



Council Chambers  
26 May 2023

The **3783rd MEETING** of **COUNCIL** will be held on Cammeraygal lands at the Council Chambers, North Sydney at **6.30pm** on Monday 5 June 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.

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- 1. Opening of Meeting**
  - 2. Acknowledgement of Country**
  - 3. Apologies and applications for leaves of absence or attendance by audio-visual link by councillors**
  - 4. Confirmation of Minutes**
  - 5. Disclosures of Interests**
  - 6. Public Forum**
  - 7. Items by Exception**
  - 8. Mayoral Minutes**
    - 8.1 MM01 Reducing waste and its impact on the environment
  - 9. Reports of Committees**
    - 9.1 Sport and Recreation Reference Group Minutes – 9 May 2023
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## **10. Reports to Council**

- 10.1 North Sydney Council v EIG: NSW Civil and Administrative Tribunal – Appeal Panel
- 10.2 Climate Change Response Tactics - Response to Council Resolution
- 10.3 12-14 Waters Road, Neutral Bay - Voluntary Planning Agreement - Post Exhibition Report
- 10.4 Development Applications Received Quarterly Report Q3 FY2022-23
- 10.5 Review of Senior Staff Policies
- 10.6 2023/24 Determination of the Local Government Remuneration Tribunal
- 10.7 3rd Quarterly Property Portfolio Report

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

Nil

## **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.

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

**3783rd MEETING OF COUNCIL TO BE HELD ON MONDAY 5 JUNE 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 3782nd Council Meeting held on Monday 22 May 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 Reducing waste and its impact on the environment**

The North Sydney Community Strategic Plan- Vision 2040 places environmental sustainability at the centre of all of Council's decision-making, plans, policies, and services.

Council has recently adopted, as part of the Northern Sydney Regional Organisation of Councils, the regional waste strategy.

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Across Australia, people are asking for more ambitious action on climate change. Reducing waste and its impact on the environment is one of the key actions that councils can take to lower our emissions.

Across the Sydney metropolitan area, 55 per cent of household and commercial waste goes to landfill each year, resulting in loss of valuable resources, costing businesses and households more than \$750 million in waste levies each year.

Sydney councils must meet ambitious resource recovery and waste reduction targets, while also meeting the community's expectations for uninterrupted services and public health outcomes. The time has long passed when councils collected rubbish and transported it to a landfill where it would slowly rot away.

Achieving the overhaul of the industry that is needed requires strategic input from Mayors, Councillors, GMs/CEOs, and councils' officers.

Providing viable waste services for the community is no longer solely an operational issue for council staff to manage. Industry-wide changes include a limited number of suppliers, a lack of processing infrastructure and a shortage of readily accessible waste collection and transfer sites. These changes present all Sydney councils with the prospects of rising costs, increasing truck movements and resource recovery rates that are static at best. Few options exist for increased efficiency or resource recovery improvements, or to reduce landfill.

The original drivers of public health and hygiene have been supplemented by the need to reduce pollution, lower carbon emissions, and recover and re-use resources. Collecting waste is just part of the picture; Councils must make strategic decisions about where this waste will go.

The last 20 years have seen significant positive change. Recycling has been introduced for glass, hard plastics, paper, and cardboard. There are separate collections for mattresses, electronic waste, tyres, clothing, mobile phones, batteries, and chemicals. Landfills capture methane to generate energy. There will soon be collections for food waste and/or food and garden organics.

In spite of councils' successes, waste processing and disposal have not kept pace with recent changes, yet the population is growing, and waste generation rates continue to increase. Most Sydney councils must pay to haul recyclable materials and waste far outside their local area, and new transfer capacity is difficult to secure due to cost and availability of appropriately zoned land.

Data shows that we will not be able to meet NSW and Commonwealth targets with our current systems. Even with the highest efficiencies, progress in domestic waste collection and recovery will be impossible without major changes. These transitions will be expensive. The Waste Levy on landfill is an incentive to recycle, but in a failing market just adds to the costs that Council must charge the community. Only around 7 per cent of around \$800 million in annual waste levy revenue comes back to councils and the waste industry through contestable grants to fund improvements. Councils will not receive a fair share of funding, despite being asked to meet government targets and transition to a circular economy.

On 18 May 2023 the Southern Sydney Regional Organisation of Councils (SSROC) held a Waste Summit hosted by Lord Mayor Clover Moore at Sydney Town Hall. The Sydney Mayoral Summit was convened by SSROC on behalf of Resilient Sydney, which our Council supports.

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The Summit was addressed by the waste industry, NSW EPA and Federal Government representatives, and Sydney Mayors about initiatives and areas of influence where councils can work together.

**I therefore recommend:**

**1. THAT** Council note:

- (a) councils have a key role to play in reducing waste and its impact on the environment; and
- (b) across the Sydney metropolitan area, 55 per cent of household and commercial waste goes to landfill each year, resulting in loss of valuable resources, costing businesses and households more than \$750 million in waste levies each year.

**2. THAT** Council resolves to work with other Sydney councils on:

- (i) reducing waste;
- (ii) improving environmental outcomes where waste has to be processed;
- (iii) finding solutions for the residue that is left; and
- (iv) to coordinate our advocacy, communications and collective buying power to bring the benefits of scale, efficiency and industry confidence.

**3. THAT** Council all on the NSW Government to invest the revenue from its waste levy for council and industry initiatives that:

- (i) accelerate the transition to a circular economy;
- (ii) build the waste infrastructure needed to meet the growing pressures of population growth, loss of landfill capacity and a lack of competition in the sector;
- (iii) educate and support communities to reduce waste; and
- (iv) set the waste levy at an appropriate level with realistic hypothecation allocation, to streamline planning approvals for infrastructure, and to increase clarity and efficiency of licensing procedures.

**4. THAT** Council call on the Commonwealth Government to expedite bans on materials that cannot be recycled or recovered, and to increase extended producer responsibilities.

**5. THAT** Council work with other tiers of government to ensure the delivery of infrastructure solutions locally to reduce waste hauled long distances or to landfill.

**6. THAT** Council write to the relevant State and Federal Ministers for the Environment, Local Government and Infrastructure in respect of the above.

## **9. REPORTS OF COMMITTEES**

### **9.1 Sport and Recreation Reference Group Minutes - 9 May 2023**

Report of Peita Rose, Governance Officer

The purpose of this report is to report the proceedings of the Sport and Recreation Reference Group to Council, and for Council to consider any recommendations from the Reference Group.

This report presents the recommendations of the last meeting of the Sport and Recreation Reference Group held on 9 May 2023.

The Minutes are attached for the information of Council.

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**Recommending:**

1. **THAT** Council notes the ongoing efforts to liaise with Schools Infrastructure NSW (SINSW) on shared use of school facilities.
2. **THAT** Tessa Pentony of SINSW be thanked for her attendance at the meeting.

**10. REPORTS TO COUNCIL****10.1 North Sydney Council v EIG: NSW Civil and Administrative Tribunal – Appeal Panel**

Report of Shane Sullivan, Acting Director Corporate Services, Governance and Committee Services

The purpose of this report is to provide a report on the North Sydney Council v EIG matter as resolved by Council at its meeting of 22 May 2023.

On 27 October 2021 the NSW Civil and Administrative Tribunal (NCAT) found that North Sydney Council (Council) had collected, disclosed, and published personal information in contravention of the Privacy and Personal Information Protection Act 1998: EIG v North Sydney Council [2021] NSWCATAD 131

Council commenced an appeal against the decision of the NCAT, which was heard by the Appeal Panel on 18 February 2022.

On 24 October 2022 the Appeal Panel delivered judgment in the Appeal proceedings, allowing the Appeal, and setting aside the Orders of the NCAT, excluding Order No.2, being a section 64 Order prohibiting the disclosure of EIG's (anonymity Order).

Should Council wish to discuss this report it is noted that the attached confidential document includes advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege and because consideration of the matter in open Council would be, on balance, contrary to the public interest as it would affect Council's ability to manage legal matters effectively and in the best interests of the community. As such should this matter be discussed it should be considered in closed session.

**Recommending:**

1. **THAT** the report on the North Sydney Council v EIG matter be noted.
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:

*(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege*

It is further noted that release of this information would be, on balance, contrary to the public interest as it would affect Council's ability to manage legal matters effectively and in the best interests of the community.

**10.2 Climate Change Response Tactics - Response to Council Resolution**

Report of Danielle Birbeck, Senior Sustainability Programs Coordinator

The purpose of this report is to respond to the Council resolution of 12 December 2022 regarding climate change response tactics, focusing on how Council can provide help

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and aid in response to the health and safety issues from the impact of future extreme natural disasters.

Council has several strategic documents and programs that address both the hazards and risks associated with climate change, and list actions to be taken to mitigate the impacts.

Listed actions relate to improving the resilience of our built infrastructure and natural environment to reduce climate change impacts in the community.

Council has an opportunity to strengthen community preparedness through coordinated resilience planning.

**Recommending:**

**1. THAT** this report be received.

**2. THAT** Council explore grant opportunities with a view to developing a Resilience Plan in 2024/25.

### **10.3 12-14 Waters Road, Neutral Bay - Voluntary Planning Agreement - Post Exhibition Report**

Report of Katerina Papas, Senior Strategic Planner

The purpose of this report is to outline the outcomes of the public exhibition process for a draft Voluntary Planning Agreement (VPA) related to the Planning Proposal at 12-14 Waters Road Neutral Bay, and to seek Council's endorsement to enter into the VPA, which includes a contribution of \$1.9 million dollars towards public domain upgrades in the Neutral Bay Town Centre.

At its meeting on 26 April 2022, Council resolved to refuse a Planning Proposal (PP2/22) at 12-14 Waters Road Neutral Bay. The Planning Proposal sought to increase the maximum building height from 16m to 26m.

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

On 14 November 2022, Council resolved to accept, in-principle, an offer from the applicant (Central Element) to enter into a Voluntary Planning Agreement (VPA) related to the Planning Proposal, to provide Council a monetary contribution of \$1.9 million towards public domain improvements in the Neutral Bay Town Centre.

On 23 December 2022, the Minister for Planning issued a Gateway Determination allowing the Planning Proposal to be placed on public exhibition. The Planning Proposal was exhibited by the Department of Planning from 22 February 2023 until 22 March 2023, and the related draft VPA was exhibited by Council from 6 March 2023 until 17 April 2023.

Four submissions were received during the exhibition of the draft VPA. Three submissions were in support of the draft VPA, and one submission objected to Development Application (DA43/23) for the site.

As the Planning Proposal was not supported by Council and has been the result of a successful rezoning review, the Department of Planning and Environment will proceed with the finalisation of the Planning Proposal.

This report seeks Council's endorsement to enter into the VPA, which would result in

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the receipt of an additional \$1.9 million dollars to be utilised for the delivery of public domain improvements in the Neutral Bay Town Centre.

It is preferable that the VPA be executed prior to the finalisation of the Planning Proposal for 12-14 Waters Road Neutral Bay. However, it should be noted that if the Planning Proposal and associated Development Application do not proceed, there is no obligation for the landowner/developer to deliver the public benefits subject to the VPA.

**Recommending:**

- 1. THAT** Council notes the outcomes of the public exhibition process.
- 2. THAT** Council resolves to enter into a Voluntary Planning Agreement in relation to Planning Proposal (PP2/22) at 12-14 Waters Road, Neutral Bay at Attachment 1.
- 3. THAT** Council grant delegated authority to the General Manager to make minor alterations to the Voluntary Planning Agreement if required, which do not materially change the intent or outcomes of the Agreement as exhibited.

## **10.4 Development Applications Received Quarterly Report Q3**

### **FY 2022-23**

Report of Leonard Vogel, Planning and Development Advisor

This report provides a list of Development Applications (DAs) received by Council in the third quarter (Q3), 1 January 2023 to 31 March 2023, of financial year 2022/23. The purpose of the report is to provide information regarding the application types received and processed by Council.

119 development applications were submitted in Q3 of FY2022-23, slightly lower than previous year Q3s. The number of applications for this financial year is expected to be lower than previous years due to the economic slowdown.

The median development application determination time for Q3 is steady at 116 days, a slight increase from 114 days in Q2.

The average cost of works for incoming applications has significantly fallen this quarter, to \$277,000. This implies a reduction in the complexity of incoming applications.

Council is implementing business improvements over the coming year working through an internal process review to identify and deliver improved DA timeframes, this includes a new Development Application clearing house.

Given the reduction in complexity of applications, full staffing, newly implemented process efficiencies, and reduction in expected DA lodgement, median assessment times will return closer to the long-term average of approximately 80 days over the next three quarters.

**Recommending:**

- 1. THAT** the report be received by Council.
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## 10.5 Review of Senior Staff Policies

Report of Shane Sullivan, Acting Director Corporate Services, Governance and Committee Services

The purpose of this report is to review policies relating to Senior Staff, being the Provision of Motor Vehicles to Senior Staff Policy and the Concessional Leave Policy.

Council has recently adopted a new organisational structure consisting of three new senior staffing positions. Recruitment for these positions is currently being finalised.

There are two policies relevant to the employment of Senior Staff relating to motor vehicle provision and concessional leave.

A review of Council's Provision of Motor Vehicles to Senior Staff Policy has identified several areas for improvement, including the opportunity to require Senior Staff motor vehicles to be electric vehicles.

The Draft Motor Vehicle Policy also removes the ability for Senior Staff to have a preferential option to purchase the Council vehicle on cessation of their employment. The introduction of electric vehicles into this policy ensures Council is still providing a competitive Senior Staff Employee Value Proposition, while ensuring our environmental targets are supported.

A review of the Concessional Leave Policy has resulted a change in relation to the circumstances whereby concessional leave lapses.

### **Recommending:**

**1. THAT** the review of the Provision of Motor Vehicles to Senior Staff and the Concessional Leave Policy be received and noted;

**2. THAT** Council adopt the revised Provision of Motor Vehicles to Senior Staff and the Concessional Leave Policy as attached.

## 10.6 2023/24 Determination of the Local Government Remuneration Tribunal

Report of Ian Curry, Manager Council & Committee Services

The purpose of this report is to advise Council of the Local Government Remuneration Tribunal determination for 2023/24, and for Council to determine to fix and pay an annual fee to Councillors and the Mayor from 1 July 2023 in accordance with the Tribunal's determination.

The Local Government Remuneration Tribunal has determined an increase of 3% to mayoral and councillor fees for the 2023-24 financial year, with effect from 1 July 2023.

The Tribunal is required to determine the remuneration categories of councils and mayoral offices at least once every three years under section 239 of the *Local Government Act 1993*. The Tribunal undertook a review of the categories as part of its 2023 determination. No change to the categorisation for North Sydney Council (Metropolitan Medium) has been determined.

The *Local Government Act 1993* requires councils to fix and pay an annual fee to councillors and mayors from 1 July 2023 based on the Tribunal's determination for the 2023-24 financial year.

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**Recommending:**

1. **THAT** Council fix the annual councillors' fee to \$27,650 in accordance with the Metropolitan Medium Councils allowable fee determined by the Local Government Remuneration Tribunal for the 2023/24 year.
2. **THAT** Council fix the annual fee Mayoral fee to \$73,440 in accordance with the Metropolitan Medium Councils allowable fee determined by the Local Government Remuneration Tribunal for the 2023/24 year.

**10.7 3rd Quarterly Property Portfolio Report**

Report of Damian Warren, Acting Manager Property Assets

The purpose of this report is to provide Council with information on the Property Portfolio for the third quarter (Q3) of 2022/2023 (period commencing 1 January 2023 and ending 31 March 2023).

This report comprises the following information:

- overview of Council's Property Portfolio;
- Property Portfolio vacancy rates;
- leasing transactions for the quarter;
- acquisitions and disposals for the quarter; and
- major property projects (maintenance and capital works) for the quarter.

Council's Property Portfolio has been tracking well this quarter with a vacancy rate of 4.21% as at the end of March. Although slightly increased from January's rate of 4.11%, this is very good when compared to the North Sydney CBD vacancy rate of 19.2%.

The total annual revenue budget for the Property Portfolio for the 22/23 financial year is forecast at \$6,505,229.00. The actual income for Q3 of 22/23 (January 2023 to March 2023) which was received on a cash basis through Colliers International was \$1,724,359.00 as of 31 March 2023. This is \$80,798.00 more than the forecasted budget of \$1,643,561.00 for the quarter, 4% more than projected. This was primarily due to arrears payments made and income from tenants on payment plans. Outdoor dining tenants' payments made in advance were also a contributing factor. The income received on an accrual basis for the third quarter of 22/23 was \$1,604,113.00. Long term arrears were reduced by 8% over the quarter because of payments made by tenants and tenants in arrears adhering to their payment plans.

The confidential attachment includes monetary information relating to property income, including Outdoor Dining, as well as leasing transactions, arrears data and carpark income. 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 competitor of the Council. Further, release of the information would, on balance, be contrary to the public interest as it would affect Council's ability to obtain value for money services. If the Council wishes to discuss the report, the meeting should be closed to the public to do so in accordance with s10A(2)(a) of the Local Government Act (LGA).

**Recommending:**

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

*(d) commercial information of a confidential nature that would, if disclosed (ii) confer a commercial advantage on a competitor of the Council*

It is further noted that release of this information would, on balance, be contrary to the public interest as it would affect Council's ability to obtain value for money services.

**11. NOTICES OF MOTION**

**Nil**

**12. Matters of Urgency**

**Nil**

**13. CLOSURE**