
Minutes of the Council Meeting 18 September 2019

Meeting commenced at 6:32pm

Present:

Greg Cummings (Mayor)	Councillor
Glenn Elmore (Deputy Mayor)	Councillor
Ned Attie	Councillor
George Campbell	Councillor
Steve Christou	Councillor
Paul Garrard	Councillor
Ola Hamed	Councillor
Kun Huang	Councillor
Lisa Lake	Councillor
Joseph Rahme	Councillor (arrived 6:33pm)
Suman Saha	Councillor
Eddy Sarkis	Councillor (arrived 6:35pm)
Michael Zaiter	Councillor
Tom Zreika	Councillor
Brooke Endycott	Acting General Manager
Melissa Attia	Director People & Performance
Daniel Cavallo	Director Environment & Planning
Merryn Howell	Acting Director Community Development
Peter Fitzgerald	Director Works & Infrastructure
Richard Sheridan	Director Finance & Governance

Also Present:

Charlie Ayoub	Executive Manager Corporate Services
Carol Karaki	Governance Coordinator
Olivia Shields	Senior Governance Officer

Opening Prayer

The opening prayer was read by Pdt Jatinkumar Bhatt from Sri Mandir Hindu Temple.

Acknowledgement of Country

The Mayor, Councillor Cummings opened the Meeting with the following Acknowledgement of Country:

"I would like to acknowledge the traditional owners of this land – the Darug People, and pay my respects to their elders past, present and emerging."

National Anthem

At this point in the meeting the Mayor, Councillor Cummings asked all of those in attendance to stand for the playing of the Australian National Anthem.

Notice of Live Streaming of Council Meeting

The Mayor, Councillor Cummings advised that the Council meeting was being streamed live on Council's website and members of the public must ensure their speech to the Council is respectful and use appropriate language.

Apologies/Leave of Absence

Nil

Declarations of Pecuniary & Non Pecuniary Conflicts of Interest

Councillor Zreika declared a pecuniary interest in item RES09/19-3 as he is related to the owner of significant holdings in the area. As such, Councillor Zreika exited the Chamber during the consideration of this item.

Councillor Zreika declared a non-pecuniary, less than significant interest in item C09/19-218 as the item being deliberated is a broad planning instrument and to the best of his knowledge, he or any related persons are not subject to gain or loss as a result of this item.

Councillor Zreika also declared a non-pecuniary, significant interest in item C09/19-219 as he has property interests in the Local Government Area. As such, Councillor Zreika exited the Chamber during the consideration of this item.

Councillor Saha declared a non-pecuniary, less than significant interest in items C09/19-218 and C09/19-219 as the items being deliberated are broad planning instruments and to the best of his knowledge, he or any related persons are not subject to gain or loss as a result of these items.

Councillor Zaiter declared a non-pecuniary, less than significant interest in items C09/19-218 and C09/19-219 as the items being deliberated are broad planning instruments and to the best of his knowledge, he or any related persons are not subject to gain or loss as a result of these items.

Councillor Rahme declared a non-pecuniary, less than significant interest in items C09/19-218 and C09/19-219 as the items being deliberated are broad planning instruments and to the best of his knowledge, he or any related persons are not subject to gain or loss as a result of these items.

Councillor Sarkis declared a non-pecuniary, less than significant interest in items C09/19-218 and C09/19-219 as the items being deliberated are broad planning instruments and to the best of his knowledge, he or any related persons are not subject to gain or loss as a result of these items.

Councillor Garrard declared a non-pecuniary, less than significant interest in items C09/19-218 and C09/19-219 as the items being deliberated are broad planning instruments and to the best of his knowledge, he or any related persons are not subject to gain or loss as a result of these items.

Councillor Huang declared a non-pecuniary, less than significant interest in item C09/19-219 as his parent owns a property in Auburn in which the zoning is not proposed to change.

Confirmation of Minutes

**Min.682 C09/19-209 Minutes of the Ordinary Meeting of Council - 4
September 2019**

Resolved (Garrard/Sarkis)

That Council confirm the minutes of the Ordinary Meeting of Council held on 4 September 2019.

Min.683 Suspension of Standing Orders

Resolved (Sarkis/Hamed)

That in accordance with Clause 8.2 of the Code of Meeting Practice, Council suspend standing orders to allow Items RES09/19-3, C09/19-218, C09/19-219, C09/19-220, C09/19-222 and C09/19-223 to be brought forward for consideration following Public Forum.

Public Forum:

Speakers on Items on the Council Meeting Agenda

Speaker	Item #	Suburb
Mr Tony Oldfield	RES09/19-3 Notice of Rescission - Lidcombe Town Centre - Planning Controls Strategy	Auburn
Mr Sako Atachparian	C09/19-219 - Planning Proposal for the New Cumberland Local Environmental Plan	Merrylands
Mr Tony Oldfield	C09/19-222 - Approval of Heavy Vehicle Access to Cumberland Council Roads	Auburn
Mr Rishikesh Akolkar	C09/19-223 - Notice of Motion - Responsible Pet Ownership Education Program	Pendle Hill

**Min.684 RES09/19-3 Notice of Rescission - Lidcombe Town Centre -
Planning Controls Strategy**

Note: Councillor Zreika exited the Chamber at 6:56pm during the consideration of this item as he had declared a pecuniary interest in this item.

Motion (Campbell/Garrard)

Pursuant to Notice, Councillors Campbell, Garrard and Hamed move the following Resolution of Council 4/09/19 (Item C09/19-189) be rescinded:

That Council:

1. Endorse the proposed changes to maximum height controls for Precincts 1, 2, 3, 4, 6, 8, 12 and 14 for the Lidcombe Town Centre, as outlined in Attachment 1, which are supported by the Cumberland Local Planning Panel.
2. Endorse the proposed changes to maximum building height and floor space ratio controls in Precincts 11, 13, 15 East and 17 for the Lidcombe Town Centre, as outlined in Attachment 2, which are supported by the Cumberland Local Planning Panel.
3. Endorse the proposed changes to maximum height, floor space ratio and land use zoning controls in Precincts 7, 10, 15 and 16 for the Lidcombe Town Centre, as outlined in Attachment 3, which are supported by the Cumberland Local Planning Panel.
4. Note that the above items will be included in the planning proposal for the new Cumberland Local Environmental Plan.

The Rescission Motion moved by Councillor Campbell, seconded by Councillor Garrard on being Put was declared Lost. A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Rescission: Campbell, Garrard and Hamed.

Councillor(s) Against the Rescission: Attie, Christou, Cummings, Elmore, Huang, Lake, Rahme, Saha, Sarkis and Zaiter.

Councillor Rahme left the Meeting at 6:57pm and returned to the Meeting at 7:01pm during the consideration of this item.

Councillor Zreika returned to the Chamber at 7:28pm following the consideration of this item.

Min.685 C09/19-218 Early Consultation for the New Cumberland Local Environmental Plan

Resolved (Attie/Sarkis)

That Council:

1. Note the outcomes of the early consultation for the new Cumberland Local Environmental Plan.

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2. Endorse the proposed minor zoning changes to be included in the planning proposal for the new Cumberland Local Environmental Plan, as provided in Attachment 1.
 3. Note that other site specific requests for zoning changes will be considered either as part of Council's future work plan or further reviewed by Council if a future applicant initiated planning proposal is received.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Campbell, Christou, Cummings, Elmore, Garrard, Hamed, Huang, Lake, Rahme, Saha, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Nil

Min.686 C09/19-219 Planning Proposal for the New Cumberland Local Environmental Plan

Note: Councillor Zreika exited the Chamber at 7:32pm during the consideration of this item as he had declared a significant non-pecuniary interest in this item.

Resolved (Attie/Sarkis)

That Council:

1. Endorse that the planning proposal for the new Cumberland Local Environmental Plan, as provided in Attachment 1, be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination.
2. Delegate to the General Manager the authorisation to make minor revisions to the planning proposal and supporting documentation, as necessary, following Council's deliberations, to ensure the desired objectives and intended outcomes can be achieved.
3. Consult with the community and the Cumberland Local Planning Panel on the planning proposal for the new Cumberland Local Environmental Plan, following Gateway Determination by the Department of Planning, Industry and Environment.
4. Consider the planning proposal for the new Cumberland Local Environmental Plan, prior to finalisation and gazettal by the Department of Planning, Industry and Environment.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Campbell, Christou, Cummings, Elmore, Hamed, Huang, Lake, Rahme, Saha, Sarkis and Zaiter.

Councillor(s) Against the Motion: Garrard

Councillor Zreika returned to the Chamber at 7:34pm following the consideration of this item.

Min.687 C09/19-220 Local Infrastructure Contribution Planning Activities for the Cumberland Area

Resolved (Attie/Elmore)

That Council:

1. Note the audit and acquittal reporting for the current local infrastructure contribution plans that apply in the Cumberland area.
2. Endorse the allocation of existing contribution plan funds for projects identified in Attachment 1, as a future funding reservation for local infrastructure identified in Council's Capital Works Program.
3. Endorse the public exhibition of the draft Cumberland Local Infrastructure Contributions Plan, as provided in Attachment 2, for a period of 28 days, with a further report to be provided to Council.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Campbell, Christou, Cummings, Elmore, Garrard, Hamed, Huang, Lake, Rahme, Saha, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Nil

Councillor Hamed left the Meeting at 7:35pm and returned to the Meeting at 7:39pm during the consideration of this item.

Min.688 C09/19-222 Approval of Heavy Vehicle Access to Cumberland Council Roads

Resolved (Attie/Elmore)

That Council defer the matter for further consideration to the Council Meeting on 2 October 2019.

Councillor Christou left the Meeting at 7:45pm and returned to the Meeting at 7:49pm during the consideration of this item.

Councillor Saha left the Meeting at 7:50pm and returned to the Meeting at 7:55pm during the consideration of this item.

Min.689 C09/19-223 Notice of Motion - Responsible Pet Ownership Education Program

Resolved (Saha/Rahme)

That Council:

1. Prepare a report on the development and delivery of an ongoing pet education program for members of the community that explains the responsibilities, costs and benefits associated with responsible pet ownership;
2. Investigate whether it is possible to provide an incentive to those that participate in Council's pet education program, such as free or subsidised microchipping and animal de-sexing, that would encourage the uptake of the pet education program;
3. Investigate the issue of stray and feral cats in the local government area and devise a plan to efficiently and effectively control them in order to improve public health and safety; and
4. Undertake consultation with the Companion Animals Advisory Committee in relation to the items above.

Min.690 C09/19-208 Notice of Motion - Dog Parks Granville Area

Resolved (Rahme/Christou)

That Council:

1. Provide a report identifying potential locations of installing and constructing new dog parks within the current open space areas of Granville Ward.
2. The report provide detailed costings of constructing the dog parks in the selected locations.

Min.691 C09/19-224 Notice of Motion - Lidcombe Town Centre Parking Supply

Resolved (Huang/Elmore)

That Council:

1. Undertake a parking survey in the streets within the Lidcombe Town Centre and surrounding streets identifying the saturation rate, usage and the number of available on street car parking spaces;
2. At the conclusion of the parking survey, consult and engage with the community on the results and options to improve parking within the Lidcombe Town Centre and surrounds; and

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3. Receive a report outlining the results of both the parking survey and community consultation outcomes at the conclusion of the above processes.

Councillor Zaiter left the Meeting at 8:23pm during the consideration of this item.

Min.692 Resumption of Standing Orders

Resolved (Attie/Rahme)

That in accordance with Clause 8.2 of the Code of Meeting Practice, Council resume the normal order of business.

Min.693 Items by Exception

Resolved (Attie/Sarkis)

At this time of the meeting, all items on the agenda not called for discussion were moved collectively, as shown:

That item numbers C09/19-210, C09/19-211, C09/19-212, C09/19-214, C09/19-215, C09/19-216, C09/19-217, C09/19-221, C09/19-227 and C09/19-228 be moved in bulk.

Councillor Zaiter returned to the Meeting at 8:25pm during the consideration of this item.

Min.694 C09/19-210 Legal Report

Resolved (Attie/Sarkis)

That Council receive this report.

Min.695 C09/19-211 Response to Notice of Motion - Cumberland Council Multicultural Language Services

Resolved (Attie/Sarkis)

That Council:

1. Continue with the current arrangements provided to support customers requiring assistance with translation and/or interpreting; and
2. Expand awareness of Council's existing language services to the community by delivering a targeted communications campaign in community languages.

Min.696 C09/19-212 Adoption of Investment Policy - Post Exhibition

Resolved (Attie/Sarkis)

That Council adopt the *Draft Investment Policy* as outlined in Attachment 1 of this report.

Min.697 C09/19-214 Rates Harmonisation Update

Resolved (Attie/Sarkis)

That Council:

1. Note the information and options for rates harmonisation.
2. Take the maximum 4 years allowed in section 218CB of the *Local Government Act 1993* to implement the new rates. The implementation date will be by June 2021.
3. Make an application to the Minister for Local Government for a variation to section 218CB, outlining a solution that no increases in residential rates for 2020-2021 be implemented in the former Holroyd City Council area to reduce the overall impact on rates harmonisation.
4. Write to the Minister for Local Government and the Independent Pricing and Regulatory Tribunal in relation to the loss of business rates of \$5.0m per annum from the former Auburn City Council area, highlighting the financial sustainability issue this has created and requesting approval to make an application to increase the rates cap from 2020-2021.

Min.698 C09/19-215 Investment Report - August 2019

Resolved (Attie/Sarkis)

That Council receive the August 2019 Investment Report.

Min.699 C09/19-216 Adoption of Cumberland Community Facilities Strategy 2019 - 2029 - Post Exhibition

Resolved (Attie/Sarkis)

That Council adopt the *Draft Cumberland Community Facilities Strategy 2019-2029* as outlined in Attachment 2 of this report.

Min.700 C09/19-217 Response to Notice of Motion - Service Centres at Council Libraries and Community Centres

Resolved (Attie/Sarkis)

That Council receive and note this report.

Min.701 C09/19-221 Adoption of Verge Mowing Policy**Resolved (Attie/Sarkis)**

That Council adopt the *Draft Verge Mowing Policy* as outlined in Attachment 1 of this report.

Min.702 C09/19-227 Tender Evaluation Report - Verge and Public Domain Mowing (T-2019-021)**Resolved (Attie/Sarkis)**

That Council:

1. Accept the Tender Evaluation Panel's recommendation to award the contract to Marsupial Landscape Management (ABN 69 003 585 108) in accordance with Clause 178(1)(a) of the *Local Government (General) Regulations 2005*, for \$500,031.00 per annum (ex GST).
2. Delegate to the General Manager the authority to execute the contract and any associated documents.

Min.703 C09/19-228 Tender Evaluation Report - Bus Shelter Contract (T-2019-011)**Resolved (Attie/Sarkis)**

That Council:

1. Declines to accept any of the tenders in accordance with Clause 178(1)(b) of the *Local Government (General) Regulations 2005*.
2. In accordance with Clause 178(3) of the *Local Government (General) Regulations 2005*, resolve to enter into negotiations with Claude Outdoor Pty Ltd and OohMedia with the view to entering into a contract in relation to the subject matter of the tender.
3. In accordance with Regulation 178(4)(a) of the *Local Government (General) Regulations 2005*, Council's reasons for declining to invite fresh tenders or applications is because a new tender process is unlikely to produce better results.
4. In accordance with Regulation 178(4)(b) of the *Local Government (General) Regulations 2005*, Council's reasons for determining to enter into negotiations with the person or persons listed in (2) are to establish a solution that includes a best and final offer with a view to entering into a contract in relation to the subject matter of the tender.
5. Delegate to the General Manager the authority to proceed with the negotiations.

Min.704 C09/19-213 Local Government Election 2020 - Engagement of the NSW Electoral Commissioner**Resolved (Attie/Sarkis)**

That Cumberland Council ("the Council") resolves:

1. Pursuant to s. 296(2) and (3) of the *Local Government Act 1993* (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
2. Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
3. Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

Min.705 Closed Session**Resolved (Attie/Elmore)**

At this stage of the meeting being 8:36pm, the Mayor advised that in accordance with Section 10a of the Local Government Act 1993 the meeting would move into Closed Session, with the members of the press and public excluded from the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session being withheld. This action was taken as the items listed were within the following provisions under Section 10a of the *Local Government Act*:-

(2) *The matters and information are the following:*

- (a) *personnel matters concerning particular individuals (other than councillors)*
- (d) *commercial information of a confidential nature that would, if disclosed:*
 - (ii) *confer a commercial advantage on a competitor of the council.*

Min.706 Open Session**Resolved (Sarkis/Hamed)**

Council returned to Open Session at 9:24pm to resolve the below Confidential Items:

- C09/19-225 General Manager's Performance Review for the Period from 1 July 2018 to 30 June 2019
- C09/19-226 Tender Evaluation Report - Roads Infrastructure Services Contract (T-2019-015)

**Min.707 C09/19-225 General Manager's Performance Review for the Period
from 1 July 2018 to 30 June 2019****Resolved (Hamed/Zaiter)**

That Council:

1. Note the outcome of the General Manager's performance review for the period from 1 July 2018 to 30 June 2019;
2. Adopt the variations to the General Manager's Performance Agreement for the period from 1 July 2019 to 30 June 2020;
3. Confirm in writing to the General Manager the outcome of this performance review, the recommendations arising from the review and the variations to the Performance Agreement; pursuant to Clauses 7.10 and 7.11 of the General Manager's Contract of Employment; and
4. Note that the standard quarterly review report will now contain additional information about the performance of the organisation across key measures and significant projects, in providing more frequent data to Council regarding the performance of the General Manager.

**Min.708 C09/19-226 Tender Evaluation Report - Roads Infrastructure
Services Contract (T-2019-015)****Motion (Attie/Sarkis)**

That Council:

1. Reject the Tender Evaluation Panel's recommendation to award the contract to Downer EDI Works Pty Ltd (ABN 66 008 709 606) in accordance with the *Local Government (General) Regulations 2005*.
2. Call for fresh Tenders to establish a panel of contractors for the Roads Infrastructure Services.

Foreshadowed Motion (Garrard/Zaiter)

That Council:

1. Accept the Tender Evaluation Panel's recommendation to award the contract to Downer EDI Works Pty Ltd (ABN 66 008 709 606) in accordance with Clause 178(1)(a) of the *Local Government (General) Regulations 2005*, for the unit rates amounts as tendered with the initial contract term expiring on December 2025 with an option to extend a further 2+1 years.
2. Delegate to the General Manager the authority to execute the contract and any associated documents.

The Motion moved by Councillor Attie seconded by Councillor Sarkis on being Put to the meeting was declared LOST.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Rahme and Sarkis.

Councillor(s) Against the Motion: Campbell, Christou, Cummings, Elmore, Garrard, Hamed, Huang, Lake, Saha and Zaiter.

The Foreshadowed Motion moved by Councillor Garrard seconded by Councillor Zaiter then became the Motion as follows:

Motion (Garrard/Zaiter)

That Council:

1. Accept the Tender Evaluation Panel's recommendation to award the contract to Downer EDI Works Pty Ltd (ABN 66 008 709 606) in accordance with Clause 178(1)(a) of the *Local Government (General) Regulations 2005*, for the unit rates amounts as tendered with the initial contract term expiring on December 2025 with an option to extend a further 2+1 years.
2. Delegate to the General Manager the authority to execute the contract and any associated documents.

The Motion moved by Councillor Garrard seconded by Councillor Zaiter on being Put to the meeting was declared CARRIED.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Campbell, Christou, Cummings, Elmore, Garrard, Hamed, Huang, Lake, Saha, Sarkis and Zaiter.

Councillor(s) Against the Motion: Attie and Rahme.

Councillor Zreika left the Meeting at 8:38pm during the consideration of this item.

Min.709 Leave of Absence – Councillor Sarkis

Note: Councillor Sarkis requested Leave of Absence for the Council Meeting to be held on 2 October 2019.

Resolved (Zaiter/Saha)

That Councillor Sarkis be granted Leave of Absence for the Council Meeting to be held on 2 October 2019.

The Mayor, Councillor Cummings closed the meeting at 9:28pm.

Chairperson _____ Acting General Manager _____