



Council Chambers  
1 March 2024

The **3797th MEETING** of **COUNCIL** will be held on Cammeraygal lands at the Council Chambers, North Sydney at **6.30pm** on Monday 11 March 2024. The agenda is as follows.

**MARCELO OCCHIUZZI**  
**ACTING 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**  
Nil
  - 9. Reports of Committees**  
Nil
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**10. Reports to Council**

- 10.1 Matters Outstanding to February 2024
- 10.2 IPART - Terms of Reference for the Review of the Council Financial Model in NSW
- 10.3 Planning Proposal 9/22 and Voluntary Planning Agreement - 17-25 Falcon Street Crows Nest
- 10.4 North Sydney Oval - Event Proposal
- 10.5 Amended Outdoor Dining and Goods on Footpath Policy
- 10.6 Status Update - Revenue from street furniture advertising contract
- 10.7 North Sydney Olympic Pool Redevelopment Project Update

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

Nil

**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

**3797<sup>th</sup> MEETING OF COUNCIL TO BE HELD ON MONDAY 11 MARCH 2024**

**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 3796th Council Meeting held on Monday 26 February 2024 be taken as read and confirmed.

**5. DISCLOSURES OF INTEREST**

**6. PUBLIC FORUM**

**7. ITEMS BY EXCEPTION**

**8. MINUTES OF THE MAYOR**

Nil

**9. REPORTS OF COMMITTEES**

Nil

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## 10. REPORTS TO COUNCIL

### 10.1 Matters Outstanding to February 2024

Report of Ian Curry, Manager Governance

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 26 February 2024 Ordinary Meeting of Council.

**Recommending:**

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

### 10.2 IPART - Terms of Reference for the Review of the Council Financial Model in NSW

Report of Luke Harvey, Director Corporate Services

The purpose of this report is to inform Council of the Independent Pricing and Regulatory Tribunal's (IPART) review of the council financial model in NSW. The report also seeks Council endorsement for a submission to IPART.

IPART has received a draft Terms of Reference from the NSW Government to investigate and report on the financial model for NSW councils.

The draft Terms of Reference asks IPART to review Councillor and community visibility over the financial and operational performance of their councils, whether current budget and financial processes deliver value for money and whether the current funding model will sustainably support the needs of communities.

IPART is seeking feedback on the Terms of Reference until 15 March 2024.

Council staff have reviewed the draft Terms of Reference and produced a draft response to IPART, pending Council's approval.

**Recommending:**

1. **THAT** Council note the draft Terms of Reference from IPART.
2. **THAT** Council approve the submission to IPART on the review's draft Terms of Reference.

### 10.3 Planning Proposal 9/22 and Voluntary Planning Agreement - 17-25 Falcon Street Crows Nest

Report of Tom Mojsiejuk, Strategic Planner

The purpose of this report is to present to Council the assessment report for Planning Proposal 9/22 at 17-25 Falcon Street Crows Nest (which seeks to amend the North Sydney Local Environmental Plan 2013) and the accompanying Voluntary Planning Agreement offer.

The matter was deferred by Council at its meeting of 11 December 2023 so that additional supporting documentation (provided by the applicant's representative at the meeting) could be considered.

On 1 November 2022, Council received a Planning Proposal (Attachment 1) to amend

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North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 17-25 Falcon Street Crows Nest.

The site is located within the area covered by two planning studies, being the *St Leonards and Crows Nest 2036 Plan (2036 Plan)* adopted by the Department of Planning and Environment (DPE) in August 2020, and Council's *Civic Precinct Planning Study (CPPS)*, endorsed in November 2020.

The Planning Proposal seeks to amend NSLEP 2013 as follows:

- increase the maximum building height control from 10m to 21m (six storeys); and
- amend the height of buildings map to extend "Area 2" under clause 4.3A, to allow for an exceedance of the maximum mapped height limit (by up to three metres) for lift overruns and associated structures for access to communal rooftop space.

The intent of the Planning Proposal is to facilitate the delivery of a six-storey mixed-use commercial/residential development. The accompanying indicative reference scheme includes 2,450m<sup>2</sup> residential floorspace (23 apartments), 1,062m<sup>2</sup> of commercial floorspace, and 45 car parking spaces across four basement levels.

A detailed assessment of the Planning Proposal was undertaken and referred to the North Sydney Local Planning Panel (NSLPP) for its consideration on 31 May 2023.

The NSLPP generally endorsed the recommendations of the Council Officer's assessment report and recommended the Planning Proposal be supported to proceed to a Gateway Determination subject to amendments, which included:

- a recommended maximum building height of 22m and an additional allowance of 3m in height for rooftop structures;
- the removal of subterranean commercial floorspace;
- amendments to podium height and setbacks; and
- a revised Voluntary Planning Agreement (VPA) offer.

On 26 September 2023, the applicant submitted a revised built form concept (Attachment 2) and VPA offer (Attachment 3), addressing the recommendations of Council's initial assessment report and the NSLPP.

The revised VPA offer proposes a monetary contribution of \$300,000 to Council towards identified public benefits, and is in addition to developer contributions applicable under the (section 7.11) North Sydney Local Infrastructure Contributions Plan.

Council, at its meeting on 11 December 2023, considered a report into the planning proposal at 17-25 Falcon Street Crows Nest. At this meeting the applicant's representatives presented new information requesting additional height to that being recommended. In response to this Council resolved:

1. *THAT the matter be deferred to the next Council meeting to allow consideration of new material provided by the applicant.*

On 19 January 2024, the applicant submitted amended design details (Attachment 4) and a supporting letter (Attachment 5) for Council's consideration.

This report recommends that the Planning Proposal and revised VPA offer be supported, subject to the Planning Proposal being formally amended to incorporate the recommendations of Council's assessment report and the NSLPP, prior to being forwarded to the DPE with a request for a Gateway Determination.

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**Recommending:**

1. **THAT** the Planning Proposal and accompanying reference scheme, forming Attachment 1 to this report, be amended to Council's satisfaction to incorporate the applicant's response to the recommendations of Council's assessment report and the North Sydney Local Planning Panel, forming attachment 2 of this report. Specifically, the Planning Proposal be amended to a maximum building height of 22m; a minimum non-residential FSR of 1:1; and to include an additional local provision allowing the maximum building height to be exceeded by no more than 3m for lift overrun and associated structures for access to communal rooftop space.
2. **THAT** Council grant delegated authority to the General Manager to negotiate the detailed terms and provisions of the VPA consistent with the applicant's revised letter of offer (Attachment 3).
3. **THAT** upon completion of Recommendation 1, 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 to seek a Gateway Determination.
4. **THAT** upon receipt of a Gateway Determination, the associated draft Voluntary Planning Agreement be exhibited concurrently with the Planning Proposal.
5. **THAT** the outcomes of any public exhibition be reported to Council.

**10.4 North Sydney Oval - Event Proposal**

Report of Jacqueline St Jacques, Business Support and Performance Coordinator

The purpose of this report is to outline a proposal from the North Sydney District Rugby League to hold an event at North Sydney Oval, from 17 to 18 May 2024.

The festival seeks to build on the strong community connection established by the North Sydney Bears, enhancing local engagement.

This festival has demonstrated growing success since its inception at Henson Park, suggesting a sound model for replication in North Sydney.

Anticipated economic benefits include increased local business patronage and broader community participation and increased revenue for Council.

**Recommending:**

1. **THAT** Council notes the approach from the North Sydney Bears to bring the Beer, Food and Footy Festival to North Sydney Oval.
2. **THAT** Council authorise the General Manager to finalise negotiations and enter into a formal agreement with the North Sydney Bears for the proposed event.

**10.5 Amended Outdoor Dining and Goods on Footpath Policy**

Report of Risha Joseph, Senior Property Officer, and Ben Boyd, Executive Strategic Planner

This report outlines proposed amendments to *the Outdoor Dining and Display of Goods on the Footpath Policy* and its accompanying *Guidelines* to ensure alignment with the relevant legislation and Council policies; and seeks endorsement to publicly exhibit the proposed amendments.

On 20 December 2013, *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)* was amended and introduced 'Footpath-

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Outdoor Dining' as an exempt development type, subject to meeting specific criteria within the Policy.

The amendments to the *Codes SEPP* affect Council's *Outdoor Dining and Display of Goods on the Footpath Policy* and accompanying *Guidelines* as well as *Section 8 - Outdoor Dining and Display of Goods on the Footpath* to Part B of the *North Sydney Development Control Plan (NSDCP) 2013*.

On 24 February 2020, the Council considered a report to amend its *Outdoor Dining and Display of Goods on the Footpath Policy* and accompanying *Guidelines* in light of the amendments made to the Codes SEPP. Council resolved to defer the matter to a Councillor Briefing, to discuss issues pertaining to fees for the use of the footpath.

Council also considered a separate report on 24 February 2020 outlining draft amendments to NSDCP 2013, which included, but was not limited to, amendments to the NSDCP 2013 to take into account the amendments made to the Codes SEPP in relation to outdoor dining. Council resolved to adopt these draft amendments for exhibition and the finalised amendments to NSDCP 2013 were subsequently made on 24 August 2020 and came into effect on 14 September 2020.

**Recommending:**

1. **THAT** the Council endorses the public exhibition of the amended *Outdoor Dining and Display of Goods on the Footpath Policy* and *Guidelines* for 28 days; and
2. **THAT** the Council notes that a further report will be provided to the Council following the conclusion of the public exhibition period.

## 10.6 Status Update - Revenue from street furniture advertising contract

Report of Ashraf Doureihi, Engineering Project Manager

This report provides an update on revenue projections associated with the Council's street furniture advertising contract.

Anticipated advertising revenue projections have decreased due to the Suppliers inability to secure Development Consent for digital advertising panels proposed under the contract.

Should Council wish to discuss this report it is noted that the attached confidential document includes commercial information that would, if disclosed, prejudice the commercial position of the person who supplied it. Further, release of the information would, on balance be contrary to the public interest as publication of 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. As such should this matter be discussed it should be considered in closed session.

**Recommending:**

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

*(d) commercial information of a confidential nature that would, if disclosed*

*(i) prejudice the commercial position of the person who supplied it*

It is further noted that release of this information would, on balance be contrary to the public interest as publication of all tendered amounts would discourage potential

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tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services.

**2. THAT** Council note the information provided within this report in relation to a decrease in projected revenue related to Council's Street furniture advertising contract.

## **10.7 North Sydney Olympic Pool Redevelopment Project Update**

Report of Gary Parsons, Director Open Space and Infrastructure

The purpose of this report is to update Council in relation to matters discussed at the Council meeting of 12 February 2024.

The confidential attachment to this report provides further information in relation to matters resolved at the Council meeting of 12 February 2024.

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:

*(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

*(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, on balance, be 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.

### **Recommending:**

**1. 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:

*(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

*(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, 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; and
- it would affect Council's ability to manage legal matters effectively and in the best interests of the community.

**2. THAT** the confidential report and related attachments be treated as confidential and remain confidential unless Council determines otherwise.

## **11. NOTICES OF MOTION**

Nil

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**12. Matters of Urgency**

Nil

**13. CLOSURE**

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