



Council Chambers  
3 March 2023

The **3776th MEETING** of **COUNCIL** will be held on Cammeraygal lands at the Council Chambers, North Sydney at **6.30pm** on Monday 13 March 2023. The agenda is as follows.

**THERESE MANNS**  
**GENERAL MANAGER**

North Sydney Council is an Open Government Council. The records of Council are available for public viewing in accordance with this policy, with the only exception being made for certain confidential documents such as legal advice, matters required by legislation not to be divulged, and staff matters.

- 
- 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**
    - 8.1 MM01: Berrys Bay Masterplan
    - 8.2 MM02: Quarantine Depot site – Community Pop Up Activation
    - 8.3 MM03: Open Space and Recreation Strategy
-

## **9. Reports of Committees**

- 9.1 Audit, Risk and Improvement Committee Minutes – 1 December 2022 and 3 February 2023
- 9.2 Traffic Committee Minutes – 10 February 2023

## **10. Reports to Council**

- 10.1 Merrett Playground Upgrade – Project Progress
- 10.2 Planning Proposal 4/22 – Prohibition of residential flat buildings in the R3 Medium Density Residential Zone – Post Exhibition Report
- 10.3 Infrastructure Mapping Project – Response to Council Resolution
- 10.4 Outdoor Dining Licence Fees – Response to Council Resolution
- 10.5 North Sydney Council Bi-Monthly Waste Clean-Up – Response to Council Resolution
- 10.6 Nutcote Conservation Management Plan – Post Exhibition Report
- 10.7 Milson Park Kayak Storage – Post Exhibition Report
- 10.8 Acceptance of Tender – Tender No 8-2022 for Provision of Security Services
- 10.9 Legal Costs – IOF Custodians v NSC
- 10.10 2023 Australian Local Government Association Annual Conference (National General Assembly)
- 10.11 Pro-Active Community Education Quarterly Report
- 10.12 Organisation Structure
- 10.13 Policy for use of animal products – Response to Council Resolution

## **11. Notices of Motion/Questions with Notice**

- 11.1 Notice of Motion 4/23: Sub Base Platypus – Cr Welch
- 11.2 Notice of Motion 5/23: Waverton Bowling Green – Cr Mutton
- 11.3 Notice of Motion 6/23: Trove National Database and Upgrade of Digital Archive Systems – Cr Welch

## **12. Matters of Urgency**

Nil

## **13 Closure of Meeting**

In the spirit of open, accessible and transparent government, the Council meetings of North Sydney Council will be streamed live via Council's website. By speaking at a Council meeting, members of the public agree to being recorded and must ensure their speech to the Council is respectful and use appropriate language. A person who uses defamatory, discriminatory or offensive language may be exposed to liability for which Council takes no responsibility. Any part of the meeting that is held in Closed Session will not be recorded.

---

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

**SUBJECT: 3776th MEETING OF COUNCIL TO BE HELD ON MONDAY  
13 MARCH 2023**

**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 3775th Council Meeting held on Monday 27 February 2023, the 3776<sup>th</sup> Extraordinary Council Meeting held on Tuesday 28 February 2023 and the Extraordinary Council Meeting held on Wednesday 1 March 2023 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: Berrys Bay Masterplan**

Council, on behalf of the community, has a clear long term vision for Berrys Bay and the Waverton Peninsula, first articulated in the Waverton Peninsula Masterplan (Clouston) 1999.

---

From 30 September to 23 October 2022, Transport for NSW (TfNSW) exhibited a draft “master plan and vision” for Berrys Bay. There was significant community participation in the public exhibition with many submissions supporting the plan.

The Berrys Bay masterplan as finally adopted by the State Government is consistent with the community and Council’s long term vision.

Indeed, the final masterplan is supported by Council and the community.

On 13 February 2023 Council resolved

**1.THAT** Council urgently write to the Premier seeking the immediate transfer of the Berrys Bay foreshore lands held by the State Government to Council prior to the State Election.

On 6 March 2023, a councillor briefing was held in relation to the Berrys Bay Masterplan. The briefing included reference to the concept plans for Berrys Bay prepared by Sydney Heritage Fleet.

The Sydney Heritage Fleet is the trading name of Sydney Maritime Museum Ltd., a public company. The Fleet restores and operates a number of historic vessels including the barque James Craig.

On 22 February 2021, Council relevantly resolved:

**1.THAT** Council, recognising broad community support for the concept plans provided by the Sydney Heritage Fleet for the Museum of Sydney Harbour as the base for its fleet in Berrys Bay, resolves to work with the Sydney Heritage Fleet and the North Sydney community with a view to making the concept plan a reality.”

There is strong and broad community support for the TfNSW Berrys Bay Masterplan. Thousands of residents together with North Sydney Council fought long and hard over many, many years to resist a commercial marina at Berrys Bay.

Circumstances have changed since the resolution of Council on 22 February 2021. The Sydney Heritage Fleet concept plans are inconsistent with the TfNSW Berrys Bay Masterplan and will result in a larger on-water occupation of the Bay than that previously occupied by Woodleys when it was an operating “working waterfront” site. Further, despite the statement in the 22 February 2021 Council resolution, the concept plans do not have “broad community support”.

Given that the State Government is committed to delivering the Berrys Bay Masterplan as soon as practicable, I therefore recommend:

**I therefore recommend:**

**1.THAT** Council reiterate its support for the Berrys Bay Masterplan and for the State Government’s commitment to deliver the planned park at Berrys Bay as soon as possible and commencing later this year.

---

**2.THAT** Council clarify its position on the Heritage Fleet concept plans by stating that, in the circumstances of paragraph 1 of this resolution, the plans are no longer supported and that Council resources should no longer be devoted to *“work with the Sydney Heritage Fleet and the North Sydney community with a view to making the concept plan a reality”*.

## **8.2 MM02: Quarantine Depot site – Community Pop Up Activation**

In 1912 the Australian Army established a Quarantine Depot in Berrys Bay to service the boats operating to and from the Quarantine station at North Head.

In February 2022, after decades of lobbying the State Government, North Sydney Council purchased the Quarantine Depot site from the State Government for \$2.3 million.

There are now two circa 1912 cottages in exceptionally good condition at the site. Council is currently working towards making the site safe for occupation.

Whilst Council is preparing a strategy to guide the medium to long term community use of the site, there is an opportunity to activate the cottages with “Pop Up” community uses to allow access to this incredible foreshore site.

Throughout the pandemic there have been a number of local “Pop Ups” providing arts and cultural opportunities and programmes to address social isolation, build community and support the arts.

Council’s Community Strategic Plan identifies arts and culture for focus and expansion.

Therefore, “Pop Up” activation of the site should include arts, crafts and cultural activities.

### **I therefore recommend:**

**1.THAT** Council investigate and prepare a report on Pop Up activation of the Quarantine Depot cottages at Berrys Bay with a focus on arts and culture.

**2.THAT** Council prepare a strategy for the medium and long term community use of the Quarantine Depot site.

## **8.3 MM03: Open Space and Recreation Strategy**

Over the last 40 years the residential and commercial population of the North Sydney local government area has doubled.

In 2009 Council undertook and published the North Sydney Open Space Provision Strategy.

---

The introduction to the Strategy stated:

*“The North Sydney Council area is one of the most densely populated in Australia and with new development both the residential and worker populations are growing.*

*The uneven distribution of parks and reserves means there is a lack of open space in some areas, particularly in St Leonards, Crows Nest and along Military Road.*

*This, together with insufficient sporting facilities, a lack of linkages and connections and the small size of many parks, mean that additional open space is required to meet the current and future recreational needs of the community.*

*The North Sydney Open Space Provision Strategy has been prepared to ensure new land provided for open space meets the needs of the population, providing useful and usable open spaces in areas of population growth and low open space provision, in an economically viable manner.”*

Fourteen years later, population density has significantly increased and yet open space has not kept pace with the needs of the existing population let alone projected future population.

There have been significant changes in the way we, as a community, use open space and recreational facilities since the Strategy was adopted. In 2019, prior to the pandemic, the NSW Department of Planning and the Environment’s Greater Sydney Outdoors study found that:

- 85% of people want to walk/run in parks and open spaces close to home,
- 77% want to relax in open space, and
- 64% want to be able to enjoy a picnic in a park or reserve.

Overall, 70% of Sydneysiders consider open space to be an important factor in their lives. One may argue that in high and medium density areas such as North Sydney that demand is likely to be higher still.

The pandemic reinforced the value and necessity of public open space, parks, playing fields, streets, foreshores, urban bushland and spaces. Like most local government areas, our community engaged intensely with local spaces and that level of engagement and expectation has not diminished since

We have also witnessed the devastating loss of public parks, trees and habitat as part of the major toll road projects – a reduction in both area and quality of these spaces. For example, the Warringah Freeway Upgrade and Western Harbour Tunnel project will see the permanent loss of 1.5h hectares of Cammeray Park for the provision of operational sheds.

---

There are huge challenges to provide new open space within the 11km<sup>2</sup> of the local government area.

In this context, it is time for Council to review the Strategy and develop a new Open Space and Recreation Strategy to address the challenges and opportunities we face now and into the next decade.

**I therefore recommend:**

**1. THAT** Council prioritises the preparation of an Open Space and Recreation Strategy in the 2023/24 operational plan

---

## 9. REPORTS OF COMMITTEES

### 9.1 Audit, Risk and Improvement Committee Minutes – 1 December 2022 and 3 February 2023

Report of Ian Curry, Manager Council & Committee Services

The purpose of this report is to provide the Minutes of the Audit, Risk and Improvement Committee meetings held on 1 December 2022 and 3 February 2023.

In accordance with the Audit, Risk and Improvement Committee Charter, attached are the minutes of the meetings of:

- 1 December 2022, and
- 3 February 2023.

The minutes of the 1 December 2022 meeting have been endorsed by the Committee. The minutes of the 3 February 2023 meeting have been endorsed by the Chair and will be reported to the next Committee meeting.

There are no specific matters arising from the meetings referred to Council for adoption.

There are no financial implications to this report.

**Recommending:**

**1. THAT** the Minutes of the 1 December 2022 Audit, Risk and Improvement Committee meetings be adopted in accordance with the Audit, Risk and Improvement Committee Charter.

**2. THAT** the Minutes of the 3 February 2023 Audit, Risk and Improvement Committee meetings be adopted in accordance with the Audit, Risk and Improvement Committee Charter.

### 9.2 Traffic Committee Minutes - 10 February 2023

Report of 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 last meeting of the Traffic Committee held on 10 February 2023 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/homepage/82/traffic-committee>.

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

**Recommending:**

**1. THAT** Council write to TfNSW requesting that they prioritise funding for the left-hand turn signal at Wycombe and Yeo Street, Neutral Bay. (6.1)

**2. THAT** Blues Point Road - Vehicle Noise & Traffic Issues stay on the agenda as a standing item, and that it be continually monitored. (6.2)

**3. THAT** the issue of illegal left turns at intersection of Pacific Hwy and Blue St be referred to TfNSW in relation to line marking, and given that it's a TfNSW Road, Council



request that they address pedestrian safety as a result of it being an illegal turn across the highway into Blue Street. (8.1)

**4. THAT** the matter of parking signs in Kirribilli be referred to Council officers to respond to the resident, investigate if there is an issue with garbage trucks, and investigate as to whether there is a physical change that may be able to assist with safety. (8.2)

**5. THAT** Council staff be requested to have a closer look at the traffic movements on Rosalind Street, Cammeray - East of Miller Street, and that the resident be notified that there has been some interim work in consultation with the contractor of the western freeway to ensure there is something to assist with the Australian Safety standards. (8.3).

**6. THAT** the location of Pedestrian Crossing on Rosalind Street, Cammeray - East of Miller Street be kept on the agenda as a standing item. (8.3)

## **10. REPORTS TO COUNCIL**

### **10.1 Merrett Playground upgrade - project progress**

Report of Alicja Batorowicz, Landscape Architect/Project Co-ordinator

The purpose of this report is to provide Council with a progress update on the proposed upgrade of Merrett Playground.

As Merritt Playground was next on the playgrounds list to be refurbished, tenders were called and seven submissions were received on 28 June 2022.

As part of the community feedback, the local Precinct group requested that the project be put on hold until the future of the ex-Waverton Bowling Club's site was determined.

Given the uncertainty re the future land ownership of ex-Waverton Bowling Club, the proximity of the playground to the Club, and the potential influence of the outcome of the land ownership discussions might have on the design of the playground, the project was put on hold.

\$241,436 was allocated in the 2022/23 budget to fund the construction phase of this project. Should this project not proceed, the funds can be returned to the Capital Works Reserve.

#### **Recommending:**

**1. THAT** Council cancels the proposal for the contract 5/2022.

**2. THAT** the unspent funds allocated for the upgrade of Merrett Playground be returned to the Capital Works Reserve.

### **10.2 Planning Proposal 4/22 – Prohibition of residential flat buildings in the R3 Medium Density Residential Zone – Post Exhibition Report**

Report of Ben Boyd, Executive Strategic Planner

To seek Council's endorsement to progress the planning proposal following consideration of public submissions, such that an amendment to North Sydney Local Environmental Plan 2013 can be made.

At its meeting of 28 March 2022, Council resolved to forward a Planning Proposal (PP 4/22: Council's reference) to the Department of Planning and Environment (DPE),

seeking to amend the North Sydney Local Environmental Plan (NSLEP) 2013 to prohibit residential flat buildings in the *R3 Medium Density Residential* zone.

On 12 August 2022, the Minister for Planning issued a Gateway Determination (PP-2022-1167: DPE's Reference) enabling the Planning Proposal to proceed to public exhibition, subject to meeting a number of conditions.

In accordance with the Gateway Determination, the Planning Proposal was placed on public exhibition for a period of 43 days (30 working days), from 26 September 2022 to Monday

7 November 2022.

152 submissions were received during the exhibition period, of which:

- 121 were in support of the intended outcomes of the Planning Proposal, and
- 31 objected to the intended outcomes of the Planning Proposal.

The key issues raised in the submissions related to:

- impacts on character, heritage and amenity;
- dwelling supply, accessibility and diversity;
- impacts on traffic and parking;
- bulk, scale and height; and
- loss of existing use rights.

Of those that objected, some suggested additional amendments to NSLEP 2013, including:

- amending the savings and transitional clause to remove the need to consider a future amendment as a "draft environmental planning instrument";
- incorporation of a clause to ensure residential flat buildings are permissible for those lands zoned *R3 Medium Density Residential* which currently contain a lawfully approved residential flat building;
- requests for spot rezonings to ensure that residential flat buildings are permissible with consent on the identified lands; and
- amendment of built form controls to enable greater building height.

In light of the submissions made, it is recommended that the Planning Proposal be amended such that the application of both suggested savings provisions are identical, with the view to ensuring DAs (which have been lodged and not determined before any amendment giving effect to the Planning Proposal) are assessed as though the amendment had not been made.

It is further recommended that Council resolves to adopt the Planning Proposal as amended in response to submissions made, and that the amended Planning Proposal be forwarded to the Department of Planning and Environment for approval.

**Note: This report was updated on 6 March 2023 in accordance with the Addendum to the Council report.**

Progressing and finalising the plan-making process for this Planning Proposal to amend NSLEP 2013 in the manner proposed represents a modest investment in Council resources. These can be accommodated within existing budget lines.

**Recommending:**

**1. THAT** Council note the submissions made.

**2. THAT** in response to the submissions made, Council endorse the Planning Proposal, forming Attachment 2 to this report, subject to amending the wording of the first suggested savings provision on Page 9 of the Planning Proposal to read:

*If a development application has been made on land in Zone R3 Medium Density Residential before the commencement of North Sydney Local Environment Plan 2013 (Amendment X) and the application has not been finally determined before that commencement, the application must be determined as if that amendment had not commenced.*

**3. THAT** having completed the community consultation requirements outlined in the Gateway Determination, Council forward the Planning Proposal (Attachment 2), as amended by Recommendation 2, 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.

**4. THAT** all submitters be advised of Council's resolution.

### **10.3 Infrastructure Mapping Project - Response to Council Resolution**

Report of Neal McCarry, Team Leader - Policy

The purpose of this report is to respond to a Council resolution of 14 November 2022, in relation to Infrastructure Mapping.

This report provides a high-level outline of the current approach to infrastructure funding and planning, and the challenges being experienced.

The report also provides details on the various processes and mechanisms available to help plan for and fund infrastructure delivery, including the St Leonards and Crows Nest Special Infrastructure Contribution (SIC), North Sydney Council Local Infrastructure Contribution Plan 2020, government grants, Voluntary Planning Agreements, and conditions of consent imposed on Development Applications.

No immediate financial implications arise as a result of this report. Longer term, more detailed analysis, mapping, and specialist input may necessitate additional budgetary allocation and internal resourcing.

#### **Recommending:**

**1. THAT** Council note the contents of this report.

### **10.4 Outdoor Dining Licence Fees - Response to Council Resolution**

Report of Margaret Palmer, Director Corporate Services

The purpose of this report is to inform Council of the cost implications of a fee waiver for outdoor dining from the period of 1 April to 30 September 2023 (6 months).

At its meeting of 12 December 2022, Council resolved:

*1. THAT a report be provided to Council regarding waiving outdoor fees for a six month period.*

The rationale for asking for a report was that the City of Sydney is waiving outdoor dining fees until 30 June 2025, therefore the question arose as to whether North Sydney Council (NSC) should also consider waiving its fees. NSC recommenced charging on 1 July 2022.

In considering this, the City of Sydney Council is not a meaningful comparison with NSC as it has a much larger budget and charges higher rates while NSC has a lower rate base. Additionally, Colliers has confirmed that neighbouring councils (Mosman,

Willoughby, Lane Cove, Northern Beaches, Waverly, Woollahra, and Randwick) are currently charging outdoor dining licence fees.

Based on advice from Colliers, NSC has a budget for outdoor dining licence fees of \$945,000 for the 2022/23 financial year, with \$642,000 received to 31 January 2022/23. The budget for the 2023/24 financial year is \$969,000.

The total revenue foregone for Council if outdoor dining licence fees were to be waived for the period 1 April to 30 September 2023 (6 months) would be approximately \$375,000, spread across the 2022/23 and 23/24 budget years.

National data (ABS) shows that cafe and restaurant income levels have improved and are close to pre-Covid levels. North Sydney Council is experiencing the same trend which is evident through an increase in parking meter income (although not yet at pre-Covid levels), and the increase in workers returning to offices. With improved income comes the capacity for cafes and restaurants to meet their operating costs –one of which is the payment of outdoor dining licence fees.

As stated in the North Sydney Council's December Quarterly Budget Review a deficit before capital grants and contributions of \$2.42 million has been forecast for this financial year to 30 June 2023. In addition, it is anticipated that additional costs associated with the North Sydney Olympic Pool will require further adjustment in the March Quarterly Budget Review, which will further pressure on operating results and cashflows.

It remains a time for caution, and the decision to waive fees must be made in the context of the whole of Council's finances. Considering that neighbouring councils are charging outdoor dining licence fees, NSC's forecast deficit, the likely need for further adjustment to fund the Olympic Pool, and the capacity of cafes and restaurants to pay, waiving of outdoor dining fees is not recommended.

That said, the Council may wish to consider the development of a Hardship Policy which would, if the applicant meets the financial criteria, provide support to a café or restaurant that is struggling.

The cost to waive outdoor dining licence fees for the next six months (1 April to 30 September 2023) would be a loss in income of \$375,000.

**Recommending:**

- 1.THAT** Council continues charging outdoor dining licence fees.
- 2.THAT** Council develop a Hardship Policy to provide support to cafes and restaurant that can demonstrate financial distress.

## **10.5 North Sydney Council Bi-Monthly Waste Clean Up - Response to Council Resolution**

Report of Shivaan Kumar, Waste Management Officer

At its meeting of 12 December 2022, Council resolved:

- 1.THAT Council prepare a report on whether our bi-monthly waste pickup service still meets community expectations.*
- 2. THAT the report include suggestions on how we can discourage (or disallow) waste that could be reused, repurposed or repaired being sent to landfill.*

This report addresses the Resolution.

---

Council provides residential waste and recycling collection services to over 36,000 dwellings under a waste collection contract with United Resource Management (URM). Under the current contract, services include weekly garbage and commingled recycling collections, public place recycling collections, illegally dumped rubbish collections, and pre-booked fortnightly garden organics and household clean-up services. On average, approximately 4,300 householders book a clean-up collection service every month, with over 200 tonnes of items collected. Collected clean-up material is disposed of at landfill under the current Greenwaste Processing and Bulky Waste Disposal Contract with Cleanaway. Clean-up services were first introduced in 1992 as a way of tackling illegally dumped rubbish, particularly around multi-unit dwellings.

Community satisfaction of Council's Waste Services remains consistently high as evidenced by the feedback received in Council's Customer Satisfaction periodic surveys.

Council also provides other options for residents to rehome and divert materials from landfill: residents are encouraged to utilise the collection services of charitable organisations such as The Bower Reuse and Repair Centre for furniture items; the RecycleSmart program for textiles, toys, books and other bric-a-brac; and the Artarmon Community Recycling Centre (CRC) for the disposal of several household problem wastes such as paint, motor oil, gas bottles, fire extinguishers, e-waste, light bulbs, batteries, smoke detectors, x-rays, printer cartridges, mobile phones, and wearable textiles.

The pre-booked bulky waste collection service is integral to Council's overall waste management services, and it provides a speedy, convenient service for the collection and disposal of many unwanted household items. If this collection service were to be withdrawn or reduced in frequency, residents' satisfaction would decline as the number of illegally dumped material incidents would likely increase. There is a distinct positive correlation between the number of illegal dumping incident reports and the frequency, or lack thereof, of a bulky waste collection service.

There are no financial implications to this report.

**Recommending:**

- 1. THAT** the Council's Pre-booked Household Waste Clean-up Services (Bi-monthly Collection) Report be received.
- 2. THAT** the Council's Pre-booked Household Waste Clean-up Services (Bi-monthly Collection) continue to be provided at the current level.

## **10.6 Nutcote Conservation Management Plan - Post Exhibition Report**

Report of Ian Hoskins, Council Historian

This report details the submissions received during the public exhibition of the draft *Nutcote Conservation Management Plan*. The final Plan is presented to Council for adoption.

As reported to Council on 12 December 2022, a new *Nutcote Conservation Management Plan* has been prepared, to replace the 2008 version. Nutcote, 5 Wallaringa Avenue Neutral Bay, was the home of artist and author May Gibbs from 1925 until her death in 1969. In 1990, Council bought the property to save it for

---

posterity. The property is operated and managed for Council by the Nutcote Trust, in accordance with a Joint Strategic Plan and a Conservation Management Plan (CMP). The new CMP confirms that Nutcote is a place of 'exceptional significance' as the workplace and home of May Gibbs. It is significant also as an example of the architectural design of BJ Waterhouse, reflecting the blend of English and Mediterranean elements that he was then embracing.

Nutcote is a State-heritage listed property, and with this status comes the highest responsibility for care, however the CMP acknowledges that not all recommendations or policies are achievable due to resourcing constraints. The CMP is therefore a guide rather than a binding document. Council will however only depart from its recommendations or policies after well-considered reasoning.

The new CMP recommends a modified colour scheme and paint finish, and the 'nomination' of a heritage advisor to monitor, oversee, maintain, and train Council and Nutcote staff and volunteers in day-to-day care of the property.

On 12 December 2022, Council endorsed the public exhibition of the draft Plan for a minimum of 42 days. Public exhibition was undertaken between 14 December 2022 to 31 January 2023.

Council received one submission, offering an open statement/comment.

The external painting cost of \$42,250 has been budgeted out of recurrent funding.

**Recommending:**

1. **THAT** the submissions summary be noted.
2. **THAT** Council adopts the Nutcote Conservation Management Plan.

## 10.7 Milson Park Kayak Storage - Post Exhibition Report

Report of Alicja Batorowicz, Landscape Architect/Project Coordinator

This report details the submissions received during the public exhibition of the proposed Milson Park Kayak Storage. The final recommendation is presented to Council for adoption.

Between 20 September and 31 October 2022, Council sought feedback on a proposed concept plan for a storage facility to hold 36 kayaks at Milson Park, Kirribilli, where there is boat ramp access to Sydney Harbour. A total of 104 submissions were received, as detailed in the attached submission summary. The majority of submissions support the proposal.

This project is in line with Council's *Small Watercraft Storage Strategy (2018)*. Milson Park is one of the sites on Council owned and controlled land along the North Sydney foreshores that can accommodate new formal storage facility. This site does not currently accommodate any informally stored watercraft but will assist with reducing overcrowding, foreshore clutter and damage to the foreshore in other areas.

Council allocated \$25,000 in the 2022/23 budget for the investigation, consultation and design of a small watercraft storage facility in Milson Park, for the benefit of watercraft owners and the convenience and enjoyment of those who access and use the park for general recreation. The proposed storage location has been chosen to be sympathetic to the park's ecology and not impede foreshore access.

---

Of the \$25,000 budget allocated to this project, \$1,080 has been spent on a location plan. The remaining \$23,920 is available for the design and acquisition of storage facilities.

**Recommending:**

1. **THAT** the submissions report be noted.
2. **THAT** the Council endorse the concept plan for kayak storage at Milson Park.
3. **THAT** 18 hireable spaces be allocated to the Kayak Share Club with the remainder to be allocated to the general community.

## 10.8 Acceptance of Tender - Tender No 8-2022 for Provision of Security Services

Report of Joanna Gibson, Team Leader Events

The purpose of this report is to provide Council with the analysis and recommendation of the tender process for Tender 8-2022 Provision of Security Services.

Tenders were called for the submission of tenders for the Provision of Security Services.

If the Council wishes to discuss the report, the meeting should be closed to the public to do so, in accordance with the following section of the *Local Government Act 1993*:

*(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 event security is included in the operational budget and has been allowed for in the long-term financial plan.

**Recommending:**

1. **THAT** Council endorse the appointment of a panel of the three highest scoring Tenderers for Tender 8-2022 to provide security services for New Year's Eve and other Council events.
2. **THAT** the General Manager be authorised to take any necessary action to implement the decision including entering associated contracts.
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:

*(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.

---

## 10.9 Legal Costs - IOF Custodians v NSC

Report of Shane Sullivan, Executive Manager Governance

The purpose of this report is to seek Council approval for expenditure over \$1,000,000 that has not gone to tender and will be placed on the GIPA report as a class 2 contract on all costs associated with the matter of IOF Custodians v NSC.

Council is the Respondent in Class 1 Appeal Proceedings filed on 1 September 2021 in the Land and Environment Court. IOF Custodian Pty Limited atf the 105 Miller Street North Sydney Trust is the Applicant. The matter is the deemed refusal of DA 147/20 in respect of 105-153 Miller Street North Sydney.

Council's legal expenses for this matter will exceed \$1,000,000. Legal services to Council are procured through a panel appointed through a competitive procurement process. Expenditure up to \$1,000,000 under the Procurement Policy can be by way of quotations from a panel. Where expenditure is over \$1,000,000 Council is the approval authority. For this reason, Council approval is being sought for the additional expenditure in this matter.

Reasons for this level of expenditure are due to the length of the hearing and the expert evidence required.

Should Council wish to discuss this report it is noted that the attached confidential document includes commercial information that would, if disclosed, prejudice the commercial position of the person who supplied it. Further, release of the information would, on balance be contrary to the public interest as publication of provided amounts would discourage potential providers 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 total cost for this matter is estimated to be \$1,296,705.60.

### **Recommending:**

**1. THAT** Council endorse the exemption of tendering in relation to the matter of IOF Custodians v NSC for the reasons set out in this report.

**2. THAT** Council approve all works associated with the matter of IOF Custodians v NSC be placed on the GIPA register as a class 2 contract (No tender process) in accordance with the Government Information (Public Access) Act.

**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:

- (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 provided amounts would discourage potential providers from submitting commercial information in future and would affect Council's ability to obtain value for money services.

---



### **10.10 2023 Australian Local Government Association Annual Conference (National General Assembly)**

Report of Ian Curry, Manager Council & Committee Services

To consider the appointment of delegates to attend the 2023 National General Assembly and any proposed Motions.

The 2023 Australian Local Government Association (ALGA) National General Assembly (NGA) will be held in Canberra from 13 to 16 June 2023.

The [theme](#) for this year's NGA will be "Our Communities, Our Future". ALGA is seeking [motions](#) that align with this theme and identify opportunities for new federal programs and policies that will support councils to build stronger communities.

Motions are due by 24 March 2023.

In addition, Council may resolve the appointment of delegates to attend the 2023 National General Assembly. The early bird deadline for registrations is 18 May 2023. The standard registration cost for each delegate is \$895 to attend in person and \$689 to attend virtually. Funding for attendance is provided for in accordance with the Councillor Expenses and Facilities Policy.

**Recommending:**

**1.THAT** Council considers any proposed Motions for submission to the Conference, noting the deadline of 24 March 2023.

### **10.11 Pro-Active Community Education Quarterly Report**

Report of Greg Sherlock, Planning and Development Advisor

Council, at its meeting of 8 August 2022, resolved that a quarterly report be provided to update Council on the progress of the return to proactive community education regarding the planning process, including specific tasks undertaken.

This report gives an overview of the progress of Council's planning advisory service to the return to pre-COVID service levels with regards to community engagement and expansion of 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 a report to Council addressed the complexity of the planning process in NSW and how Council would address community engagement through the existing resource of the planning advisory service.

On 14 November 2022 a further report to Council outlined out the how Council's Planning Advisory service would seek to engage with the community. This report provides an update of how the community engagement work is progressing.

Prior to the next quarterly report to Council a Councillor workshop is proposed to be arranged, to establish a clear understanding of the objectives and expectations Councillors wish to achieve under this initiative. The results of that workshop will inform the content of what is reported to Council in the future.

No additional financial implications are envisaged.

---

**Recommending:**

1. **THAT** the report be received.
2. **THAT** a Councillor workshop be held to inform the ongoing objectives and expectations of this initiative and the subsequent reporting requirements.

**10.12 Organisation Structure**

Report of Therese Manns, General Manager

The purpose of this report is to facilitate the Council's review of the organisational structure in accordance with Section 333 of the *Local Government Act 1993*.

A review of Council's organisational structure following an election is a best practice, to ensure the structure aligns with the future direction of the Council. It is also a legislative requirement to undertake this review within 12 months of an election.

Section 322 of the Local Government Act (the Act) provides:

- (1) *A council must, after consulting the general manager, determine the following*
- 
- a. *The senior staff positions within the organisation structure of the council*
  - b. *The roles and reporting lines of holders of senior staff positions,*
  - c. *The resources to be allocated towards employment of staff*

It is important that the organisational structure is designed in a way that enables delivery of Council's strategic direction while also supporting operational objectives. Council resolved at the 30 January 2023 meeting to endorse a draft structure incorporating three divisions. This is a move away from a six-divisional structure and is the first step towards a more holistic review of operational structures.

This review relates to the high-level senior structure of the Council. Organisational structure review below senior staffing level is undertaken by the General Manager in consultation with staff and should be considered an operational workforce function on a regular basis. Where functions move between directorates, this would be reported to Council.

To recap on the January report, the functions of each senior staff member under the current structure are as follows in Diagram 1.

Open Space & Environment	Engineering & Property Services	City Strategy	Community & Library Services	Corporate Services	Executive Manager Governance
<ul style="list-style-type: none"> <li>• Environmental Services</li> <li>• Landscape Planning &amp; Design</li> <li>• North Sydney Oval</li> <li>• North Sydney Olympic Pool</li> <li>• Parks &amp; Reserves</li> </ul>	<ul style="list-style-type: none"> <li>• Asset Management</li> <li>• Engineering Infrastructure</li> <li>• Project Management</li> <li>• Property Assets</li> <li>• Traffic &amp; Transport</li> <li>• Works Engineering</li> </ul>	<ul style="list-style-type: none"> <li>• Administrative Services</li> <li>• Development Assessment</li> <li>• Environment and Building Compliance</li> <li>• Strategic Planning</li> <li>• Ranger &amp; Parking Services</li> </ul>	<ul style="list-style-type: none"> <li>• Community Development</li> <li>• Library Services</li> </ul>	<ul style="list-style-type: none"> <li>• Communication &amp; Events</li> <li>• Contracts Management</li> <li>• Customer Service &amp; Records Management</li> <li>• Financial Services</li> <li>• People &amp; Culture</li> <li>• Information Technology</li> <li>• Procurement</li> </ul>	<ul style="list-style-type: none"> <li>• Council and Committee Services</li> <li>• Corporate Planning and Engagement</li> <li>• Legal Services</li> <li>• Risk Management/WHS</li> </ul>

The draft structure endorsed for consultation with staff was as follows in Diagram 2. This structure was developed following a review of strategy, decision-making, leadership frameworks, and staff engagement surveys. A three-directorate structure is common in local government organisations of comparable size to North Sydney, with most consisting of three (3) to four (4) directorates. Council's strategic framework, culture and relevant operational structures require improvement prior to considering a fourth directorate.

**Diagram 2 – draft structure submitted to 30 January 2023 Ordinary Meeting**



Consultation was undertaken with staff between 20 January and 1 March 2023. This consultation included individual meetings with affected staff, a meeting of the broader leadership team and 16 General Manager forums which all staff were invited to attend. Staff Unions were advised of the proposed change 20 January 2023 and were provided with access to the Council report outlining the change. Council's decision to endorse for consultation was confirmed by email on 2 February 2023.

There has been an overall positive response to the change in leadership structure, with three responses raising concern about the synergy between community development, libraries, and planning. In total 11 written responses were received.

Positive responses to the consultation include support of breaking down silos, collaborating more as one team. It was noted that the basis for change was clearly articulated, and the reasoning was sound.

Most of the content of responses focused on areas outside the scope of this change process. This included a desire for business unit name changes and structural change under senior level in some areas, a desire for improved workplace accommodation, system and process improvements, resourcing, and performance appraisal systems. This feedback will be taken into consideration as we embark on a holistic review and improvement program for the organisation.

Concerns regarding the synergy between community development, libraries and planning are noted. This concern is reflective of the diversity of Council services, however, based upon current operations, a Division containing only two business units is unwarranted. While synergies may not be obvious, it is anticipated that there will be broader benefits associated with a streamlined structure. As mentioned in the previous Council report, a fourth Division may be considered in the future as the Council further develops its strategic direction and services increase.

In response to feedback, the following changes have been made to the draft divisional structure:

1. a name change resulting in one Division being titled 'Community, Planning and Environment'
2. a name change resulting in one Division being called 'Open Space and Infrastructure'
3. a name change resulting in one Division being called 'Corporate Support'
4. Legal Services being removed from the 'Corporate Support' division and reporting directly to the General Manager.

In addition to changes to the divisional structure, the Organisation Development function has been changed to Organisation Performance. This was in response to feedback that organisation development is often considered a function of human resources rather than business improvement and organisation performance which was the intention of this new role.

**Diagram 3 – recommended Organisation Structure**



Should Council adopt the recommended structure, advertising for the new Director positions will commence with a view to appointments being made in early May 2023, after which time the new structure will be implemented.

Upon a review of savings in employment costs to date, it is anticipated that the costs related to the change in structure can be funded from current employee cost budgets. It is not anticipated that there will be ongoing savings as a result of this structural change, due to the need for additional positions within the structure under the senior executive level.

The net present value of the change in structure over a ten-year period is estimated at around \$8 million. The value is expected to be translated through improved strategy development and delivery of services.

**Recommending:**

**1.THAT** Council adopts a change in organisation structure resulting in the reduction of senior staff from six (6) to three (3) with functions in accordance with Diagram 3 within the report.

### **10.13. Policy for use of animal products - Response to Council Resolution**

Report of Ian Hoskins, Council Historian

To respond to Council's resolution of 12 December 2022 concerning Council's use of leather and fur products.

Leather and fur products such as shoes and Mayoral robes lined with mock sable fur are held within Council's Historical Services Collection and, in the past, have been used in civic events. The collection also has many pairs of leather shoes, three 19<sup>th</sup> century fans made from ostrich feathers, an ostrich feather boa from the 1920s and so forth. This report recommends adherence to the existing Historical Services Collection Management and Deaccession Policies with regards to the acquisition, retention, display and 'retiring' of items containing leather and fur.

There are no financial implications in relation to this matter.

#### **Recommending:**

**1. THAT** Council notes the existing Collection Management and Deaccession Policy and its applicability to leather and fur products of historical significance.

**2. THAT** no further policy be required.

## **11. NOTICES OF MOTION**

### **11.1 Notice of Motion 4/23 - Sub Base Platypus - Cr Welch**

**1.THAT** North Sydney Council write to the Sydney Harbour Trust to:

- a) ask for an update as to when construction on the water related facilities such as landing pontoons for boats, kayaks and stand up paddleboards will begin.
- b) pursue the possibility of having a 50m Harbour pontoon pool, with night lighting and water features for children at the Sub Base Platypus site.
- c) pursue the possibility of having a regional art gallery that would embrace the Harbour at the Sub Base Platypus Site.

#### **BACKGROUND (provided by the submitter)**

The Sydney Harbour Trust is creating new parkland and public space at Subbase Platypus in North Sydney. This work is known as the Torpedo Factory Renewal Project. Some members of our local North Sydney Community have expressed a desire for North Sydney Council to lobby the Harbour Trust for a swimming pool and a regional art gallery at the Sub Base Platypus Site. The community is also wanting to know when the water-related facilities construction will begin.

---

## 11.2 Notice of Motion 5/23 - Waverton Bowling Green - Cr Mutton

### 1.THAT Council notes:

1. The land generally known as Waverton Bowling Green was:
  - a. Part of Waverton Park and vested in the Crown and dedicated for public recreation in 1943.
  - b. Leased to an entity (Trustees of Waverton Bowling and Recreation Club and later the North Sydney Club) for use as a lawn bowling facility in 1967.
  - c. Made available to the North Sydney community for recreational use by licence arrangement with the State Government following the appointment of an administrator to the North Sydney Club.
  - d. The subject of a claim made by the Aboriginal Land Council made under the Aboriginal Land Rights Act 1983 which claim was rejected by the Minister Administering the Crown Land Management Act 2016(NSW) New South Wales which rejection was successfully appealed to the Land and Environment Court of New South Wales
2. Council has the power to resume Crown land and land the subject of native title rights and interests subject to the payment of compensation under the Land Acquisition (Just Terms Compensation) Act 1991.
3. Waverton Bowling Green is presently zoned for use aligned to public recreation.

### 2.THAT Council resolves:

1. To exercise its powers under the Local Government Act 1993 and seek to compulsorily acquire the Waverton Bowling Green being the land the subject of the decision of the Land and Environment Court of NSW dated 3 November 2022 in the matter New South Wales Aboriginal Land Council v Minister Administering the Crown Land Management Act re Waverton Bowling Club [2022] NSWLEC 130 (3 November 2022).
2. Request the State Government to reimburse Council for its costs of compulsorily acquiring the Waverton Bowling Green.
3. Re-incorporate the acquired land into Waverton Park.

### **BACKGROUND (provided by the submitter)**

The aspirations of Wollstonecraft/Berry *partnership* were an oddity of the 19th century with its twin focus on:

- protecting and building NSW's economy; and
- addressing social issues.

Back in 1889 David Berry, the "head" of the *partnership*, with a focus on social issues bequeathed much of the *partnership's* landholdings for use as a hospital with the rest reserved or dedicated for public purposes, including wharves, railways, recreation reserves, and public roads and places.

So significant was the bequest that it was the subject of enabling legislation passed by the NSW State Government in 1906 – David Berry Hospital Act.

The *partnership's* land included much of the Waverton Park.

Over the years the State Government meddled with the status of that part of the Waverton Park that became known as the Waverton Bowling Club but essentially did not interfere with its use.

---

That was until 2019 when the Waverton Bowling Club appointed a trustee and the State Government should have facilitated the return of the land occupied by the Waverton Bowling Club to Council and that would have been the end of the matter.

The State Government wanted time to think about what it might do with the land so did, in the exercise of its boundless wisdom, licenced the land to North Sydney Council for a purpose not contemplated by David Berry and thereby opened the land for a claim under the Aboriginal Land Management Act.

The intent of this motion is to honour David Berry's intention when he gave the *partnership's* land to the State Government to be used for public purpose, recreation reserves and public places, whilst at the same time recognising the land claim with the payment of compensation.

### **11.3 Notice of Motion 6/23 - Trove National Database and Upgrade of Digital Archive Systems - Cr Welch**

**1.THAT** Council make representation to the local Federal Member, Kylea Tink, in relation to the need for a sustainable federal funding model for the continuation of free access to the Trove national database and upgrade of the digital archive systems of Trove.

**2.THAT** Council write to the Hon. Tony Burke, Federal Minister for the Arts and the Hon. Paul Fletcher, Shadow Minister for Science, and the Arts, calling for sustainable funding to ensure the continuation of free access to the Trove national database and upgrade of the digital archive systems of Trove.

**3.THAT** Council endorse the actions of the NSW Public Libraries Association in lobbying for additional sustainable funds for the continuation of free access to the Trove national database and upgrade of the digital archive systems of Trove.

#### **BACKGROUND**

Trove, the National Library of Australia's expansive public digital archive is used by local historians, family historians and researchers. Trove provides access to the National Library of Australia (NLA) collections and the collections of other cultural institutions, ensuring they are available to all Australians free of charge, regardless of where they live and who they are, receiving over 20 million visits per year.

In 2022, Trove Collaborative Services (TCS) introduced a new pricing model which raised serious concerns regarding the affordability and ongoing viability of participation in resource sharing for New South Wales public libraries.

Hundreds of organisations, including libraries across NSW, contribute to Trove, to ensure it remains the single national database within Australia. The change in subscription model has seen approximately 13% of libraries across NSW withdraw their contributions due to the significant fee increases, resulting in implications for the integrity of Trove. Further funding cuts due in July 2023 will magnify this situation.

In addition, TCS has indicated that they will no longer support the national Document Delivery system (LADD) for resourcing sharing, raising concerns for library staff about the longer-term impact on inter-library loans (ILLs). ILLs are a vital and core service of public libraries, allowing open, democratic access to quality information for all community members, resulting in an inclusive, informed and connected communities.

---

Without additional funding the NLA will be unable to maintain Trove and therefore the people of NSW (and Australia) will no longer have access to Trove and the ability to search the six billion records on the national treasure trove of artefacts, curiosities, and stories from Australia's cultural, community and research institutions.

In July 2022 NSWPLA wrote to the Minister for the Arts, Hon. Tony Burke expressing concern regarding the national database being under threat due to the lack of funding, with the last tranche of funding expiring in July 2023. NSWPLA also expressed the association's concern about the effect this would have on the community, and stated what a travesty it would be if the single national treasure trove of artefacts, curiosities, and stories from Australia's cultural, community and research institutions, a database of more than 6 billion digital items, is no longer fully maintained or kept up to date or - worst case scenario - unavailable. NSWPLA has not been successful in gaining a meeting with Minister Burke or his representative.

Trove is essential in providing equity of access to information across not only New South Wales, but the whole of Australia and further. It is a world-leading resource, free and available for anyone, anywhere to use. Trove's impact on research at all levels is immeasurable and its value to all Australians cannot be underestimated.

Accordingly, it is recommended that Council supports the NSW Public Libraries Association by formally endorsing the actions of the NSW Public Libraries Association in lobbying for additional sustainable funds for the continuation of free access to the Trove national database and upgrade of the digital archive systems of Trove.

## **12. Matters of Urgency**

Nil

## **13. CLOSURE**

---