



Minutes

The Minutes of the **3753rd MEETING of COUNCIL** held at 7.30pm on Monday, 8 November 2021 are as follows:



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.

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1. Opening Meeting

The Mayor, Councillor Gibson, in the Chair, and Councillors Baker, Barbour, Beregi, Brodie, Carr, Drummond, Gunning, Keen and Mutton were in attendance.

At the commencement of business 7.59pm those present in the Supper Room were: The Mayor, and Councillors Barbour, Brodie, Drummond, Keen and Mutton.

Those present remotely were: Councillors Baker, Beregi, Carr and Gunning

The meeting was opened by the Mayor.

2. Acknowledgement of Country

The Acknowledgement of Country was read by Councillor Baker.

3. Apologies and Applications for Leave of Absence by Councillors

There were no apologies or applications for a leave of absence.

4. Confirmation of Minutes

A Motion was moved by Councillor Drummond and seconded by Councillor Brodie

THAT THE MINUTES of the previous 3752nd Council Meeting held on Monday, 25 October 2021 be taken as read and confirmed, including the incorporation of a Public Forum and Ordinary Meeting of Council on 21 February to be included in the 2022 Schedule of Meetings (Item 8.3)

The Motion was put and **Carried**

Voting was as follows:

For/Against 9/1

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Y	
Beregi		N	Drummond	Y	
Keen	Y		Gunning	Y	
Brodie	Y		Mutton	Y	
Carr	Y		Baker	Y	

RESOLVED:

THAT THE MINUTES of the previous 3752nd Council Meeting held on Monday, 25 October 2021 be taken as read and confirmed, including the incorporation of a Public Forum and

Ordinary Meeting of Council on 21 February to be included in the 2022 Schedule of Meetings (Item 8.3)

5. Disclosures of Interest

Item 6.1	MM01: New Years Eve 2021
Councillor Keen	Due to working in the Tourism Industry declared a non-pecuniary, and less than significant interest
Item 9.2	Notice of Motion No. 27/21 by Councillors Mutton and Keen - Domestic Violence Support
Councillor Keen	As a volunteer at St Mary's House, declared a non-pecuniary, and less than significant interest

6. Mayoral Minutes

6.1. New Year's Eve

Council considered a report on the above matter at an Extraordinary Meeting of Council held on 11 October 2021 and resolved:

1. THAT given:

- *The uncertainty of any public health orders or COVIDSafe Plan requirements for New Years Eve,*
- *the lateness of advice to reintroduce a 9:00pm fireworks on New Year's Eve (NYE),*
- *the apparent desire by the State Government to generate a carnival atmosphere with a full NYE fireworks display and prospective early January event, and*
- *the need to prevent congregation at pinch points caused by fencing or controlled access,*

Council leave its foreshore parks open on NYE and for the proposed early January event.

2. THAT Council provide additional toilets, bins and cleaning services for New Year's Eve and the proposed follow-on events.

3. THAT the State Government be advised that Council will continue to service its park/foreshores for NYE but will not be ticketing or fencing.

4. THAT should the State Government require greater control of Access to meet Public Health Orders or COVIDSafe Plans at the time; the State Government take responsibility and meet the costs of doing so.

The report to the Extraordinary Meeting identified the challenges in planning for the 2021 NYE event as a result of the changing situation and continued uncertainty with Covid-19, together with the logistical difficulties with the reduced lead time to the event. At the time of considering the report, Council had written to the Minister for Jobs, Investment, Tourism in Western Sydney, the Hon Stuart Ayres MP, but was yet to receive a response.

In the three weeks since the extraordinary meeting, the State Government's Road Map to recovery as the State emerges from the pandemic lockdown has continued to rapidly evolve and further clarity has been provided.

On 4 November, a meeting was held between Council, The Minister, Senior Police officials and officials from The Department of Premier and Cabinet coordinating cross agency arrangements for New Years Eve. Following all parties providing their respective position and outline of challenges faced by their respective organisations, the Minister:

- Provided additional clarity on the anticipated public health orders and the States willingness to initiate a NYE specific public health order, if necessary,
- Outlined the desire of the State to enable NYE 2021 fireworks to proceed as per a business-as-usual approach to the maximum extent possible while ensuring public safety and having regard to Covid safe planning,
- Sought Council's co-operation and assistance to manage public safety during the event,
- Undertook to provide support to Council to enable our involvement, including the prompt consideration of financial support, and
- Acknowledged the value of pursuing a memorandum of understanding (MOU) or similar instrument to identify respective responsibilities and improved communications for future NYE events.

RECOMMENDATION:

1. THAT given the additional clarity provided by the Minister/State in respect to Public Health Orders applicable to NYE and request from the Minister and Police for Council support to facilitate public safety on NYE:

- Council, in co-operation with the State Government, Police and Government Agencies, implement a managed access approach to NYE 2021 (i.e., the approach in place prior to ticketing),
- Council endorse managed access including fencing and control points at Bradfield Park/Mary Booth Reserve, Blues Point Reserve, and Clark/Quibaree/Watt Parks, to control alcohol being bought into the event and to manage attendance numbers,

2. THAT Council seek to enter an arrangement whereby costs associated with NYE be met on a 50/50 basis between Council and the State Government.

3. THAT the General Manager be authorised to take any necessary action, including entering a funding agreement with the State Government, to implement this recommendation.

The Motion was moved by the Mayor

The Motion was put and **Carried**

Voting was as follows:

For/Against 6/4

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Y	
Beregi		N	Drummond	Y	
Keen	Y		Gunning		N
Brodie	Y		Mutton	Y	
Carr		N	Baker		N

RESOLVED:

1. THAT given the additional clarity provided by the Minister/State in respect to Public Health Orders applicable to NYE and request from the Minister and Police for Council support to facilitate public safety on NYE:

- Council, in co-operation with the State Government, Police and Government Agencies, implement a managed access approach to NYE 2021 (i.e., the approach in place prior to ticketing),
- Council endorse managed access including fencing and control points at Bradfield Park/Mary Booth Reserve, Blues Point Reserve, and Clark/Quibaree/Watt Parks, to control alcohol being bought into the event and to manage attendance numbers,

2. THAT Council seek to enter an arrangement whereby costs associated with NYE be met on a 50/50 basis between Council and the State Government.

3. THAT the General Manager be authorised to take any necessary action, including entering a funding agreement with the State Government, to implement this recommendation.

7. Reports of Committees

Nil

8. Reports to Council

8.1. Audited Financial Statements for the Year Ended 30 June 2021

AUTHOR: Margaret Palmer, Director Corporate Services

To present the audited Financial Statements for the year ended 30 June 2021, including the Independent Auditor's Report and submissions received from the public exhibition of these reports. The Draft Financial Statements (Statements) were presented to the Audit, Risk, and Improvement Committee (ARIC) on 15 October 2021 and the Council meeting of 25 October 2021. It was highlighted at the Council meeting that a change to the Statements would be needed to address an accounting entry regarding the valuation of Land Improvement Assets. It had been agreed with the external Auditors Prosperity that the valuation should be taken into the Statements as 'a change in accounting policy'. The Auditor General Office NSW (AONSW) technical team reviewed the Statements after the ARIC report and prior to the Council meeting and did not agree with this change. Due to the lateness of this advice, it was agreed between the AONSW and the Council that the valuation of these assets will be brought to account in the 2021/22 financial year. To this end the Council reversed the entries in the Statements and forwarded an updated version to the AONSW Office for review and sign-off.

The change in accounting approach to Land Improvement Assets has had no bearing on the Profit and Loss as reported to Council, nor does it affect the cash balance held. The change is limited to the Balance Sheet asset value and community equity.

After the Council meeting, the Statements were updated and forwarded to the AONSW for review. The Engagement Closing Report confirmed an unqualified Audit Opinion. The Auditor’s Report and Statements were forwarded to the Office of Local Government (OLG) on 28 October 2021.

The Statements and Audit Reports were placed on public exhibition for a period of seven days in accordance with s418 the *Local Government Act 1993* together with public notice that they will be presented to the Council meeting on 8 November 2021.

An online information session has been scheduled for 14 December 2021 at 6pm to provide an opportunity to explain the Financial Statements and current financial position of Council to interested members of the community. Following the Council meeting, the only amendment, on advice from the AONSW to the Financial Statements has been to reverse the accounting entries and disclosure relating to the revaluation of Land Improvement Asset class. The removal has no impact on the Profit and Loss as reported to Council, nor does it affect the cash balance held. The change is limited to the Balance Sheet asset value and community equity.

The net operating result before capital grants and contributions was a loss of \$0.5 million, a \$11 million improvement on 2019/20.

The operating result from continuing operations inclusive of capital grants and contributions for 2020/21 was \$23.7 million, \$28.8 million higher than 2019/20.

The very small deficit before capital grants and contributions is a significant improvement on 2019/20 and marks a return to a relatively balanced position on Council’s operating income and expenditure.

The external auditor’s *Report of the Audit for Year Ending 30 June 21* (refer p73 of the attached Statements) includes a succinct, but comprehensive analysis of Council’s financial position. It identifies that Council meets all six of the financial performance measures.

RECOMMENDATION:

1. THAT under Section 413(1) of the Local Government Act 1993, the financial statements for the year ended 30 June 2021 be received.

The Recommendation was moved by Councillor Mutton and seconded by Councillor Barbour

The Motion was put and **Carried**

Voting was as follows:

For/Against 6/4

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Y	
Beregi		N	Drummond	Y	
Keen	Y		Gunning		N
Brodie	Y		Mutton	Y	
Carr		N	Baker		N

RESOLVED:

1. THAT under Section 413(1) of the Local Government Act 1993, the financial statements for

the year ended 30 June 2021 be received.

8.2. North Sydney Council Annual Report 2020/21

AUTHOR: Sarah Malcolm, Corporate Planning Coordinator

The purpose of the Annual Report is to outline the achievements in implementing Year 3 of Council's *Delivery Program 2018/19-2021/22*, which contribute to the strategic outcomes in the *North Sydney Community Strategic Plan*. Council has an obligation to prepare an Annual Report in accordance with legislation. Council's Annual Report for the financial year ended 30 June 2021 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 21-16), issued 30 June 2021.

The 'Our Performance' section details highlights and key achievements against the projects in the *Operational Plan 2020/21* (Year 3 of the *Delivery Program 2018/19-2021/22*). This year the Annual Report also includes the End of Term Report, which is mandatory in the year of a Local Government election, reporting against the Community Strategic Plan (this is also presented under separate cover, refer to item 8.3) and the State of the Environment Report. In accordance with the requirements outlined in the Office of Local Government's *Pre-election Guide for Councils 2021* (Circular 21-30), Council's Annual Report 2020/21 will be presented as part of the business paper for this meeting and will be formally published on the Council website following the Council election 4 December 2021.

Following the conduct of the election, copies of the Annual Report 2020/21 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 Minister for Local Government, in accordance with statutory/record keeping requirements. The Annual Report contains the Council's Audited Financial Statements, which were initially submitted to the Audit, Risk and Improvement Committee on 15 October 2021 and endorsed by the Council at its meeting of 25 October 2021 for the purposes of public exhibition. The Financial Statements are also presented under separate cover, refer to item 8.1.

Also, as required in the IPART Instrument, under section 508A of the Act, the Annual Report 2020/21 includes a report on expenditure funded by the additional income drawn from Year 2 of the three-year Special Rate Variation.

RECOMMENDATION:

THAT the Annual Report 2020/21 be received.

The Recommendation was moved by Councillor Brodie and seconded by Councillor Barbour

The Motion was put and **Carried**

Voting was as follows:

For/Against 7/3

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Y	
Beregi		N	Drummond	Y	
Keen	Y		Gunning	Y	
Brodie	Y		Mutton	Y	
Carr		N	Baker		N

RESOLVED:

- 1. THAT** the Annual Report 2020/21 be received.

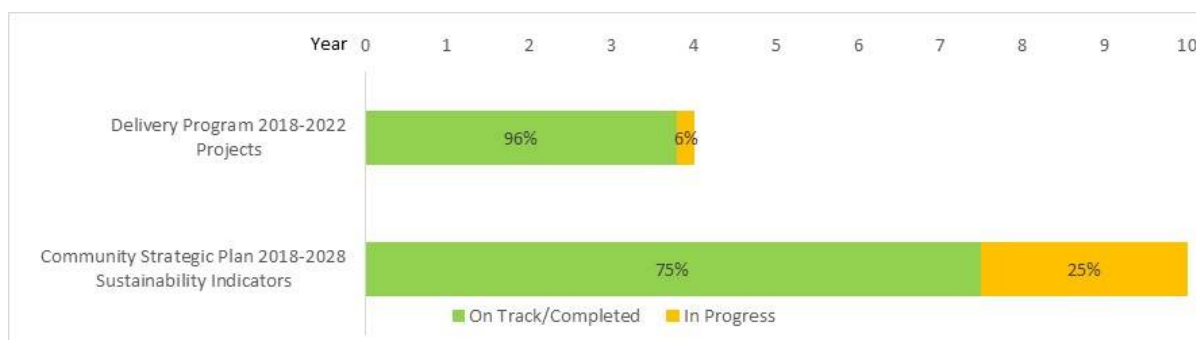
8.3. North Sydney Council End of Term Report 2021

AUTHOR: Sarah Malcolm, Corporate Planning Coordinator
 The purpose of this report is to present the *End of Term Report 2021* to Council. It is a statutory requirement in accordance with the Integrated Planning & Reporting Framework that the End of Term Report is tabled at the final meeting of the outgoing Council. The *Community Strategic Plan 2018-2028* outlines the long term aspirational vision for the North Sydney community. While Council is the custodian of the plan, it is not wholly responsible for its implementation. Other partners, including state agencies, non-government organisations, businesses and community groups share this responsibility.

The *End of Term Report 2021* reports on the progress made in implementing the first three years of the Community Strategic Plan. Prepared in accordance with the *Local Government Act 1993* and the *Integrated Planning & Reporting Guidelines*, it provides the incoming Council with a snapshot of progress to date towards achieving the community’s vision for the North Sydney local government area.

The chart below shows progress against the Community Strategic Plan’s sustainability indicators and the Delivery Program projects. The Delivery Program implementation progress is positive, with 94% of projects on track or completed at the end of 2021.

A review of the Community Strategic Plan sustainability indicators shows that 75% are on track and 25% are in progress/not yet on track. There has been significant progress made at the end of Year 3 of the ten-year plan. Because Council is the custodian of the Community Strategic Plan there are sustainability indicators for which Council is not wholly responsible.



In accordance with the requirements outlined in the Office of Local Government’s *Pre-election Guide for Councils 2021* (Circular 21-30), the *End of Term Report 2021* will be presented as part of a business paper at the final meeting of the outgoing Council and will not be formally

published on the Council website until after the Council election being conducted on 4 December 2021.

This is the last time that NSW councils will be required to prepare an End of Term Report following a legislative amendment. Effective from the next term of Council, a State of our City Report will be presented to the incoming term rather than the outgoing term of Council.

RECOMMENDATION:

1. THAT Council receive the End of Term Report 2021.

The Recommendation was moved by Councillor Barbour and seconded by Councillor Mutton

The Motion was put and **Carried**

Voting was as follows:

For/Against 7/3

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Y	
Beregi		N	Drummond	Y	
Keen	Y		Gunning	Y	
Brodie	Y		Mutton	Y	
Carr		N	Baker		N

RESOLVED:

1. THAT Council receive the End of Term Report 2021.

9. Notices of Motion

9.1. Notice of Rescission No. 6/21 by Councillors, Gibson, Brodie and Drummond - Item - 8.13 Managing Council's Parks: New Booking Arrangements and Proposed Fees - Post Exhibition

THAT the Council's resolution relating to item 8.13 - Managing Council's Parks: New Booking Arrangements and Proposed Fees - Post Exhibition Passed at the meeting of the Council held on 25 October 2021 be and is hereby rescinded.

THAT the following resolution be passed in lieu thereof:

1. THAT the number of people who can gather in any park in North Sydney without making a booking is reduced from 60-40 people and a \$195 booking fee is implemented for groups of 40-60 people.

2. THAT groups wishing to use one of Council's prime Sydney Harbour foreshore parks for one of the following activities are required to make a booking (regardless of the number of people attending): corporate promotional activities, when a jumping castle or animal farm is present,

weddings/commitment ceremonies, use for a film location and commercial photography (excluding wedding and family photography).

3. THAT groups wishing to use one of Council's prime Sydney Harbour foreshore parks for one of the following activities will not be required to make a booking: commercial fitness trainers and commercial dog walkers.

4. THAT groups wishing to use one of Council's prime Sydney Harbour foreshore parks for one of the following activities through the engagement of a commercial service provider will be required to make a booking and pay the \$100 booking fee: curated picnics, marriage proposal ceremonies and other celebrations.

5. THAT a booking fee of \$100 for less than 40 people gathering in one of Council's prime Sydney Harbour foreshore parks is applied for activities listed in Recommendation 2 only. Fees for activities listed in Recommendation 2 that already require a booking (amusement device or jumping castle, and commercial filming and photography) will remain the same.

6. THAT a further report be presented to Council reviewing the outcomes from this decision and any recommended refinements after an initial trial period of 6 months.

The Motion was moved by Councillor Gibson and seconded by Councillor Brodie

The Motion was put and **Lost**

Voting was as follows:

For/Against 3/7

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour		N
Beregi		N	Drummond	Y	
Keen		N	Gunning		N
Brodie	Y		Mutton		N
Carr		N	Baker		N

9.2. Notice of Motion No. 27/21 by Councillors Mutton and Keen - Domestic Violence Support

1. THAT Council recognise there is a requirement for more domestic violence refuges within the Lower North Shore.

2. THAT Council report back to the new Council on the potential to use affordable housing funds to develop housing for people who need to escape domestic and family violence.

The Motion was moved by Councillor Keen and seconded by Councillor Mutton

Councillor Carr left the meeting at 8.31pm

The Motion was put and **Carried**

Voting was as follows:

For/Against 9/0

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Y	
Beregi	Y		Drummond	Y	
Keen	Y		Gunning	Y	
Brodie	Y		Mutton	Y	
Carr	Absent		Baker	Y	

RESOLVED:

- 1.THAT** Council recognise there is a requirement for more domestic violence refuges within the Lower North Shore.
- 2.THAT** Council report back to the new Council on the potential to use affordable housing funds to develop housing for people who need to escape domestic and family violence.

9.3. Notice of Motion No. 28/21 by Councillors Baker, Beregi & Carr - Release of Information on Status of North Sydney Olympic Pool Redevelopment

- 1. THAT** Council immediately release the report from the 25 October 2021 Council meeting. *10.2. North Sydney Olympic Pool - Quarterly Project Governance Report - October 2021* and immediately publish it on Council's website.

The Motion was moved by Councillor Beregi and seconded by Councillor Baker.

Councillor Carr returned to the meeting at 8.34pm

The Motion was put and **Lost**.

Voting was as follows:

For/Against 2/8

Councillor	Yes	No	Councillor	Yes	No
Gibson		N	Barbour		N
Beregi	Y		Drummond		N
Keen		N	Gunning		N
Brodie		N	Mutton		N
Carr		N	Baker	Y	

Councillor Beregi left the meeting at 8.51pm

9.4. Questions With Notice - Councillor Carr

In relation to the decision handed down by the NCAT (NSW Civil and Administrative Tribunal) on 17 March 2021 (Case 2020/00136495):

1. Has the Council apologised to the Applicant for the breach of their privacy?

2. Has the Council fully complied with the NCAT orders?
3. How much did the Council incur in external legal expenses for representation by a) Barrister Alexander Edwards and b) Maddocks solicitors?
4. How much has it cost the Council to comply with the NCAT orders?
5. Given the Council had orders made against it, did the Applicant seek a costs order against the Council?

In relation to the decision handed down by the NCAT (NSW Civil and Administrative Tribunal) on 27 October 2021 (Case 2021/80016):

6. Has the Council apologised to the Applicant for the breach of their privacy?
7. Has the Council fully complied with the NCAT orders?
8. How much did the Council incur in external legal expenses for representation by a) Brett Walker SC b) Barrister Alexander Edwards and c) Maddocks solicitors?
9. Whose decision was it to appoint Brett Walker SC to represent the Council in NCAT Case 2021/80016?
10. Given the Council had orders made against it, did the Applicant seek a costs order against the Council?
11. Has the Council identified the person(s) responsible for the privacy breaches in the matters outlined above, being NCAT Case 2020/00136495 and NCAT Case 2021/80016?

The General Manager provided a verbal answer to questions 1 to 11

Councillor Baker left the meeting at 8.59pm

Councillor Carr left the meeting at 9.00pm

The Mayor noting that this was the final meeting of the 2017-2021 term of Council, thanked Councillors Brodie and Gunning who were not standing for re-election, for their services to the community.

10. Confidential Matters

Nil.

11. Closure

The Meeting concluded at 9.03pm.