



Council Chambers  
1 September 2023

The **3789th MEETING** of **COUNCIL** will be held on Cammeraygal lands at the Council Chambers, North Sydney at **6.30pm** on Monday 11 September 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: 115 – 125 Holt Avenue Cremorne
  - 9. Reports of Committees**

Nil
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## **10. Reports to Council**

- 10.1 2024 Council Meeting Dates
- 10.2 Disclosure of Pecuniary Interests by Councillors and Designated Persons - Received Returns
- 10.3 Public Interest Disclosure Policy
- 10.4 Expansion of Conservation Area to include 53 & 55 Yeo Street, Cremorne
- 10.5 Planning Proposal 5/20: 52 Alfred Street South, Milsons Point - Post Exhibition Report
- 10.6 Development Applications Received Quarterly Report Q4 FY2022-23
- 10.7 North Sydney Bike Share - Lime Proposal
- 10.8 Memorials in Open Space Policy - Post Exhibition Report
- 10.9 4th Quarterly Property Portfolio Report 2022/2023
- 10.10 Investment and Loan Borrowings Report as at 31 August 2023
- 10.11 Owner's consent request - Grosvenor Lane Carpark - Arkadia - Further Report

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

- 11.1 Notice of Motion 11/23 - Agenda for 25 September 2023 Council Meeting - Cr Gibson

## **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

**3789th MEETING OF COUNCIL TO BE HELD ON MONDAY 11 SEPTEMBER 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 3788th Council Meeting held on Monday 28 August 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: 115 - 125 Holt Avenue Cremorne**

On 21 August 2023, the Interim Heritage Order (“IHO”) in respect of the above properties issued by the Minister for Environment and Heritage on 2 March 2023 was revoked.

Circumstances have changed since the IHO was revoked.

A Complying Development Certificate (CDC) has now been issued for the demolition of the cottages at Holt Avenue. Demolition of these cottages is permitted by way of a

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CDC issued by a Private Certifier as there is no heritage protection in place following the revocation of the IHO. It is open to the developer to demolish the cottages now. On 5 September 2023, the Department of Planning issued the Gateway determination in respect of Council's Planning Proposal 5/23 (the Planning Proposal), seeking to list the cottages as items of local heritage significance under North Sydney Local Environmental Plan 2013.

Public exhibition of that Planning Proposal is one of the final steps required to protect the heritage significance of these properties.

On 8 September 2023 I wrote the attached letter to the Hon. Penny Sharpe, MLC, Minister for Environment and Heritage urging action to protect these cottages whilst public exhibition of the Planning Proposal takes place.

Over the weekend, I received a number of requests from residents to prepare and move a Mayoral Minute to ensure that public exhibition of the Planning Proposal proceeds on the basis that the exhibition will provide a significant action that may have material bearing on the decision of the Land and Environment Court appeal relating to the refusal of the Development Application seeking to demolish the cottages and construct a residential flat building.

**I, therefore, recommend:**

- 1. THAT** Council note the correspondence to the Minister for Environment and Heritage dated 8 September 2023.
- 2. THAT** Council proceed with the public exhibition of Planning Proposal 5/23.

## 9. REPORTS OF COMMITTEES

Nil

### 10.1 2024 Council Meeting Dates

Report of Ian Curry, Manager Council and Committee Services

The purpose of this report is to determine a schedule of Council Meeting dates for 2024.

The Local Government Act prescribes that councils are required to meet at least 10 times each year, each time in a different month.

In June 2022, Council adopted a fortnightly schedule for Council meetings.

This report proposes a schedule of Council meetings for 2024.

Dates for the 2024 meetings of the Reference Groups and Streetscape Committees will be the subject to a further report in November 2023.

**Recommending:**

- 1. THAT** Council adopts the attached Council Meeting schedule for 2024.
  - 2. THAT** Council notes the attached planned Agenda publication dates for Council Meetings in 2024.
  - 3. THAT** a further report be submitted to Council in November 2023 regarding a schedule of 2024 meeting dates for the Reference Groups and Streetscape Committees.
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## 10.2 Disclosure of Pecuniary Interests by Councillors and Designated Persons - Received Returns

Report of Ian Curry, Manager Council and Committee Services

To report on compliance, with the requirement under the *Local Government Act 1993* (LGA) and *Local Government (General) Regulation 2021* for Councillors and persons holding designated positions to complete and lodge a Disclosure of Pecuniary Interests Return since the previous report of April 2023.

Section 4.21 of the Model Code of Conduct (made under section 440 of the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*) requires Councillors and persons holding designated positions as at 30 June to complete and lodge a Disclosure of Pecuniary Interests Return within three months of that date (i.e. 30 September). This requirement was duly met for Councillors and designated persons with a report to the Council meeting of 14 November 2022.

Since the previous report in April 2023, there have been four designated staff who have commenced and were required to complete and lodge a Return within three months of commencement. The returns were duly completed within the required timeframe and are tabled as required.

It is noted that, Councillors and designated persons are required to comply with the following under Clause 4.25 of the Code of Conduct to update their Returns after:

*4.21 (c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b)*

Pecuniary Interests Returns are available for inspection on Council's website.

### **Recommending:**

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

## 10.3 Public Interest Disclosure Policy

Report of Jenny Gleeson, Manager Corporate Planning and Engagement

The purpose of this report is to inform the Council of changes to public interest disclosures legislation, which requires that the Council update its *Public Interest Disclosures Policy*. The revised policy is presented to the Council for re-adoption.

From 1 October 2023, new public interest disclosures legislation, the Public Interest Disclosures Act 2022 (PID Act) will commence in NSW. The PID Act applies to all NSW public sector agencies. Under the PID Act, an 'agency' is defined as public service agencies, local government authorities, public universities, integrity agencies, statutory bodies, and local aboriginal land councils.

Council is required to update its Public Interest Disclosures Policy. The NSW Ombudsman has issued guidance to public sector agencies to help prepare for the introduction of the new Act and will also provide training materials.

Key changes under the PID Act 2022 are:

- it provides multiple pathways to report serious wrongdoing. This includes reporting to a disclosure officer, their manager, and other agencies. There must be a

- sufficient number of disclosure officers for the size of the agency and within all permanently maintained worksites across the agency;
- the threshold of what is considered detrimental action has been lowered, and the associated penalties for the detrimental action have been increased;
  - there are three types of PIDs - voluntary, mandatory, and witness. Most of the obligations on agencies relate specifically to voluntary PIDs;
  - risk assessment and risk management plans are required;
  - clarity is provided on what agencies are expected to do with a report when it is received, how they must deal with a report once it is identified as a PID and what they must do if serious wrongdoing is found to have occurred. The PID Act 2022 also outlines when an agency must communicate with a PID maker and the NSW Ombudsman;
  - agencies must ensure they have systems in place to manage confidentiality, welfare support mechanisms for PID makers, and procedures for assessing the risk detrimental action and implanting risk mitigation strategies;
  - training and awareness requirements; and
  - changes to annual reporting requirements.

There is no legislative requirement that the draft PID Policy be publicly exhibited prior to adoption, therefore as the Act changes are the only amendments to Council's existing PID Policy (last readopted in June 2018), public exhibition is not required prior to adoption.

Following adoption, Council will undertake internal training and awareness to promote the changes under the new Act. Council's website will be updated ensuring the PID Policy is readily accessible, together with Council's other conduct, grievance, misconduct, and complaints handling policies and procedures.

**Recommending:**

1. **THAT** the Public Interest Disclosures Policy as attached to this report be readopted.

#### **10.4 Expansion of Conservation Area to include 53 & 55 Yeo Street, Cremorne**

Report of Ben Boyd, Executive Strategic Planner

The purpose of this report is to provide advice as to whether Council should pursue the inclusion of 53 and 55 Yeo Street Cremorne in the adjoining Cremorne Conservation Area.

In response to resident's concerns about the loss of two potential heritage items in connection with DA 334/22, Council resolved on 13 February 2023 to investigate whether 53 and 55 Yeo Street Cremorne could be identified as individual heritage items and/or incorporation into the adjoining Cremorne Conservation Area.

On 22 February 2023, the General Manager, under delegation, imposed an Interim Heritage Order (IHO) over the two properties to enable a more detailed heritage investigation to be undertaken, with formal notification of the IHO's imposition being published in the NSW Government Gazette on 24 February 2023 and which took effect from this date.

On 24 July 2023, Council considered a report that dealt with the issue as to whether the two properties should be heritage listed under North Sydney Local Environmental Plan (NSLEP) 2013. The report recommended that Council not pursue the heritage listing of the two properties under NSLEP 2013 as they were not able to adequately

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satisfy the criteria for heritage listing. Council resolved to adopt the recommendations of the report and include the following two additional resolutions:

5. *THAT Council pursue the inclusion of 53 and 55 Yeo Street Cremorne in the Cremorne Heritage Conservation Area.*

6. *THAT Council provide an urgent report as to the basis of the exclusion of these two properties from the Cremorne Heritage Conservation Area when the conservation area was created.*

This report outlines the additional investigations undertaken to determine if the two properties should be included in the adjacent Cremorne Conservation Area.

**Recommending:**

1. **THAT** Council note the report and that no further action be taken to pursue an extension of the Cremorne Heritage Conservation to include 53 and 55 Yeo Street, Cremorne.

## **10.5 Planning Proposal 5/20: 52 Alfred Street South, Milsons Point - Post Exhibition Report**

Report of Katerina Papas, Acting Team Leader Policy

The purpose of this report is to present the outcomes of the public exhibition of a Planning Proposal and accompanying draft amendment to North Sydney Development Control Plan 2013 (NSDCP 2013) for 52 Alfred Street South, Milsons Point. It seeks Council's endorsement to forward the Planning Proposal, as amended, to the Department of Planning and Environment to finalise the amendment and adopt the draft amendment to NSDCP 2013 guide future development of the site.

On 2 October 2020, Council received a Planning Proposal (PP5/20) to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) for 52 Alfred Street South, Milsons Point. The Proposal sought to increase the maximum building height applying to the site from 40m to part RL88m (approximately 70m) and part RL84m (approximately 54m).

At its meeting on 22 February 2021, Council resolved not to support the Planning Proposal. In response to Council's refusal, the applicant lodged a Rezoning Review with the Department of Planning and Environment (DPE).

On 22 September 2021, the Sydney North Planning Panel (SNPP) recommended the Planning Proposal proceed to a Gateway Determination, contrary to Council's decision. Whilst the Panel supported the increased height limit, it raised concerns with the amount of floorspace and the massing envisaged for the site and recommended the preparation of a site-specific Development Control Plan (DCP) to ensure that local impacts and amenity issues are satisfactorily addressed at a future Development Application (DA) stage of the process.

On 25 October 2021, Council considered a report on the implications of accepting or declining the role of the Planning Proposal Authority (PPA) and resolved to accept the role of the PPA given the complexity of the site's attributes and potential impacts, and how central the preparation of a site-specific DCP is to ensure a managed built form outcome is achieved.

At its meeting on 28 March 2022, Council endorsed a draft DCP to exhibit it concurrently with the Planning Proposal. The draft DCP incorporates minimum street and side setbacks, as well as rear setbacks/view lines above the podium to better

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maintain view corridors and minimise overshadowing and other amenity impacts on neighbouring residential buildings and impacts on heritage and the public domain.

On 11 November 2022, the DPE issued a Gateway Determination allowing the Planning Proposal to be placed on public exhibition subject to a number of conditions, including reflecting consistency with Council's draft DCP.

The Planning Proposal and associated draft DCP were placed on public exhibition between 10 May and 21 June 2023. 39 submissions were received, including 34 submissions that either objected to or raised concerns.

In response to the exhibition process, the draft DCP has been revised to improve clarity and to correct typographical errors. The revisions are minor in nature and do not represent material changes to the proposed controls.

It is recommended, in the circumstances, that Council forward the Planning Proposal as exhibited to the DPE for finalisation and adopt the draft DCP, as amended, with the view to have it in force prior to the gazettal of the LEP amendment.

**Recommending:**

**1. THAT** Council note the submissions made to the public exhibition of the Planning Proposal and draft amendment to NSDCP 2013, forming Attachment 3 of this report.

**2. THAT** Council forward the Planning Proposal, as amended, forming Attachment 1 of the report, 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.

**3. THAT** Council adopt the draft amendment to NSDCP 2013, forming Attachment 2 of this report, in accordance with clause 14(1) of the Environmental Planning and Assessment Regulation 2000.

**4. THAT** public notice of the publication of the amendment to NSDCP 2013 be given on Council's website in accordance with clause 14(2) of the Environmental Planning and Assessment Regulation 2000.

**5. THAT** all submitters be notified of Council's decision and thanked for their submission.

## **10.6 Development Applications Received Quarterly Report Q4 FY2022-23**

Report of Leonard Vogel, Planning and Development Advisor

This report provides a list of Development Applications (DAs) received by Council in the fourth quarter of the 2022/23 financial year. The purpose of the report is to provide information regarding the application types received and processed by Council.

A total of 103 development applications was submitted in Q4 of FY2022-23. This is 28% lower than Q4 of FY2021-22.

The median development application determination time for Q4 is steady at 114 days, a slight decrease from 116 days in Q2.

The average cost of works for incoming applications was \$381,000, returning closer to the long-term average.

Council's "clearing house" was implemented at the beginning of Q4 and is predicted to reduce average determination time by seven - 14 days. The actual reduction time will be evaluated once more development applications lodged in Q4 are determined.

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Further process improvements already underway in conjunction with the reduction in the total amount of development applications over the next financial year are expected to reduce assessment times even further.

**Recommending:**

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

## 10.7 North Sydney Bike Share - Lime Proposal

Report of Max White, Sustainable Transport Project Coordinator

The purpose of this report is to provide details of a proposal from Lime Network Pty Ltd (Lime) to enter into a memorandum of understanding with Council to conduct a 12-month share scheme e-bike trial within the North Sydney Local Government Area (LGA).

Lime Network Pty Ltd is proposing to conduct a 12-month e-bike shared scheme trial in the North Sydney Local Government Area through a Memorandum of Understanding (MoU) with Council.

The trial proposes the initial deployment of 250 e-bikes across the LGA, with an increase to 500, if the demand permits and the conditions of agreed MoU are upheld. There is no cost to Council for operation of the scheme. The Draft MoU commits Lime to response times for the resolution of issues and the ability for Council to implement geo-fencing ('no-ride', 'no parking' or 'go-slow' areas).

**Recommending:**

**1. THAT** Council:

- i. notes the proposal from Lime Network Pty Ltd (Lime) to conduct a 12-month e-bike shared scheme within the North Sydney Local Government Area:
- ii. delegate authority to the General Manager to finalise negotiations and enter into a Memorandum of Understanding with Lime Network Pty Ltd for a 12-month share e-bike trial to operate in the North Sydney LGA; and
- iii. notes that should the trial proceed, reports will be brought back to Council summarising the progress of the e-bike shared scheme trial, six months after the start of the trial and at the end of the proposed 12-month trial.

## 10.8 Memorials in Open Space Policy - Post Exhibition Report

Report of David Manson, Manager Parks and Reserves

The purpose of this report is to present the outcome of the Public Exhibition of the draft *Memorials in Open Space Policy* that was placed on public exhibition on 5 June 2023.

The purpose of the *Memorials in Open Space Policy* is to formalise the procedure for applying for a memorial plaque within public open space, to ensure applications are managed in a consistent and transparent manner.

On 8 May 2023, the Council endorsed the draft policy for public exhibition. The draft policy was publicly exhibited from 5 June to 16 July 2023.

Six submissions were received. Five submissions supported or partially supported the proposal and one submission was a request/application for a memorial.

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**Recommending:**

1. **THAT** the Council note the responses received from the public exhibition of the *Memorials in Open Space Policy*; and
2. **THAT** the Council formally adopt the *Memorials in Open Space Policy*.

**10.9 4th Quarterly Property Portfolio Report 2022/2023**

Report of Risha Joseph, Acting Manager, Property Assets

The purpose of this report is to provide Council with an overview of the Property Portfolio's performance and activities for the 4th quarter of 2022/2023, 1 April 2023 to 30 June 2023.

The total annual revenue budget for the Property Portfolio for the 2022/23 financial year was forecast at \$6,055,229.00. The total actual annual income on a cash basis was \$6,384,145.00.

The actual income for the fourth quarter (Q4) of the 2022/2023 financial year, received on a cash basis amounted to \$1,726,135. This exceeded the forecasted budget of \$1,542,444 for the quarter by \$183,691, representing a 12% increase for the quarter, or 5% for the full year.

The higher income was primarily due to long-term arrears payments made, as well as income from tenants on payment plans who consistently paid.

The income received on an accrual basis for the fourth quarter of 2022/23 amounted to \$1,375,346. The year-to-date income received on an accrual basis from 01/07/2022 to 30/06/2023 totalled \$5,896,888.

Council's Property Portfolio vacancy rate at the end of June was 6.4%, which increased from 4.21% in the third quarter due to two significant tenants vacating at 1 James Place North Sydney.

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 Section 10A(2)(a) of the Local Government Act (LGA).

**Recommending:**

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

*(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 the 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.*

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### **10.10 Investment and Loan Borrowings Report as at 31 August 2023**

Report of Christian Munday, Manager Financial Services

The purpose of this report is to provide Council with the details of the performance of Council's investments and loans for the month ending 31 August 2023.

This report outlines Council's investment portfolio and performance to 31 August 2023.

All investments have been made in accordance with the Local Government Act, Regulations, Council's Investment Policy, and the specific conditions of the TCorp Loan Agreement.

For the month of August, the total investment portfolio (Term Deposits, Floating Rate Notes and Bonds) provided a return of +0.28% (actual), or +3.34% p.a. (annualised), marginally under-performing the benchmark AusBond Bank Bill Index return of +0.37% (actual), or +4.39% p.a. (annualised). This is due to recent interest rate rises and Council holding term deposits made in a low inflation environment, when rises were not expected.

Council's investment adviser considers this underperformance to be temporary (less than the next 6 months) as the AusBond benchmark is expected to fall with official interest rates, with staff reinvesting maturing term deposits at rates higher than those taken in the low-interest rate environment.

Returns on investments are \$46,000 more than YTD budget. The total return for the 2023/2024 financial year to date is approximately \$463,000. The total budget for 2023/2024 is \$2.5 million.

**Recommending:**

**1. THAT** the report on Investments held on 31 August 2023, prepared in accordance with clause 212 of the Local Government (General) Regulation 2021 and information on Loan Borrowings, be received.

### **10.11 Owner's consent request - Grosvenor Lane Carpark - Arkadia - Further Report**

Report of Neal McCarry, A/Manager Strategic Planning

The purpose of this update is to report back to Council following the previous report on 28 August regarding a request from a landowner ('Arkadia') in Neutral Bay, seeking Council's consent as the owner of the Grosvenor Lane carpark in Neutral Bay, to lodge a development application. Arkadia seeks to carry out public domain works to create a partially pedestrianised plaza on Council land within the southern side of the existing at grade carpark.

Arkadia owns land along Military Road and Young Street and has asked Council for owner's consent for the purposes of preparing a development application. The development concept proposes to carry out public domain works within Council's Grosvenor Lane carpark. The concept includes the removal of approximately 30-35 parking spaces, creation of an area of public domain approximately 16m x 80-100m, and includes a service lane through part of this area.

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At its meeting on 28 August 2023, Council resolved (in part):

1. *THAT Council defer the determination of the issuing of landowner's consent at this time for the lodgement of a Development Application on its land as currently presented.*
2. *THAT Council invite the proponents and their consultants to brief Councillors.*

A Councillor briefing was conducted on 4 September 2023 in response to that resolution in which Arkadia and its consultants, presented further design information that was previously unavailable when the report was prepared for the Council meeting of 28 August 2023.

**Recommending:**

**1.THAT** should Council, with the benefit of the additional design information lodged, wish to issue owner's consent to Arkadia for the lodgement of a development application, it be clarified that this does not infer support for the indicative plaza design nor commitment by Council to pursue its construction, and that:

- a) any proposed funding model for the plaza be the subject of a voluntary planning agreement to be endorsed by Council.
- b) the reduction in existing public parking numbers as indicated on the concept scheme, be clearly identified and justified; and
- c) the impact of the construction phases of any future adjacent development (Coles and Arkadia in particular) to the plaza, be clearly identified.

## **11. NOTICES OF MOTION**

### **11.1 Notice of Motion 11/23 - Agenda for 25 September 2023 Council Meeting - Cr Gibson**

**1. THAT** at the Council Meeting scheduled for 25 September 2023, the election of Mayor and Deputy Mayor are the only agenda items.

## **12. Matters of Urgency**

Nil

## **13. CLOSURE**

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