



MINUTES

The Minutes of the Council held at the
Council Chambers, North Sydney
at 6:30 PM on Monday 28 November 2022.



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1. Opening Meeting

Statement of ethical obligations

Councillors are reminded of the oath or affirmation taken upon commencement of office that they will undertake the duties of the office of councillor in the best interests of the people of North Sydney and the North Sydney Council and that they will faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the [Local Government Act 1993](#) or any other Act to the best of their ability and judgment.

Councillors are also reminded of their obligations under the Code of Conduct to disclose and appropriately manage conflicts of interest.

At the commencement of business (6:30 pm) those present were: The Mayor, and Councillors Beregi, Bourke (remotely), Gibson (remotely), Lamb, Santer, Spenceley, Mutton and Welch.

Councillor Bourke arrived at 6.40pm

The meeting was opened by the Mayor.

2. Acknowledgement of Country

RECOGNITION OF THE CAMMERAYGAL PEOPLE

We respectfully acknowledge the Traditional Custodians of the land and waters of North Sydney local government area, the Cammeraygal people.

The Acknowledgement of Country was read by Councillor Mutton.

3. Apologies and applications for leaves of absence or attendance by audio-visual link by councillors

It was moved by Councillor Beregi and seconded by Councillor Mutton:

- 1. THAT** Council grant permission for Councillor Drummond to attend remotely for the following reason: other
- 2. THAT** Council grant permission for Councillor Gibson to attend remotely for the following reason: travel
- 3. THAT** Council grant permission for Councillor Bourke to attend remotely for the following reason: other

The Motion was put and **Carried**.

Voting was as follows:

For/Against 7/ 0

For: Councillor Baker, Councillor Beregi, Councillor Lamb, Councillor Santer, Councillor Spenceley, Councillor Mutton and Councillor Welch

Against: Nil

Absent: Councillor Bourke and Councillor Drummond

376. RESOLVED:

1. THAT Council grant permission for Councillor Drummond to attend remotely for the following reason: other

2. THAT Council grant permission for Councillor Gibson to attend remotely for the following reason: travel

3. THAT Council grant permission for Councillor Bourke to attend remotely for the following reason: other

A further Motion was moved by Councillor Beregi and seconded by Councillor Santer at 6.48pm:

1. THAT Council accept an apology from Councillor Drummond for the Council Meeting of 28 November 2022.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Beregi, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Santer, Councillor Spenceley, Councillor Mutton and Councillor Welch

Against: Nil

Absent: Nil

377. RESOLVED:

1. THAT Council accept an apology from Councillor Drummond for the Council Meeting of 28 November 2022.

4. Confirmation of Minutes

A Motion was moved by Councillor Welch and seconded by Councillor Lamb.

THAT THE MINUTES of the previous 3769th Council Meeting held on Monday 14 November 2022 be taken as read and confirmed.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 8 / 0

For: Councillor Baker, Councillor Beregi, Councillor Gibson, Councillor Lamb, Councillor Santer, Councillor Spenceley, Councillor Mutton and Councillor Welch
Against: Nil
Absent: Councillor Bourke

378 RESOLVED:

THAT THE MINUTES of the previous 3769th Council Meeting held on Monday 14 November 2022 be taken as read and confirmed.

5. Disclosures of Interest

There were no disclosures of interest at the meeting

After the meeting, Council Gibson advised the following interest:

Item 10.7	Flood Plain Risk Management Study & Plan
Councillor Gibson	relative owns property in the study area (non-pecuniary, and less than significant interest)

6. Public Forum

There were no speakers for Public Forum.

7. Items Considered by Exception

It was moved by Councillor Beregi and seconded by Councillor Santer that the Recommendations for the following items be adopted.

10.2	Quarterly Budget review – September 2022
10.3	Investment and Loan Borrowings Report as at 31 October 2022
10.4	North Sydney Council Annual Report 2021/22
10.5	Code of Conduct Statistics Report
10.6	2023 Meeting Dates – Reference Groups and Streetscape Committees
10.8	Street Play 2023 Program
10.10	1 st Quarter Property Portfolio Report
10.11	Grosvenor Lane – Pedestrian Safety and Shared Zone
10.12	Development Applications Received Quarterly Report Q1 FY22-23
10.14	James Milson Village Annual Report 2022
10.15	Primrose Park Art & Craft Centre – Joint Strategic Plan Review 2021/22

The Motion was put and **Carried**.

Voting was as follows:

For/Against 8 / 0

For: Councillor Baker, Councillor Beregi, Councillor Gibson, Councillor Lamb, Councillor Santer, Councillor Spenceley, Councillor Mutton and Councillor Welch

Against: Nil

Absent: Councillor Bourke

379. RESOLVED:

THAT the Recommendations for the following Items:

10.2	Quarterly Budget review – September 2022
10.3	Investment and Loan Borrowings Report as at 31 October 2022
10.4	North Sydney Council Annual Report 2021/22
10.5	Code of Conduct Statistics Report
10.6	2023 Meeting Dates – Reference Groups and Streetscape Committees
10.8	Street Play 2023 Program
10.10	1 st Quarter Property Portfolio Report
10.11	Grosvenor Lane – Pedestrian Safety and Shared Zone
10.12	Development Applications Received Quarterly Report Q1 FY22-23
10.14	James Milson Village Annual Report 2022
10.15	Primrose Park Art & Craft Centre – Joint Strategic Plan Review 2021/22

8. Mayoral Minutes

There were no Mayoral Minutes

9. Reports of Committees

There were no Reports of Committees

10. Reports to Council

10.1. Q1 Review of the Operational Plan 2022/23

AUTHOR: Jenny Gleeson, Manager Corporate Planning and Engagement

This Quarterly Review report provides project status updates against the Delivery Program/Operational Plan projects scheduled to have commenced or that are in progress in Quarter 1 (Q1) of 2022/23 (July to September 2022).

The report also details proposed minor amendments to the Delivery Program/Operational Plan, originally adopted by Council on 27 June 2022.

The *Operational Plan 2022/23* (i.e. Year 1 of the *Delivery Program 2022-2026*), was adopted by Council on 27 June 2022 and commenced 1 July 2022. This is the first progress report against the *Delivery Program 2022-2026*.

The Delivery Program/Operational Plan includes projects and services. The Q1 Review (Attachment 1) gives a status update by Division for the projects adopted in the Delivery Program/Operational Plan 2022/23 for the period 1 July to 30 Sept 2022.

There were 203 projects scheduled to commence or continue in Q1. Of these projects, 95% (199) were on track (green and blue status) and 5% (10) of projects were behind schedule/delayed (red and amber status). The primary reasons for the delays were staff vacancies, adverse weather conditions and NSW Government delays.

Additionally, because of omissions or changes, minor amendments to the Delivery Program/Operational Plan are recommended to be adopted by the Council on 28 November 2022.

Financial performance information is detailed within the Quarterly Budget Review Statement (QBRs) presented separately to Council (refer Item 10.2).

RECOMMENDATION:

- 1. THAT** the Quarterly Review (July - September 2022) of the Operational Plan be received.
- 2. THAT** the Council notes the remedial action for the projects that were not on track for the period ending 30 September 2022.
- 3. THAT** the Council adopts the identified amendments to the Delivery Program 2022-2026 and Operational Plan 2022/23 as outlined in this report.

A Motion was moved by Councillor Welch and seconded by Councillor Beregi.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 8 / 0

For: Councillor Baker, Councillor Beregi, Councillor Gibson, Councillor Lamb, Councillor Santer, Councillor Spenceley, Councillor Mutton and Councillor Welch

Against: Nil

Absent: Councillor Bourke

380. RESOLVED:

- 1. THAT** the Quarterly Review (July - September 2022) of the Operational Plan be received.
- 2. THAT** the Council notes the remedial action for the projects that were not on track for the period ending 30 September 2022.
- 3. THAT** the Council adopts the identified amendments to the Delivery Program 2022-2026 and Operational Plan 2022/23 as outlined in this report.

10.2. Quarterly Budget Review - September 2022

AUTHOR: Christian Menday, Manager Financial Services

This report should be read in conjunction with Item 10.01 Q1 Review of the Operational Plan 2022/23. This report reviews the budget for quarter ended 30 September 2022 and seeks approval to adjust the 2022/23 budget accordingly.

The 2022/22 Original Budget forecast a balanced operating result (a \$15 thousand deficit) before capital grants and contributions, and a net operating surplus of \$8.01 million after capital grants and contributions.

At the end of the September quarter, actual operating income was \$1.09 million (1.3%) above the year-to-date current budget. Actual operating expenditure was \$1.35 million (4.8%) below the year-to-date current budget.

Early indicators are that parking revenue is exceeding budget, and that there are savings in Employee Benefits (due to unfilled positions). These items will be monitored by staff and considered for adjustment in subsequent budget reviews.

At its meeting of 14 November 2022 Council approved the carry forward of funds from the 2021/22 Operating Budget and Capital Budget. Refer to *10.12 Unspent funds to be carried over from 2021/22 to 2022/23*. This report added \$2.7 million operating expenditure to the 2022/23 budget, funded from reserves held at 30 June 2022.

This budget review proposes further adjustments that, added to the carry forward adjustment, will result in an operating deficit before capital grants and contributions of \$6.15 million. The surplus after capital grants and contributions will be \$12.80 million.

The main reasons identified in this report for the increase in the deficit before capital grants and contributions are:

- a reduction in grant income of \$1.77 million dollars. This is because the 2022/23 Financial Assistance Grant was received early and recognized as income in FY 2021/22. This will not change Council's cash position; the funds were received in advance of the budgeted year.
- revaluations of infrastructure assets as at 30 June 2022 have resulted in an increase of \$1.85 million in depreciation expense. This will be addressed in future revisions of Asset Management Plans and capital renewal budgets.

\$7.40 million has been added to the Capital Grants and Contributions budgets mainly for Victoria Cross Station developer contributions.

The balance of cash reserves at 30 June 2023 is forecast at \$58.38 million.

The proposed changes to the budget result in a net operating surplus of \$12.80 million. The net operating result after capital grants and contributions is a proposed deficit of \$6.15 million. The increase in the deficit compared to the original budget is due to:

- carry forwards,
- the recognition of FY 2022/23 grant income in FY 2021/22, and
- an increase in depreciation calculated following revaluation of infrastructure assets as at 30 June 2022.

After carry forwards and the proposed adjustments in this report, cash reserves are forecast to be \$58.38 million dollars at 30 June 2023, compared to the original budget of \$75.19 million.

RECOMMENDATION:

- 1. THAT** the Quarterly Budget Review Statement – September 2022 report be received.
- 2. THAT** Council acknowledges the budget amendments in this report.

This item was considered by exception (see page 7)

381. RESOLVED:

1. **THAT** the Quarterly Budget Review Statement – September 2022 report be received.
2. **THAT** Council acknowledges the budget amendments in this report.

10.3. Investment and Loan Borrowings Report as at 31 October 2022

AUTHOR: Christian Menday, Manager Financial Services and
Margaret Palmer, Corporate Services Director

The report provides details of the performance of Council's investment portfolio and borrowing limits for the period ending 31 October 2022.

Investment Portfolio

The Investment Portfolio (excluding cash balances) held for the period ending 31 October 2022 had a market value of \$139,398,172. The annualised returns were 2.26%.

Cash deposits at call were \$11,643,725 with \$11,317,576 of these held in interest bearing at-call and notice accounts. \$326,149 cash is held in Council's interest-bearing transaction account with the Commonwealth Bank to meet day-to-day operational needs.

The investment portfolio is managed to ensure liquidity to meet operational requirements and to fund outflows on major projects. Cashflow is monitored and assessed on an on-going basis.

The actual year to date returns for cash and investments to 31 October 2022 were \$964,000. compared to a year-to-date budget of \$431,000.

The Reserve Bank of Australia (RBA) Board continues to increase the official cash rate to control high inflation. At its October meeting the official rate was increased by 25 basis points to 2.60%. Official interest rates were increased by a further 25 basis points to 2.85% at its November meeting. The RBA indicated that it is "resolute in its determination to return inflation to its target and will do what is necessary to achieve that".

Borrowings

Loan Facility for Council Projects

Council entered into a fixed interest loan of \$9.5 million with quarterly interest and principal payments on 31 July 2018. The principal outstanding as at 31 October 2022 is \$5,921,432.

North Sydney Olympic Pool Redevelopment (NSOP)

In January 2022 Council established a \$31 million TCorp loan facility to partially fund the redevelopment of North Sydney Olympic Pool. Drawdown on the facility was processed on 28 April 2022. The drawdown rate is 4.24%. The funds were restricted and will be released as required to fund cash outflows.

Council's total investment portfolio performance for the financial year to date is 2.26% annualised. The actual year to date returns for cash and investments to 31 October 2022 were \$964,000 compared to a year-to-date budget of \$431,000.

This item was considered by exception (see page 7)

382 RESOLVED:

1. **THAT** the report on Investments and Loan Borrowings held on 31 October 2022 be received.

10.4. North Sydney Council Annual Report 2021/22

AUTHOR: Jenny Gleeson, Manager Corporate Planning and Engagement

The purpose of the Annual Report is to outline the achievements in implementing the final year of Council's *Delivery Program 2018/19-2021/22* and which contribute to the strategic outcomes in the *North Sydney Community Strategic Plan*. Council has a statutory obligation to prepare and endorse an Annual Report within five months of the end of the financial year i.e. by 30 November 2022.

The Annual Report is one of the key points of accountability between a council and its community. It is not a report to the NSW Office of Local Government, it is a report for the community.

Council's Annual Report for the financial year ended 30 June 2022 has been completed in accordance with section 428 of the *Local Government Act 1993*, the *Local Government (General) Regulation 2005 (Part 9, Division 7)*, the Office of Local Government's *Integrated Planning & Reporting Guidelines* and the Annual Report Checklist (Circular 22-28), issued 27 September 2022.

The 'Our Performance' section details highlights and key achievements against the projects in the *Operational Plan 2021/22* (Year 4 of the *Delivery Program 2018/19-2021/22*). This is achieved via the collation of the quarterly progress updates provided to the Council over the past 12 months.

Copies of the Annual Report 2021/22 will be made publicly available for viewing at Council's Customer Service Centre and Stanton Library as well as on the Council website. Copies will be provided to the North Sydney Heritage Centre and NSW State Library and a link provided to the NSW Minister for Local Government, in accordance with statutory/record keeping requirements.

The Annual Report does not contain the Council's Audited Financial Statements. As resolved by Council on 10 October 2022, Council has applied for and subsequently received an extension from the NSW Office of Local Government (dated 31 October 2022) to finalise and submit its Financial Statements for the Year Ended 30 June 2022. The Financial Summary information within this Annual Report is taken from Council's draft Annual Financial Statements 2021/22 and is accurate as at 4 November 2022.

As required in the IPART Instrument, under section 508A of the Act, this Annual Report includes a report on expenditure funded by the additional income drawn from Year 3 of the three-year Special Rate Variation (SRV), which expired 30 June 2022. As reported to Council on 14 November 2022, some of the SRV funds have been carried over to 2022/23.

RECOMMENDATION:

1. THAT the Council endorse the Annual Report 2021/22 that has been prepared in accordance with section 428 of the *Local Government Act 1993*.

This item was considered by exception (see page 7)

383. RESOLVED:

1. THAT Council endorse the Annual Report 2021/22 that has been prepared in accordance with section 428 of the *Local Government Act 1993*.

10.5. Code of Conduct Statistics Report

AUTHOR: Shane Sullivan, Executive Manager Governance

To report on the Code of Conduct complaints for the period 1 September 2021 to 31 August 2022, as required by the Office of Local Government (OLG).

In accordance with Council's Code of Conduct - Councillors and Staff, Council's Complaints Coordinator must report on a range of complaints statistics to the Council and to the Office of Local Government by 31 December 2022, for the period 1 September 2021 to 31 August 2022.

The number of Code of Conduct complaints received is as follows:

2019-2020	2020-2021	2021-2022
Two	Nil	Five

Costs incurred through the administration of the Code of Conduct in the reporting period were \$10,037.50.

RECOMMENDATION:

1. THAT the Code of Conduct Statistics Report be received and provided to the Office of Local Government in accordance with Clause 11.2 of the *Procedures for the Administration of The Model Code of Conduct for Local Councils in NSW, 2020*

This item was considered by exception (see page 7)

384. RESOLVED:

1. THAT the Code of Conduct Statistics Report be received and provided to the Office of Local Government in accordance with Clause 11.2 of the *Procedures for the Administration of The Model Code of Conduct for Local Councils in NSW, 2020*.

10.6. 2023 Meeting Dates - Reference Groups and Streetscape Committees

AUTHOR: Ian Curry, Manager Council & Committee Services

To determine a schedule of meeting dates for Reference Groups and Streetscape Committees in 2023.

At its meeting on 22 June 2022, Council considered a report on the Code of Meeting Practice and resolved a schedule of dates for Council meetings in 2022 and 2023.

As an adjunct to this schedule, Council is being asked to determine meeting dates for the three Reference Groups and four Streetscape Committees in 2023.

Related financial implications include staff costs. The spread of 'ordinary hours' under the Local Government (State) Award 2020 are from 6am to 6pm. Hours worked outside this spread of hours are payable at the overtime rate. The overtime rate of pay is time-and-a-half for the first two hours and double time after that. Employees may elect to take Time In Lieu instead.

This clause does not apply to Senior Staff (as defined in the *Local Government Act 1993*) nor to those employees engaged under the Award in the Executive Classifications (Band 4) where the following applies:

Employees engaged in Executive Band 4 may be required in addition to their ordinary hours, to attend meetings of Council and standing and/or special committee meetings. For the purpose of this subclause an employee who is required to attend these meetings may be entitled to claim overtime for actual hours worked after 11pm.

RECOMMENDATION:

1. THAT Council endorse the 2023 meeting schedule for the three Reference Groups and four Streetscape Committees, as detailed in this report.

This item was considered by exception (see page 7)

385. RESOLVED:

1. THAT Council endorse the 2023 meeting schedule for the three Reference Groups and four Streetscape Committees, as detailed in this report.

10.7. Flood Plain Risk Management Study and Plan

AUTHOR: Jim Moore, Engineering Project Manager

This report is to inform Council about the results of the recent community engagement undertaken on the final Floodplain Risk Management Study & Plan.

North Sydney Council and the NSW Government, as part of the Floodplain Management grant, completed the North Sydney LGA Wide Flood Study 2016 to begin the process of identifying flood prone land in accordance with the NSW State Government's Floodplain Development Manual.

Preparation of a draft Floodplain Risk Management Study and Plan (FRMS&P) commenced in 2018 and was publicly exhibited between 1 June 2022 and 27 July 2022 (56 days).

A flood study is a comprehensive technical investigation of flood behaviour which defines the nature of flood risk in the LGA by providing information on the extent, level and velocity of floodwaters for a full range of flood magnitudes.

A FRM Study and Plan draws on the results of the flood study to identify, assess and compare various flood risk management options and opportunities aimed at improving the existing flood situation in the LGA. It provides information and tools to allow considered assessment of flood impacts, management options, plus provides a strategic plan for its implementation. Management options are typically categorised as property modification measures, response modification measures, and flood modification measures.

The draft FRM Study & Plan was placed on public exhibition between 1 June 2022 and 27 July 2022 (56 Days). A total of 681 letters were sent out to the owners of properties identified as being included in the draft Flood Planning Area under the draft FRM Study and Plan. A total of 91 submissions were received.

Works proposed in the plan are to be funded from Councils future capital works budgets (Stormwater and Drainage budgets) and through future state government grant funding.

There will be financial implications for the preparation and implementation of amendments to Council's local environmental plan and development control plan in line with the recommendations of the adopted FRM Study and Plan which can occur within existing budget allocations.

RECOMMENDATION:

- 1. THAT** Council note the issues raised in the 91 submissions received.
- 2. THAT** the final Floodplain Risk Management Study and Plan, forming Attachment 1 to this report be adopted.
- 3. THAT** the Interim Floodplain Management Policy, forming Attachment 2 to this report be adopted and applied until such time as the North Sydney Local Environmental Plan 2013 and

North Sydney Development Control Plan 2013 are amended to be consistent with the recommendations of the adopted Floodplain Risk Management Study and Plan.

4. THAT the information provided on the Section 10.7 Planning Certificates be updated to reflect the adoption of the final Floodplain Risk Management Study and Plan and the identification of a Flood Planning Area and flood related development controls.

The Recommendation was moved by Councillor Beregi and seconded by Councillor Mutton.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Beregi, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Santer, Councillor Spenceley, Councillor Mutton and Councillor Welch

Against: Nil

Absent: Nil

386. RESOLVED:

1. THAT Council note the issues raised in the submissions.

2. THAT the final Floodplain Risk Management Study and Plan, forming Attachment 1 to this report be adopted.

3. THAT the Interim Floodplain Management Policy, forming Attachment 2 to this report be adopted and applied until such time as the North Sydney Local Environmental Plan 2013 and North Sydney Development Control Plan 2013 are amended generally consistent with the recommendations of the adopted Floodplain Risk Management Study and Plan.

4. THAT the information provided on the Section 10.7 Planning Certificates be updated to reflect the adoption of the adopted Floodplain Risk Management Study and Plan and the identification of a Flood Planning Area and flood related development controls.

10.8. Street Play 2023 Program

AUTHOR: Max White, Sustainable Transport Project Co-ordinator

The purpose of this report is to provide an update on the proposed Street Play 2023 program which was resolved on by Council in the Notice of Motion 49/22 - Street Play in the North Sydney LGA at the Council meeting 12 September 2022. The report also addresses a Notice of Motion that was resolved on by Council at the same meeting – Notice of Motion 54/22 - Trial Weekend Closure of the Western end of Bligh Street Kirribilli.

This report responds to Council's resolution to call for Expressions of Interest (EOIs) from the community to participate in a Street Play 2023 program, and to consider Bligh Street, Kirribilli as a potential location for Street Play.

This report sets a timeline of activities to deliver a Street Play 2023 program and includes a draft Community Engagement Strategy for "Street Play 2023" (Attachment A), detailing the Expressions of Interest process for residents to nominate their streets over December 2022

and January 2023. The timeline aims to roll out “Street Play 2023” between March and May 2023.

The report also evaluates the five pilot Street Play events held in 2020 and re-assesses their appropriateness for inclusion in the “Street Play 2023” program.

The final section of this report discusses how future North Sydney “Street Play” events beyond the Street Play 2023 program can be managed, and proposes a model for “Street Play” that empowers and builds capacity within the community to plan, operate and deliver events in partnership with North Sydney Council.

The 2020 North Sydney Council “Street Play” pilot program was supported by a matching grant of \$80,000 (\$40,000 NSW Government and \$40,000 North Sydney Council). The grant provided funding for a parklet costing approximately \$35,000, and staffing costs to run the events.

The estimated cost to run each event based on 2020 costs (excluding the parklet) is \$9,000 per event. If Council expands “Street Play 2023” to include seven (7) eligible streets, this would be a total of \$63,000.

There are currently no grant programs open that would fund a “Street Play 2023” program, however Council staff will continue to seek appropriate funding opportunities.

Should Council be unsuccessful in securing a grant before the scheduled commencement of the 2023 program in March-May, it is proposed that the cost to run the events (\$63,000) would come from the existing Traffic Facilities budget.

The funding would primarily be for staffing and material costs to run the “Street Play” events in early 2023. It is also proposed to use an events management company to assist Council with running the events in a similar model to how it was run in 2020, with support from Council staff.

RECOMMENDATION:

1.THAT staff seek Expressions of Interest in December 2022 and January 2023 to identify a list of 15 eligible streets and subsequently report for Council in early 2023 to recommend up to seven (7) pilot sites for the Street Play 2023 program

2.THAT that the 15 eligible streets include Bligh Street, Kirribilli.

3.THAT staff continue to identify and apply for appropriate grants to fund the Street Play 2023 program

4.THAT should Council not secure grant funding, then funding is to be allocated from the Traffic Facilities 2022/2023 financial year budget, and that staff proceed with the “Street Play” 2023 program with a scope that is consistent with the budget.

5.THAT Council supports the development of a North Sydney Council “Street Play” Working Group in order to develop a Street Play Policy and resources to support future community-led Street Play programs in partnership with Council.

This item was considered by exception (see page 7)

387. RESOLVED:

1.THAT staff undertake an Expression of Interest to identify a list of 15 eligible streets and subsequent report for Council to select up to seven (7) pilot sites for the *Street Play 2023* program.

2.THAT that the five pilot streets and Bligh Street be included in the 15 eligible streets.

3.THAT staff continue to identify and apply for appropriate grants to fund the *Street Play 2023* program.

4.THAT should Council not secure grant funding, that funding be allocated from the Traffic Facilities 2022/2023 financial year budget, and that staff proceed with the *Street Play 2023* program with a scope that is consistent with the budget.

5.THAT Council supports the development of a North Sydney Council Street Play Working Group that will develop a Street Play Policy and resources to support future community led Street Play programs.

10.9. Property Asset Management Plan

AUTHOR: John Van Hesden, Manager Assets

The purpose of this report is to seek the adoption of Council's Property Asset Management Plan, in accordance with Integrated Planning & Reporting (IP&R) requirements.

NSW councils must account for and plan for all existing assets under its control as well as any new asset solutions proposed in its Community Strategic Plan and Delivery Program. This is done via the Asset Management Strategy, inclusive of an Asset Management Policy (a component of the long-term Resourcing Strategy) and Asset Management Plans for each class of assets.

The requirement to 'adopt' Asset Management Plans is new under the revised Office of Local Government's IP&R Guidelines, issued September 2021; previously Asset Management Plans did not require reporting to Council.

All Asset Management Plans were adopted by Council on 27 June 2022 except for the Property Asset Management Plan which was delayed due to the latest property condition data not being available at that time. The Property Asset Management Plan has now been updated and is ready for adoption.

All financial estimates in the Property Asset Management Plan cross-reference with the estimates within the Resourcing Strategy and the Delivery Program.

RECOMMENDATION:

1. THAT Council adopts this Property Asset Management Plan 2022-2032, which supersedes the previous Property Asset Management Plan 2018-2028.

The Recommendation was moved by Councillor Santer and seconded by Councillor Beregi.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Beregi, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Santer, Councillor Spenceley, Councillor Mutton and Councillor Welch

Against: Nil

Absent: Nil

388. RESOLVED:

1. THAT Council adopts this Property Asset Management Plan 2022-2032, which supersedes the previous Property Asset Management Plan 2018-2028.

10.10.1st Quarterly Property Portfolio Report

AUTHOR: Damian Warren, Property Officer

The purpose of this report is to provide Council with information on the Property Portfolio for the 1st quarter of 2022/2023 (period commencing 1 July 2022 and ending 30 September 2022).

This report relates to information in relation to the 1st quarter of 2022/2023 – July to September 2022, for Council's owned/leased properties.

- Overview of Council's Property Portfolio
- Property Portfolio Vacancy Rates
- Leasing Transactions for the quarter
- Acquisitions and Disposals for the quarter
- Conclusion of the COVID-19 Rent Abatement & Commercial and Retail Rent Relief Scheme
- Major Property Projects (Maintenance and Capital works) for the quarter

Should Council wish to discuss this report it is noted that the attached confidential document includes information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. Further, release of the 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. As such, should this matter be discussed, it should be considered in closed session.

The actual income for the 1st Quarter of 22/23 (July to September), received on a cash basis through Colliers International was \$1,483,883 as of 30 September 2022, which is \$170,916 less than the forecasted budget of \$1,654,798 for the quarter, 10% less than projected. The income received on an accrual basis for this quarter was \$1,508,463.

The Year-to-Date income, received on an accrual basis was \$1,508,463 as of 30 September 2022.

The figures provided in this report are on a cash basis and reported against the Property Portfolio Cash budget and Revised Forecast for 2022/23.

RECOMMENDATION:

1. THAT the report be received.

2. THAT Council resolves that the identified attachment to this report 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.

This item was considered by exception (see page 7)

389. RESOLVED:

1. THAT the report be received

2. 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.

10.11. Grosvenor Lane - Pedestrian Safety and Shared Zone

AUTHOR: Bec Thomas, Road Safety Co-ordinator

The purpose of this report is to address the concerns raised in the Notice of Motion 57/22 - Design of Grosvenor Lane, Neutral Bay that was adopted by Council at its 10 October 2022 meeting.

At its 10 October 2022 meeting, Council adopted the Notice of Motion 57/22 - Design of Grosvenor Lane, Neutral Bay which raised concerns about pedestrian safety in the laneway. Grosvenor Lane is located within the busy Neutral Bay Shopping and commercial area. The section between Ben Boyd Road and Young Street currently works as a Shared Zone with a 10km/h speed limit, and vehicles must give way to pedestrians on any section of the roadway. In 2018 Council engaged external design consultants to prepare a concept and a detailed design for community engagement and construction purposes, to change the laneway and improve the road environment for pedestrians, with the view to implement a shared zone. Previously the laneway had primarily been used as a truck delivery route to the nearby supermarket, as well as a service lane to the buildings that front Military Road. The laneway was also used as a 'rat run' from Ben Boyd Road to Young Street and then onto Military Road (now closed due to Young Street Road closure), and/or to access the residential areas of Cremorne.

In 2020 after community consultation and endorsement by Council's Traffic Committee, Grosvenor Lane between Ben Boyd Road and Young Street was converted from a 50km/h local street into a shared zone with a 10km/h speed limit.

The upgrade included new paving, planting, drainage, bollards, signage and lighting to meet Category 1 Shared Zone requirements, as well as a reduction in the speed limit and continuous pedestrian thresholds at either end of the shared zone that was recommended by the Shared Zone Technical Direction (TTD 2016/001).

Council's Traffic Engineers and Road Safety Co-ordinator have reviewed the existing conditions, and vehicle speed counts have been conducted in the laneway.

This report outlines what further measures Council can take to reduce speed in the lane and to address the concerns raised in the Notice of Motion 57/22 - Design of Grosvenor Lane, Neutral Bay.

Council is also currently running a road safety education campaign focusing on pedestrian safety in the laneway, which will run from November 2022 for a duration of six months.

The cost of installing the recommended Stage 1 Road Safety Education and signage treatments is around \$8,000 which will be allocated from the 2022-23 Traffic Facilities budget.

The cost of further road safety treatments and interventions such as those outlined in the Stage 2 Optional Road Safety Engineering Measures (if they are required) ranges from \$30,000 up to \$90,000 depending on the scale of infrastructure changes
The cost to do further speed and pedestrian counts is \$5,000.

RECOMMENDATION:

1. THAT Council undertakes the Stage 1 Road Safety Education and signage measures outlined in this report, which includes installing '10km/h' pavement stencils on the roadway at all entrances to the Grosvenor Lane Shared Zone and continues the current Education campaign in the laneway with banners for six (6) months, as outlined in this report.

2. THAT during the implementation of Stage 1 Road Safety Education and signage measures, further speed and pedestrian counts will be undertaken to monitor traffic speeds and pedestrian usage.

3. THAT a further report be brought back to Council in 6 months time which outlines the speed and pedestrian data that Council has collected, and to also recommends if any further interventions (such as those outlined in Stage 2 Road Safety Measures in this report) are required.

4. THAT Council notes speed data has been collected in Grosvenor Lane in August 2015, October 2020, December 2020 and October 2022. The number of trucks using Grosvenor Lane was also measured in 2022. The result of tube counts reveals that, since the implementation of the Shared Zone in 2020, there has been a significant reduction on the 85th percentile of vehicles' speed, from 36.5km/h in 2020 to 22.6km/h in 2022. This is still over the posted speed limit of 10km/h, but it should be noted that most cars travelling significantly over the speed limit are doing so late at night and early in the morning. It should also be noted that there are a significant number of trucks still using the laneway.

5. THAT Council notes a review of crash investigation data was conducted over the past 5 years 2018 to 2022 (most current data available). There was one crash in 2019 before the implementation of the "Shared Zone" with a single vehicle, non-injury crash, where a car ran into a parked car. There are no reported crashes with pedestrians or cyclists over a 10-year period in the laneway.

6. THAT Council notes in June 2020 a Post-Construction Road Safety Audit for Grosvenor Lane was conducted by an external accredited auditor, when the entire length of the Lane and Shared Zone was assessed. The site was observed during both daylight hours and after last light under clear weather conditions.

As part of the Post-Construction Audit various issues were outlined and then addressed by Council which included extra signage (especially on the speed limit), "give way to pedestrians" and "shared zone" signs, (which is over and above what is required in the TfNSW Technical Guidelines), reflectors, more lighting, and education of the community.

This item was considered by exception (see page 7)

390. RESOLVED:

1. THAT Council undertakes the Stage 1 Road Safety Education and signage measures outlined in this report, which includes installing '10km/h' pavement stencils on the roadway at all entrances to the Grosvenor Lane Shared Zone and continues the current Education campaign in the laneway with banners for six (6) months, as outlined in this report.

2. THAT during the implementation of Stage 1 Road Safety Education and signage measures, further speed and pedestrian counts will be undertaken to monitor traffic speeds and pedestrian usage.

3. THAT a further report be brought back to Council in 6 months' time which outlines the speed and pedestrian data that Council has collected, and to also recommends if any further interventions (such as those outlined in Stage 2 Road Safety Measures in this report) are required.

4. THAT Council notes speed data has been collected in Grosvenor Lane in August 2015, October 2020, December 2020 and October 2022. The number of trucks using Grosvenor Lane was also measured in 2022. The result of tube counts reveals that, since the implementation of the Shared Zone in 2020, there has been a significant reduction on the 85th percentile of vehicles' speed, from 36.5km/h in 2020 to 22.6km/h in 2022. This is still over the posted speed limit of 10km/h, but it should be noted that most cars travelling significantly over the speed limit are doing so late at night and early in the morning. It should also be noted that there are a significant number of trucks still using the laneway.

5. THAT Council notes a review of crash investigation data was conducted over the past 5 years 2018 to 2022 (most current data available). There was one crash in 2019 before the implementation of the "Shared Zone" with a single vehicle, non-injury crash, where a car ran into a parked car. There are no reported crashes with pedestrians or cyclists over a 10-year period in the laneway.

6. THAT Council notes in June 2020 a Post-Construction Road Safety Audit for Grosvenor Lane was conducted by an external accredited auditor, when the entire length of the Lane and Shared Zone was assessed. The site was observed during both daylight hours and after last light under clear weather conditions. As part of the Post-Construction Audit various issues were outlined and then addressed by Council which included extra signage (especially on the speed limit), "give way to pedestrians" and "shared zone" signs, (which is over and above what is required in the TfNSW Technical Guidelines), reflectors, more lighting, and education of the community.

10.12. Development Applications Received Quarterly Report Q1 FY22-23

AUTHOR: Leonard Vogel, Planning and Development Advisor

This report provides a list of Development Applications (DAs) received by Council in Q1, 1 July 2022 to 30 September 2022, of financial year 2022/23. Its purpose is to provide Councillors and other interested persons with an understanding of the application types received and processed by the Development Services Department.

From 1 July 2022 to 30 September 2022, 140 applications of all types were received, of those 57 had already been determined as of 1 September 2022. A total of 158 applications were determined in Q1 2022/23 with a mean processing time of 106 days. This was a slight increase in the processing times in comparison with DAs determined in Q4 (Quarter 4) which was 105 days.

However, actual development application (DAs not rejected by Development Review Panel) processing times have improved slightly, with the median time down from 131 days in Q4 2021-22 to 126 days in Q1 2022-23. This is due to less Covid-related staff absences, greater staff numbers due to engaged contractors, and a recently appointed Executive Planner.

An analysis of this quarter's statistics in comparison to the previous three financial years' performance has also been included. Whilst actual determination times of DAs are

significantly higher than previous years, determination times are improving slightly as the median cost of incoming development applications is levelling out.

Council will now likely see a reduction in median development application processing times in the financial year 2022-23. This is due to decreasing complexity of development applications in recent quarters, a reduction in the total number of development applications lodged due to economic conditions, a reduction in COVID-related staff absences, and maintaining full staff numbers.

There are no financial implications arising directly from this report.

RECOMMENDATION:

1. THAT the report be received.

This item was considered by exception (see page 7)

391. RESOLVED:

1. THAT the Development Applications received in Q1 of financial year 2022/23 report be received.

10.13. Section 34 Conciliation Conference Process

AUTHOR: Craig Winn, Solicitor

The purpose of this Report is to provide Council with advice concerning the ability of Council to adopt a policy for Section 34 Conciliations, to include the notification of plans to be agreed to before entering into a Section 34 agreement.

On 30 August 2022, Council sought advice from its external legal advisor, to include, among other things, a request that the said advice consider:

- 1. The potential creation and adoption of a Policy, generally, that might apply to the section 34 Conciliation Conference process, noting the Court's usual practices, the Act and the Court's own Conciliation Conference Policy; and*
- 2. Any issues that might arise with the creation or adoption of such a Policy, including cost implications, delay in proceedings or any other matter that might arise if Council were to adopt a blanket approach that prevented the entering into of a s34 agreement until residents had otherwise been notified.*

On 20 October 2022 Council received advice from its external legal advisor This advice is attached and is provided without any claim of legal professional privilege.

The advice, in summary, concludes as follows:

Whilst Council could adopt a Conciliation Conference Policy that requires amended plans to be renotified before entering into a section 34 Agreement relating to those plans, it seems to us that it is likely that such a policy would be unworkable and impractical (and would leave the Council open to costs orders being made against it) unless it applies only in the following circumstances:

- 1. The plans that are to be the subject of the section 34 Agreement are amended plans that have not previously been notified by the Council; and*
- 2. The Applicant agrees to the proposed amended plans being notified during the adjourned conciliation conference; and*

3. *The amendments to the plans fall within the scope of amendments that would usually be notified*

4. *The Council staff with delegation in relation to the conciliation conference are of the view that requiring the amended plans to be notified is of utility and would not be considered to be unreasonable conduct on Council's part in the circumstances of the case.*

If the Policy was limited in its application to the above circumstances, it would generally reflect the Council's current CE Protocol and the practice of the Court in conciliation conferences. It would therefore seem that the Policy would not be necessary.

The mechanisms to increase the involvement of parties in finalising matters escalated to the Land and Environment Court are provided for within the relevant State legislation. The current provisions under the legislation will likely hamper efforts by Council to communicate changes to plans through the section 34 Conciliation Conference process in the way suggested.

As such, it is respectfully submitted that the Court's usual practices and procedures, to include the relevant statutes that apply, will at all times prevail over Council policy.

In this regard, the implementation of, or adoption of, a Policy that may be at odds with the requirements of the Court, will likely expose Council to scrutiny and adverse cost orders, in circumstances where Council were to repeatedly or consistently seek to adjourn or delay the determination of proceedings, for want of a re-notification process that accords with a Council policy.

There are no financial implication arising directly from this report.

RECOMMENDATION:

1. THAT the report be received

2. THAT Council continue to make representations as appropriate to lobby the State Government to change the Section 34 process to allow greater community participation and transparency.

The Recommendation was moved by Councillor Bourke and seconded by Councillor Beregi.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Beregi, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Santer, Councillor Spenceley, Councillor Mutton and Councillor Welch

Against: Nil

Absent: Nil

392. RESOLVED:

1. THAT the report be received.

2. THAT Council continue to make representations as appropriate to lobby the State Government to change the Section 34 process to allow greater community participation and transparency.

10.14. James Milson Village Annual Report 2022

AUTHOR: Rebecca Aukim, Director Community & Library Services

To provide a report to Council on the James Milson Village Annual Report 2021/22 and audited financial statements.

James Milson Village (North Sydney Retirement Trust) is the sole community-based provider of aged care in North Sydney.

James Milson Village (JMV) has had a challenging few years, with the recurring spread of Covid and the emergence of new variants, which required frequent lockdowns to protect residents. Another significant challenge that has impacted JMV are changes to the Aged Care Act Legislation and Regulations, in which the Aged Care Quality & Safety Commission requirements have become more stringent. JMV have had to prepare for re-accreditation by implementing or upgrading processes, practices, systems, capabilities, and training.

Other challenges have been staff shortages across Aged Care as well as industry reform, which necessitated a \$5.5 million write off of JMV bed licences.

Despite all these challenges, JMV was able to continue to provide high quality care, as well as improve its clinical governance capability and is now better placed for sustainable growth.

The Trust has been granted a lease over the site for two terms for a total of 99 years expiring in December 2088, at a nominal rental of \$1.00 per annum. The Trust ended the year with a deficit of \$10,859,853, with total equity of \$37,844,475.

The Trust maintained its subsidies for those in financial need, being \$1.36M for 2021/22. The Directors are non-executive (unpaid).

RECOMMENDATION:

1. THAT the James Milson Village Annual Report and Financial Statements for the year ended 30 June 2022 be received.

This item was considered by exception (see page 7)

393. RESOLVED:

1. THAT the James Milson Village Annual Report and Financial Statements for the year ended 30 June 2022 be received.

10.15. Primrose Park Art & Craft Centre - Joint Strategic Plan Review 2021/22

AUTHOR: Rebecca Aukim, Director Community & Library Services

To report on the annual review of Primrose Park Art and Craft Centre's Joint Strategic Plan with Council.

The Primrose Park Art and Craft Centre Joint Strategic Plan is a joint planning statement by Council and Primrose Park Art & Craft Centre Inc (PPACCI). A voluntary Management Committee runs the Centre.

Currently, the active groups at Primrose Park Art and Craft Centre are: Basketry, Calligraphy, Paper Arts, Photography, Textiles, and the 'Artists in the Park' painting group. Many of the groups maintained their membership during the Covid-related Centre closure July –

25 October 2021, and the six groups have a total of 380 members between them. Despite the Centre closure, all of the objectives in the Joint Strategic Plan were completed. Groups maintained connections with their members via chat groups and virtual meetings, through creating virtual exhibitions online, and/or by participating in the virtual 2021 Sydney Craft Week event.

The building which houses the Primrose Park Art and Craft Centre is owned and maintained by Council. The Centre is on Crown Land and as a result the Centre is required to pay a minimum statutory rent of \$548.08. PPACCI finished 2021/22 with a deficit of \$463.82.

RECOMMENDATION:

1. THAT the report on the Primrose Park Art and Craft Centre Joint Strategic Plan review 2021/22 be received.

This item was considered by exception (see page 7)

394. RESOLVED:

1. THAT the report on the Primrose Park Art and Craft Centre Joint Strategic Plan review 2021/22 be received.

11. Notices of Motion

There were no Notices of Motion

12. Matters of Urgency

Nil

13. Confidential Matters

Nil.

14. Closure

The Meeting concluded at 6:49 pm.