



Council Chambers
17 November 2023

The **3793rd MEETING** of **COUNCIL** will be held on Cammeraygal lands at the Council Chambers, North Sydney at **6.30pm** on Monday 27 November 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: Vale Rotary Club of North Sydney
 - 8.2 MM02: Advocacy on the location of tobacconists near schools
 - 8.2: MM03: Correspondence from the Hon. Paul Scully, MP Minister for Planning re housing density and the housing crisis
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9. Reports of Committees

- 9.1 Traffic Committee Minutes - 13 October 2023
- 9.2 Audit, Risk and Improvement Committee Minutes - 28 July 2023

10. Reports to Council

- 10.1 Financial Statements for the Year Ended 30 June 2023
- 10.2 Unspent funds to be carried over from 2022/23 to 2023/24
- 10.3 Q1 Review of the Delivery Program/Operational Plan 2023/24
- 10.4 Quarterly Budget Review - September 2023
- 10.5 Investment and Loan Borrowings Report as at 31 October 2023
- 10.6 Amended Financial Investments Policy
- 10.7 Annual Report 2022/23
- 10.8 Matters Outstanding to October 2023
- 10.9 2024 Committee, Reference Groups, and Committee Meeting Dates
- 10.10 Planning Proposal 2/23 - 601 Pacific Highway St Leonards
- 10.11 Planning Proposal 4/23 - 183-185 Military Road Neutral Bay
- 10.12 Heritage Assessment of 7 and 9 Selwyn Street Wollstonecraft
- 10.13 North Sydney Local Planning Panel Report FY2022/23
- 10.14 Development Applications Received - Quarterly Report Q1 FY2023/24
- 10.15 North Sydney Development Control Plan 2013: Draft Amendment - miscellaneous housekeeping
- 10.16 Wendy Whiteley Secret Garden Trust - Trust Deed amendments
- 10.17 North Sydney Olympic Pool Redevelopment Update
- 10.18 Gross Pollutant Traps: Honda Road and Waverton Park - Tender 10/2023
- 10.19 Support requested - Community Improvement District bid

11. Notices of Motion/Questions with Notice

- 11.1 Notice of Motion 17/23: Supporting Local Businesses during Council Infrastructure Works - Cr Gibson

12. Matters of Urgency

Raised by Councillors

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

3793rd MEETING OF COUNCIL TO BE HELD ON MONDAY 27 NOVEMBER 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 3792nd Council Meeting held on Monday 23 October 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: Vale Rotary Club of North Sydney

After 95 years of continuous service to the community, the Rotary Club of North Sydney is to close.

Club President, Ms Toni Field, recently called me to advise that, due to declining membership, the Club has resolved to close at the end of this year.

For nearly a century, members have worked supporting local community projects, as well as international projects with a humanitarian purpose. For example, locally Rotary Club of North Sydney runs a market at Crows Nest, provides a Seniors Christmas Lunch

at the Crows Nest Centre, and each Christmas collects, sorts, and delivers gifts to local charities for distribution to those in need as part of their Tree of Joy project.

The Rotary Club of North Sydney also has a proud record of supporting international aid projects through tireless fundraising. For example, this year the Club is raising funds for the PNG Desk Project to supply durable desks and chairs to schools in Papua New Guinea to assist in addressing the lack of basic needs in schools and, in turn, promote school attendance to combat generational poverty. The desks and chairs are made locally by young people and disabled workers as part of a 'New Life Skills' program run by City Mission, a non-profit NGO, much like Wesley Mission in Australia. The Rotary Club of North Sydney, like other volunteer organisations, has made an enormous contribution to our community, and communities around the world, over many decades.

Ms Field advised that they will continue to run the markets in Crows Nest as part of the Sunrise Rotary Club (which meets in McMahons Point) and members will continue to contribute on projects undertaken by that Club.

In St Leonards Park, at the corner of Miller and Falcon Streets there are two trees, with plaques, planted by the Rotary Club of North Sydney that mark the many decades of the Club's activities in North Sydney.

I therefore recommend:

- 1. THAT** Council acknowledge the valuable contribution of the Rotary Club of North Sydney to our community by planting a tree to be grouped with the existing "Rotary trees" in St Leonards Park.
- 2. THAT** Council write to the Rotary Club of North Sydney thanking them for their service to our community for the last 95 years.

8.2 MM02: Advocacy on the location of tobacconists near schools

The North Sydney Local Government Area is the densest education precinct in the country with 16 primary and secondary schools within the 10.9km² area – and that does not include the university, preschools, and private tertiary colleges.

In October 2023 the Commonwealth Government's Australian Institute of Family Studies published a policy and practice paper titled "The Impact of Vaping on Adolescent Mental Health", Mandy Truong and Eliza Cotton (<https://aifs.gov.au/sites/default/files/2023-10/2309-CFCA-Vaping-and-mental-health.pdf>). The paper states:

In Australia and internationally, youth vaping has increased rapidly over the past decade (Becker et al., 2021; Hammond et al., 2020; National Health and Medical Research Council [NHMRC], 2022). For example, an Australian study found that in 2018 less than 1% of young people aged 14–17 years vaped but this had increased to 11.8% in 2022 (Wakefield et al., 2023). There is also emerging evidence of the negative impacts of vaping on physical and mental health as well as social and educational outcomes for adolescents and young people. As a result, vaping has become a significant public health issue and an increasing concern for health professionals, educators, parents and researchers (National Academies of Sciences, Engineering, & Medicine, 2018; VicHealth, 2022). There is substantial research evidence on the negative effects of vaping, particularly among adults. Use of e-cigarettes is associated with attention deficit

hyperactive disorder (ADHD), post-traumatic stress disorder (PTSD), gambling disorder, anxiety, low self-esteem and traits of impulsivity (Grant et al., 2019). E-cigarette users have also been found to have a higher risk of alcohol use and binge drinking/drunkenness compared with non-e-cigarette users (Rothrock et al., 2020). In addition, there is a positive relationship between vaping and later cigarette smoking (Byrne et al., 2018). Research focusing on adolescents is still emerging; however, there is evidence of a link between vaping and mental health symptoms including depression, anxiety, perceived stress, and suicidality (Becker et al., 2021; Farooqui et al., 2022; Javed et al., 2022). Australia's policy and regulatory response to e-cigarettes is informed by increasing recognition and understanding of the harms of vaping to the health of children and young people and is therefore a fast-changing area of public policy (Department of Health, 2019). The Australian Government's National Tobacco Strategy 2023–2030 contains objectives relating to preventing the uptake of e-cigarettes by young people and strengthening regulations on e-cigarettes (Department of Health and Aged Care, 2023).

In May 2023 the Commonwealth Government announced that it will outlaw the importation of non-prescription vaping products and that vapes will only be available under prescription from authorised pharmacies.

Many parents and schools across the North Sydney LGA continue to struggle with the impacts of vaping and the ease of access to vapes, particularly for primary school children, notwithstanding the changes to the law.

Councils do not regulate the sale of restricted products such as vapes and do not have a compliance role. Further, individual retail uses cannot be controlled by Councils – as long as the use is consistent with the zoning and lawful, Councils cannot control the number and location of particular premises such as tobacconists.

Recently, I was contacted by a parent from Cammeray Public School who was distressed and frustrated by the sale of vapes to primary school children from a tobacconist located close to the primary school. The parent understood that whilst Council has no formal role in controlling tobacconists, the impacts of the trade affect young people in the LGA. These are common concerns echoed by residents in relation to primary schools in Neutral Bay and North Sydney.

As part of our discussion, the parent raised the practice in Western Australia which, apparently, restricts tobacconists from being located close to schools. In NSW there is a precedent for restricting the location of premises. For example, brothels cannot be operated within a certain distance of daycare or child-minding centres, primary and secondary schools, parks, playgrounds, or other places children frequent.

I therefore recommend:

- 1. THAT** Council write to the NSW Ministers for Health, Planning, and Education and urge them to collaborate to reform the law to restrict the location of tobacconists within a minimum distance from primary and secondary schools, parks, playgrounds, or other places that children frequent.
 - 2. THAT** Council write to the Commonwealth Ministers for Health and Education in the same terms.
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3. THAT Council write to all primary and secondary schools (and the associated Parents and Citizens associations) in the North Sydney LGA with a copy of this resolution seeking their support to lobby the State Government for reform.

8.3 MM03: Correspondence from the Hon. Paul Scully, MP Minister for Planning re housing density and the housing crisis

The North Sydney Local Government Area is one of the three most dense LGAs in the State (the others are the City of Sydney and Waverley Council). At 10.9km² with 67,558 residents, the density is 6,150 persons/km². For context, compare that to the Blacktown LGA with an area of 247 km² and a population of 336,962 or a density of 1,364 persons/km².

Within the North Sydney LGA, Milsons Point has a population density of 9,549 persons/km² and Crows Nest/St Leonards is currently at 8,858 persons/km². The population density planned just for Crows Nest/St Leonards under the 2036 Plan is 26,000 or 14,400 persons/ km².

Council has consistently planned for and is meeting the housing density and employment targets provided by a succession of State Governments. Targets that recognise the proximity to excellent public transport and employment centres, including the North Sydney CBD and St Leonards.

Indeed, Council's Local Housing Strategy provides for sufficient land zoned to accommodate the required number of dwellings set by the State Government under the District North Plan and Crows Nest/St Leonards 2036 Plan.

The current national housing crisis is many decades in the making and the causes are complex and will require a nuanced and collaborative response from all levels of government and the private sector.

The Minister for Planning and the Premier's recent public statements, as reported by the media, seek to blame local government for the failures of successive State governments, over many decades, to provide sufficient social housing stock and to mandate affordable housing targets to accompany re-zonings (aka Planning Proposals) that have given windfall profits to the private development sector without delivering new affordable housing or sufficient social infrastructure such as open space and sporting facilities to accompany the increased population.

It is a combative narrative that dwells only on supply of new housing by the private sector and does not touch on other underlying and associated issues around the taxation system, the current high cost of financing for new development nor the fragile position of the construction industry post-pandemic.

For example, over the past decade, more than 2,000 private dwellings have been constructed along the Pacific Highway between Berry Street and Oxley Street. Far from reducing the prices of apartments, the prices in that corridor are at an all-time high, with no noticeable effect on the price of other housing stock.

It also fails to recognise that development approvals do not equate to completed dwellings.

For example, as at May 2023, Council had completed seven rezoning applications allowing for 887 new apartments just in the Crows Nest/St Leonards precinct alone. Of these, only one is under construction (for 120 units). Three had development

applications being assessed and the remaining three had taken no action to seek consent for construction.

Since then, a site on the Pacific Highway at St Leonards that was rezoned in 2019, only just submitted the subsequent development application for 195 units in October 2023. That is, the rezoning took place nearly four years before the application for the building was lodged. Once approved, there is no requirement to commence construction and the development consent is valid for a further five years.

The reality is that rezoning and approvals alone are not the answer – councils cannot mandate commencement of construction nor completion of works.

On 31 October 2023 the Minister for Planning wrote to councils throughout the State and requested that the letter be tabled at the next ordinary Council meeting.

I attach a copy of the Minister's letter dated 31 October 2023.

It is of grave concern that the Government this week announced that it intends to abolish the Greater Cities Commission at a time that they had prepared draft housing and employment targets to be consulted with communities, councils, and all relevant stakeholders.

Instead of an independent body determining targets, decision-making on density and housing targets will be concentrated with the Minister and the Department of Planning reducing transparency and undermining faith in the planning process.

The Greater Cities Commission (and the predecessor Greater Sydney Commission) produced ambitious targets that were not always agreed but were accepted because the process was transparent, rigorous, evidence-based and the subject of real consultation/collaboration with communities and councils.

The fact is that "density done well" starts and ends with trust. Communities will accept significant increases in housing density if they can trust that the that essential infrastructure such as open space, schools, hospitals, upgrades to sewer and water, will be delivered to meet the new population.

It is vital that the State Government stop the "blame game" combative rhetoric and work with councils, including ours, on these issues. There is enormous experience, expertise, and creativity in local government that the Minister should draw on, if only the Government would commit to meeting with LGNSW and councils such as ours.

Nevertheless, Council continues to seek to collaborate with the State Government to meet housing and employment targets.

In the spirit of collaboration and in response to the Minister's letter, I therefore recommend:

1. THAT Council write to the Minister for Planning seeking an urgent meeting to discuss housing density and the provision of vital social infrastructure.

2. THAT Council undertake an urgent review of DA assessment/determination times with reference to the model put forward by Newcastle City Council at the recent Local Government Conference and collaborate with other councils to adopt best practice;

3. THAT Council urge the State Government to improve DA assessment/determination times within their control by funding and requiring State Planning Panels to meet more frequently (for example, the Sydney North Planning Panel average assessment times for 2022/23 is 237 days);

4. THAT Council urge the State Government to retain the valuable Greater Cities Commission and, in the event that it is abolished, immediately release the draft

housing targets prepared by the Greater Cities Commission and commence community consultation;

5. THAT Council urge the State Government to use the levers within its control to promote construction and completion of housing projects, including:

- (a) introducing a “use it or lose it” provision for development consents, reducing the lapsing provisions from five years to two years from determination;
- (b) immediately mandating inclusionary zoning for affordable housing in new residential development;
- (c) establishment of a funding model (such as the establishment of a State Housing Development Bank) to give certainty to the development/construction industry during this crisis by underwriting finance for residential construction in return for the transfer of permanent affordable/social housing or community facilities to the State and providing finance for “rent to own” projects;
- (d) advocating for changes to Commonwealth taxation policy to exempt the provision of employee housing from Fringe Benefits Tax to encourage the construction and provision of employee housing for schools and universities (both public and private), hospitals, fire service, even councils, so that key workers can live where they work;
- (e) focussing on and promote the construction of “rent to own” models.
- (f) Development of financial disincentives to halt the practice of land banking and unoccupied housing and
- (g) the exploration and funding of creative pilot projects to address immediate housing need, such as Scandinavian housing models (like including housing for tertiary students as part of aged care facilities in return for volunteer hours that both provides housing and combats social isolation).

9. REPORTS OF COMMITTEES

9.1 Traffic Committee Minutes - 13 October 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 Minutes of the last meeting of the Traffic Committee held 13 October 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>.

Recommending:

1. THAT the Minutes of the Traffic Committee dated 13 October 2023 be received.

9.2 Audit, Risk and Improvement Committee Minutes – 13 October 2023

Report of Ian Curry, Manager Council & Committee Services

The purpose of this report is to enable Council to consider the Minutes of this Committee as required under the Audit, Risk, and Improvement Committee Charter. This report presents the recommendations of the meeting of the Audit, Risk and Improvement Committee held on 13 October 2023 for Council adoption. The minutes are attached for information.

There are no items from the meeting for Council determination.

Recommending:

1. THAT the Minutes of the Audit, Risk and Improvement Committee meeting held on 13 October 2023 be adopted in accordance with the Audit, Risk and Improvement Committee Charter.

10. REPORTS TO COUNCIL

10.1 Financial Statements for the Year Ended 30 June 2023

Report of Christian Munday, Manager Financial Services

The purpose of this report is to present to Council the audited Annual Financial Statements and the related submissions received for the year ended 30 June 2023.

Council endorsed the draft Annual Financial Statements and referred them to audit at its meeting of 23 October 2023.

Report 10.01 Financial Statements for the Year Ended 30 June 2023 details the statutory process required to finalise the Statements.

That report also provides detailed analysis of the financial performance relative to original budget and analysis of the financial position.

The audit is now complete, and the Statements will be tabled. A representative of the Audit Office of New South Wales will be available to comment on the conduct of the audit.

Recommending

1. THAT the presentation of Annual Financial Statements for the year ended 30 June 2023, incorporating the General Purpose Financial Statements and the Special Schedules, be received and noted in accordance with section 419 of the Local Government Act 1993.

10.2 Unspent funds to be carried over from 2022/23 to 2023/24

Report of Christian Munday, Manager Financial Services

The purpose of this report is to seek Council's approval for adjustments to the 2023/24 budget incorporating funding to be carried forward from 2022/23, to complete projects planned to be, but not, finalised by 30 June 2023.

In order to complete works planned to be, but not, completed in FY2023, \$12.98 million is needed to be carried forward to the FY2024 budget.

Tables attached to this report detail projects, amounts, funding sources and status updates.

In the interests of transparency, all carry forwards are presented for Council's consideration, not only those requiring Council's endorsement in accordance with Regulations (i.e., revotes for projects that have been contracted for or commenced as at 30 June).

Recommending:

1. **THAT** the information be received.
2. **THAT** Council approves the amendments to the 2023/24 budget outlined in this report.

10.3 Q1 Review of the Delivery Program/Operational Plan 2023/24

Report of Anna Warren, Corporate Planning Coordinator, and Jenny Gleeson, Manager Corporate Planning and Engagement

The purpose of this report is to present the draft progress update against the Delivery Program/Operational Plan 2023/24 for the first quarter (Q1), 1 July to 30 September 2023 with project status; and to propose amendments to the Delivery Program/Operational Plan.

The Operational Plan 2023/24 (Year 2 of the Delivery Program 2022-2026) was adopted by Council on 26 June 2023 and commenced on 1 July 2023.

The Q1 2023/24 Review presents a status update for projects scheduled to commence, or that were in progress from 1 July to 30 September 2023.

In Q1 2023/24, 212 projects were scheduled to commence or continue. Of these:

- 85% were on track (blue or green status);
- 12% were delayed (amber or red status); and
- Five projects were unfunded/discontinued (black status)

Recommending:

1. **THAT** the Quarterly Review (July - September 2023) of the Operational Plan be received.
2. **THAT** Council notes the remedial action for the projects that were not on track for the period ending 30 September 2023.
3. **THAT** Council adopts the identified amendments to the Delivery Program 2022-2026 and the Operational Plan 2023/24 as outlined in this report.

10.4 Quarterly Budget Review - September 2023

Report of Christian Menday, Manager Financial Services

The purpose of this report is to:

- review the budget for quarter ended 30 September 2023;
- highlight and track variances from the original budget; and
- seek approval to adjust the 2023/24 budget accordingly.

This report should be read in conjunction with 10.3 Q1 Review of the Operational Plan 2023/24 provided to Council as separate report at this meeting.

The quarterly budget review shows:

- An increase in Operating Deficit before Capital Grants and Contributions of \$4.05 million to \$6.09 million.

The increased deficit is driven by a reduction in Operating Grants of \$2.54 million due to advanced part-payment of the FY 2024 Financial Assistance Grant in FY 2023, net reduction in budgeted income from the North Sydney Olympic Pool of \$419 thousand due to delayed opening, reduction in fees for advertising on Council infrastructure of \$1.0 million and an increase in depreciation expense of \$1.3 million due to construction cost inflation and changed accounting treatment of the community housing portfolio.

- A decrease in Operating Surplus including Capital Grants and Contributions of \$992 thousand to \$574 thousand.
- An increase of the Capital Works program of \$14.68 million to \$94.06 million mostly due to the carry forward of deferred works to 2023/24, as advised in the report 'Unspent funds to be carried over from 2022/23 to 2023/24' also presented to this meeting.
- While Councils current financial position is considered sound, reductions in Councils revenue base are placing pressure on this and will require consideration in the coming years.
- This budget review does not include any variations for financial risks associated with the North Sydney Olympic Pool Project.

Recommending:

- 1. THAT** Council adopts the Quarterly Budget Review Statement – September 2023 report in accordance with clause 203 of the Local Government (General) Regulation 2021.
- 2. THAT** Council endorses the budget variations in this report.

10.5 Investment and Loan Borrowings Report as at 31 October 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 details of loans for the month ending 31 October 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 October, the total investment portfolio (Term Deposits, Floating Rate Notes, and Bonds) provided a return of +0.30% (actual), or +3.54% p.a. (annualised), marginally under-performing the benchmark AusBond Bank Bill Index return of +0.33% (actual), or +4.01% 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.

Returns on investments exceed the YTD budget by \$884,000. The total return for the 2023/2024 financial year to date is approximately \$1.7 million. The better-than-expected return is due to the payments for the capital works program progressing slower than expected in the first quarter. Interest income will be addressed in the September Quarter Budget Review, also presented to this meeting. The total original budget for 2023/2024 is \$2.5 million.

Recommending:

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

10.6 Amended Financial Investments Policy

Report of Christian Munday, Manager Financial Services

The purpose of this report is to present amendments to Council's *Financial Investments Policy* for re-adoption.

The *Financial Investments Policy* has been updated to reflect new circumstances regarding the Council's investing. In summary, the amendments to this 'strategic' policy are:

- removal of all references to grandfathered investments as the Council no longer holds such investments;
- removal of the Negotiable Certificate of Deposits (NCDs) definition (clause 3) as such is not referenced elsewhere within this policy;
- updating the terms to maturity limits (clause 4.12) by combining the working capital and short term funds categories;
- referencing the need for compliance with specific conditions within any loan agreement or other contract; and
- increasing management supervision regarding the tenor of investments in a low inflation/ interest rate environment.

The amendments are not considered significant, therefore it is recommended that public exhibition is not required prior to re-adoption of this policy.

Recommending:

1. **THAT** the Financial Investments Policy be readopted, as attached to this report.
2. **THAT** the General Manager be authorised to make minor administrative amendments if required.

10.7 Annual Report 2022/23

Report of Anna Warren, Corporate Planning Coordinator and Jenny Gleeson, Manager Corporate Planning and Engagement

The purpose of this report is to present the *Annual Report 2022/23* to Council for endorsement, together with the Audited Financial Statements for the year ended 30 June 2023.

The Annual Report outlines the achievements in implementing the first year of Council's Delivery Program 2022-2026 which contributes to the strategic outcomes in the North Sydney Community Strategic Plan. Council has a statutory obligation to prepare and endorse an Annual Report within five months of the end of the financial year i.e., by 30 November 2023.

Recommending:

1. **THAT** Council endorse the Annual Report 2022/23 that has been prepared in accordance with section 428 of the Local Government Act 1993.
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10.8 Matters Outstanding to October 2023

Report of Ian Curry, Manager Council & Committee Services

The purpose of this report is to update Council regarding the status of resolutions arising from Mayoral Minutes, Notices of Motion, and Questions Without Notice.

Each month, a report is presented to Council on the status of resolutions arising from Mayoral Minutes, Notices of Motion, and Questions Without Notice.

The attached table has been updated to include resolutions up to the 23 October 2023 Ordinary Meeting of Council.

Recommending:

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

10.9 2024 Committee and Reference Group Meeting Dates

Report of Ian Curry, Manager Council & Committee Services

The purpose of this report is to determine a schedule of meeting dates for the North Sydney Traffic Committee, Reference Groups, and Streetscape Committees for 2024, and to review the Reference Group Chairpersons.

At its meeting on 11 September 2023, Council adopted a schedule of dates for Council meetings in 2024.

Council is being asked to determine meeting dates for the North Sydney Traffic Committee and three Reference Groups in 2024 and well as review the Reference Group Chairpersons.

The report also recommends that Streetscape Committee meetings be conducted on an as-needs basis in 2024.

Recommending:

1. **THAT** Council endorse the 2024 meeting schedule for the North Sydney Traffic Committee and the three Reference Groups, as detailed in this report.
2. **THAT** Council determine the Councillors to be appointed as Chairpersons on the Environment, Sport and Recreation, and Sustainable Transport Reference Groups in 2024.
3. **THAT** Streetscape Committee meetings be conducted on an as-needs basis in 2024.

10.10 Planning Proposal 2/23 - 601 Pacific Highway St Leonards

Report of Katerina Papas, Acting Team Leader – Policy

The purpose of this report is to present to Council, the applicant's response to a request to amend Planning Proposal (PP2/22) relating to land at 601 Pacific Highway St Leonards and an accompanying letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council to deliver public benefits.

On 19 January 2023, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to 601 Pacific Highway St Leonards.

The Planning Proposal seeks to increase the maximum building height control for the site from 49m to RL276.5 (equivalent to 189m) and establish a maximum floor space ratio (FSR) control of 20:1. No amendment to the existing land use zone is proposed, which is currently E2 – Commercial Centre under NSLEP 2013.

The intent of the Planning Proposal is to facilitate a 42-storey commercial retail/office

development as envisaged for the site under the *St Leonards and Crows Nest 2036 Plan (2036 Plan)*.

On 19 July 2023, the Planning Proposal was referred to the North Sydney Local Planning Panel (NSLPP) for consideration and advice. The NSLPP agreed with the recommendations of a detailed assessment report undertaken by Element Environment (on behalf of Council) that the requested maximum building height control of RL276.5 is excessive for the intended number of storeys, and that the Planning Proposal and supporting reference design be amended to a maximum building height of RL259 (i.e. a 17.5m height reduction) to reduce overshadowing and visual impacts and ensure consistency with the *2036 Plan*.

At its meeting on 14 August 2023, Council resolved:

1. *THAT the Planning Proposal, including the accompanying indicative concept scheme, be amended to Council's satisfaction addressing the recommendations of the detailed assessment report undertaken by Element Environment (on behalf of Council). Specifically, the maximum building height be amended to RL259 (equivalent to 171m) and a maximum street wall (podium) height of 20.5m for 4 to 5 storeys.*
2. *THAT the applicant be invited to consider making an offer to deliver public/community benefits via a Voluntary Planning Agreement (VPA) with Council, and that the outcome be reported to Council.*
3. *THAT upon completion of Recommendations 1 and 2, the report return to Council complete with the offer of any Voluntary Planning Agreement put forward by the Proponent, prior to being forwarded to the Department of Planning and Environment.*

On 26 September 2023, Council received correspondence from the applicant advising that an amended application incorporating a reduced building height of RL265 (i.e., a 11.5m height reduction) was being prepared, above the recommended height of RL259, in order to provide sufficient scope for the servicing of the project. A non-binding letter of offer to enter into a Voluntary Planning Agreement (VPA) was also received proposing a \$172,000 monetary contribution to Council for the purposes of providing community infrastructure.

On 27 September 2023, Council staff advised the applicant that in the absence of having satisfactorily addressed Council's resolution it could not progress a report to Council. The applicant was also invited to re-evaluate its VPA offer.

On 29 September 2023, the applicant submitted an amended Planning Proposal, reference design and VPA offer on the NSW Planning Proposal which does not satisfactorily address Council's resolution from 14 August 2023.

On 6 October 2023, Council received further correspondence from the applicant reiterating its position on height and its proposed VPA offer and requested the matter be reported back to Council.

This report considers the options available to Council. It is recommended that, consistent with its previous resolution, Council support the Planning Proposal at a maximum building height of RL259 and accompanying VPA offer in-principle, and that the Planning Proposal be forwarded to the Department of Planning and Environment (DPE) seeking a Gateway Determination at a maximum building height of RL259, consistent with the recommendations of the detailed assessment undertaken by Element Environment (on behalf of Council) and the North Sydney Local Planning

Panel.

Recommending:

- 1. THAT** Council support a Planning Proposal at a maximum building height to RL259 and accept the accompanying VPA offer in-principle, and that the Planning Proposal be forwarded to the Department of Planning and Environment in accordance with section 3.34 of the Environmental Planning and Assessment Act 1979 seeking a Gateway Determination at a maximum building height of RL259, consistent with the recommendations of the detailed assessment undertaken by Element Environment (on behalf of Council) and the North Sydney Local Planning Panel.
- 2. THAT** the General Manager be authorised to negotiate the detailed terms and provisions of a VPA consistent with the applicant's letter of offer (Attachment 3), and as outlined in this report.
- 3. THAT** upon receipt of a Gateway Determination, the associated draft Voluntary Planning Agreement be exhibited concurrently with the Planning Proposal.

10.11 Planning Proposal 4/23 - 183-185 Military Road Neutral Bay

Report of Tom Mojsiejuk, Strategic Planner

The purpose of this report is to present to Council the assessment report of Planning Proposal No. 4/23 for 183-185 Military Road, Neutral Bay which seeks to amend North Sydney Local Environmental Plan 2013, following its review by the North Sydney Local Planning Panel on 25 October 2023.

On 6 April 2023, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to 183-185 Military Road, Neutral Bay.

The Planning Proposal seeks to increase the maximum building height control for the site from 16m to 43m, and to increase the non-residential floor space ratio control from 0.5:1 to 2:1.

The indicative concept scheme accompanying the Planning Proposal includes a 12-storey mixed-use development comprising retail floorspace at the ground and basement levels; a community centre on level 1; commercial floorspace on levels 2-3; and residential floorspace from levels 4-12, with approximately 57 car spaces across four basement levels.

The Planning Proposal is accompanied by a non-binding letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council to deliver a 2.5m setback along Military Road and an increased setback along the eastern boundary to contribute (approximately 230m²) to a future public plaza fronting Rangers Road, provision of a new community facility (323m²), and 14 public bicycle parking spaces at ground level. On 25 October 2023, the North Sydney Local Planning Panel (NSLPP) considered the Planning Proposal and determined that the proposal should not be supported to proceed to a Gateway Determination for the following reasons:

- *The Planning Proposal is not underpinned by an endorsed place-based strategy for the locality and is inconsistent with the North Sydney Local Strategic Planning Statement; North District Plan and Greater Sydney Regional Plan;*
 - *The Planning Proposal does not satisfy the objectives and intended outcomes of the rescinded Military Road Corridor Planning Study for this identified key site (known as 'site 3') and is inconsistent with the strategic objectives of Council's renewed*
-

Strategy for the Neutral Bay Town Centre as outlined in Council's 24 January 2022 resolution and endorsed scoping framework of May 2022 for the revised Neutral Bay Town Centre Planning Study, which sought to further engage with the community and stakeholders to prepare 'a revised recommendation that has a better balance between development height and the provision of additional public open space';

- The Planning Proposal does not demonstrate adjacent site integration, and the overall height, bulk and scale of the proposed built form is unacceptable in terms of providing a human scale frontage to the future Rangers Road plaza; overshadowing impacts to the public and private domain; traffic impacts and delivering a genuinely 'public' and high amenity public domain and community facility.

The Panel was of the view that 'given the imminence of the NBTCPs, any Planning Proposals/spot re-zonings before its completion would not have strategic merit in terms of the future context of the Centre, and would undermine community confidence in the planning process'.

Recommending:

1. THAT Council resolves to not support the Planning Proposal proceeding to Gateway Determination, for the following reasons:

- The Planning Proposal is not underpinned by an endorsed place-based strategy for the locality and is inconsistent with the North Sydney Local Strategic Planning Statement; North District Plan and Greater Sydney Regional Plan;
- The Planning Proposal does not satisfy the objectives and intended outcomes of the rescinded Military Road Corridor Planning Study for this identified key site (known as 'site 3') and is inconsistent with the strategic objectives of Council's renewed Strategy for the Neutral Bay Town Centre as outlined in Council's 24 January 2022 resolution and endorsed scoping framework of May 2022 for the revised Neutral Bay Town Centre Planning Study, which sought to further engage with the community and stakeholders to prepare 'a revised recommendation that has a better balance between development height and the provision of additional public open space';
- The Planning Proposal does not demonstrate adjacent site integration, and the overall height, bulk and scale of the proposed built form is unacceptable in terms of providing a human scale frontage to the future Rangers Road plaza; overshadowing impacts to the public and private domain; traffic impacts, and delivering a genuinely 'public' and high amenity public domain and community facility.

2. THAT Council notifies the applicant of Council's determination in accordance with section 9 of the Environmental Planning and Assessment Regulation 2021.

10.12 Heritage Assessment of 7 and 9 Selwyn Street Wollstonecraft

Report of Georgina Zavala, Student Strategic Planner

The purpose of this report is to consider the recommendations of an independent preliminary heritage assessment relating to 7 and 9 Selwyn Street Wollstonecraft, and to determine if Council should pursue the imposition of an Interim Heritage Order (IHO) over the two properties.

On 14 July 2023, Development Application No. DA 219/23 was lodged for the demolition of two x two-storey dwelling houses at 7 and 9 Selwyn Street Wollstonecraft, and the construction of 10 x three-storey townhouses.

In response to heritage concerns raised by residents, Council resolved at its meeting of 28 August 2023:

1. *THAT Council obtain urgent advice in relation to whether an Interim Heritage Order(s) can be supported in respect of dwellings known as 7 and 9 Selwyn Street, Wollstonecraft.*
2. *THAT the advice consider whether the properties may be heritage or contributory items within the conservation area.*

Council engaged Kemp & Johnson Heritage Consultants to prepare a preliminary heritage assessment to determine if there is sufficient evidence to impose an Interim Heritage Order (IHO), and if so, prepare further advice to determine if Council should proceed with the formal listing of the two properties as local heritage items under NSLEP 2013.

Council received a Preliminary Heritage Assessment on 2 November 2023 which concluded that neither dwelling satisfactorily reaches the threshold criteria to warrant local heritage listing. This conclusion was reached due to the dwellings having low levels of fabric integrity as result of substantial alterations and additions undertaken in the later 20th Century and more recently. Furthermore, the Assessment found that the extent of these alterations and additions resulted in the dwellings not being good representative examples of the Federation Queen Anne-style, nor being representative of the respective historical associations relating to each dwelling.

Based on the findings of the independent preliminary heritage assessment, it is recommended that Council not pursue imposition of an IHO on the subject sites.

Neither property can be identified as “contributory items” under North Sydney Development Control Plan 2013 as neither is located within an existing conservation area under NSLEP 2013. Furthermore, there is no ability to expand an existing conservation area to incorporate the subject sites as there are no conservation areas located in the vicinity of the sites.

Recommending:

1. **THAT** Council notes the recommendations of the independent preliminary heritage assessment prepared by Kemp & Johnson Heritage Consultants.
2. **THAT** Council does not pursue the imposition of an IHO over 7 or 9 Selwyn Street Wollstonecraft.
3. **THAT** Council does not pursue the identification of 7 or 9 Selwyn Street Wollstonecraft as contributory items under North Sydney Development Control Plan 2013.
4. **THAT** Council advises the property owners and applicant to DA 219/23 of the outcomes of this report.

10.13 North Sydney Local Planning Panel Report FY2022/23

Report of Stephen Beattie, Manager Development Services

The purpose of this report is to detail the activities of the North Sydney Local Planning Panel for the 2022/23 financial year.

This report is provided in response to the provision contained within Section 2.20 (5) of the Environmental Planning and Assessment Act 1979:

“MISCELLANEOUS PROVISIONS RELATING TO LOCAL PLANNING PANELS -

(5) The council is to monitor the performance of local planning Panels constituted by the council.”

Reports are to be provided to the Planning Secretary annually based on any given financial year.

This report outlines the role of the North Sydney Planning Panel and its activities and performance during the 2022/23 year.

Recommending:

1. THAT the North Sydney Local Planning Panel Report 2022/23 report be received.

10.14 Development Applications Received - Quarterly Report Q1 FY2023/24

Report of Leonard Vogel, Planning Advisor

This report provides a list of Development Applications (DAs) received by Council in the first quarter (Q1), 1 July 2023 to 30 September 2023, of financial year 2023/24. The purpose of the report is to provide information regarding the application types received and processed by Council.

111 development applications were submitted in Q1 of FY2023-24 was 21% lower than Q1 of the last financial year. This significant decrease in the total number of applications reflects the implementation of the “clearing house” process, resulting in 20% less applications being formally submitted, allocated a DA number, then rejected as incomplete.

The median development application determination time for Q1 is 110 days, a decrease from the revised 117 days in Q4 of 2022-23. Average determination times have been reduced to 135 days from 141 days in the same period.

The average cost of works for incoming applications within the average distribution was \$452,000 per application, returning closer to historical trends.

Council’s clearing house was implemented at the beginning of Q4 and was predicted to reduce average determination time by 7-14 days. Clearing house changes have contributed to this reduction in assessment times in a period of understaffing due to resignations and leave.

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 further.

The determination statistics as published on the NSW Planning Portal are incorrect and the development services team is working to rectify this discrepancy.

Recommending:

1. THAT the report be received by Council.

10.15 North Sydney Development Control Plan 2013: Draft Amendment - miscellaneous housekeeping

Report of Ben Boyd, Executive Strategic Planner

The purpose of this report is to seek Council’s endorsement of a draft amendment to North Sydney Development Control Plan (NSDCP) 2013, to correct and rectify a

number of minor non-policy related matters to ensure that the DCP remains contemporary and relevant, and to enable the draft amendment to be publicly exhibited.

Over the last few years there have been significant amendments made to planning legislation, state and local environmental planning instruments, government agency names, and the way that development applications are lodged. In addition, a number of documents and websites referenced within the DCP have become redundant or have changed.

Since its operation, Council staff have also identified a number of minor and inconsequential typographical, grammatical, and formatting issues which should be corrected to ensure a more consistent and clearer approach to applying its development controls.

In order to maximise clarity, transparency, and consistency, and to maintain a contemporary document, it is recommended that the relevant references, contextual background, and minor typographical, grammar and formatting issues within NSDCP 2013 be updated. The extent of the proposed amendments does not change the intent of the endorsed policy positions and are considered to be minor administrative amendments.

Due to the minor administrative nature of the proposed amendments, it is further recommended that extent of exhibition be restricted to the minimum requirement (28 calendar days) under the Environmental Planning and Assessment Act and that the extent of public notification be limited to advertisements on Council's website and in the Mosman Daily, and notification to the Precinct Committees.

Recommending:

- 1. THAT** Council resolves to adopt the draft amendments to NSDCP 2013, as outlined in this report and detailed within Attachment 1.
- 2. THAT** should State Environmental Planning Policy 65 be repealed and incorporated into SEPP (Housing) 2021 before the commencement of the public exhibition of these draft amendments to NSDCP 2013, that the relevant sections of NSDCP 2013 also be identified for proposed amendment to reflect this potential change.
- 3. THAT** the draft amendments to NSDCP 2013 be placed on public exhibition for a period of at least 28 days.

10.16 Wendy Whiteley Secret Garden Trust - Trust Deed amendments

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

This report details the recent amendments made to Wendy Whiteley Secret Garden Trust Deed dated 17 November 2017. The recommendation to execute the amended Trust Deed is presented to Council for adoption.

The lease for the Wendy Whiteley Secret Garden between Railcorp and North Sydney Council was executed on 28 February 2016. At the time of executing the lease it was determined that the Council and the NSW Government Department of Premier and Cabinet would work in collaboration to create a charitable trust arrangement to assist with the ongoing funding and management of the garden into the future.

The Trust Deed was executed on 17 November 2017 and North Sydney Council is the appointed Trustee.

Organisations entered on the Register of Cultural Organisations (ROCO) are endorsed by the Australian Taxation Office (ATO) as a Deductible Gift Recipient (DGR) and are eligible to receive tax deductible donations in accordance with Division 30 of the Income Tax Assessment Act 1979(Cth).

An application for the registration of Wendy Whiteley Secret Garden Trust onto the ROCO was made on 30 October 2023.

The application to ROCO requires the amendment of the Trust Deed in accordance with the ROCO Guide December 2021.

Amendments to the Trust Deed require a resolution of the Council as the Trustee.

Recommending:

1. THAT the amended Trust Deed be adopted by Council.

2. THAT Council authorise its Official Seal to be affixed to the Deed of Variation to the Trust Deed under the signature of the General Manager.

10.17 North Sydney Olympic Pool Redevelopment Update

Report of Gary Parsons, Director Open Space & Infrastructure

The purpose of this report is to provide an update to Council on the redevelopment of North Sydney Olympic Pool.

Construction of North Sydney Olympic Pool is currently forecast to reach Practical Completion in July 2024, *however*, recent design and construction issues associated with the structural steel to the 25m pool hall roof are expected to result in a significant delay that is yet to be *determined*.

Council has commissioned an audit of the quality management systems in accordance with the provisions of the construction contract.

Considerable progress has been made in the evaluation of Extension of Time (EOT) with all claims up until the end of October now assessed. However, there is a significant difference between the quantum of days assessed and those claimed by the contractor.

The current construction contract value is \$58.99m, which includes \$5.47m in approved variations. The allocated project budget remains \$85.87m.

The majority of submitted variations have now been assessed however agreement on the valuation of several variations remain to be agreed, which will potentially impact the cost to completion for this project.

Recommending:

1. THAT the report be received.

10.18 Gross Pollutant Traps: Honda Road and Waverton Park - Tender 10/2023

Report of Jim Moore, Engineering Project Manager

The purpose of this report is to provide Council with an analysis and recommendations of the tender process for the renewal of Gross Pollutant Traps (GPTs); Tender 10/2023. Tenders were called and received until 3pm 12 September 2023 for the submission of tenders to undertake the renewal of GPTs at Honda Road, Cremorne Point and Waverton Park, Waverton.

Tender submissions were evaluated using the criteria outlined within the tender documents and in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005.

Funding for the renewal of GPTs was included in the approved 2023/24 capital works budget. However, the allocated funding was not sufficient to ensure the completion of both projects and the Waverton Park project will be deferred until 2024/25.

If Council wishes to discuss the report, the meeting should be closed to the public to do so, in accordance with:

(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.

(d)(ii) commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the Council 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 obtain value for money services.

Recommending:

1. THAT Council accept the tender of the highest ranked tenderer for Part A, Honda Road GPT (Gross Pollutant Traps), for Tender 10/2023.

2. THAT Council does not award the tender for Part B, Waverton Park, for Tender 10/2023.

3. THAT the General Manager be authorised to take any necessary action to implement the decision including entering into associated contracts.

4. 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)(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.

(d)(ii) commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the Council 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 obtain value for money services.

10.19 Support requested - Community Improvement District bid

Report of Therese Manns, General Manager

The purpose of this report is to seek Council's support towards a proposal to establish a 'Community Improvement District' for the North Sydney CBD by way of a letter of support for an application for funding in the NSW Government Pilot Program.

In October 2023, the NSW Government announced a new \$2.75M initiative called the 'Community Improvement District (CID) Pilot Program', with grants of between \$150K and \$450K being available.

CIDs are business-led, place-based partnerships, created to support local economies and to deliver services to local businesses and improve local spaces that are additional to those provided by councils or government agencies.

The North Sydney CBD provides a unique opportunity for the NSW Government pilot program. It is a district of significant strategic, economic and community value and importance for Sydney and New South Wales. A true Micro City, its location, scale, compactness, sector/usage mix, and transport connectivity are already advantageous attributes.

A collective of landholders and businesses in the North Sydney CBD have come together to place a bid for funding under the program, creating the 'North Sydney CBD Partnership Community Improvement District'.

With the Metro schedule to commence operation in 2024, and new retail offerings expected to further activate the CBD for workers, community and visitors, the timing for participation in a program to strengthen collaboration for improved placemaking is advantageous.

Recommending:

1. THAT Council provide a letter of support towards the North Sydney CBD Partnership Community Improvement District application to participate in the NSW Government Pilot CID program.

11. NOTICES OF MOTION

11.1 Notice of Motion 17/23: Supporting Local Businesses during Council Infrastructure Works - Cr Gibson

1. THAT Council acknowledges that infrastructure works - while ultimately improving conditions for small, and large, businesses - usually cause temporary disruption.

2. THAT Council prepare a report as to how infrastructure work programs can be improved to minimise disruption and loss of income to local businesses.

3. THAT the report examine the timing of work, improving communication with property and business stakeholders, providing adequate notice of due works, improving hoardings, and any other relevant measures that can ameliorate disruption to business operations.

12. Matters of Urgency

Nil

13. CLOSURE
