

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, Level 1, City Administration Centre, 12 Stewart Avenue, Newcastle West on Tuesday 24 May 2022 at 6.04pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors E Adamczyk, J Barrie, J Church, D Clausen, C Duncan, J Mackenzie, C McCabe, C Pull, D Richardson, K Wark, P Winney-Baartz and M Wood.

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance and Chief Financial Officer), F Leatham (Director People and Culture), J Rigby (Acting Director Infrastructure and Property), L Duffy, (Acting Director City Wide Services), K Hyland (Interim Director Strategy and Engagement), E Kolatchew (Manager Legal), S Moore (Manager Finance), M Bisson (Manager Regulatory, Planning and Assessment), M Murray (Chief of Staff), L Zoneff (Media and Communications Adviser), E Horder (Councillor Services/Minutes), A Knowles (Councillor Services/Meeting Support), R Garcia (Information Technology Support) and W Haddock (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.

REQUEST TO ATTEND BY AUDIO VISUAL LINK

MOTION

Moved by Cr Mackenzie, seconded by Cr Barrie

The request submitted by Councillors Church and Winney-Baartz to attend by audio visual link be received and leave granted.

Carried

APOLOGIES

Nil.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Nil.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - BRIEFING COMMITTEE MEETING 12 APRIL 2022

MINUTES - ORDINARY COUNCIL MEETING 26 APRIL 2022

MOTION

Moved by Cr Mackenzie, seconded by Cr Clausen

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

**Carried
unanimously**

LORD MAYORAL MINUTE

**ITEM-9 LMM 24/05/22 - ELECTION OF FEDERAL LABOR
GOVERNMENT**

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Congratulates the Hon. Anthony Albanese MP who was officially sworn in as Australia's 31st Prime Minister on 23 May 2022, following the election of a Federal Labor Government;
- 2 Congratulates the four local Members of Parliament who have been elected to represent Greater Newcastle electorates: Sharon Claydon MP, Federal Member for Newcastle; Meryl Swanson MP, Federal Member for Paterson; Pat Conroy MP, Federal Member for Shortland; and Dan Repacholi MP, Federal Member for Hunter;
- 3 Congratulates Newcastle-based Senator, Ross Caddell, on his election as a Senator for NSW;
- 4 Acknowledges the contribution of local candidates, including Crs Wark and McCabe;
- 5 Notes that the new Prime Minister has committed to delivering a second Federal Budget in mid-2022;
- 6 Writes to Prime Minister Albanese and each of the City's local MPs congratulating them on their election victory, reiterating our strong support for a continued close collaborative partnership with the Federal Government and includes an updated version of our 2022 Federal Advocacy document of significant projects supported by Council for the advancement of our City.

Councillor Pull proposed the following amendment to the motion:

- 7 Writes to the former Prime Minister Scott Morrison, thanking him for his service to Australia.

The Lord Mayor agreed to incorporate Councillor Pull's amendment into the motion.

The motion moved by the Lord Mayor, as amended, was put to the meeting.

**Carried
unanimously**

**ITEM-10 LMM 24/05/22 - ACKNOWLEDGING DETECTIVE
SUPERINTENDENT WAYNE HUMPHREY APM, NEWCASTLE
CITY POLICE DISTRICT COMMANDERCITY POLICE
DISTRICT COMMANDER**

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Notes that Newcastle City Police District Commander, Detective Superintendent Wayne Humphrey APM has transferred to the Port Stephens-Hunter Police District, with Superintendent Tracey Chapman to act in the role until November when Superintendent Kylie Endemi takes command of Newcastle City Police District;
- 2 Congratulates both Commanders on their new appointments, and thanks Detective Superintendent Humphrey for his dedicated service to the people of Newcastle and his collaborative working relationship with Council, including extensive collaboration regarding;
 - The Wickham Fire emergency response and clean-up
 - Newcastle Night-time Economy Trial
 - Major City events, including international sporting fixtures and events
 - COVID-19 City Taskforce and the City's response to the global COVID-19 pandemic.

**Carried
unanimously**

**ITEM-11 LMM 24/05/22 - ICLEI LOCAL GOVERNMENTS FOR
SUSTAINABILITY – COMMITMENT**

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Recognises the City of Newcastle's long-standing membership of ICLEI – Local Governments for Sustainability. The Lord Mayor was elected to the ICLEI Oceania Regional Executive in July 2020.

- 2 Notes the Lord Mayor was invited to attend and address the ICLEI World Congress 2021-2022 in Malmo, Sweden in May 2022 focusing on strategies towards a climate neutral future, resilient and healthy communities, equitable and inclusive communities and sustainable finance and innovation.
- 3 Acknowledges City of Newcastle's long-standing commitment to, and leadership in addressing and taking action to address climate change, including strong action on climate change adaptation and mitigation.
- 4 Pledges our support for The Malmo Commitment [Attached], to be captured within CN's draft Environmental Strategy, which seeks to:
 - a. Prioritise all people and social equity at the core of local sustainable development.
 - b. Foster safe, vibrant cities, towns and communities for all to live, work and thrive.
 - c. Foster environmentally-sound human wellbeing through three key elements: i. Our cities and towns shall be for all ii. We shall promote safe & healthy urban spaces and communities iii. We shall ensure just transitions to a sustainable local economy, providing opportunities for dignified livelihoods to all.
 - d. Collaborate with community stakeholders to identify key sustainability challenges that must be prioritised within the community, and the social dimensions against which each challenge must be addressed.
 - e. Design smart social equity indicators to measure and monitor our progress in addressing key sustainability challenges facing our communities.
 - f. Report our progress and share our successes and lessons learned with other committed local governments to develop a pool of knowledge for further advancing equitable sustainable local development around the world.
 - g. Encourage the local governments of neighbouring communities, and those with which we work and partner, to commit to the Malmo Commitment and further enhance our collective efforts.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion:

Councillor Pull.

Carried

REPORTS BY COUNCIL OFFICERS

ITEM-40 CCL 24/05/22 - TABLING OF REGISTER OF DISCLOSURES OF INTEREST - 1 FEBRUARY TO 30 APRIL 2022

MOTION

Moved by Cr Mackenzie, seconded by Cr Clausen

That Council:

- 1 Note the tabling of the Register of Disclosures of Interest (for the period 1 February to 30 April 2022) by the Chief Executive Officer (CEO).

**Carried
unanimously**

ITEM-42 CCL 24/05/22 - PUBLIC EXHIBITION OF COUNCILLOR EXPENSES AND FACILITIES POLICY

MOTION

Moved by Cr Clausen, seconded by Cr McCabe

That Council:

- 1 Places the draft Councillor Expenses and Facilities Policy, at **Attachment A**, on public exhibition for a period of 28 days in accordance with section 253 of the *Local Government Act 1993*.

**Carried
Unanimously**

ITEM-43 CCL 24/05/22 - MARCH QUARTERLY BUDGET REVIEW

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

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

Carried

ITEM-45 CCL 24/05/22 - EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Receives the Executive Monthly Performance Report for April 2022.

Carried

ITEM-47 **CCL 24/05/22 - TENDER REPORT - ELECTRICAL AND COMMUNICATIONS SERVICES - CONTRACT NO. 2022/075T**

MOTION

Moved by Cr Mackenzie, seconded by Cr McCabe

That the recommendation at Attachment A be adopted.

That Council:

- 1 Accept the following tenders for the provision of electrical and communication services for contract 2022/075T:
 - i) Novocastrian Electrical Contractors Pty Ltd,
 - ii) JAG Power and Data Solutions, and
 - iii) Stowe Electrical Pty Ltd.
- 2 Accept the following tender for the provision of building control installation and communication services for contract 2022/075T:
 - i) Hunter Electrical Services
- 3 The confidential attachments 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

Councillor Adamczyk indicated that she wished to discuss partially confidential Item 46 – Tender Report – Astra Street Landfill Capping and Environmental Management Works – Contract No. 2022/055T in confidential session.

ITEM-39 **CCL 24/05/22 - COMPULSORY ACQUISITION OF COMMUNITY LAND BY TRANSPORT FOR NSW - NEWCASTLE INNER CITY BYPASS**

MOTION

Moved by Cr Clausen, seconded by Cr Pull

That Council:

- 1 Rejects the compensation offer made by TfNSW for the compulsory acquisition of eight parcels of Community Land (Land) as shown at **Attachment A**.
- 2 Endorses seeking a determination by the Valuer General on the compensation payable.

- 3 Endorses entering into a Deed of Release at a compensation value determined by the Valuer General.
- 4 Grants authority to the Chief Executive Officer or his delegate to execute all relevant documentation to effect the transaction.
- 5 Endorses entering into a licence for access to the Land while compensation is being determined.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Church, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Winney-Baartz and Wood.

Against the Motion: Councillors Barrie and Wark.

Carried

ITEM-41 CCL 24/05/22 - NSW LAND AND HOUSING CORPORATION FUNDING DEED

MOTION

Moved by Cr Adamczyk, seconded by Cr Mackenzie

PART A

That Council:

- 1 Endorses the Funding Deed with the NSW Land and Housing Corporation as provided at **Attachment A**.
- 2 Delegates authority to the Chief Executive Officer to sign the Funding Deed.

Councillor Duncan proposed the following Part B to the motion.

PART B

That Council:

- 1 Notes that CN has a separate agreement in place with Land and Housing Corporation (LAHC) for the scheduled bi-annual bulk waste collections at its portfolio of social and affordable housing properties in the Newcastle LGA.
- 2 Notes that on occasion household rubbish from some LAHC properties is placed on footpaths and not arranged for collection by LAHC, resulting in unsightly waste remaining in the community for extended periods of time, causing amenity and occasional health concerns to residents.
- 3 Notes that as a result of advocacy from Ward Two Councillors CN has raised this concern directly with LAHC's Acting Chief Executive Officer.

- 4 Ensures that an agreement reached between the two organisations to review and revise the scheduled bulk waste collection agreement ensures service levels meet LAHC, CN and community expectations without adverse financial impact upon ratepayers and is finalised by the end of June and communicated to Councillors and the community.

The mover and seconder of the motion agreed to incorporate Councillor Duncan's amendment into the motion.

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

**Carried
unanimously**

**ITEM-44 CCL 24/05/22 - QUARTERLY PERFORMANCE REPORT ON
THE 2018-2022 DELIVERY PROGRAM**

MOTION

Moved by Cr Richardson, seconded by Cr Mackenzie

That Council:

- 1 Receives the 2018-2022 Delivery Program - March Quarterly Performance Report (Report) at **Attachment A**.

**Carried
unanimously**

ITEM-48 CCL 24/05/22 - WRITE-OFF OF SUNDRY DEBT

In moving the motion Councillor Pull proposed an additional point 4:

MOTION

Moved by Cr Pull, seconded by Cr Mackenzie

That Council:

- 1 Resolves to write off the sundry debt account totaling \$249,680.18 as per confidential **Attachment A**.
- 2 Notes that payment was subsequently recovered from CN's insurer and the write-off of the debt will have a negligible adverse financial impact on CN's net operating position.
- 3 This confidential attachment 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.
- 4 Receives a workshop discussing and outlining the processes and training that is in place to prevent another occurrence.

**Carried
unanimously**

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council discuss the Notices of Motion before moving into confidential session.

Carried

NOTICES OF MOTION

ITEM-15 **NOM 24/05/22 - HUNTER FIG TREES IN EAST END UPGRADE**

MOTION

Moved by Cr Mackenzie, seconded by Cr McCabe

That Council

- 1 Notes the work proceeding on the East End Public Domain Stage 1 based on the plan adopted by Council in 2018 and commenced in May 2021.
- 2 Notes that City of Newcastle, as a part of planning for all projects, assess all trees and looks to retain the urban forest canopy wherever possible, whilst improving public infrastructure.
- 3 Receives a public briefing regarding plans for the four fig trees at the end of the Hunter Street Mall on the refuge island between Hunter and Scott Streets, on the basis that three of the figs are proposed to be removed due to their poor condition in 2023.

AMENDMENT

Moved by Cr Pull, seconded by Cr Church

Councillor Pull moved the following amendment:

That the Council:

- 3 Receives a closed councillor workshop regarding plans for the four fig trees at the end of the Hunter Street Mall on the refuge island between Hunter and Scott Streets, on the basis that three of the figs are proposed to be removed due to their poor condition in 2023.

For the Amendment: Councillors Church and Pull.

Against the Amendment: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Clausen, Duncan, Mackenzie, McCabe, Richardson, Wark, Winney-Baartz and Wood.

Defeated

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

**Carried
unanimously**

**ITEM-16 NOM 24/05/22 - STATE ENVIRONMENTAL PLANNING
POLICY (DESIGN AND PLACE) 2021 (D&P)**

MOTION

Moved by Cr Mackenzie, seconded by Cr McCabe

That the City of Newcastle

- Notes CN's support for the proposed State Environmental Planning Policy (Design and Place) 2021 (D&P SEPP) as articulated in Council's 24-page submission to the NSW Department of Planning and Environment on 28th February 2022.
- Notes that the D&P SEPP established a broad-ranging policy reform suite which set out a best practice planning principles approach to building liveable communities, good place outcomes and sustainable buildings, including a new Urban Design Guide, a revision to the state's Apartment Design Guide and an overhaul of the state's basic building sustainability rules (BASIX).
- Notes the extensive resources that CN dedicated to the development of the D&P SEPP, including submissions on the Explanation of Intended Effect (EIE) and the Draft Policy, and participation in the D&P SEPP Policy Working Group for Regional Councils facilitated by the Government Architect. Further, Council notes the resources committed to this reform by other councils, peak bodies and a diverse array of stakeholders across the state.
- Notes the announcement by the Minister for Planning and Minister for Homes Anthony Roberts on Tuesday 5 April 2022 that NSW Government will not introduce the State Environmental Planning Policy for Design and Place, without providing an explanation or rationale to planning stakeholders or the community.
- Writes to Minister for Planning and Minister for Homes Anthony Roberts to request a formal explanation for the decision to dispense with these important planning reforms, and reiterating Council's support for the reform package generally, and the specific reform recommendations as expressed in CN's submission on the draft D&P SEPP.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Church, Clausen, Duncan, Mackenzie, McCabe, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion:

Councillors Barrie and Pull.

Carried

CONFIDENTIAL SESSION

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

Council move into confidential session to discuss Item 46 for the reasons outlined in the business papers.

Carried

Council moved into confidential session at 7.36pm.

ITEM-46 CCL 24/05/22 - TENDER REPORT - ASTRA STREET LANDFILL CAPPING AND ENVIRONMENTAL MANAGEMENT WORKS - CONTRACT NO. 2022/055T

PROCEDURAL MOTION

Moved by Cr Duncan, seconded by Cr Mackenzie

That Council move back into open session.

Council moved back into open session at 7:47pm.

MOTION

Moved by Cr Adamczyk, seconded by Cr Richardson

That the recommendation at Attachment A be adopted.

That Council:

- 1 Accept the tender of Daracon Contractors Pty Ltd in the amount of \$26,468,430 (excluding GST) for Astra Street Landfill Capping and Environmental Management Works for Contract No. 2022/055T.

- 2 The confidential attachments 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**

The Chief Executive Officer (CEO) reported the resolutions of partial confidential reports (refer as previously stated).

LATE ITEMS OF BUSINESS

ITEM 39 CCL 24/05/22 - SUPPLEMENTARY REPORT - PUBLIC EXHIBITION OF DRAFT DELIVERING NEWCASTLE 240

The CEO informed the Lord Mayor of a late item of business and the business proposed was of great urgency on the grounds that the matter of Supplementary Report – Public Exhibition of Draft Delivering Newcastle 2040, was required to go before Council prior to the next scheduled Council meeting.

The CEO was asked to outline the reasons for Council to consider the late item of business:

- The matter is urgent as IPART have requested CN provide an updated Council Resolution in support of our application for an Additional Special Variation, as endorsed at the April Ordinary Meeting. I am advised that if an updated Council resolution is not provided to IPART by 25 May 2022, IPART may be unable to consider CN's ASV application. The matter is therefore of great urgency and requires a decision by Council prior to the next scheduled Council meeting.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

The matter of the Supplementary Report – Public Exhibition of Draft Delivering Newcastle 2040 be heard as a late item of business in accordance with the Code of Meeting Practice and as outlined by the CEO.

Carried

The Lord Mayor ruled the matter of Supplementary Report – Public Exhibition of Draft Delivering Newcastle 2040 to be of great urgency on the grounds that it required a decision by Council before the next scheduled Council meeting.

MOTION

Moved by Cr Mackenzie, seconded by Adamczyk

That Council:

- 1 Resolves to apply to the Independent Pricing and Regulatory Tribunal (IPART) for a one-off Additional Special Variation (ASV) of 2.5% for the 2022-2023 financial year, and for this to be a permanent increase retained within the rate base.
- 2 Notes the additional income City of Newcastle (CN) will receive if the ASV is approved would be \$2.2m in 2022/23, and \$15m over the period of the Long-Term Financial Plan.
- 3 Notes the income is necessary to support CN's recovery from COVID-19 induced budget deficits in 2019 (\$3.6m), 2020/21 (\$32.5m) and 2021/22 (forecast \$13.5m) while continuing to ensure adequate maintenance of critical community infrastructure.

- 4 Has considered the impact on ratepayers and the community in 2022/23 and in future years and considers this increase to be reasonable.
- 5 Notes that should the ASV be approved by IPART, the total rate increase for 2022-2023 will be 2.5%; consistent with the Long-Term Financial Plan.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Church, Clausen, Duncan, Mackenzie, McCabe, Richardson, Winney-Baartz and Wood.

Against the Motion:

Councillors Barrie, Church, Pull and Wark.

Carried

The meeting concluded at 8.00pm.

I certify that pages 1-13 of the Ordinary Council Meeting Minutes dated 24 May 2022 were confirmed, and/or as amended, by the Ordinary Council Meeting held Tuesday 28 June 2022.

**Cr N Nelmes
LORD MAYOR**