



Council Chambers
4 November 2022

The **3768th MEETING** of **COUNCIL** will be held on Cammeraygal lands at the Council Chambers, North Sydney at **7.00pm** on Monday 14 November 2022. The agenda is as follows.

ROB EMERSON
A/GENERAL MANAGER

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- 1. Opening of Meeting**
 - 2. Acknowledgement of Country**
 - 3. Apologies and applications for leaves of absence or attendance by audio-visual link by councillors**
 - 4. Confirmation of Minutes**
 - 5. Disclosures of Interests**
 - 6. Public Forum**
 - 7. Items by Exception**
 - 8. Mayoral Minutes**
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 - 8.2 MM02: Appointment of Council Delegates to NSROC
 - 8.3 MM03: Further investigation and interim heritage protection for 82-88 and 108 Parraween Street, Cremorne
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- 9.2 Waverton Peninsula Working Group Minutes – 11 October 2022
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- 10.2 Code of Meeting Practice – Post Exhibition
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- 10.4 Planning Proposal 1/21 – 270-272 Pacific Highway Crows Nest
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- 10.17 Findings of Heritage Review Report on the Hayden Orpheum Palace Theatre
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- 10.18 North Sydney Community Centre – Joint Strategic Plan Review 2021/22
- 10.19 Pro-Active Community Education Quarterly Report
- 10.20 Circus Policy – Amended
- 10.21 Tender 9/2022 – Relining Works
- 10.22 Tender 10/2022 – Willoughby Street GPT and Drainage Upgrade
- 10.23 Tender 14/2022 – Seawall Restoration Works

11. Notices of Motion/Questions with Notice

- 11.1. Notice of Motion 60/22 – Significant Tree Register - Cr Bourke
- 11.2. Notice of Motion 61/22 – Dilapidated Street Frontage of 12 Fitzroy Street
Kirribilli - Cr Gibson
- 11.3. Notion of Motion 62/22 – Australia Post Office in Crows Nest – Cr Bourke
- 11.4. Notion of Motion 63/22 – Infrastructure Mapping Project – Cr Bourke

12. Matters of Urgency

- 12.1 Bradfield Park
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13 Closure of Meeting

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TO: The Mayor, Zoë Baker and Councillors Beregi, Bourke, Drummond, Gibson, Lamb, Mutton, Santer, Spenceley, and Welch.

SUBJECT: 3768th MEETING OF COUNCIL TO BE HELD ON MONDAY 14 NOVEMBER 2022

1. OPENING MEETING

2. ACKNOWLEDGEMENT OF COUNTRY

3. APOLOGIES AND APPLICATIONS FOR LEAVES OF ABSENCE OR ATTENDANCE BY AUDIO-VISUAL LINK BY COUNCILLORS

4. CONFIRMATION OF MINUTES

THAT THE MINUTES of the previous 3766th Extraordinary Council Meeting held on Saturday 8 October 2022, and the Minutes of the 3767th Council Meeting held on Monday 10 October 2022, be taken as read and confirmed.

5. DISCLOSURES OF INTEREST

6. PUBLIC FORUM

7. ITEMS BY EXCEPTION

8. MINUTES OF THE MAYOR

8.1 MM01: Diverse and Affordable Housing

There is an urgent housing crisis in NSW. Low income and, increasingly, middle income workers within much of the State, including within the North Sydney local government area and community, are unable to access housing that is affordable and/or appropriate to their needs.

The North Sydney local government area is one of the more expensive areas in Greater Sydney and continues to be so for both rental and purchase.

Whilst some affordable rental is available for moderate income households, this largely consists of studio and one-bedroom apartments. Low income and larger moderate-income households (such as families with children) are effectively excluded from the rental market.

North Sydney Council was a pioneer in affordable housing contributions and provision in NSW. Since 1984, when the first scheme began, the affordable housing stock has significantly reduced notwithstanding the excellent work of this council over nearly 40 years to contribute to diverse and affordable housing for our community.

In 2019 Council commissioned Judith Stubbs & Associates to prepare the “North Sydney Council Affordable Housing Study: Background Report” which found that:

“North Sydney Council has a long-standing commitment to affordable housing in its Local Government Area. This has included research and advocacy, partnerships with local social housing providers, and redeployment of its own resources for affordable housing for 35 years.

...Since the affordable housing program began in 1984, at least 2,400 affordable bed spaces have been lost in the LGA. Over the years, through contribution of land, partnerships with State Government authorities and funds levied, Council has been able to mitigate this loss through its partial or full ownership of 25 properties comprised of multi-unit dwellings and houses, and boarding houses used for affordable housing. These properties include partial ownership of a nursing home and two services offering emergency accommodation to youth. Council has been unable to meet its stated goal of 5% of replacement of affordable housing stock lost due to the high cost of replacement.

Despite some excellent initiatives...only a small number of bed spaces and/or dwellings have been created.”

On 27 October 2022 I attended the Sydney Mayoral Summit on Diverse and Affordable Housing to discuss how Council may contribute to solving the housing crisis. That is, how councils may contribute to housing that is owned or managed by a community housing provider and rented to low-income households for a proportion of their household income.

The Sydney Mayoral Summit was convened by Southern Sydney Regional Organisation of Councils on behalf of Resilient Sydney Diverse and Affordable Housing Steering Committee in delivery of Action 7 of the Resilient Sydney Strategy 2018.

We heard from community housing providers about projects where councils partnered with them to deliver affordable housing in their local areas. In addition, we heard about a project to help councils introduce affordable housing contribution schemes to increase the amount of affordable housing. The project includes a template contribution scheme and a proposed optional standard clause for local environmental plans that will be launched later this year.

Delivery

Council has a “shovel ready” affordable housing project with the Parraween Street Carpark redevelopment consent. This project is of regional significance as it provides Early Childhood Health services, Key Worker and Affordable Housing, a new public park and underground public car parking.

Recently the Commonwealth Government announced that it will create a \$10 billion fund through the National Housing Finance Infrastructure Corporation (NHFIC) which will build 30,000 new social and affordable housing properties in its first 5 years utilising the Community Housing Sector.

It is anticipated that the fund will build around:

- 20,000 **social housing** properties – 4,000 allocated for women and children fleeing domestic and family violence and older women on low incomes at risk of homelessness;
- 10,000 **affordable homes** for frontline workers.

The State Government has also committed to increasing supply of key worker and affordable housing.

I therefore recommend:

1.THAT Council urgently prioritise seeking funding partners (including State and Federal Governments) to deliver the Parraween Street affordable housing/early childhood health centre/public park project and take all steps necessary to ensure the project can proceed as soon as possible.

2.THAT Council undertake a review of Council landholdings and identify whether there is land that has potential for affordable housing provision in partnership with a community housing provider.

3.THAT once such land is identified, Council consider community needs and who Council ought to work with to deliver more diverse and affordable housing.

4.THAT Council review whether the work undertaken by Resilient Sydney, including data being collated, may require Council to amend any planning controls and

development contributions schemes to increase affordable housing within the North Sydney local government area.

5.THAT Council work with Resilient Sydney to jointly advocate to the Federal and State Governments to establish effective policies and programmes for the delivery of more affordable housing.

8.2 MM02: Appointment of Council Delegates to NSROC

At its meeting on 10 January 2022, Council considered a report on the appointment of representatives to external bodies and resolved, in part:

1.THAT Council appoint to the Northern Sydney Regional Organisation of Councils (NSROC) as representatives the Mayor, and Councillor Beregi and Councillor Welch (alternate) as its representative for the term until September 2022.

Due to an administrative oversight, the reappointment of Council's delegates did not take place in September 2022, as resolved.

Other members of NSROC appoint their delegates for the term of Council, rather than annually. For continuity along the same lines as other member Councils, I recommend that Councillor Beregi continue as the North Sydney Council representative with Councillor Welch as the alternate.

To allow Council to participate in the NSROC Board Meeting and election on Thursday 17 November 2022, I am seeking a resolution of Council to appoint its delegates for the balance of the Council term, to bring us in line with the other member Councils.

I therefore recommend:

1.THAT Council appoint to the Northern Sydney Regional Organisation of Councils (NSROC) as representatives the Mayor, and Councillor Beregi and Councillor Welch (alternate) as its representative for the term until September 2024.

8.3 MM03: Further investigation and interim heritage protection for 82-88 and 108 Parraween Street, Cremorne

At the Extraordinary Meeting held on 7 November 2022 Council resolved to issue an Interim Heritage Order in respect of No's 50, 52, 54, 56, 70, 72, 78, 80 Parraween Street, Cremorne.

That Interim Heritage Order was gazetted on 11 November 2022.

However, since the Extraordinary Meeting, I have received numerous submissions from residents requesting that Council also urgently act to protect the properties at 82-88 and 108 Parraween Street, Cremorne.

The Heritage Assessment Report on Parraween Street and the Hayden Orpheum Picture Palae, Cremorne prepared by Lucas, Stapleton, Johnson & Partners dated October 2022 included the following recommendation:

“Recommendation for Further Research

As a result of the research undertaken in the preparation of this report, it is noted that Nos. 82 to 88 and 108 Parraween Street, all free-standing Federation cottages, may have some research potential in relation to Helier Harbutt (and his brother Percy) who were highly successful local building contractors.

The Harbutt Brothers are known to have been associated with the development of Ryecroft Hall, 17 Shellcove Road, Neutral Bay, and Arundel’, Moruben Street, Mosman (demolished?), as well as numerous other residences throughout Cremorne, Willoughby, and Mosman. Helier was one of the founding directors of The Northern Suburbs Brick Co. Ltd and he may have had some association with noted Sydney architect James Peddle. The Harbutt family operated from a building located at the intersection of Military Road, MacPherson and Parraween Streets, Cremorne known as the Harbutt Building (demolished). However, the location and existence of many of the buildings constructed and potentially designed by Helier Harbutt is undetermined at this stage.

It is recommended that further research be undertaken to identify the extent of surviving buildings credited to Helier Harbutt to provide a better understanding of the involvement of the Harbutt Brothers on the early 20th century development of the North Sydney Council LGA.” (see page 165 of the Heritage Assessment Report; page 163 of 184 of the Council Report)

Given that:

- i. There are Complying Development Certificate applications for **demolition** of the cottages at 82-88 Parraween Street, Cremorne dated 4 November 2022 currently with Beyond Certification (Private Accredited Certifier);
- ii. There is a 14 day pre-approval period upon receipt of the CDC application. That period expires on 18 November 2022;
- iii. Once a CDC is approved, the applicant must only provide seven days’ notice before demolition works are permitted to begin; and
- iv. The Interim Heritage Order gazetted on 11 November 2022 does not apply to those properties

it is very clear that these properties are under imminent threat of demolition and destruction.

I therefore recommend:

1.THAT Council urgently issue an Interim Heritage Order in respect of Nos. 82-88 and 108 Parraween Street, Cremorne.

2.THAT Council undertake further research on the properties at 82-88 and 108 Parraween Street, Cremorne to identify the extent of surviving buildings credited to Helier Harbutt to provide a better understanding of the involvement of the Harbutt

Brothers on the early 20th century development of the North Sydney Council LGA as recommended at page 145 (163 of 185) of the Heritage Assessment Report prepared by Lucas, Stapleton, Johnson & Partners dated October 2022.

8.4 MM04: Support for Iranian Women

Many of us have been watching the tremendous courage and bravery of the women and people of Iran following the tragic death of 22-year-old woman Ms Mahsa Amini who died in custody after being arrested for allegedly violating strict dress codes.

On 13 September 2022, Ms Amini was arrested by Iran's "morality police" in Tehran for allegedly not wearing a hijab in full compliance with mandatory requirements. She fell into a coma shortly after collapsing at a detention centre and died three days later from a heart attack.

Since her death, thousands have joined anti-government demonstrations throughout Iran. Security forces have responded at times with live ammunition, and many people have been killed, injured and detained in the protests.

The Australian Government has condemned the actions of the Iranian Government and Australia's Federal Opposition has pledged to support any government action over Iran's human rights abuses, even if they have economic consequences.

Australians, State Governments and many, many councils (including our neighbours at Willoughby City Council and the City of Sydney) have condemned the deadly and disproportionate use of force against those protesting for women's and human rights in Iran.

On Friday morning, 11 November 2022, I met with Ms Shokufeh Kavani, an Iranian/Australian artist living in the North Sydney Local Government Area.

Ms Kavani sought that Council join with other councils and provide acknowledgement and support for the women of Iran. In addition, she sought Council's support for the Iranian Freedom Movement rally to be held within the next week or so through promotion on Council's website and social media platforms.

I therefore recommend:

1.THAT Council acknowledges the courage and bravery of the women, girls and people of Iran who are protesting against Iran's significant discrimination against women and ongoing human rights violations.

2.THAT Council reaffirms the values and priorities of the North Sydney Community Strategic Plan which express our community's commitment to a just, inclusive, and socially cohesive North Sydney where democracy, equality, human rights, and the Rule of Law are highly valued and respected.

3.THAT Council write to the Hon Senator Penny Wong, Minister for Foreign Affairs and the Leader of the Opposition expressing support for their public stand on this issue.

4.THAT Council promotes the Iranian Freedom Movement rally through a message on the Council website and social media channels.

9. REPORTS OF COMMITTEES

9.1 Audit, Risk and Improvement Committee Meeting Minutes

AUTHOR: Shane Sullivan, Executive Manager Governance

This report presents the minutes of the last meeting of the Audit, Risk and Improvement Committee held on 7 October 2022. There are no specific matters arising from the meeting referred to Council for adoption.

The minutes are attached for information and adoption by Council in accordance with the Audit, Risk and Improvement Committee Charter.

There are no financial implications as a result of this report.

RECOMMENDATION:

1. THAT the Minutes of the 7 October 2022 Audit, Risk and Improvement Committee meeting be adopted in accordance with the Audit, Risk and Improvement Committee Charter.

9.2 Waverton Peninsula Working Group Meeting Minutes 11 October 2022

AUTHOR: Peita Rose, Governance Officer

This report presents the Minutes of the meeting of the Waverton Peninsula Working Group held on 11 October 2022.

There are no financial implications as a result of this report.

RECOMMENDATION:

1. THAT Council receives the Minutes of the Waverton Peninsula Working Group held on 11 October 2022.

2. THAT should Council adopt any of the specific projects/proposals recommended in the minutes of the Waverton Peninsula Working Group held on 11 October 2022, a report be prepared detailing proposed costings, timelines and implications to existing workload and the adopted Delivery Program.

9.3 Traffic Committee Meeting Minutes 14 October 2022

AUTHOR: Peita Rose, Governance Officer

Council is required to consider the Minutes of this Committee. Section 5.3.2 of the *RMS Delegation to Council for the Regulation of Traffic* states that:

All proposals recommended by the LTC must still be formally approved by the elected Council (or their sub-delegate), subject to certain limitations.

This report presents the recommendations of the meeting of the Traffic Committee held on 14 October 2022, for Council adoption. The minutes are attached for information.

The full reports to the Traffic Committee can be viewed at

https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/Committees/Traffic_Committee/2022/14_October_2022.

The financial implications are considered in the individual reports to the Traffic Committee.

RECOMMENDATION:

1. THAT Council proceeds to manage the Jacaranda Festival as a special event, and provides a Traffic Management Plan to Transport for NSW for sign off and to NSW Police for concurrence, and that the Traffic Management Plan includes advanced warning signage on Broughton and Willoughby Streets as well as Clark Road. (5.5)

2. THAT Council writes to Transport for NSW seeking assistance and assurances on the proposed removal of the cycleway at Falcon Street and the pedestrian overpass at Ridge Street. (6.2)

10. REPORTS TO COUNCIL

10.1. Matters Outstanding November 2022

AUTHOR: Ian Curry, Manager Council and Committee Services

Each month, a report is presented to Council on the status of resolutions arising from Mayoral Minutes, Notices of Motion, and Questions Without Notice.

The attached table has been updated to include resolutions up to the 10 October 2022 Ordinary Meeting of Council.

There are no financial implications as a result of this report.

RECOMMENDATION:

1. THAT the report be received.

10.2. Code of Meeting Practice – Post Exhibition

AUTHOR: Shane Sullivan, Executive Manager Governance

The purpose of this report is to provide feedback received during the public exhibition period for the Code of Meeting Practice.

At its meeting held 22 August 2022, Council resolved as follows:

1. THAT Council resolve that Ordinary Council Meetings are to commence at 7pm as required under Clause 3.1 of the Code of Meeting Practice for a trial period pending the report back to Council following the exhibition period.

2. THAT Council endorse the attached draft Code of Meeting Practice for the purpose of public exhibition for a period of 42 days and that a further report be provided to Council at the conclusion of the public exhibition period.

3. THAT concurrent to the public exhibition period Council resolves to operate under the draft Code of Meeting Practice to also inform the report to Council following the public exhibition period.

In accordance with the resolution the attached was placed on exhibition for 42 days. During the exhibition period three submissions were received in support of the changes.

As a result, it is recommended that Council adopt the attached as its Code of Meeting Practice and resolve that Ordinary Council Meetings are to commence at 7pm under Clause 3.1 of the Code of Meeting Practice.

There are no financial implications as a result of this report.

RECOMMENDATION:

1. THAT Council resolve that Ordinary Council Meetings are to commence at 7pm under Clause 3.1 of the Code of Meeting Practice.

2. THAT Council adopt the attached Code of Meeting Practice.

3. THAT submitters during the public exhibition period be notified of the resolution of Council and thanked for their contribution.

10.3. Expenses and Facilities for the Mayor and Councillors – Post Exhibition

AUTHOR: Shane Sullivan, Executive Manager Governance

The purpose of this report is for Council to consider a revised Councillor Expenses and Facilities Policy following 42 days of public exhibition.

Under section 252 of the Local Government Act 1993 (the Act) a Councillor Expenses and Facilities policy must be adopted within 12 months of the commencement of a new term.

A revised North Sydney Council policy was developed using the Office of Local Government template and is attached. As far as practicably, changes to the template policy have been tracked in the attached with deletions in strikethrough and additions in purple text.

At its meeting of 8 August 2022 Council adopted the attached draft policy for the purpose of public exhibition in accordance with section 253 of the Act as follows:

1.THAT Council adopt the attached draft Councillor Expenses and Facilities policy for the purpose of public exhibition for a period of 42 days.

2.THAT a further report be provided to Council following the conclusion of the public exhibition period for the purpose of considering any submissions received and adopting a Councillor Expenses and Facilities Policy.

There is current provision within the 2022/23 Budget for the provision of expenses and facilities under this policy. The relevant budgets will continue to be monitored with any requirements for additional funding to be managed through the quarterly budget review process.

RECOMMENDATION:

1.THAT Council adopt the attached draft Councillor Expenses and Facilities policy.

2.THAT Council note that following the conclusion of the public exhibition period no submissions were received.

10.4 Planning Proposal 1/21 – 270-272 Pacific Highway Crows Nest – Post Exhibition

AUTHOR: Joseph Hill, Director City Strategy

The purpose of this report is to present to Council the outcomes of the public exhibition of Planning Proposal 1/21, the accompanying draft Voluntary Planning Agreement (VPA), the site-specific DCP amendment for 270-272 Pacific Highway Crows Nest, and to recommend a way forward.

In response to Council's non-determination of the Planning Proposal (PP1/21) lodged for 270-272 Pacific Highway in March 2021, the applicant lodged a "rezoning review" on 11 November 2021. Subsequent to this, Council at its meeting in February 2022, resolved to not support Planning Proposal.

At its meeting on 2 March 2022, the Sydney North Planning Panel recommended that the Planning Proposal should proceed and a Gateway Determination was issued by the Department of Planning and Environment on 16 June 2022, enabling the proposal to be publicly exhibited. The public exhibition occurred between August and September 2022.

The Planning Proposal, as exhibited, seeks to amend *North Sydney Local Environment Plan 2013* (NSLEP 2013) to:

- Increase the maximum Height of Buildings Map from 16m to 54m;
- Impose a maximum Floor Space Ratio Map of 5.6:1;
- Increase the minimum Non-residential Floor Space Ratio Map from 0.5:1 to 5.6:1;
- Insert a site-specific clause allowing a maximum FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and comprises non-residential uses.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) comprising a monetary contribution of a minimum \$1.0 million, with the potential for a maximum of \$3.0 million (depending on a number of conditions being met including the site being developed to its full potential under the proposed changes to the LEP). The monetary contribution would go towards the provision of local infrastructure and facilities.

A total of 38 submissions were received during the public exhibition with 34 being from the public and 4 from public authorities. All 34 public submissions raised objections and concerns with the planning proposal.

The main issues raised included; overshadowing impacts and loss of solar access, traffic and parking, height and scale of the development, inconsistency with the *2036 Plan*, undesirable precedent and significant impact the Crows Nest Village, impacts to property value, cyclist and pedestrian safety, quality of the documentation provided, the Voluntary Planning Agreement, the need for additional office space in Crows Nest and concerns around amenity impacts including wind tunnel, drainage, visual amenity, construction traffic and privacy.

It is acknowledged that the vast majority of issues raised in the submissions made arise from the development expectations included in the *2036 Plan*. Genuine attempts have been made to manage and ameliorate many of these impacts throughout the assessment process by Council staff. Notwithstanding this, the area is undergoing significant change and the *2036 Plan* includes a Ministerial Direction which requires that planning proposals be consistent with the *2036 Plan*.

The issues raised in the submissions, when critiqued against this study and the broader context, are not considered to warrant any significant amendments to the Planning Proposal.

It is therefore recommended that Council resolves to forward the Planning Proposal to the DPE with a request that the Plan be made. Should Council not seek that an amendment be made to the North Sydney Local Environmental Plan 2013, it is likely that the SNPP will assume the role of Planning Proposal Authority.

Should the draft VPA be executed, it will result in monetary contributions to Council, including a monetary contribution of minimum \$1.0 million with the potential for a maximum of \$3.0 million (depending on a number of conditions being met including the site being developed to its full potential under the proposed changes to the LEP). The monetary contribution would go towards the provision of local infrastructure and facilities.

RECOMMENDATION:

- 1. THAT** having completed the community consultation requirements outlined in the Gateway Determination, Council forward the Revised Planning Proposal (Attachment 3) to the Department of Planning and Environment with a request that a Local Environmental Plan be made in accordance with section 3.36 of the Environmental Planning and Assessment Act 1979, to give effect to the Planning Proposal.
- 2. THAT** Council finalise the Voluntary Planning Agreement with the view to have it in force prior to the gazettal of the LEP amendment.
- 3. THAT** Council finalise the draft North Sydney Development Control Plan 2013 amendments with the view to have it come into effect with the gazettal of the LEP amendment.
- 4. THAT** Council notify all submitters of its decision.

10.5. Draft Plan of Management for Neighbourhood Parks – Post Exhibition

AUTHOR: Megan White, Landscape Architect/Planner

The purpose of this report is to inform Council about the outcomes of community consultation on the draft Plan of Management (PoM) for Neighbourhood Parks, and the changes it is proposed be made to the PoM because of the consultation.

North Sydney Council's PoMs are strategic documents that provide a consistent and useful set of guidelines for the effective short and long-term management of all open space owned and/or managed by Council. The new draft PoM for Neighbourhood Parks is the second Crown land PoM to be prepared for North Sydney. When adopted, it will supersede Council's PoM for Neighbourhood Parks 2010.

The Department of Planning and Environment – Crown Lands endorsed placing the draft PoM for Neighbourhood Parks on public exhibition in August 2021 (subject to certain amendments being made to information regarding the management of Crown reserves), and public exhibition commenced on 6 October 2021. Public exhibition of the draft document was widely advertised, and known stakeholders were also informed that a new draft PoM was available for comment. The public submission period ran for six weeks in October and November 2021 and seven submissions were received.

Following the assessment of public submissions in April/May 2022, the draft PoM was sent back to the Department of Planning and Environment – Crown Lands in May 2022, seeking the Minister's consent for Council to adopt the PoM for Neighbourhood Parks. Council received consent to adopt (once certain technical amendments were made to information regarding several of the Crown reserves) in August 2022. These amendments have now been made. This report sets out the content of the submissions and the amendments it is proposed to make to the PoM for Neighbourhood Parks as a result. The report also documents major works carried out in Neighbourhood Parks since the preparation of the previous PoM in 2010, and lists the major projects to be undertaken in the parks in coming years.

There are no financial implications related to the adoption of this report. However, implementation of the projects identified in the Plan of Management (included in the current and future Delivery Plans) will have financial implications in the future.

RECOMMENDATION:

1. THAT Council formally adopts the draft Plan of Management for Neighbourhood Parks.

10.6. Draft Bushland Plan of Management – Post Exhibition

AUTHOR: Megan White, Landscape Architect/Planner

The purpose of this report is to inform Council about the outcomes of community consultation on the draft Bushland Plan of Management (PoM) and the changes it is proposed be made to the PoM because of the consultation.

North Sydney Council's PoMs are strategic documents that provide a consistent and useful set of guidelines for the effective short and long-term management of all open space owned and/or managed by Council. The new draft Bushland PoM is the third Crown land PoM to be prepared for North Sydney. When adopted, it will supersede Council's Bushland PoM 2014.

The Department of Planning and Environment – Crown Lands endorsed placing the draft Bushland PoM on public exhibition in August 2021 (subject to certain amendments being made to information regarding the management of Crown reserves), and public exhibition commenced on 6 October 2021. Public exhibition of the draft document was widely advertised, and known stakeholders were also informed that a new draft PoM was available for comment. The public submission period ran for six weeks in October and November 2021, and seven submissions were received.

Following the assessment of public submissions in April 2022, the draft PoM was sent back to the Department of Planning and Environment – Crown Lands, seeking the Minister's consent for Council to adopt the final Bushland PoM. This occurred in May 2022, and Council received consent to adopt (once certain technical amendments were made to information regarding several of the Crown reserves) in August 2022. These amendments have now been made. This report sets out the content of the submissions and the amendments it is proposed to make to the Bushland PoM as a result. The report also documents major projects, initiatives and programs relating to the management of bushland in North Sydney since the preparation of the previous PoM in 2014, and lists the major projects, initiatives, and programs to be undertaken in coming years.

There are no financial implications related to the adoption of this report. However, implementation of the projects identified in the PoM (included in the current and future Delivery Plans) will have financial implications in the future.

RECOMMENDATION:

1. THAT Council formally adopts the draft Bushland Plan of Management.

10.7. Draft Playgrounds Plan of Management – Post Exhibition

AUTHOR: Megan White, Landscape Architect/Planner

The purpose of this report is to inform Council about the outcomes of community consultation on the draft Playgrounds Plan of Management (PoM), and the changes it is proposed be made to the PoM because of the consultation.

North Sydney Council's PoMs are strategic documents that provide a consistent and useful set of guidelines for the effective short and long-term management of all open space owned and/or managed by Council. The new draft Playgrounds PoM is the fifth Crown land PoM to be prepared for North Sydney. When adopted, it will supersede Council's Playgrounds PoM 2016.

The Department of Planning, Industry and Environment – Crown Lands endorsed placing the draft Playgrounds PoM on public exhibition in late November 2021 (subject to certain amendments being made to information regarding the management of Crown reserves) and public exhibition commenced on 1 March 2022. Public exhibition of the draft document was widely advertised, and known stakeholders were also informed that a new draft PoM was available for comment. The public submission period ran for six weeks in March and April 2022, and three submissions were received.

Following the assessment of public submissions in May 2022, the draft PoM was sent back to the Department of Planning and Environment – Crown Lands, seeking the Minister's consent for Council to adopt the final Playgrounds PoM. Council received consent to adopt (once certain technical amendments were made to information regarding several of the Crown reserves) in August 2022. These amendments have now been made.

This report sets out the content of the submissions received. It also documents major projects, initiatives and programs undertaken in Council's playgrounds since the preparation of the previous PoM in 2016, and lists the major projects and initiatives to be undertaken in coming years.

There are no financial implications related to the adoption of this report. However, implementation of the projects identified in the Plan of Management (included in the current and future Delivery Plans) will have financial implications in the future.

RECOMMENDATION:

1. THAT Council formally adopts the draft Playgrounds Plan of Management.

10.8. Draft Plan of Management for Cremorne Reserve – Post Exhibition

AUTHOR: Megan White, Landscape Architect/Planner

The purpose of this report is to inform Council about the outcomes of community consultation on the draft Plan of Management (PoM) for Cremorne Reserve, and the changes it is proposed be made to the PoM because of the consultation.

North Sydney Council's Plans of PoMs are strategic documents that provide a consistent and useful set of guidelines for the effective short and long-term management of all open space owned and/or managed by Council. The new draft PoM for Cremorne Reserve is the fourth Crown land PoM to be prepared

for North Sydney. When adopted, it will supersede Council's PoM for Cremorne Reserve 2013.

The Department of Planning and Environment – Crown Lands endorsed placing the draft PoM for Cremorne Reserve on public exhibition in August 2021 (subject to certain amendments being made to information regarding the management of Crown reserves) and public exhibition commenced on 6 October 2021. Public exhibition of the draft document was widely advertised, and known stakeholders were also informed that a new draft PoM was available for comment. The public submission period ran for six weeks in October and November 2021, and seven submissions were received.

Following the assessment of public submissions in April/May 2022, the draft PoM was sent back to the Department of Planning and Environment – Crown Lands in May 2022, seeking the Minister's consent for Council to adopt the final PoM for Cremorne Reserve. Council received consent to adopt (once certain technical amendments were made to information regarding several of the Crown reserves) in August 2022. These amendments have now been made. This report sets out the content of the submissions and the amendments it is proposed to make to the PoM for Cremorne Reserve as a result. The report also documents major projects, initiatives and programs undertaken in Cremorne Reserve since the preparation of the previous PoM in 2013, and lists the major projects and initiatives to be undertaken in coming years.

There are no financial implications related to the adoption of this report. However, implementation of the projects identified in the Plan of Management (included in the current and future Delivery Plans) will have financial implications in the future.

RECOMMENDATION:

1. THAT Council formally adopts the draft Plan of Management for Cremorne Reserve.

10.9. Disclosure of Pecuniary Interests by Councillors and Designated Persons

AUTHOR: Ian Curry, Manager Council and Committee Services

The purpose of this report is to report on compliance with the requirement under the *Local Government Act 1993* (LGA) and *Local Government (General) Regulation 2005* for Councillors and persons holding designated positions to complete and lodge a Disclosure of Pecuniary Interests Return.

Section 4.21 of the Model Code of Conduct (made under section 440 of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*) requires Councillors and persons holding designated positions as at 30 June to complete and lodge a Disclosure of Pecuniary Interests Return within three months of that date (i.e. 30 September).

Section 4.25 of the Model Code of Conduct requires that Returns that are required to be lodged under Section 4.21 must be tabled at the first meeting of the council after 30 September 2021.

All 2021/22 Returns have been duly completed and lodged within the prescribed period by Councillors and designated officers. Although there was

a Council Meeting in October the agenda publication date was prior to the 30 September 2022 deadline.

Pecuniary Interests Returns are available for inspection on Council's website. There are no financial implications associated with the recommendation of this report.

RECOMMENDATION:

1. THAT the report be received and Council note the tabling of Returns as required under Clause 4.25 of the Model Code of Conduct.

10.10. Review of Rate Peg Methodology – Submission to IPART

AUTHORS: Jenny Gleeson, Manager Corporate Planning and Engagement and Christian Menday, Manager Financial Services

The purpose of this report is to seek Council's endorsement of a submission to the first stage of the review of the NSW rate peg methodology. The detailed submission identifies that the proposed reforms will result in significant financial impacts on North Sydney Council, and will affect its ability to deliver necessary infrastructure to support growth.

The NSW Government has asked IPART to recommend a rate peg methodology that allows councils to vary their general income annually to reflect (as far as possible) changes in the costs of providing local government goods and services due to inflation and other external factors; and continues to include a population growth factor (introduced in 2022/23).

IPART has been asked to investigate and make recommendations on:

- options to set the rate peg methodology to ensure it is reflective of inflation and costs of providing local government goods and services
- options to stabilise volatility in the rate peg, and options for capturing more timely changes in council costs and inflation
- alternate data sources to measure changes in councils' costs
- the effectiveness of our current Local Government Cost Index (LGCI)
- options for capturing changes in councils' costs caused by external factors; and
- the effectiveness of the recently introduced population growth factor in achieving its intended purpose

Submissions closed 4 November 2022. The draft submission was circulated via the Councillor Bulletin issued 27 October 2022. As submissions close prior to the next scheduled Council meeting, a preliminary submission was lodged by the closing date (as has occurred in the past for other submissions). It is recommended that the Council formally adopt the final submission to be sent to IPART following the meeting, together with the resolution.

The submission draws on past submissions responding to the recent review of the NSW rating system - providing the opportunity to reiterate issues particular to the North Sydney LGA and long held advocacy positions, as well as submissions made by NSROC, neighbouring councils and the Local Government Rating Professionals.

This review is in its preliminary stage, and at this time the financial implications for North Sydney Council are not yet known.

RECOMMENDATION:

1.THAT Council endorse the attached submission to IPART.

10.11. Rapid Antigen Testing

AUTHOR: Shane Sullivan, Executive Manager Governance

The purpose of this report is to report to Council in accordance with the resolution of Council at its meetings of 8 August 2022 to review the requirements for Rapid Antigen Testing for Council Meeting attendees.

Since the Council Meeting of 21 February 2022, Council has required all attendees at Council Meetings to provide evidence of or a declaration of an appropriate negative test prior to entering the Chambers.

The health advice continues to be monitored with recommendations implemented as required. From 14 October 2022 it is no longer mandatory to self-isolate if you test positive to COVID-19. Health advice recommends that you stay home and take steps to protect others from infection.

With the progressive relaxation of rules around testing and isolation, it is recommended that the requirement for attendees at Council Meetings to provide evidence of or a declaration of an appropriate negative test prior to entering the Chambers be lifted.

Council obtained a quotation for the provision of point-of-care testing prior to Council Meetings. The total estimated cost per meeting for the administering of Rapid Antigen Testing is \$1,177.50. This is on the assumption of two technicians and thirty tests.

RECOMMENDATION:

1.THAT Council lift the requirement for attendees at Council Meetings to provide evidence of or a declaration of an appropriate negative COVID test prior to entering the Chambers.

2. THAT the General Manager continue to monitor the NSW Health advice and implement risk controls as appropriate.

10.12. Unspent Funds to be carried over from 2021/22 to 2022/23

AUTHOR: Darren Goode, Manager Accounting Services

The purpose of this report is to seek approval to make the necessary adjustments to the 2022/23 budget, to incorporate the funding required to be carried forward from 2021/22 to 2022/23 to complete projects still in progress at 30 June 2022.

Due to a combination of pandemic lockdowns in the first half of the financial year, inclement weather throughout much of the year, supply chain issues, contractor availability and staff turnover, many non-recurrent projects were not completed as scheduled by 30 June 2022.

To fund the completion of these projects it has been necessary to carry forward \$27.7 million from the 2021/22 budget to the 2022/23 budget. Of this amount, \$25 million is required to fund the completion of capital projects, and \$2.7 million is required to fund the completion of non-capital projects (i.e. operating expenditure).

In the March Quarterly Budget Review, reported to the Governance & Finance Committee on 9 May 2022 and subsequently to Council on 23 May 2022 in the minutes of the committee meeting, \$36.7 million of funding for the North Sydney Olympic Pool Redevelopment was transferred from the 2021/22 budget to the 2022/23 budget due to that project running behind schedule. \$2.2 million of that amount was subsequently spent by 30 June 2022. This, in addition to some initial funding being spent in advance for two other projects scheduled to commence in 2022/23, has necessitated a \$2.3 million reduction to the 2022/23 budget.

As \$3.7 million of the required budget adjustments is funded from grant funding due to be received in 2022/23, the amendments to the 2022/23 budget will result in an increase in the net drawdown from reserves of \$21.7 million, from \$40.3 million allowed for in the original budget to \$62 million.

RECOMMENDATION:

1. **THAT** the information contained in this report be received.
2. **THAT** Council approves the amendments to the 2022/23 budget outlined in this report.

10.13. North Sydney Olympic Pool Operations Report

AUTHORS: Peter Massey, A/Director Open Space and Environment and Margaret Palmer, Director Corporate Services

This report presents key information to assist the Council in determining the most appropriate management operational model for the running of the North Sydney Olympic Pool (NSOP).

Otium Planning Group (OPG), the Consultants who prepared the original Business Case for the Council's NSOP development, were asked to update the Business Case and to expand this to include advice on the operating models that could be used to run NSOP when it opens late 2023.

On 20 September 2022, OPG presented the updated Business Case and options for the future management and operation of the NSOP to a Councillor Briefing session.

Council requested that additional information be provided on each of the management options presented, to enable the Council to make an informed decision and the relevant Council Resolution/(s).

Attachment 1 explores the details, risk, benefits, and financial impact of each of the models under consideration.

The financial impact of each of the models is detailed within Attachment 1.

RECOMMENDATION:

1. **THAT** Council support the Internal Management model as set out in this report for the operation of North Sydney Olympic Pool and commence the necessary budgetary and industrial actions to support implementation.

10.14. North Sydney Olympic Pool Redevelopment Monthly Progress Report

AUTHOR: John Thomson, Corporate Contracts Manager

The purpose of this report is to provide Council with a high-level report on the progress of the redevelopment of the North Sydney Olympic Pool.

At its meeting of 26 July 2021, Council resolved as follows:

1. *THAT the General Manager provide a high-level update/report on the progress of the redevelopment of the North Sydney Olympic Pool to each Council meeting until the redevelopment is completed.*
2. *THAT Council notes that this report does not alter the governance structure of the project.*

This report responds to this resolution. This report details Progress since the last report provided at the Council meeting held on 10 October 2022 and is provided with information as at Friday 28 October 2022.

The financial position of the project is reported quarterly to Council, the next report will be in December 2022.

RECOMMENDATION:

1. **THAT** the report be received.

10.15. 12-14 Waters Road Neutral Bay – Voluntary Planning Agreement

AUTHOR: Joseph Hill, Director City Strategy

The purpose of this report is to seek Council's in-principle acceptance of an offer to enter into a Voluntary Planning Agreement (VPA) related to a Planning Proposal at 12-14 Waters Road Neutral Bay. The VPA offer includes a contribution of \$1.9 million dollars towards public domain upgrades in the Neutral Bay town centre.

On 26 April 2022, Council resolved to refuse a Planning Proposal at 12-14 Waters Road Neutral Bay. The Planning Proposal sought to increase the maximum building height from 16m to 26m.

Following this decision, the applicant lodged a re-zoning review with the Department of Planning and Environment. The re-zoning review was considered by the Sydney North Planning Panel on 31 August 2022 which recommended that the Planning Proposal should proceed to Gateway Determination, subject to some modifications including a reduction in height to 22m.

The Department of Planning and Environment are yet to issue a Gateway Determination to allow formal public exhibition of the Planning Proposal, however, this is expected to be issued in the coming weeks.

The applicant (Central Element) wishes to continue with its offer to provide a contribution towards additional public benefits. The letter of offer provides for a monetary contribution of \$1.9 million towards public domain improvements in the Neutral Bay Town Centre.

This report seeks Council's acceptance of this offer and for Council staff to be delegated authority to negotiate the detailed terms of the offer. If accepted, it is intended to publicly exhibit the draft VPA concurrently with the Planning Proposal.

The proposed Voluntary Planning Agreement would result in the receipt of an additional \$1.9 million dollars to be utilised for the delivery of public domain improvements. These funds would be in addition to the (s7.11) developer contributions applicable to the development.

RECOMMENDATION:

1. **THAT** Council resolve to accept, in principle, the letter of offer provided at Attachment 2 to enter into a Voluntary Planning Agreement.
2. **THAT** Council grant delegated authority to the General Manager to negotiate the detailed terms of the draft Voluntary Planning Agreement.
3. **THAT** the draft Voluntary Planning Agreement be exhibited concurrently with the Planning Proposal.
4. **THAT** the outcomes of the public exhibition be further reported to Council.

10.16. **Gateway Determination Refusal – Holt Avenue Heritage**

AUTHOR: Joseph Hill, Director City Strategy

The purpose of this report is to advise Council of the Department of Planning's refusal to support the progress of a Planning Proposal which sought to list several properties as heritage items in Holt Avenue Cremorne, and to explore options to respond.

In January 2022, Council resolved to investigate the preparation of an Interim Heritage Order (IHO) for land at Holt Avenue Cremorne. In response, Council staff appointed GML as the heritage specialist to perform the heritage investigations to underpin this work. On 11 March 2022, an IHO was gazetted which applied to properties at 115, 117, 119, 131, 133 Holt Avenue, Cremorne ("the properties"), in response to GML's preliminary assessment.

An IHO is a temporary measure to enable a more detailed assessment of the heritage status significance of a particular building(s) or place. It provides temporary protection in order for Council to conduct more comprehensive investigations into the potential significance of items.

The more comprehensive analysis was completed by GML on 3 June 2022 which reinforced its earlier findings. In response to that report, staff prepared a Planning Proposal to amend NSLEP 2013 to include the properties as heritage items under the North Sydney LEP 2013 as a more permanent planning response.

The Planning Proposal was considered by the North Sydney Local Planning Panel on 13 July 2022. For various reasons as outlined in this report, the Panel did not support the progression of this Planning Proposal. Notwithstanding this, Council considered the Planning Proposal at its 25 July 2022 meeting and resolved to support its progression to Gateway Determination.

Partly in response to the Local Planning Panel's recommendations and an upheld appeal by the applicant (of a Development Application that partly applied to 131 and 133 Holt Avenue) against the IHO, the Department of Planning and Environment (DPE) wrote to Council on

11 August 2022 requesting that the Planning Proposal be withdrawn or reconsidered. Council responded on 18 August 2022 and acknowledged that the appeal for 131-133 Holt Avenue had been upheld and the IHO revoked for those properties, but that the other Land and Environment Court appeal for 115-119 Holt Avenue had been rejected by the Court. The Department was therefore requested to proceed with the processing of the Planning Proposal on this basis.

In response, the DPE wrote to Council on 7 October 2022 formally rejecting the Planning Proposal and declining the Gateway Determination.

This report outlines various options available to Council to respond to the rejected Gateway Determination by the DPE. The options include accepting the DPE's determination, preparing an amended Planning Proposal or challenging this determination, and the implications of each option.

There are no financial implications for Council associated with the response to the Department of Planning and Environment's effective refusal of the Planning Proposal. If Council wishes to challenge that decision through the Independent Planning Commission, this will represent an investment of staff time and resources.

RECOMMENDATION:

1. THAT Council determine its preferred response to the refused Gateway Determination by the Department of Planning and Environment.

2. THAT should Council choose to pursue a Gateway Determination review by the Independent Planning Commission, and in the event that the review is successful, that the Minister for Planning be requested to extend the application of the Interim Heritage Order for a period that is reasonable to complete finalisation of the Planning Proposal.

10.17. Findings of the Heritage Review Report on the Hayden Orpheum Picture Palace Theatre and Parraween Street

AUTHOR: Joseph Hill, Director City Strategy

The purpose of this report is to present to Council the findings and recommendations of the Council-commissioned Heritage Report, prepared by Lucas Stapleton Johnson & Partners in respect to the creation of a Heritage Conservation Area for Parraween Street, and the listing of the Hayden Orpheum Picture Palace, Cremorne as a State Heritage Item.

At its meeting of 10 January 2022, Council resolved:

1. THAT Council immediately commences a review of the creation of a Heritage Conservation Area, being the Parraween St Conservation Area to protect the characteristic buildings and history for the row of late 1800's and early 1900's federation detached and semi-detached cottages on the northern side of Parraween Street that extends from Paling Street to Macpherson Street.

2. THAT Council urgently receives appropriate advice by a person with the required knowledge and skills to assess if Council can establish an Interim Heritage Order (IHO) for the above properties to cover the period while Council reviews the establishment of the Heritage Conservation Area.

Following this, on 24 January 2022, Council resolved:

1. THAT Council seek urgent heritage advice in relation to the heritage significance of the Cremorne Orpheum Cinema and its curtilage, in particular, whether State heritage listing is appropriate to protect this important local heritage item.

2. THAT such advice be sought as part of the heritage advice to be obtained in respect of the Parraween Street, Cremorne cottages and surrounds under the resolution of Council at the meeting held on 10 January 2022.

In accordance with the 10 January 2022 resolution, Council officers undertook a preliminary assessment of the matter to determine whether Council could

potentially establish an Interim Heritage Order (IHO) for the properties on the northern side of Parraween Street.

The preliminary assessment indicated that, notwithstanding any potential heritage value of the properties, the sites did not meet the criteria under Section 25(2) of the Heritage Act 1977 to establish an IHO as there is no immediate threat of harm. Were this to change in the future, Council may at such time seek to establish an IHO.

In consideration of resolution 1 of 10 January 2022 and resolutions 1 and 2 of 24 January 2022, Council officers procured the services of Lucas Stapleton Johnson & Partners to undertake a review of the properties along the northern side of Parraween Street and of the Hayden Orpheum Picture Palace and its curtilage, to determine whether they merit the creation of a Heritage Conservation Area and/or state heritage listing in the case of the Hayden Orpheum Picture Palace.

Council has received a final Heritage Report in response to these resolutions. The Report has made the following recommendations:

1. *That the Hayden Orpheum Picture Palace, Cremorne be nominated for inclusion on the State Heritage Register for listing under the Heritage Act 1977.*
2. *That the northern side of Parraween Street, Cremorne, between Paling Street and Langley Avenue does not warrant protection as a heritage conservation area under Schedule 5 of the North Sydney Local Environmental Plan 2013.*
3. *That the dwellings at Nos. 50, 52, 54 and 56 Parraween Street, Cremorne warrant listing as a group under Schedule 5 of the North Sydney Local Environmental Plan 2013.*

Preparing and exhibiting a planning proposal to amend the North Sydney Local Environmental Plan, and investigating the process to list the Hayden Orpheum Picture Palace as a State Heritage Item, represents a modest investment in Council resources. These can be accommodated within existing budget lines. The cost of the engagement of specialist Heritage advice and reports, including those prepared to inform this Report, has been in the order of \$35,000. It is anticipated that the public exhibition of the planning proposal would generate several submissions. As a result, further engagement of heritage specialist advice may be required to review these submissions, which could be in the range of \$2,000-\$3,000.

RECOMMENDATION:

1. **THAT** Council resolve to commence preparation of a Planning Proposal to list properties Nos. 50, 52, 54 and 56 Parraween Street, Cremorne as a group under Schedule 5 of the North Sydney Local Environmental Plan 2013.
 2. **THAT** as part of this work, Council request access to the internal areas of the properties for the purpose of preparation of a more detailed photographic inventory.
 3. **THAT** Council note that the preparation of a Planning Proposal will necessitate referral of the draft documentation to the North Sydney Local Planning Panel in the first instance.
-

4. THAT Council resolve to nominate the Hayden Orpheum Picture Palace for inclusion on the State Heritage Register for listing under the Heritage Act 1977 and commence the process with the Office of Environment and Heritage.

10.18. North Sydney Community Centre Joint Strategic Plan Review 2021/22

AUTHOR: Rebecca Aukim, Director Community & Library Services

To report on the 2021/22 review of the North Sydney Community Centre's Joint Strategic Plan with Council.

North Sydney Community Centre (NSCC) is an independent, not for profit organisation that is run by a volunteer board. The Centre's Joint Strategic Plan 2020-2025 was endorsed by Council 28 June 2021, and each financial year the Centre provides a review of the Joint Strategic Plan.

NSCC's vision is to encourage a collaborative, connected, caring and creative community. The Centre does this through providing a diverse range of programs and services for the North Sydney community. These include: classes and workshops for adults; Music & Movement classes for children; a farmers and artisan food producers' market; After School Care; Explorers Playgroup, community events, and venue hire.

Despite the challenges of 2021/22, NSCC was able to keep connected to the community by providing online courses and workshops during the lockdown period. The Centre also redeveloped their website, and have been doing more to promote the Centre's programs and services.

The community is returning to the Centre gradually, however continued community concern about Covid has inhibited people from attending the Centre. Torrential rain and floods have also impacted on the Centre, with several Northside Produce Markets being cancelled this year.

In September, the Centre celebrated a milestone with their 50-year anniversary and an Open Day which was well attended. The weather was fine, and free, fun and engaging activities were on offer such as live music, pottery, a sustainable art project, culinary demonstrations and craft activities.

This has been another challenging year for NSCC with the Covid lockdown in the first 4 months of the 2021/22 financial year, which greatly restricted community use of the Centre. Government subsidies totalled \$91,993 but it was insufficient to cover the final deficit of \$204,661. For 2021/22 NSCC has a total equity of \$397,871.

RECOMMENDATION:

1. THAT the 2021/22 review of the North Sydney Community Centre's Joint Strategic Plan is received.

10.19. Pro-Active Community Engagement Quarterly Report

AUTHOR: Greg Sherlock Planning and Development Advisor

Council, at its meeting of 23 May 2022, called for a report outlining how Council could better support community understanding of the planning process.

At the Council Meeting of 8 August 2022 a report was provided by the Manager of Development Services that highlighted the work undertaken by officers within CIS in community engagement with the planning process. This report gives an overview of the return to pre-COVID service levels with regards to community engagement and expanding on engagement through Council's existing Planning Advisor role.

Council at its meeting of 23 May 2022 recognised the significant and growing community concern about the sentiment of overdevelopment in the North Sydney Council local government area. Council further recognised that community members find it difficult to understand the New South Wales (NSW) planning system and their rights against often well-resourced property developers.

On 8 August 2022 the Manager of Development Services reported to Council in regard to the complexity of the planning process in NSW and how Council would address community engagement through the existing resource of the planning advisory service.

This report sets out existing community engagement processes undertaken by Council in planning, and the return of Council's Planning Advisory service to a pre-Covid service level, with a focus on community engagement.

No additional financial implications are envisaged.

RECOMMENDATION:

1. **THAT** the report be received.

10.20. Circus Policy – Amended

AUTHOR: Danielle Birkbeck, Snr Sustainability Programs Coordinator

This report responds to the Council resolution of 22 August 2022:

2. *THAT a further report be provided regarding the Circus Policy to reflect modern ethical and structural standards of animal use and exploitation.*

In response to the above-mentioned resolution, research has been undertaken regarding live animals at circuses. It is proposed that Council's *Circus Policy* be amended to include the following provisions:

- A. Council expects exhibitors that use domestic animals in exhibits, keep the animals in accordance with all relevant legislation including the *RSPCA Policy - C02 Performing Animals*.
- B. Council reserves the right to revoke its permission to operate a circus with domestic animals on Council land if it is found to be in breach of any legislation or regulation protecting the welfare of animals.

This policy is categorised 'operational'. In accordance with Council's corporate policy framework, the amendment was approved by the A/General Manager on 24 October 2022. It is recommended that the *Circus Policy* be re-adopted by the Council and that public exhibition is not required.

There are no financial implications associated with the proposed policy amendments.

RECOMMENDATION:

1. **THAT** Council strengthens its existing Circus Policy to include the following provisions:
 - A. Council expects exhibitors that use domestic animals in exhibits, keep the animals in accordance with all relevant legislation including the RSPCA Policy - C02 Performing Animals.
 - B. Council reserves the right to revoke its permission to operate a circus with domestic animals on Council land if it is found to be in breach of any legislation or regulation protecting the welfare of animals.
2. **THAT** the amended Circus Policy be re-adopted by the Council and that public exhibition is not required.

10.21. Tender 9/2022 – Relining Works

AUTHOR: Jim Moore, Engineering Project Manager

This report is to provide Council with an analysis and recommendation of the tender process for Tender 9/2022 for Stormwater Drainage Relining Works.

Tenders were called and were received until 3pm 27 September 2022 for the submission of tenders to undertake Stormwater Drainage Relining Works.

If the Council wishes to discuss the report, the meeting should be closed to the public to do so, in accordance with:

- s10A(2) (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and because consideration of the matter in open Council would be, on balance, contrary to the public interest as it would affect Council's ability to obtain value for money services.
- S10A(2) (d)(i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and because consideration of the matter would, on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services.

Funding for the project was included in the 2022/23 budget for drainage construction works. Refer to the funding description section of this report.

RECOMMENDATION:

1. **THAT** Council accept the tender of the highest ranked Tenderer for Tender 9/2022 for Stormwater Drainage Relining Works.

2. **THAT** the General Manager be authorised to take any necessary action to implement the decision including entering associated contracts.

3. **THAT**, once Council has executed the Contract, information relating to the successful tender be published in Council's Register of Contracts as required by Government Information (Public Access) Act 2009 - Part 3 Division 5 - Government Contracts With Private Sector.

4. **THAT** Council resolves that the identified attachment to this report is to be treated as confidential in accordance with section 11(3) of the Local Government Act for the following reason under section 10A(2) of the Local Government Act:

(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business

It is further noted that release of this information would on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services.

5. THAT Council resolves that the identified attachment to this report is to be treated as confidential in accordance with section 11(3) of the Local Government Act for the following reason under section 10A(2) of the Local Government Act:

(d) *commercial information of a confidential nature that would, if disclosed*
(i) *prejudice the commercial position of the person who supplied it*

It is further noted that release of this information would, on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services.

10.22. Tender 10/2022 – Willoughby Street GPT and Drainage Upgrade

AUTHOR: Jim Moore, Engineering Project Manager

This report is to provide Council with an analysis and recommendation of the tender process for Tender 10/2022 for Willoughby Street GPT and Drainage Upgrade.

Tenders were called and were received until 3pm 28 September 2022 for the submission of tenders to undertake Willoughby Street GPT and Drainage Upgrade.

If the Council wishes to discuss the report, the meeting should be closed to the public to do so, in accordance with s10A(2) (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and because consideration of the matter in open Council would be, on balance, contrary to the public interest as it would affect Council's ability to obtain value for money services.

(d)(i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and because consideration of the matter would, on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services. of the Local Government Act (LGA).

Funding for the project was included in the approved 2022/23 budget for Stormwater and Gross Pollutant Trap Works. Refer to the funding description section of this report.

RECOMMENDATION:

1. THAT Council accept the tender of the highest ranked Tenderer for Tender 10/2022 for Willoughby Street GPT and Drainage Upgrade.

2. THAT the General Manager be authorised to take any necessary action to implement the decision including entering associated contracts.

3. THAT, once Council has executed the Contract, information relating to the successful tender be published in Council's Register of Contracts as required

by Government Information (Public Access) Act 2009 - Part 3 Division 5 - Government Contracts With Private Sector.

4. THAT Council resolves that the identified attachment to this report is to be treated as confidential in accordance with section 11(3) of the Local Government Act for the following reason under section 10A(2) of the Local Government Act:

(c) *information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business*

It is further noted that release of this information would on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services.

5. THAT Council resolves that the identified attachment to this report is to be treated as confidential in accordance with section 11(3) of the Local Government Act for the following reason under section 10A(2) of the Local Government Act:

(d) *commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it*

It is further noted that release of this information would, on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services.

10.23. Tender 14/2022 – Seawall Restoration Works

AUTHOR: Ashraf Doureihi, Engineering Project Manager

This report is to provide Council with an analysis and recommendation of the tender process for Contract 14/2022 - Seawall Restoration Works.

Tenders were called and were received until 3:00pm 13 September 2022 for Seawall Restoration Works under Contract 14/2022.

If the Council wishes to discuss the report, the meeting should be closed to the public to do so, in accordance with s10A(2) (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and because consideration of the matter in open Council would be, on balance, contrary to the public interest as it would affect Council's ability to obtain value for money services.

(d)(i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and because consideration of the matter would, on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services. of the Local Government Act (LGA).

There are sufficient funds allocated to the seawall restoration program – Part A (Separable portion) in the 2022/23 capital works delivery program.

Part B (Separable Portion – Provisional works) will only be awarded under the contract upon the 2023-24 Budget being adopted by Council. This has been approved by Council's Procurement Panel and Finance Manager.

RECOMMENDATION:

1. THAT Council accept the tender of the highest ranked Tenderer [4] for Tender No. 14/2022 – Seawall Restoration Works (Part A) and that (Part B) be awarded as provisional works under the contract conditional upon the 2023-24 capital works budget identified in the forward estimates for Marine Structures being adopted by Council.

2. THAT the General Manager be authorised to take any necessary action to implement the decision including entering associated contracts.

3. THAT, once Council has executed the Contract, information relating to the successful tender be published in Council's Register of Contracts as required by Government Information (Public Access) Act 2009 - Part 3 Division 5 - Government Contracts with Private Sector.

4. THAT Council resolves that the identified attachment to this report is to be treated as confidential as confidential in accordance with section 11(3) of the Local Government Act for the following reason under section 10A(2) of the Local Government Act:

(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business

It is further noted that release of this information would, on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services.

5. THAT Council resolves that the identified attachment to this report is to be treated as confidential in accordance with section 11(3) of the Local Government Act for the following reason under section 10A(2) of the Local Government Act:

(d) commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it

It is further noted that release of this information would, on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services.

10.24. Audit Risk and Improvement Committee – Independent member Appointment

AUTHOR: Shane Sullivan, Executive Manager Governance

The purpose of this report is for Council to determine the appointment of a third independent member to the Council's Audit, Risk and Improvement Committee.

At its meeting held 28 March 2022, Council resolved to call for Expression of Interest (EOI) for an additional independent member of the Audit, Risk and Improvement Committee.

Accordingly, Expressions of Interest were sought for the period from 5 September to 3 October 2022. Council received a total of 39 responses. The standard of applications were considered very high by the Interview Panel. Six interviews were conducted on Monday, 24 October 2022 and the Interview Panel has now recommended appointment to Council (and an eligibility list) as set out in the confidential attachment.

Should Council wish to discuss this report it is noted that the attached confidential document includes personnel matters that relate to the employment conditions of specific individuals. It is noted that this item does not deal with personnel matters of a group but is specific to an individual/individuals and as such should be considered in closed session.

At its meeting held 28 March 2022, Council resolved the following transitional remuneration for the Independent Committee members:

	Current	2022/23	2023/24
<i>Chair/annum</i>	\$ 5,000.00	\$ 10,606.50	\$ 16,213.00
<i>(Chair/meeting x 5)</i>	\$ 1,000.00	\$ 2,121.30	\$ 3,242.60
<i>Member/annum</i>	\$ 3,750.00	\$ 5,927.50	\$ 8,105.00
<i>(Member/meeting x 5)</i>	\$ 750.00	\$ 1,185.50	\$ 1,621.00
Total Cost (five meetings)	\$ 8,750.00	\$ 16,534.00	\$ 24,318.00

All applicants were advised of the remuneration structure as part of the advertising process. It was confirmed prior to interview.

RECOMMENDATION:

1. THAT Council appoint the identified preferred candidate as set out in the confidential attachment as an independent member of the North Sydney Council Audit, Risk and Improvement Committee for a four year term being from 1 January 2022 to 31 December 2025.

2. THAT Council endorse the eligibility list as set out in the confidential attachment and hold the details of these candidates for a period of 18 months.

3. THAT Council resolves that the identified attachment to this report is to be treated as confidential in accordance with section 11(3) of the Local Government Act for the following reason under section 10A(2) of the Local Government Act:

(a) *personnel matters concerning particular individuals (other than Councillors)*

NOTICES OF MOTION

11.1. Notice of Motion 60/22 – Significant Tree Register - Cr Bourke

1. THAT Council as soon as practicable prepare a report on the feasibility of establishing a significant tree register.

BACKGROUND (provided by the submitter)

North Sydney Council reports show that we are losing our tree canopy at an alarming rate.

Best practice tree canopy coverage is around 35 per cent, yet the North Sydney local government area (LGA) is at around 25 percent, and falling.

In 2008, we were at 34%. Since then we have fallen to 25%, according to our latest survey completed this year (2022).

This means that within the last 15 years, we have lost over 25 per cent of our tree canopy.

It should be noted that the 2022 survey was undertaken prior to the destruction of trees due to the construction of the WHT and WFU projects.

The loss of trees is an alarming prospect for both biodiversity and human health and wellbeing in our LGA.

A range of Councils including Strathfield and Randwick maintain significant tree registers that identify and recognise the importance of significant trees in their area and are used to guide their management to ensure their protection for the future.

Council should consider all possible ways to protect our trees, including significant trees.

Comment by A/Director Open Space and Environmental Services

Council regards every tree as significant and endeavours to protect all trees on both private and public land. Councils Tree & Vegetation Management Policy protects all trees on public land from pruning/removal without consent. Council has a register of street trees that are mapped with a condition rating every 18 months. Park trees are also inspected and condition rated every 18 months and on a needs basis.

The Tree & Vegetation Management Policy was reviewed in February 2020. The Tree Protection Height for trees on private land was lowered from 10 metres tall and trees that are greater than 5 metres in height, 5 metres canopy width or 0.5m trunk circumference are now protected. There are some general maintenance pruning exemptions and removal exemptions for common environmental weed species.

Common reasons that protected trees are approved for removal on private land under the Tree & Vegetation Management Policy are because they are in unsafe condition or causing structural damage to foundations or supporting walls from the poor location of the tree next to a building. Council does require technical reports from independent (minimum level 5) Arborists and/or Structural Engineers when assessing applications for removal of prominent trees located on private land.

The review of the Tree & Vegetation Management policy in February 2020 surveyed Councils that have a Significant Tree Register. It was found that there

was no difference in assessment criteria for trees listed on the STR than with a regular tree removal application. This was also North Sydney Councils experience when a Significant Tree Register was in existence in 1994.

The significance of a tree is subjective and can be prone to misuse eg. residents applying for listing of a tree or vegetation on an adjoining property to try and prevent future development. Significant Tree Registers immediately become out-of-date once a listed tree has been approved for removal for safety concerns to persons/property or storm damage.

11.2. Notice of Motion 61/22 – Dilapidated Street Frontage of 12 Fitzroy Street Kirribilli - Cr Gibson

1. THAT Council investigate and undertake whatever enforcement action may be necessary to have repaired, or to have structural alterations made to, the dilapidated building or premises at 12 Fitzroy Street, Kirribilli.

2. THAT Council investigate the structural integrity of, and undertake whatever enforcement action may be necessary in relation to the structural integrity of, the raised deck that extends over Council's footpath at 12 Fitzroy Street, Kirribilli.

3. THAT Council investigate and take whatever action may be necessary to prohibit the use of the raised deck that extends over Council's footpath at 12 Fitzroy Street, Kirribilli, if Council determines that the raised deck is structurally inadequate or constitutes a threat to life or public safety, until such time that Council can be satisfied the deck is structurally sound and not likely to constitute a threat to life or public safety.

4. THAT Council investigate and take whatever action may be necessary, to include legal action, if the building or premises at 12 Fitzroy Street, Kirribilli is deemed dilapidated and/or deemed to constitute a threat to life or public safety, and the owners of the premises or building refuse to or fail to comply with any Development Control Order(s) issued by Council.

11.3. Notice of Motion 62/22 – Australia Post Office in Crows Nest - Cr Bourke

1. THAT Council acknowledges actions taken by Wollstonecraft Precinct, including the related petition to the Minister for Communications signed by over 2,800 people, to have the Crows Nest Post Office returned to Crows Nest.

2. THAT Council writes to Australia Post and the Australian Government's Minister for Communications calling on them to: a) Give full consideration to relocating the post office at 460 Pacific Highway St Leonards to the Crows Nest Metro station site as soon as practicable, and b) In the meantime establish a yellow express post box next to the red post box in Burlington St Crows Nest.

BACKGROUND (provided by the submitter)

In 2018 Sydney Metro compulsorily acquired the site on the corner of Hume Street and Pacific Highway part of which was occupied by Australia Post which forced them to look for an alternative location. Australia Post advised that because there was nothing available in Crows Nest they chose 460 Pacific Highway St Leonards. That site is inconvenient for Crows Nest businesses and other local communities due to among other reasons, being further away from the Crows Nest village, a lack of both close parking and also not having a loading dock.

Wollstonecraft Precinct chair John Hancox has driven the petition and related activities and has advised that the campaign has met with a lukewarm reaction from Australia Post thus far. NSW Minister for Transport David Elliot has advised that rental space above the Crows Nest Metro station will be managed by an as yet unnamed contractor.

11.4. Notice of Motion 63/22 – Infrastructure Mapping Project - Cr Bourke

1. THAT Council urgently conducts a full infrastructure mapping project to audit the current capacity of all reasonably expected community infrastructure in the North Sydney local government area (LGA).

2. THAT as part of the infrastructure mapping, Council estimates a current per capita cost of all reasonably expected infrastructure for an average new resident and consider this when advocating to the NSW state government regarding future property developer contributions for new dwellings.

BACKGROUND (provided by the submitter)

North Sydney Council infrastructure including schools, sporting and recreational space, green space including tree canopies, transport, waste disposal, etc is over capacity and/or being diminished as a direct result of housing and population densification in our LGA.

It should also be noted that within the last 15 years, North Sydney Council has lost over 25 per cent of our tree canopy, primarily due to housing and population densification in our LGA. Tree canopy should be regarded as a key part of our infrastructure in terms of maintaining and improving the health and wellbeing of current and future residents.

It is important that where further densification occurs, all of the basic infrastructure and related services required for residents to maintain per capita infrastructure and service standards such as green space per person is provided at or before the time of the construction of new dwellings.

12. MATTERS OF URGENCY

12.1 Bradfield Park

Councillor Mutton has sought leave under 9.3(b) of the Code of Meeting Practice to raise the following matter of urgency:

1.THAT Council resolves that the General Manager engage Senior Counsel on behalf of Council to advise:

1. Given the proclamation of the Governor of NSW dated 19 March 1939 (the Proclamation) vesting in North Sydney Council the lands now known as Bradfield Park, whether the titles to that land need to be the subject of an application to amend to bring them in line with that Proclamation.
2. Whether the land that comprises Bradfield Park or a part thereof can be compulsory acquired by the NSW Government either pursuant to the provisions of the Land Acquisition (Just Terms) Act 1991 or any other Act of the NSW Parliament.
3. Whether North Sydney Council can, without breaching the trust established by the Proclamation, agree to transfer any interest in or right to the land that comprises Bradfield Park or any part thereof to the NSW Government for the purpose of building ramp between the Sydney Harbour Bridge and a road contiguous with Bradfield Park.

2.THAT Council resolves to request the Premier of NSW to direct Transport for NSW to refrain from taking any action seeking to acquire an interest in or right to Bradfield Park or any part of it for any purpose until the advice being sought has been received and considered.

14. CLOSURE