

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street, Newcastle on Tuesday 28 May 2019 at 5.30pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church (*departed at the conclusion of confidential session*), D Clausen, C Duncan, J Dunn, K Elliott (*retired 9.18pm*), J Mackenzie (*departed at the conclusion of confidential session*), 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 Murphy (Director City Wide Services), A Jones (Chief Financial Officer), E Kolatchew (Manager Legal), M Bisson (Manager Planning, Regulatory and Assessment), A Abbott (Manager Corporate and Community Planning), J Rigby (Manager Assets and Projects), P Dickson (Chief Information Officer), P McCarthy (Urban Planning Team Coordinator), S Cross (Urban Planner), M Cherry (Debt Management and Rates Manager), K Arnott (Corporate Strategist), T Blignaut (HR Business Partner), J Vescio (Executive Officer, Chief Executive Office), C Field (Executive Officer, Lord Mayor's Office), M Murray (Policy Officer, Lord Mayor's Office), D Mills (Media Officer), K Sullivan (Council Services/Minutes) and A Knowles (Council Services/Webcasting).

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 Mackenzie, seconded by Cr Byrne

The apologies submitted on behalf of Councillors Luke, Robinson and Rufo be received and leave of absence granted.

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Church

Councillor Church declared a significant but non-pecuniary interest in Notice of Motion Item 21 - Climate Emergency Declaration, stating that one of his best friends was a senior manager in a coal related company in the Hunter Valley and would manage the conflict by leaving the Chamber and not participate in the vote.

Councillor Elliott

Councillor Elliott declared a significant pecuniary interest in Notice of Motion Item 21 - Climate Emergency Declaration, stating that she was currently consulting to a black coal mining client and would vacate the Chamber and not enter into the discussion or debate.

Lord Mayor, Councillor Nelmes

The Lord Mayor, Councillor Nelmes, declared a non-pecuniary less than significant conflict in Confidential Item 5 - Tender - Asphaltic Concrete Services for Contract No. 2019/252T, stating that one of the nine tenderers was a broader company who her husband worked for, however, the company listed was a separate part of the organisation and she would remain in the Chamber for the discussion.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - PUBLIC VOICE COMMITTEE 9 APRIL 2019

MOTION

Moved by Cr Clausen, seconded by Cr White

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

Carried

MINUTES - ORDINARY COUNCIL MEETING 16 APRIL 2019

MOTION

Moved by Cr Clausen, seconded by Cr White

The draft minutes as circulated be taken as read and confirmed subject to the division on Notice of Motion Item 17 - Shifting the City of Newcastle to 100% Renewable Energy being amended to record Councillor Mackenzie as voting for the motion and Councillor Church recorded as voting against the motion.

Carried

LORD MAYORAL MINUTE

ITEM-7 LMM 28/05/19 - HUNTER STREET MALL RATE RELIEF FROM DEVELOPMENT CONSTRUCTION

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Notes that a number of businesses have contacted City of Newcastle to express concerns regarding current and future trading levels due to construction in Newcastle East, in particular in the Hunter Street Mall;

- 2 Recognises that the level of construction will remain high during the delivery of the Iris Capital East End project and the *Hunter Street Newcastle East End Stage One Streetscape Plan* adopted by Council in April 2018;
- 3 Implements a rate assistance plan designed to assist local small and medium businesses who are feeling financial pressure from ongoing development construction in the Hunter Street Mall and Newcastle's East End.

**Carried
unanimously**

**ITEM-8 LMM 28/05/19 - LOWER HUNTER FREIGHT CORRIDOR
PRIORITISATION**

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Notes with disappointment recent reports that the Lower Hunter Freight Rail Corridor from Fassifern to Hexham 'appears uncertain' after the approval of a motorsport park at Wakefield by the Hunter and Central Coast Regional Planning Panel;
- 2 Notes that the NSW Liberal Government has previously announced \$14 million in the 2018-19 Budget, \$11.8 million in the 2017-18 Budget and \$14 million in 2016-17 Budget, a combined total of \$39.8 million over the last three Budget cycles, to undertake detailed planning for the Lower Hunter Freight Corridor;
- 3 Noting that Budget Papers reveal that the NSW Government has spent only \$1.59 million of these committed funds, seeks clarification from the NSW Government regarding their commitment to delivering the Lower Hunter Freight Rail Corridor, which they advise will:
 - i) Provide essential rail capacity for passenger and freight train growth across the broader rail network.
 - ii) Increase the efficiency and reliability of the rail network by separating the majority of freight and passenger rail services on the congested area between Fassifern and Newcastle;
 - iii) Enhance urban amenity and liveability in the Newcastle region by removing most of the freight trains from within the urban area and at the Adamstown and Islington Junction level crossings.
- 4 Notes that according to Infrastructure Australia the Lower Hunter Freight Corridor has been identified as one of seven key transport corridors that's protection could save Australia \$11 billion;
- 5 Writes to the Premier, the Planning Minister and the Transport Minister calling on the NSW Government to expedite the preservation of the Lower Hunter Freight Corridor, complete the technical investigations for the project, and deliver this project, as promised over successive Budget cycles;

- 6 Invites the Regional Manager and Coordinator General, Hunter Region, Transport for NSW, to update Council regarding the Lower Hunter Freight Rail Corridor and other significant transport infrastructure projects affecting the Newcastle Local Government Area (LGA) including, but not limited to, the M1 Pacific Motorway extension to Raymond Terrace and the Rankin Park to Jesmond – Newcastle Inner City Bypass Project.

**Carried
unanimously**

**ITEM-9 LMM 28/05/19 - LIGHT UP NEWCASTLE STREET TREES
INITIATIVE**

MOTION

Moved by Lord Mayor, Cr Nelmes

- 1 Supports the installation of LED bud lighting in street trees in business and local centres across the City of Newcastle to create more attractive, safe and exciting streetscapes;
- 2 Develops a best-practice policy and an appropriate application process to ensure installation of appropriate and complying lighting;
- 3 Explores the option of creating a matched grant funding initiative to support the uptake of this opportunity across the city.
- 4 Supports this initiative by exploring further opportunities for decorative lighting on, or in the surrounds of, City assets such as City Hall, Newcastle Art Gallery, Newcastle Museum and Newcastle Libraries.

**Carried
unanimously**

ITEM-10 LMM 28/05/19 - FEDERAL ELECTION RESULTS

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Acknowledges the re-election of the Prime Minister, the Hon. Scott Morrison MP, and the Federal Liberal National Government, following the 18 May 2019 poll;
- 2 Notes new and returning Ministerial portfolio responsibilities for a number of Minister's with responsibility for policy regarding local government, including new Minister for Regional Services, Decentralisation and Local Government, the Hon. Mark Coulton MP, Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development, the Hon. Michael McCormack MP and Minister for Population, Cities and Urban Infrastructure, the Hon. Alan Tudge MP;

- 3 Congratulates the following local Hunter Members of Parliament on their re-election:
- Sharon Claydon MP, Federal Member for Newcastle
 - Pat Conroy MP, Federal Member for Shortland
 - Joel Fitzgibbon MP, Federal Member for Hunter
 - Meryl Swanson MP, Federal Member for Paterson
- 4 Commits to continuing our collaborative working relationship with the Federal Government and the Federal Labor Opposition for the benefit of the people of the City of Newcastle.

**Carried
unanimously**

REPORTS BY COUNCIL OFFICERS

ITEM-38 CCL 28/05/19 - MARCH QUARTERLY BUDGET REVIEW

MOTION

Moved by Cr White, seconded by Cr Winney-Baartz

That Council:

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

Carried

ITEM-39 CCL 28/05/19 - ENDORSEMENT OF MARCH QUARTERLY PERFORMANCE OF OUR BUDGET (2018-2022 DELIVERY PROGRAM)

MOTION

Moved by Cr Clausen, seconded by Cr White

- 1 That Council receive the March Quarterly Performance on the 2018-2022 Delivery Program as per **Attachment A**.

Carried

ITEM-40 CCL 28/05/19 - EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION

Moved by Cr Clausen, seconded by Cr White

That Council:

- 1 Receives the Executive Monthly Performance report for April 2019.

Carried

ITEM-35

CCL 28/05/19 - CREATE A NEW HERITAGE ITEM FOR THE FORMER CIVIC RAILWAY STATION, NEWCASTLE. ENDORSE AMENDMENT TO THE NEWCASTLE LEP 2012

MOTION

Moved by Cr Duncan, seconded by Cr Mackenzie

1 That Council:

- i) Endorses the attached Planning Proposal (**Attachment A**), prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), to amend the NLEP 2012 to create a new heritage item for the former Civic Railway Station, Newcastle.
- ii) Forwards the Planning Proposal to the Minister for Planning for Gateway determination pursuant to Section 3.34 of the EP&A Act.
- iii) Advises the Secretary of the Department of Planning and Environment (DPE) that City of Newcastle (CN) does not seek to exercise delegations for undertaking Section 3.36(1) of the EP&A Act.
- iv) Consults with the community and relevant government agencies as instructed by the Gateway Determination.
- v) Receives a report back to Council on the Planning Proposal as per the requirements of Section 3.34 of the EP&A Act.

For the Motion:

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

Against the Motion:

Nil.

Carried

ITEM-36

CCL 28/05/19 - PROPOSED ROAD CLOSURE AND SALE OF PART OF HILL STREET, JESMOND AND REQUEST FOR REDUCTION OF FEES

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

A That Council:

- 1 Endorse the closure of a 98.2 m² section of road reserve adjacent to Lot 62 DP 1031438, as shown at **Attachment A**.
- 2 Subject to finalisation of the road closure, approve the exchange of the closed road reserve for two sections (total 30.5m²) of the adjacent landowner's property at 1A Hill Street, Jesmond (Lot 62 DP 1031438).

- 3 Subject to the exchange, that the acquired two sections of land be incorporated into the road reserve for enabling adequate widening of the footway in that vicinity of Hill Street, Jesmond.
 - 4 Endorse seeking compensation from the landowner for the sale proceeds – consisting of (a) the 67.7m² land exchange difference in land area at 1A Hill Street, Jesmond (based on Valuer General rates), and (b) seeking full cost recovery of associated fees and charges that accompany the closure and exchange.
 - 5 The revenue received by City of Newcastle from the sale of the land be transferred to the Land and Property Reserve
 - 6 Grant authority to the Chief Executive Officer or his delegate to execute all relevant documentation to effect the transaction.
- B That Council considering the adjacent landowner's Not for Profit and registered charity status and their valuable community service, approve their request for a waiver of the land compensation and reduction of associated fees and charges (total estimated at \$35,000 excl GST) to \$1 as a show of support for Zara's House.

In addition to moving the motion, Councillor Clausen offered the Chief Executive Officer \$1.00 as payment on behalf of Zara's House for the transfer of the land and asked that this be recorded and receipted in the minutes.

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

**Carried
unanimously**

**ITEM-37 CCL 28/05/19 - EXHIBITION OF THE DRAFT FERN BAY AND
NORTH STOCKTON STRATEGY**

MOTION

Moved by Cr Mackenzie, seconded by Cr Church

That Council:

- 1 Places the Draft Fern Bay and North Stockton Strategy (**Attachment A**), Implementation Plan (**Attachment B**) and Background Investigations (**Attachment C**) on public exhibition for a period of 28 days.
- 2 Receives a report back to Council following the public exhibition period.

PROCEDURAL MOTION

Moved by Lord Mayor, Cr Nelmes, seconded by Cr Winney-Baartz

Item 37 - Exhibition of the Draft Fern Bay and North Stockton Strategy lay on the table pending a workshop with Councillors at City of Newcastle and potentially Port Stephens Council.

**Carried
unanimously**

**ITEM-41 CCL 28/05/19 - REVIEW OF BUSINESS IMPROVEMENT
AREAS (BIAS) IN NEWCASTLE IMPLEMENTATION REPORT -
CONSIDERATION OF PUBLIC SUBMISSIONS**

PROCEDURAL MOTION

Moved by Cr Elliott, seconded by Cr Church

Item 41 - Review of Business Improvement Areas (BIAs) in Newcastle Implementation Report - Consideration of Public Submissions, be heard following completion of the Notices of Motion.

Carried

**ITEM-42 CCL 28/05/19 - COUNCIL REPRESENTATION AT THE UNITED
NATIONS HIGH LEVEL POLITICAL FORUM JULY 2019**

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Byrne

That Council:

- 1 Accepts the invitation to participate in the framework of the 2019 High-Level Political Forum (HLPF) at the UN Headquarters in New York.
- 2 Nominates the Lord Mayor or Deputy Lord Mayor as the City of Newcastle's representative at the HLPF.
- 3 Prior to the HLP, Council Offices organise a workshop with Council's representative and community organisations, including the University, to inform and update the representative and the other participants.
- 4 Following the HLPF, Council holds a briefing to provide community report back.

Carried

NOTICES OF MOTION

ITEM-20 **NOM 28/05/19 - OFFSHORE MINING AND SUPPORTING THE FIGHT FOR THE BIGHT**

Councillor Elliot declared a significant non-pecuniary interest in Notice of Motion Item 20 - Offshore Mining and Supporting the Fight for the Bight and left the Chamber for discussion on the item.

MOTION

Moved by Cr Mackenzie, seconded by Cr Byrne

That the City of Newcastle:

- 1 Reaffirms its opposition to offshore exploration and mining due to unacceptable environmental impacts, and negative economic impacts on the recreational and commercial fishing and tourism industries.
- 2 Opposes all seismic testing, including the application for 3D seismic testing in PEP11 expected to be submitted in the first half of 2019.
- 3 Opposes the exploration of oil and gas in the Great Australian Bight.
- 4 Writes to the NSW Government to request that the NSW Government:
 - a) Prohibit the processing and transport of gas produced from wells offshore from the NSW coastline to the NSW mainland.
 - b) Prohibit the construction of infrastructure relating to offshore exploration and mining activities in NSW.
- 5 Writes to Equinor and the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) to formally advise them of our opposition to the exploration for oil and gas in the Great Australian Bight.
- 6 Liaise with the Port Stephens, Lake Macquarie and Central Coast Councils to communicate this decision and identify opportunities for collaboration on this matter.

AMENDMENT

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That the City of Newcastle:

- 1 Notes previous opposition to offshore exploration on the grounds of environmental and economic impacts on recreational and commercial fishing and tourism;
- 2 Opposes the exploration of oil and gas in the Great Australian Bight, noting that the Australian Maritime Officers Union (AMOU) have previously commented that the employment opportunities for Australian workers in the exploration activities in the Great Australian Bight may be limited;

- 3 Notes the NSW Government's views regarding offshore gas exploration off the Newcastle Coast, with the then NSW Minister for Resources asserting in February 2018 that the federal approval processes are not robust and do not adequately consider the environmental risks of testing;
- 4 Writes to Equinor and the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) noting considerable community opposition to the exploration for oil and gas in the Great Australian Bight;
- 5 Liaise with the Port Stephens, Lake Macquarie and Central Coast Councils to communicate this decision and identify opportunities for collaboration on this matter.

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

Against the Amendment: Councillors Byrne, Church and Mackenzie.

Carried

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

**Carried
unanimously**

Councillor Elliott returned to the Chamber at the conclusion of the item.

ITEM-21 NOM 28/05/19 - CLIMATE EMERGENCY DECLARATION

Councillors Church and Elliott left the Chamber for discussion on the item.

MOTION

Moved by Cr Mackenzie, seconded by Cr Duncan

That the City of Newcastle

- 1 Notes the preceding commitments by the City of Newcastle to addressing climate change, including but not limited to:
 - a) Formally committing to the principles and targets of the Paris Climate Agreement (December 2018);
 - b) Developing pathway to achieve the greenhouse gas (GHG) emissions reductions necessary to align with the principles of the Paris Climate Agreement and a 1.5 degree Celsius outcome, as the foundation for the update and review of the Newcastle 2020 Carbon and Water Management Action Plan in 2019-2020 (December 2018);
 - c) Reviewing the implications of the Taskforce on Climate-Related Financial Disclosures (TCFD) for the City of Newcastle's financial and risk reporting (February 2019); and

- d) Developing a business case on the cost of expanding to 100% of the electricity used across Council's operations produced from renewable sources as part of the Newcastle 2020 Climate Action Plan review (April 2019).
- 2 Acknowledges publicly that we are in a state of climate emergency that requires urgent action by all levels of government; that human induced climate change represents one of the greatest threats to humanity, civilisation, and other species; and that it is still possible to prevent the most catastrophic outcomes if societies take emergency action, including local councils.
- 3 Writes to the Federal and State members for Newcastle and Wallsend, the NSW Environment Minister and the Federal Environment Minister, advising them of Council's resolution and urging them to acknowledge a climate emergency and to act with urgency to address the crisis, including a legislated programs to drive emergency action to reduce greenhouse gas emissions and meet the Paris Agreements targets.
- 4 Writes to all Council members of the Hunter Joint Organisations (Cessnock City Council, Dungog Shire Council, Lake Macquarie City Council, Maitland City Council, MidCoast Council, Muswellbrook Shire Council, Port Stephens Council, Singleton Council and the Upper Hunter Shire Council) advising them of Council's resolution and inviting them to join with us by declaring a climate emergency, developing their own Climate Emergency Plans and advocating to State and Federal Governments as per this resolution.

Councillor Dunn left the Chamber during discussion on the item.

AMENDMENT

Moved by Cr Clausen, seconded by Cr Duncan

That the City of Newcastle:

- 1 Reaffirms the City of Newcastle's commitment to a just economic transition for coal mining communities, including support for investment in hydrogen as an export energy, construction of large-scale renewables and pumped hydro, and manufacturing of electric vehicles;
- 2 Notes the City of Newcastle's actions, not rhetoric, including a City owned 5MW solar farm, and adopted target for net zero emissions;
- 3 Notes that a party, which doesn't accept that global warming is occurring and had 14 different energy policies in the past three years, won the federal election;
- 4 Notes that Bob Brown's 'Adani Convoy' was cited as a key reason for the Liberal Party's victory;
- 5 Recognises that there is a Global Climate Emergency and urgent need for real action on climate change;

- 6 Encourages environmental activists to consider the broader impact of their actions, and work towards building consensus across the political spectrum to address global warming; including raising their concerns directly with the re-elected Federal Liberal National Government;
- 7 Writes to Richard Di Natale calling for the Federal Greens caucus to adopt a pragmatic approach to achieving change, rather than divisive rhetoric which ignores the concerns of impacted communities.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Byrne

Council vote on the amendment in seriatim as follows:

Part 1: Paragraphs 1, 2 and 5.

Part 2: Paragraphs 3, 4, 6 and 7.

Carried

PART 1

AMENDMENT

Moved by Cr Clausen, seconded by Cr Duncan

That the City of Newcastle:

- 1 Reaffirms the City of Newcastle's commitment to a just economic transition for coal mining communities, including support for investment in hydrogen as an export energy, construction of large-scale renewables and pumped hydro, and manufacturing of electric vehicles:
- 2 Notes the City of Newcastle's actions, not rhetoric, including a City owned 5MW solar farm, and adopted target for net zero emissions:
- 5 Recognises that there is a Global Climate Emergency and urgent need for real action on climate change:

**Carried
unanimously**

PART 2

AMENDMENT

Moved by Cr Clausen, seconded by Cr Duncan

That the City of Newcastle:

- 3 Notes that a party, which doesn't accept that global warming is occurring and had 14 different energy policies in the past three years, won the federal election:

- 4 Notes that Bob Brown's 'Adani Convoy' was cited as a key reason for the Liberal Party's victory;
- 6 Encourages environmental activists to consider the broader impact of their actions, and work towards building consensus across the political spectrum to address global warming; including raising their concerns directly with the re-elected Federal Liberal National Government;
- 7 Writes to Richard Di Natale calling for the Federal Greens caucus to adopt a pragmatic approach to achieving change, rather than divisive rhetoric which ignores the concerns of impacted communities.

Carried

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

**Carried
unanimously**

Councillors Church, Dunn and Elliott returned to the Chamber at the conclusion of the item.

Councillor Mackenzie left the Chamber at the conclusion of the item.

ITEM-22 NOM 28/05/19 - CITY WELCOME SIGN UPGRADES

MOTION

Moved by Cr Duncan, seconded by Cr Byrne

That City of Newcastle:

- 1 Recognises that following City of Newcastle's successful re-branding in early 2019, our City entry signage should be updated to provide a more welcoming, modern and dynamic entrance to the City of Newcastle;
- 2 Explores partnerships with Transport: Roads and Maritime Services, Destination NSW, Newcastle Airport, Hunter Central Coast Development Corporation and other partners to develop City Gateway signage at key City of Newcastle entry points;
- 3 Considers a City Welcome Sign competition to encourage community participation, with entrants to provide detailed designs for consideration by a community design judging panel;

- 4 Ensures the integration of Smart City technology in future City Welcome signage, with options to include information sharing, wayfinding, updateable community service and community safety messaging, powered by renewable energy sources.

**Carried
unanimously**

**ITEM-23 NOM 28/05/19 - TIGHES HILL COMMUNITY NEEDS
ASSESSMENT**

As Councillor Mackenzie had not returned to the Chamber, Councillor White moved the Notice of Motion submitted in his name.

MOTION

Moved by Cr White, seconded by Cr Church

That the City of Newcastle

- 1 Notes the resolution of the Council on 13 May 2008 to sell the Tighes Hill School of Arts Building, to transfer the sale proceeds to the Land and Property Reserve and to allocate the funds for the provision of a purpose-built community facility for Tighes Hill and surrounding areas.
- 2 Notes that this resolution did not specify a particular type of community facility or exact location, but did subject the allocation of sale funds to:
 - a) Completion of a comprehensive needs analysis; and
 - b) Adequate consultation with community and other stakeholders.
- 3 Conducts the comprehensive needs assessment, including consultation with community and other stakeholders, for the allocation of these funds as part of the community engagement and consultation to be conducted for the development of the Local Strategic Planning Statement (LSPS) for Tighes Hill and surrounding areas, with a view to the allocation of the net settlement proceeds.

Councillor Mackenzie returned to the Chamber during discussion on the item.

**Carried
unanimously**

REPORTS BY COUNCIL OFFICERS

ITEM-41 CCL 28/05/19 - REVIEW OF BUSINESS IMPROVEMENT AREAS (BIAS) IN NEWCASTLE IMPLEMENTATION REPORT - CONSIDERATION OF PUBLIC SUBMISSIONS

Council returned to discussion on this item at 7.25pm.

Council Services distributed Item 41 - Review of Business Improvement Areas (BIAs) in Newcastle Implementation Report - Consideration of Public Submissions to Councillors.

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Byrne

That Council:

- 1 Consider Parts A, B and C in seriatim.

Carried

PART A

PROCEDURAL MOTION

Moved by Cr Winney-Baartz, seconded by Cr White

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

That:

- 1 Item 41 Confidential **Attachment H** has been classified confidential in accordance with the provisions of the *Local Government Act 1993 (Act)* as follows:
 - a) Section 10A(2)(d) of the Act provides that Council can close a meeting to consider commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.
 - b) Section 10B(1)(a) and (b) of the Act provides that the discussion of the item in a closed meeting must only:
 - (i) include as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security; and
 - (ii) occur if the Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

- 2 Discussion of Item 41 Confidential **Attachment H** take place in a closed session, with the press and public excluded, for the following reasons:
- a) The matter relates to Item 41 and contains information of a confidential nature that could identify and prejudice the parties involved.
 - b) It is contrary to the public interest to discuss confidential nature that could identify and prejudice the parties involved in an open meeting because the information provided to Council is provided on the basis that it will be treated by Council as commercial-in-confidence. A practice of disclosing sensitive commercial information to the public, including competitors, could result in the withholding of such information in the future. This would lead to a reduction in the supply of information relevant to Council's decision. A disclosure of confidential information by Council could result in Council being the subject of litigation for breach of confidence.
 - c) The closed session involves only as much of the discussion as is necessary to preserve the confidentiality, privilege or security.
- 3 Item 41 Confidential **Attachment H** 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.

Carried

Council moved into confidential session at 7.30pm.

During confidential session:

- The Lord Mayor allowed sufficient time for Councillors to read Item 41 - Review of Business Improvement Areas (BIAs) in Newcastle Implementation Report - Consideration of Public Submissions.
- Councillor Elliott left the Chamber at 7.49pm and returned at 7.51pm.
- A procedural motion moved by Councillor Mackenzie and seconded by Councillor Church to lay Item 41 - Review of Business Improvement Areas (BIAs) in Newcastle Implementation Report - Consideration of Public Submissions, on the table pending a legal advice workshop for Councillors so Council could make an informed decision was put to the meeting and declared defeated.
- The Manager Legal collected Item 41 Confidential **Attachment H** at the conclusion of confidential session.

PROCEDURAL MOTION

Moved by Cr Winney-Baartz, seconded by Cr Byrne

Council move back into open Council.

**Carried
unanimously**

Council reconvened in open session at 8.35pm.

PART B

MOTION

Moved by Cr Dunn, seconded by Cr Winney-Baartz

That Council

- 1 Notes the submissions received during the public exhibition period summarised at **Attachment A**.
- 2 Notes that no Business Improvement Association (BIA) applied to present to an invited Public Voice (PV) session on 21 May 2019.
- 3 Endorses a new model for the expenditure of special rate levies within the Newcastle Local Government Area in accordance with the model set out in the AECOM's Review of BIAs in Newcastle (Implementation Report) at **Attachment C**.
- 4 Endorses the Chief Executive Officer to finalise and execute a one-year service arrangement to a maximum of \$100,000 (exc GST) with business improvement associations consistent with this resolution and the model set out in the Implementation Report.
- 5 Authorises the Chief Executive Officer to approve the works, services, facilities or activities to be undertaken by the business improvement associations in accordance with the service arrangement.
- 6 Notes that all special rate levies released must be spent in accordance with the purpose provided in section 495 of the Local Government Act 1993 and more specifically as nominated in CN's Our Budget.
- 7 Notes that special rate levies not released to a business improvement association will be allocated to works, services, facilities or activities in the relevant business district via a contestable funding arrangement.
- 8 Endorses that special rates levied from the New Lambton business district to be allocated via contestable funding.
- 9 Does not enter into a new service arrangement with Newcastle Business Improvement Association on the basis of breaches of the previous Funding and Service Deed of Agreement and ongoing governance concerns.
- 10 Notes the identified breaches of the current Funding and Service Deed of Agreement by Hamilton Chamber of Commerce as detailed in confidential **Attachment H**.
- 11 Terminates the Funding and Service Deed of Agreement with Hamilton Chamber of Commerce effective 29 May 2019 for the reasons set out in confidential **Attachment H**.

PROCEDURAL MOTION

Moved by Cr Mackenzie, seconded by Cr Church

Part B be considered in seriatim.

Defeated

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

Carried

PART C

MOTION

Moved by Cr Clausen, seconded by Cr Byrne

That Council

- 1 Does not enter into a new service arrangement with Hamilton Chamber of Commerce on the basis of breaches of the previous Funding and Service Deed of Agreement and ongoing governance concerns.

PROCEDURAL MOTION

Moved by Cr Mackenzie, seconded by Cr Church

The item lay on the table pending a closed confidential Councillor workshop where we are properly briefed about the legal implications of the information that was provided in Attachment H prior to making a decision of this magnitude.

For the Procedural Motion: Councillors Church, Elliott and Mackenzie.

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

Defeated

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

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

Against the Motion: Councillors Church, Elliott and Mackenzie.

Carried

CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Byrne

Council extend its meeting time by half an hour to conclude business by 10.00pm.

Carried

PROCEDURAL MOTION

Moved by Cr Duncan, seconded by Cr Clausen

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

Carried

Council moved into confidential session at 9.18pm.

Councillor Elliott requested to be excused and retired from the meeting at 9.18pm.

During confidential session:

- Councillor Clausen was absent from the Chamber when the vote was taken on Item 4 - Tender - Supply of Base and Sub Base Materials for Contract No. 2019/251T.
- Council Services distributed Confidential Item 9 - Organisational Change to Councillors.
- The Lord Mayor allowed Councillors sufficient time to read Confidential Item 9 - Organisational Change.
- Council Services collected the report at the conclusion of Confidential Item 9 - Organisational Change.
- Councillors Church and Mackenzie left the meeting at the conclusion of Confidential Item 9 - Organisational Change.

PROCEDURAL MOTION

Moved by Cr White, seconded by Cr Dunn

Council move back into open Council.

**Carried
unanimously**

Council reconvened in open session at 9.33pm and the Chief Executive Officer reported the resolutions of confidential session.

The Lord Mayor noted Council's disappointment at the retirement of Councillors Mackenzie, Elliott and Church before the end of the meeting.

ITEM-2**CON 28/05/19 - TENDER - SUPPLY OF READY MIXED CONCRETE FOR CONTRACT NO. 2019/272T****MOTION**

Moved by Cr Dunn, seconded by Cr Byrne

That Council:

- 1 Accept the following tenders for Contract No. 2019/272T - Supply of Ready Mixed Concrete:
 - i) Boral Resources (County) Pty Ltd;
 - ii) Entire Concrete Pty Ltd;
 - iii) Hanson Construction Materials Pty Ltd;
 - iv) Holcim Australia Pty Ltd;
 - v) Hunter Readymixed Concrete Pty Ltd;
 - vi) Hymix Australia Pty Ltd; and
 - vii) Premier Concrete (NSW) Pty Ltd.

- 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.

**Carried
unanimously**

ITEM-3**CON 28/05/19 - TENDER - ELECTRICAL AND COMMUNICATION SERVICES FOR CONTRACT NO. 2019/320T****MOTION**

Moved by Cr Winney-Baartz, seconded by Cr Duncan

That Council:

- 1 Accept the following tenders for the provision of electrical and communication services for contract No. 2019/320T:
 - i) Novocastrian Electrical Contractors Pty Ltd;
 - ii) JAG Power & Data Solutions; and
 - iii) REES Electrical Pty Ltd.

- 2 Accept the following tenders for the provision of building control installation and maintenance services for Contract No. 2019/320T:
 - i) Hunter Electrical Services
 - ii) JAG Power & Data Solutions

- 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.

Carried

ITEM-6 CON 28/05/19 - TENDER - ROAD PAVEMENT REJUVENATION SERVICES FOR CONTRACT NO. 2019/254T

MOTION

Moved by Cr Duncan, seconded by Cr Dunn

That Council:

- 1 Accept the following tenders for Contract No. 2019/254T - Road Pavement Rejuvenation Services for:

- i) Colas Contracting Pty Ltd;
- ii) BMR Quarries Pty Ltd (Trading as Roadwork Industries); and
- iii) Fulton Hogan Industries Pty Ltd

- 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.

**Carried
unanimously**

ITEM-7 CON 28/05/19 - TENDER - TYRRELL STREET BRIDGE REPLACEMENT FOR CONTRACT NO. 2019/300T

MOTION

Moved by Cr Dunn, seconded by Cr Byrne

That Council:

- 1 Accept the tender of Civil Mining and Construction Pty Ltd in the amount of \$2,959,834 (excluding GST) for the Tyrrell Street Bridge Replacement for Contract No. 2019/300T.

- 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.

**Carried
unanimously**

ITEM-8**CON 28/05/19 - TENDER - PROCUREMENT OF A GRAND PIANO FOR CONTRACT 2019/404T****MOTION**

Moved by Cr Duncan, seconded by Cr Byrne

That Council:

- 1 Reject the tender received for the procurement of a grand piano for Contract No. 2019/404T.
- 2 Authorise CN officers to commence negotiations with the Exclusive Piano Group with a view to entering into a contract for the procurement of a Steinway D-274 grand piano.
- 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 the Chief Executive Officer determines otherwise.

**Carried
unanimously**

ITEM-9**CON 28/05/19 - ORGANISATIONAL CHANGE****MOTION**

Moved by Cr Dunn, seconded by Cr Mackenzie

That Council:

- 1 Establish the Transport and Compliance Service Unit within the Governance Directorate, for the effective delivery of Transport Strategy, Transport Operations and Compliance Services, and approve the position of Manager Transport and Compliance Services in accordance with the requirements of the Local Government Act.
- 2 This confidential report relating to the matters specified in s10A(2)(a) of the Local Government Act 1993 be treated as confidential and remain confidential until Councillors are advised by the Chief Executive Officer that the new structure has been communicated to all staff within affected teams.

Carried

REPORTS BY COUNCIL OFFICERS

**ITEM-41 CCL 28/05/19 - REVIEW OF BUSINESS IMPROVEMENT
AREAS (BIAS) IN NEWCASTLE IMPLEMENTATION REPORT -
CONSIDERATION OF PUBLIC SUBMISSIONS**

The Chief Executive Officer stated that in respect to Part A, there was no recommendation rather a confidential discussion occurred for the purpose of allowing Councillors to make a more fulsome decision for recommendations Part 1 to 11, captured in Part B.

The meeting concluded at 9.42pm.