, further negotiations with Stronach Property are required prior to entering into a contract.

- 2 This confidential report relating to the matters specified in s. 10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until Council determines otherwise.

Carried

**ITEM-20 CON 24/05/16 - MEREWETHER OCEAN BATHS PAVILION
REDEVELOPMENT TENDER 2015/412 T**

MOTION

- 1 Council resolves not to accept any tender and not proceed with the contract. Both tenders received were non-conforming as their submissions for redevelopment of the Merewether Pavilion did not comply with the requirements set out in the tender documents.

- 2 This confidential report relating to the matters specified in s. 10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until Council determines otherwise.

**Carried
Unanimous**

**ITEM-21 CON 24/05/16 - PROVISION OF ELECTRICAL AND
COMMUNICATION SERVICES FOR CONTRACT NO. 2016/395T**

MOTION

- 1 Council accept the tender of three companies for the provision of electrical and communication services for contract No. 2016/395T:
 - i) Laser Electrical Lake Macquarie Pty Ltd;
 - ii) JAG Power & Data Solutions Pty Ltd; and
 - iii) LumaLED Pty Ltd.

- 2 Council accept the tenders of the two companies for the provision of building control installation and maintenance services for Contract No. 2016/395T:
 - i) Hunter Electrical Services Pty Ltd; and
 - ii) JAG Power & Data Solutions Pty Ltd.

- 3 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 Council determines otherwise.

Carried

The meeting concluded at 8.03pm