



Council Chambers
22 October 2020

The 3737th MEETING of COUNCIL will be held at the Council Chambers, North Sydney at 7.30pm on Monday, 26 October 2020. The agenda is as follows.

KEN GOULDTHORP
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 Meeting**
 - 2. Acknowledgement of Country**
 - 3. Apologies and Applications for Leaves of Absence by Councillors**
 - 4. Confirmation of Minutes**
 - 5. Disclosures of Interests**

(Note: Agenda Items will be considered By Exception)

- 6. Mayoral Minutes**
 - 6.1 MM01: Sculpture at Sawmillers 2021
 - 6.2 MM02: Loss of Open Space in Kesterton Park
 - 6.3 MM03: GIPA Requests - Impacts on Council Resources
 - 6.4 MM04: Federal Government Serves Up an Ace for Primrose Park Tennis Courts
- 7. Reports of Committees**
 - 7.1 Waverton Peninsula Working Group - Minutes 22 September 2020
 - 7.2 Audit Risk and Improvement Committee - Minutes 2 October 2020
 - 7.3 Legal and Planning Committee - Minutes 12 October 2020
 - 7.4 Traffic Committee - Minutes 16 October 2020

8. Reports to Council

- 8.1 Matters Outstanding - October 2020
- 8.2 Financial Statements for the Year Ended 30 June 2020
- 8.3 Investments and Loan Borrowings Held as at 30 September 2020
- 8.4 Disclosure of Pecuniary Interests by Councillors and Designated Persons
- 8.5 2021 Schedule of Meetings
- 8.6 External Committees and Reference Groups
- 8.7 Roundabout at Grasmere Road and Young Street, Cremorne - Outcomes of Councillor Briefing
- 8.8 Swimming Pool Enclosure Report
- 8.9 Events Update 2020-2021 Season
- 8.10 Civic Precinct Planning Study - Post Exhibition
- 8.11 Development Control Plan - 23-35 Atchison Street, St Leonards
- 8.12 Voluntary Planning Agreement - 173-179 Walker Street and 11-17 Hampden Street, North Sydney
- 8.13 Review for 2019/20 of the North Sydney Men's Shed Joint Strategic Plan

9. Notices of Motion/Questions with Notice

- 9.1 Notice of Motion No. 14/20 - Crs Beregi, Baker and Carr - Environmental and Compliance Fines
- 9.2 Questions With Notice - Crs Beregi, Baker and Carr

10. Confidential Matters

Nil

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TO: The Mayor, Jilly Gibson and Councillors Baker, Barbour, Beregi, Brodie, Carr, Drummond, Gunning, Keen and Mutton.

SUBJECT: 3737th MEETING OF COUNCIL TO BE HELD ON MONDAY, 26 OCTOBER 2020

THAT THE MINUTES of the previous 3736th Council Meeting held on Monday, 28 September 2020 be taken as read and confirmed.

DISCLOSURES OF INTEREST

MINUTES OF THE MAYOR

6.1 MM01: Sculpture at Sawmillers 2021

In 2010 Council gave local resident Elsa Atkin a grant to produce a sculpture exhibition in Sawmillers Reserve at McMahons Point. The exhibition, called Sculpture@Sawmillers, was very well received by local residents, resulting in Council providing funding for the event in 2014 and again in 2016. Sculpture@Sawmillers grew over the three exhibitions from a weekend event to a 10-day exhibition which was supported by a large group of local volunteers keen to support arts and cultural events.

Ms Atkin recently approached me to see whether Council would fund the event again for September or October 2021. She is proposing a similar scale of the exhibition to 2016, with between 50 and 70 sculptures on display. The exhibition would run for 10 to 14 days.

Ms Atkin has requested a \$70,000 grant which would cover \$12,000 for prizes and all costs associated with staging the event including production, curation, promotion and a small event launch. Sponsorship would be sought for additional prizes.

Council's 2020 Customer Satisfaction Survey showed resident satisfaction with the range of arts and cultural events has decreased since 2016. I am confident that there is an appetite within our community for a high-quality art exhibition like Sculpture@Sawmillers and that Ms Atkin has the proven track record, energy and commitment to deliver the exhibition.

If Council were to support the event, we would need to provide funding in this financial year. This has not been included in the 2020/21 Operational Plan. With some of Council's annual events potentially not going ahead due to COVID-19, it may be possible to include the proposed sculpture exhibition.

I therefore recommend:

1. THAT Council staff provide a report to the November Council Meeting in respect to the proposed Sculpture Exhibition and capacity to incorporate it within Council's overall event program.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/mayoral_minutes_26_oct_2020/mm01_sculpture_at_sawmillers_2021.pdf

6.2 MM02: Loss of Open Space in Kesterton Park

I was surprised to learn last week that the NSW Government plans to build a new wharf at High Street (North Sydney Wharf) positioned to the north of the existing wharf and accessed through Kesterton Park. The Government intends to retain a portion of the existing jetty and the 1.8m pathway that connects the current wharf structure to the Platypus site and build an additional pathway with retaining wall for access to the new wharf.

I understand that Transport for NSW consulted the community earlier this year and the decision to retain a portion of the original jetty was at the request of residents. Unfortunately, the residents may not have realised that to meet accessibility standards for both structures, two footpaths would need to exist side by side in the relatively small and much loved Kesterton Park.

It is difficult to tell from the flyer provided how much space the two pathways will actually take up but it could be up to 25% of the usable

parkland. The proposed reconfiguration of the car parking area will also encroach on the park and the project will result in the loss of a number of mature trees. The new wharf is very imposing in size, but I am advised that the new pontoon-style wharf would need to be this size to withstand the tidal impact in that area.

While the size of the wharf may not be negotiable, I think we need to ask for a review of the car park and footpath configuration. North Sydney currently has significantly less open space per person than any of our neighbours and we need to be proactive in protecting the parkland we currently have. To my mind, building a second pathway, car parking and removing mature trees from this popular park is simply not acceptable.

I therefore recommend:

- 1. THAT** Council write to the Minister for Transport and Roads, the Hon Andrew Constance, requesting an urgent review of the design.
- 2. THAT** the revised design ensures there is no loss of parkland, no net increase of hard surfaces within the park and no mature trees removed.
- 3. THAT** Council staff be authorised to negotiate an improved design on behalf of Council.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/mayoral_minutes_26_oct_2020/mm02_loss_of_open_space_in_kesterton_park.pdf

6.3 MM03: GIPA Requests - Impacts on Council Resources

Councillors will be aware that the community can request access to Council documents not published on our website via an informal or formal application under the Government Information (Public Access) Act 2009, generally known as GIPA.

It has come to my attention that Council is experiencing an unprecedented number of GIPA applications and that if requests continue at this rate, Council would need to commit additional resources to manage them.

I am therefore recommending that Council staff be asked to provide a report outlining:

- the number of Informal and Formal GIPA requests received during this current term of Council;
 - the topics of the GIPA applications; and
 - the level of complexity/resource intensity of each request and the average processing time.
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I propose that this report be presented to the Governance and Finance Committee so that Councillors have time to consider the information provided.

As Council's revenue has fallen due to COVID-19, I believe it would be beneficial for Councillors to understand the number and type of requests being lodged in case some information could be permanently released via the website. This information could also inform the Information Sessions currently being run as part of Council's community engagement strategy and allow the information sessions to cover areas of most interest to the community.

I therefore recommend:

- 1. THAT** a report be prepared for the Governance and Finance Committee outlining the number of Informal and Formal GIPA requests received since 1 October 2017.
- 2. THAT** the report identify the source of all GIPA applications, including the number submitted by Councillors.
- 3. THAT** the report identify topics of the GIPA applications, the level of complexity/resource intensity of each request and the average processing time.
- 4. THAT** the report identify whether there is information that could be provided on the Council website or disseminated via Information Sessions to the community or Councillors to reduce the number of requests.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/mayoral_minutes_26_oct_2020/mm03_gipa_requests_-_impacts_on_council_resources.pdf

6.4 MM04: Federal Government Serves Up an Ace for Primrose Park Tennis Courts

Councillors will recall that at our meeting of 28 September 2020 we considered a Mayoral Minute about the uneven playing surface at Primrose Park Tennis Courts and the displacement and deflection of the tennis court slab. As a result of the settlement issues, one of the four courts now has limited use and the community approached Council about undertaking repairs.

At the meeting Council resolved:

- 1. THAT a report on the settlement issues and cost of renewing the Primrose Park Tennis Courts be provided to Council.*
 - 2. THAT the report explores options for providing tennis facilities at Primrose Park as well as other sports that can use a multipurpose facility.*
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3. THAT Council staff apply for external grant funding from both State and Federal funding programs.

So I was delighted to receive a letter from the Federal Member for North Sydney, Mr Trent Zimmerman, last week advising me that North Sydney Council is to receive an additional grant of \$2,175,138 under the Australian Government's Local Road and Community Infrastructure Program - Round 2.

I feel there is serendipity in the timing of this letter, for the \$2.8 million price tag to repair the Primrose Park Tennis Courts was well beyond Council's budget in the immediate future. I am sure Councillors will join me in thanking the Federal Member for his lobbying for a share of the additional grant funding on our community's behalf. While we have not yet received the detailed terms of the funding, I understand that we will be able to access the money from 1 January 2021 and that it needs to be spent by the end of the calendar year.

There are many reasons why Council should earmark this funding for the tennis courts. Our community has consistently identified sporting facilities as a key priority. Tennis is a broad interest sport that can be played by men and women of all ages, from young children through to people in their eighties.

Without funding to undertake the essential repairs needed, the future of the Primrose Park Tennis Courts will become increasingly uncertain. Allocating the grant funding to a major project such as this is an investment in community facilities for the decades to come.

In earmarking the funding for the tennis facilities, Council will not have time to fully explore the options for multipurpose courts and consult with the community. However, the major part of this project is the structural engineering required to underpin the courts which would be well covered by the funding. Council can review adapting the courts for multi-use at a later date should that be required.

I therefore recommend:

- 1. THAT** Council write to the Federal Member for North Sydney, Mr Trent Zimmerman MP, thanking him for his support of the North Sydney community.
 - 2. THAT** Council give in principle support to allocating the grant funding to the Primrose Park Tennis Courts upgrade subject to the project meeting the criteria for the funding program.
 - 3. THAT** Council staff prepare a report for the November Council Meeting on whether the specifications of the project could be adjusted to meet the level of funding available.
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https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/mayoral_minutes_26_oct_2020/mm04_federal_government_serves_up_an_ace_for_primrose_park_tennis_courts.pdf

Reports of Committees

7.1 Waverton Peninsula Working Group - Minutes 22 September 2020

Report of Melissa Dunlop, Governance Co-ordinator

This report presents the Minutes of the last meeting of the Waverton Peninsula Working Group held on 22 September 2020.

The Minutes of the Waverton Peninsula Working Group are attached for information.

Nil.

Recommending:

1. THAT Council receives the Minutes of the Waverton Peninsula Working Group held on 22 September 2020.

2. THAT should Council adopt any of the specific projects/proposals recommended in the minutes of the Waverton Peninsula Working Group held on 22 November 2020, a report be prepared detailing proposed costings, timelines and implications to existing workload and the adopted Delivery Program.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_of_committees_26_oct_2020/7.1_waverton_peninsula_working_group_-_minutes_22_september_2020.pdf

7.2 Audit Risk and Improvement Committee - Minutes 2 October 2020

Report of Ian Curry, Manager Governance & Committee Services

Council is required to consider the Minutes of this Committee under the Code of Meeting Practice.

This report presents the recommendations of the last meeting of the Audit, Risk and Improvement Committee held on 2 October 2020 for Council adoption. The minutes are attached for information.

Nil.

Recommending:

1. THAT the 2020 Draft Audited Financial Statements be noted by the Committee. (AR01)

2. THAT the North Sydney Engagement Closing Report 2020 be received and noted. (AR02)

3. THAT the status of past internal audit recommendations be received and noted as progressing satisfactorily. (AR03)

4. THAT this report and the status of the 2020 internal audit plan be received and noted. (AR04)

5. **THAT** the survey results received regarding the effectiveness of the internal audit function be received and noted that there are no action plans to be developed based on the limited responses received, subject to any other feedback from the ARIC. (AR04)
6. **THAT** the survey results received regarding the effectiveness of the Audit, Risk & improvement Committee be received and noted that there are no action plans to be developed based on those responses. (AR04)
7. **THAT** the summary of the AONSW Credit Card management in Local Government report be received and noted. (AR04)
8. **THAT** the Contract Management Internal Audit report be received and noted. (AR05)
9. **THAT** the Council Owned Property Leased or Available for Lease report be received. (AR06)
10. **THAT** the Committee note the progress in implementing the recommendations arising from the Payroll, Attendance and Leave Management Review. (AR07)
11. **THAT** the InfoSec Working Group update be received. (AR08)
12. **THAT** the information technology services update be received. (AR09)

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_of_committees_26_oct_2020/7.2_audit_risk_and_improvement_committee_-_minutes_2_october_2020.pdf

7.3 Legal and Planning Committee - Minutes 12 October 2020

Report of Ian Curry, Manager Governance & Committee Services
Council is required to consider the Minutes of this Committee under the Code of Meeting Practice.

This report presents the recommendations of the last meeting of the Legal and Planning Committee held on 12 October 2020 for Council adoption. The Minutes are attached for information.

Nil.

Recommending:

1. **THAT** the Current Appeals and Results – October 2020 report be received. (3.1)
2. **THAT** the Development Applications Received from 1 April to 30 June 2020 report be received. (3.2)
3. **THAT** the Variations to Development Standards - 2019/2020 Q4 Reporting Period report be received. (3.3)
4. **THAT** Council note the contents of the Noakes Boatyard – 6 John Street, McMahons Point report. (3.4)

5. **THAT** the Noakes Boatyard – 6 John Street, McMahons Point report be treated as confidential and remain confidential until Council determines otherwise. (3.4)

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_of_committees_26_oct_2020/7.3_legal_and_planning_committee_-_minutes_12_october_2020.pdf

7.4 **Traffic Committee - Minutes 16 October 2020**

Report of Peita Rose, Governance Officer

Council is required to consider the Minutes of this Committee under the Code of Meeting Practice.

This report presents the recommendations of the last meeting of the Traffic Committee held on Friday, 16 October 2020 for Council adoption. The minutes are attached for information.

Nil.

Recommending:

1. **THAT** Council proceed with the installation of “No Parking” restrictions on the northern side of Phillips Street for a length of 20m to the west of the existing power pole in front of H.No.38. (4.2)
2. **THAT** Council notifies affected residents prior to implementing the changes in Phillips Street outlining why the changes are required and that the problem be solved with minimal loss of parking. (4.2)
3. **THAT** staff monitor the use of the St Peter’s Park path following the installation of pop-up cycle lanes on the Pacific Highway and report back to the Traffic Committee should any further concerns be raised by the community. (4.3)
4. **THAT** it be noted that additional “Dismount” line marking will be installed to increase awareness and ensure pedestrian safety. (4.3)
5. **THAT** Council change 2 spaces of unrestricted parking in front of 18-20 Bent Street to “2 Hour Parking 8.30am-6pm Mon-Fri Permit Holders Excepted Area 30”. (4.4)
6. **THAT** Council notify the affected residents and all submitters for the Area 30 survey of the adopted changes and outcomes of the survey prior to installation. (4.4)
7. **THAT** the new parking restrictions for Area 30 are evaluated with a report to the Traffic Committee after three months of installation, including any community feedback. (4.4)
8. **THAT** there be further discussion about speeding issues and parking in the northern end of Bent Street at a future Traffic Committee meeting. (4.4)
9. **THAT** it be noted that the following pedestrian safety matters were discussed during the meeting – Item 4.3 St Peters Park; Grosvenor Lane – new Shared Zone has signage which allows cyclists to travel contrary

to the one-way direction and electric delivery bikes are causing concern for pedestrians. (5.3)

10. THAT pedestrian improvements be noted in this section for future agendas. Please refer to item 4.2. - Phillips Street. It should be noted in this section for aged pedestrian safety as well as Grosvenor Lane being bikes excluded, no entry. (5.3)

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_of_committees_26_oct_2020/7.4_traffic_committee_-_minutes_16_october_2020.pdf

Reports to Council

8.1 Matters Outstanding - October 2020

Report of Ian Curry, Manager Governance & Committee Services

To report to Council on the status of Councillor resolutions.

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

The attached table has been updated to include resolutions from the 28 September 2020 Ordinary Meeting of Council.

Nil.

Recommending:

1. THAT the report be received.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.01_matters_outstanding_-_october_2020.pdf

8.2 Financial Statements for the Year Ended 30 June 2020

Report of Garry Ross, Manager Financial Services and Darren Goode, Manager Accounting Services

To present the audited Financial Statements for the year ended 30 June 2020, which require certification and referral to the Audit Office of New South Wales.

The audited Financial Statements for the year ended 30 June 2020 consist of the following sections:

- Section I – General Purpose Financial Statements;
- Section II – Special Purpose Financial Statements; and
- Section III – Special Schedules.

The net operating result for the year was a deficit of \$5.1 million. Excluding capital grants and contributions, the deficit was \$11.5 million. The 2020 draft audited Financial Statements were presented to the Audit, Risk & Improvement Committee on 2 October 2020, together with the External Audit Engagement closing report.

In their Engagement Closing Report for the year ended 30 June 2020, the Audit Office of NSW noted that *as we have not identified any matters to report to management, a Management Letter will not be issued unless circumstances change before the independent auditor's reports are issued.*

The requirements of all accounting standards were adhered to, there were no misstatements and the statements were completed on a more timely basis than was the case the previous year.

The Income Statement within the 2019/20 Financial Statements discloses a net operating deficit of \$5.1 million. Excluding grants and contributions provided for capital purposes, the deficit was \$11.5 million.

The Statement of Financial Position discloses net assets (equity) of \$1.23 billion as at 30 June 2020. This is an increase of \$69.2 million, despite the aforementioned net operating deficit, due to a gain on the revaluation of roads, footpaths and stormwater drainage.

Cash and investments total \$91.2 million, with \$83.8 million externally or internally restricted.

Recommending:

1. **THAT** the attached 2020 audited Financial Statements be endorsed by Council.
2. **THAT** Council authorise the completion of the “Statement by Councillors and Management” for the General Purpose Financial Statements and the Special Purpose Financial Statements.
3. **THAT** in accordance with Section 418(1) of the Local Government Act, 1993, both the audited financial reports and the auditor’s reports on the financial statements (Section 417(2) LGA), be placed on public exhibition and reported to the Council meeting on 30 November 2020.
4. **THAT** Councillor Baker immediately submit Related Party Disclosure forms in accordance with accounting and audit standards.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.02_financial_statements_for_the_year_ended_30_june_2020.pdf

8.3 **Investments and Loan Borrowings Held as at 30 September 2020**

Report of Garry Ross, Manager Financial Services

This report provides details of the performance of Council’s investment portfolio and borrowing limits for the period ending 30 September 2020.

Investment Portfolio:

The Investment portfolio (cash and investments) held as at 30 September 2020 had a market value of \$102.5 million, with an annualised return of 2.01% for the year to date, 1.43% above the reportable BBSW Bank Bill Index of 0.58%. The portfolio value increased during September by \$9.6 million which was mainly attributed to the receipt of rate instalment revenues.

The actual investment returns for the year to date as at 30 September 2020 were \$353,333 which was approximately 20% less than the year to date budgeted estimate. During the month, only 1 term deposit matured. These funds will be re-invested at the current interest rate (official cash rate is 0.25%) which will further reduce the performance of the portfolio. Council will see a decline in interest income over the next 12 months and through to such time when interest rates increase.

The COVID-19 pandemic has impacted Council's financial position and subsequently the funds available to invest. Council's user charges and fees have been adversely affected with the imposed restrictions in addition to reductions in revenues associated with parking and community facilities. It is anticipated that revenues will continue to improve, and this will be reflected in the amount of funds invested.

Borrowings:

Council entered into a fixed interest loan of \$9.5 million with quarterly interest and principal payments on 31 July 2018. The principal outstanding as at 30 September 2020 is \$7,891,956.69.

The 2020/21 budgeted returns on investments is estimated to be \$1,350,000.00. The estimate will be reviewed and reported in the December Budget Review which will identify any changes to the current projections. The investment portfolio is managed to ensure liquidity to meet operational requirements.

Any surplus funds generated in excess of the adopted estimates will be transferred to Council's internally restricted reserves.

Recommending:

1. THAT the report on Investments and Loan Borrowings held as at 30 September 2020 be received.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.03_investments_and_loan_borrowings_held_as_at_30_september_2020.pdf

8.4 Disclosure of Pecuniary Interests by Councillors and Designated Persons

Report of Ian Curry, Manager Governance & Committee Services

To report on compliance with the requirement under the *Local Government Act 1993* (LGA) and *Local Government (General) Regulation 2005* for Councillors and persons holding designated positions to complete and lodge a Disclosure of Pecuniary Interests Return.

On 28 September 2020 Council adopted the revised Model Code of Conduct for Local Councils in NSW. Section 4.21 of the Model Code of Conduct requires Councillors or persons holding designated positions as at 30 June to complete and lodge a Disclosure of Pecuniary Interests Return within three months after that date (i.e. 30 September).

All returns have been duly completed and lodged within the prescribed period by all Councillors and designated officers.

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

Nil.

Recommending:

1. THAT the report be received.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.04_disclosure_of_pecuniary_interests_by_councillors_and_designated_persons.pdf

8.5 2021 Schedule of Meetings

Report of Ian Curry, Manager Governance & Committee Services

To consider the proposed schedule of Council, Committee and Reference Group meetings for 2021.

In October each year, a report is submitted to Council annually to set the meeting dates for the following year.

As well as including all Council, Committee and Reference Group meetings, the schedule lists meetings of the North Sydney Local Planning Panel (NSLPP).

Related financial implications include staff costs. The spread of ‘ordinary hours’ under the Local Government (State) Award 2020 are from 6am to 6pm. Hours worked outside this spread of hours are payable at the overtime rate. The overtime rate of pay is time-and-a-half for the first two hours and double time after that. Employees may elect to take Time In Lieu instead.

This clause does not apply to Senior Staff (as defined in the *Local Government Act 1993*) nor to those employees engaged under the Award in the Executive Classifications (Band 4) where the following applies:

“Employees engaged in Executive Band 4 may be required in addition to their ordinary hours, to attend meetings of Council and standing and/or special committee meetings. For the purpose of this subclause an employee who is required to attend these meetings may be entitled to claim overtime for actual hours worked after 11pm”.

Recommending:

1. THAT Council adopt the 2021 Schedule of Meetings, as detailed in Attachment 2.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.05_2021_schedule_of_meetings.pdf

8.6 External Committees and Reference Groups

Report of Carrie Chan, Executive Governance Manager and Ian Curry, Manager Governance & Committee Services

This report provides the opportunity for Council to review the Reference and Working Groups (with external members) facilitated by Council and determine Councillor representation considered appropriate on these

groups and on other external bodies. This report is in response to Mayoral Minute MM06: External Committees and Reference Groups, adopted by Council on 28 September 2020.

At its meeting on 28 September 2020, Council considered Mayoral Minute MM06: External Committees and Reference Groups and resolved:

1. *THAT a report be presented to the next Council meeting summarising and reviewing all external committees and reference groups facilitated by North Sydney Council.*

Council holds positions on or participates in external groups or committees. This review or audit is primarily concerned with the Reference Groups and Working Groups (with external members) and their numbers of meetings held from 2018 (after the 2017 election), as indicator of demand/interest/participation, as well as the need to fill any current vacancies.

The following external bodies, not facilitated by Council, would still require Council to nominate representatives:

- Northern Suburbs Regional Organisation of Councils (NSROC) - The Mayor, 1 Councillor representative and 2 alternates;
- Shorelink Committee (Library Network) - 1 Councillor representative and 1 alternate;
- North Sydney Innovation Network – 1 Councillor representative and 1 staff representative; and
- Sydney Coastal Councils Group - 2 Councillor representatives.

Reference and Working Groups (facilitated by Council) with external members that require the appointment of Chair are:

- Environment Reference Group;
- Sport and Recreation Reference Group;
- Sustainable Transport Reference Group; and
- Waverton Peninsula Working Group.

The following Reference Group and Working Group have not held any meetings since October/November 2014 and will not be recommended to be re-constituted:

- Community Services Reference Group; and
- Educational Institutions Working Group.

Statutory-related Committees or other bodies with external members (Audit Review and Improvement Committee-ARIC, the Traffic Committee and the Northern Sydney Legal Planning Panel) have their prescribed procedures for review and process for membership appointment. They are not subject to this report.

The Committees, Reference and Working Groups structure will be reviewed after the 2021 election, for the new term of Council. The Precincts Committee system is currently undergoing a review.

Nil.

Recommending:

1. **THAT** Council review its Committee, Reference and Working Group structure within the first year of the new term of Council, following the September election 2021.
2. **THAT** Council's three Reference Groups, with the exception of the Community Services Reference Group, be confirmed until the end of the review following the September 2021 election.
3. **THAT** Council's Working Group, with the exception of the Educational Institutions Working Group, be confirmed until the end of the review following the September 2021 election.
4. **THAT** Council maintain existing citizen membership and external bodies membership of the confirmed Reference Groups and Working Group until the end of the review following the September 2021 election.
5. **THAT** all elected Councillors remain ex officio members of the confirmed Reference Groups and Working Group.
6. **THAT** Council determine the Chair of each of the confirmed Reference and Working Group.
7. **THAT** Council agree that the Community Services Reference Group and the Educational Institutions Working Group will not be re-constituted, noting that they have not been operational since late 2014 and also noting Council's online engagement programs could address such issues and engage the community in a different form, if required in the future.
8. **THAT** Council appoint representatives to the following external bodies:
 - a. Northern Sydney Regional Organisation of Councils (NSROC) – The Mayor, 1 Councillor representative and 2 Councillor alternates.
 - b. Shorelink Committee (Library Network) – 1 Councillor representative and 1 Councillor alternate.
 - c. North Sydney Innovation Network (NSIN) – 1 Councillor representative and 1 staff representative
 - d. Sydney Coastal Councils Group – 2 Councillor representatives.
9. **THAT** Council write to the external bodies to inform them of Council's representatives for 2020/21.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.06_external_committees_and_reference_groups.pdf

8.7 **Roundabout at Grasmere Road and Young Street, Cremorne - Outcomes of Councillor Briefing**

Report of Lindsay Menday, Sustainable Transport Project Co-ordinator
This report provides Council with an update on the outcomes of a Councillor briefing held on 12 October 2020, to discuss options for road

infrastructure treatments at the intersection between Grasmere Road and Young Street, Cremorne

At its meeting of 22 June 2020 Council resolved with respect to options for road infrastructure treatments at the intersection between Grasmere Road and Young Street, Cremorne the following:

1. *THAT this matter be deferred to a Councillor Briefing which will include a representative from the RMS and Council's Engineering and Property Division, to discuss design specifications and limitations at the intersection.*

A briefing was held on 12 October 2020. The briefing was attended by specialist Traffic Engineering consultants from SMEC Engineering who were engaged by Council to review the current design of the intersection in terms of its compliance with current road design and safety standards, and to provide Council with objective feedback on how the intersection could be improved.

The recommendation of this report is consistent with recommendation from the independent consultants engaged by Council (SMEC), which was that Council implement a change of priority at the intersection subject to concurrence from the North Sydney Traffic Committee.

The works are anticipated to range in cost between \$12,000 to \$18,000 depending on the extent to which road pavements need to be reconstructed and kerbs adjusted. The scope will be confirmed following further engineering investigations and discussion with the North Sydney Traffic Committee. Works will be funded from the 2020/21 Traffic Facilities budget.

Recommending:

1. **THAT** designs be prepared for a change of priority at the intersection between Grasmere Road and Young Street, Cremorne, and that the change be constructed subject to concurrence from the North Sydney Traffic Committee.
2. **THAT** community notification on the change include details regarding why the change is being made and why a roundabout cannot be installed at the intersection.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.07_roundabout_at_grasmere_road_and_young_street_cremorne_-_outcomes_of_councillor_briefing.pdf

8.8 Swimming Pool Enclosure Report

Report of Peter Massey, Environmental Services Manager

This report details the costs and approval processes involved in installing a swimming pool enclosure in Sydney Harbour.

At its meeting on 24 August 2020, Council resolved:

THAT Council staff provide a brief report to assess the viability and cost of a netted swimming area within a harbourside swimming location – possible locations to include Hayes Street Beach and/or Lavender Bay.

Any installation of a swimming pool enclosure in Sydney Harbour would require the lodgement of a Development Application together with associated technical reports such as Human Health Risk Assessment, bathymetry and harbour bed characteristics, ecological assessments, etc. The assessment process is likely to take 9-12 months. As an initial step, discussions should be held with Transport for NSW (Maritime) to assist in determining the most appropriate location given that organisation is the land owner and Council would need their consent for any such installation.

Indicative budget necessary to pursue, install and maintain any likely location for a Harbour pool swimming enclosure would be divided into three components:

- Development Application and technical report preparation including approval from State Government Agencies is estimated at \$250,000-\$300,000 (based on recent refurbishments of two existing tidal pools in the Northern Beaches area) and the time frame for approval in the order of 9-12 months.
- Installation of structure including steel piling, HPDE sleeve and polyethylene netting (based on 40 x 40 meter dimension) is estimated at \$600,000.
- Maintenance of installed structures including monthly diving checks of integrity of netting and any associated works is estimated at \$18,000 per annum.

It should be noted that the above budget estimates are very approximate and based on discussions held with staff from other local government areas who have installed/renovated new and existing tidal netted pools. There are no funds allocated to this project in the 2020/21 budget or the current Long Term Financial Plan.

Recommending:

- 1. THAT** Council make contact with appropriate staff from Transport for NSW (Maritime) in order to discuss the viability of the proposed locations for any proposed swimming pool enclosure in Sydney Harbour.
- 2. THAT** Council staff provide a further report to Council on the outcomes of discussions with Transport for NSW (Maritime) on a proposed swimming pool enclosure in Sydney Harbour.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.08_swimming_pool_enclosure_report.pdf

8.9 Events Update 2020-2021 Season

Report of Sandra Moore, Manager Communications & Events and Joanna Gibson, Team Leader Events

The purpose of this report is to update Council on the upcoming events planned for 2020-2021 financial year and the changes required to Council's events program in response to the ongoing COVID-19 pandemic, NSW Public Health Orders (PHO) and the Transport for NSW bridge works site compound in Bradfield Park. The major events that are planned in this period, include Twilight Food Fair, *New Year's Eve (NYE)*, BBQ by the Bridge, and Bradfield Bark.

To abide by the current (at the time of writing) NSW health order pertaining to events and mass gatherings ([Public Health \(COVID-19 Restrictions on Gathering and Movement\) Order \(No 5\) 2020](#)), this report details the modifications needed to be made to Twilight Food Fair to follow a food market model in accordance with the NSW regulations. It is intended to start the season at the beginning of December as a take-away market with the option to expand the event to the usual model that the community has loved for over 30 years if PHO changes permit in 2021.

There has been uncertainty about the future of the Sydney New Year's Eve fireworks due to the COVID-19 public health restrictions. As of late September the NSW Government took custodianship of the NYE from the City of September and this report provides a brief summary of what has happen to date and an update on the current status of the event. A further report is required on the outcome of the event.

Due to the Transport for NSW site compound in Bradfield Park, this report recommends that Council's Australia Day event, BBQ by the Bridge, be cancelled for 2021. If the Australia Day Council harbour program does receive a PHO exemption to go ahead, staff will implement crowd control measures and COVID safety at Bradfield Park if required to support the activities on the harbour, but no additional entertainment will be provided.

As the Transport for NSW bridge works site compound in Bradfield Park is expected to remain until mid-2021, this report recommends St Leonards Park as the location to hold Bradfield Bark in 2021. St Leonards Park is within walking distance of most suburbs in the North Sydney LGA and close to the Ridge Street carpark so is a good choice for the event. The format and delivery of Bradfield Bark will be dependent on the relevant Public Health Orders in force at the time.

The event program outlined in this report is contingent on events being permissible under Public Health Orders at the time of the event or an exemption being granted. All events would have a COVID risk management plan in place and a designated Event Officer to ensure its implementation.

Twilight Food Fair, New Year's Eve 2020, BBQ by the Bridge 2021 and Bradfield Bark 2021 have been allocated \$950,000 funding from the 2020/21 budget, a large portion of this for New Year's Eve.

In addition to the already allocated Council budget, these events also have a small revenue stream through stallholder fees.

Part of the budget for BBQ by the Bridge can be utilised to implement crowd control and COVID safety practices to support the Australia Day Council's harbour event and program if it goes ahead.

Recommending:

1. THAT Council endorse the start of the Twilight Food Fair in December as a take-away market and note the intention to expand the market to its usual model in 2021 if Public Health Orders permit.

2. THAT a further report to Council is required on the outcomes of NYE 2020.

3. THAT Council endorse the cancellation of BBQ by the Bridge 2021 and note that COVID safety measures may need to be taken if the Australia Day Council harbour program goes ahead.

4. THAT Council endorse St Leonards Park as the location for Bradfield Bark dog event in 2021.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.09_events_update_2020-2021_season.pdf

8.10 Civic Precinct Planning Study - Post Exhibition

Report of Pedro Garcia, Senior Strategic Planner Urban Design

To report on the submissions received in response to the public exhibition of the Civic Precinct Planning Study (CPPS). The final Planning Study, amended in response to some of the issues raised in the submissions received, is presented to Council for adoption (Attachment 1).

In October 2018, North Sydney Council accepted Accelerated LEP Review Grant Funding from the NSW Department of Planning, Industry and Environment. The funding aims to assist Council align the North Sydney LEP 2013 with the Greater Sydney Commission's North District Plan (2018). The Civic Precinct Planning Study was identified as one of the studies to be funded under the grant.

The study focuses on the area directly north of North Sydney CBD. The objectives of the study are to plan for the arrival of the new metro station in 2024 and to establish the role of the Civic Precinct within the wider LGA context.

The study has been undertaken in two stages. Stage 1 was carried out in mid-2019 to understand community's aspirations for the area and was reported to Council in October 2019. Stage 2 involved the preparation of the draft Planning Study.

At its meeting of 18 May 2020, Council endorsed the Draft Civic Precinct Planning Study for public exhibition, which occurred 4 June to 20 July 2020. A total of 193 submissions were received from a cross section of stakeholders, including landowners, government agencies, residents, students and Precinct Committees. The consultation process has yielded valuable feedback and assisted in the refinement and improvement of the final document.

The majority of submissions support the Planning Study's vision and goals.

Of the issues raised, the most prevalent relate to four sites identified in the Study as having redevelopment potential. Of these, 120 submissions were received in response to the Study's draft proposals for 52 McLaren Street, 15 were received in response to the "East Walker" landholding, 10 for the "Fiveways Triangle" landholding in Crows Nest and 10 submissions for the 253-267 Pacific Highway draft proposals.

Following a review of the submissions, a further detailed analysis of those sites was undertaken including additional shadow studies, section diagrams and context analysis. As a result of this review, it is proposed to reduce the maximum heights for 253-367 Pacific Highway (Southern Transition site) from 10/12 storeys to 8/10 storeys.

In August, the Department of Planning, Industry and Environment released the final St. Leonards/Crows Nest 2036 Plan, which includes a recommended maximum height of 16 storeys for the "Fiveways Triangle" site (bounded by Falcon & Alexander Streets and Pacific Highway). The 2036 Plan is accompanied by a 9.1 Ministerial Direction that requires rezoning proposals to be consistent with the Plan. Accordingly, the Civic Precinct Planning Study has been amended to remove the proposed 8-storey limit and reflect the 2036 Plan's recommendation of 16-storeys.

Lastly, some adjustments are also proposed for the built form recommendations for the 52 McLaren Street site.

This report seeks Council's adoption of the final Planning Study as amended (Attachment 1) and recommends that Council move forward with two further detailed studies that have been identified by the Planning Study.

On 29 October 2018, North Sydney Council accepted Accelerated LEP Review Grant Funding from the NSW Department of Planning, Industry and Environment to align the North Sydney LEP 2013 with the North District Plan (GSC 2018). The Civic Precinct Planning Study was identified as one study to be funded from the Accelerated LEP Review Grant.

The Study was fully grant-funded. Approximately \$215,000 has been expended on this work including the various stages of consultation.

Recommending:

1. THAT Council adopt the *Civic Precinct Planning Study* (Attachment 1), as amended.

2. **THAT** the Planning Study be amended to recommend maximum height limits of 8 - 10 storeys across 253-267 Pacific Highway.
3. **THAT** the Planning Study be amended to show a maximum height of 16 storeys at the “Fiveways Triangle” site to reflect the St Leonards/Crows Nest 2036 Plan.
4. **THAT** a draft amendment to the *North Sydney Development Control Plan* (2013) to implement the recommendations of the *Civic Precinct Planning Study* be reported back to Council.
5. **THAT** a planning study of the Falcon Street corridor is prepared once the impacts and final design of the Western Harbour Tunnel and transport plans to support the 2036 Plan are known.
6. **THAT** a masterplan of the Civic Block is prepared to address the future needs of the North Sydney community.
7. **THAT** Council writes to all submitters thanking them for their contributions to the refinement of the Study.
8. **THAT** the Greater Sydney Commission, Department of Planning, Industry and Environment and Transport for NSW be notified of Council’s resolution.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.10_civic_precinct_planning_study_-_post_exhibition.pdf

8.11 **Development Control Plan - 23-35 Atchison Street, St Leonards**

Report of Neal McCarry, Team Leader – Policy

The purpose of this report is to seek Council’s re-endorsement of a previously exhibited site-specific amendment to the North Sydney Development Control Plan (DCP). The required notification of the DCP amendment did not occur within the specified 28-day timeframe as the accompanying LEP amendment was not made until considerably later (15 May 2020).

On 23 September 2019, Council considered a post exhibition report for a Planning Proposal and site specific DCP to amend the NSLEP 2013 and DCP as it applies to 23-35 Atchison Street St Leonards. At this meeting Council resolved, in regard to the DCP:

THAT in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000, Council adopts the amendments to North Sydney Development Control Plan 2013 forming Attachment 5 to this report.

Clause 21 (2) of the Environmental Planning and Assessment Regulation 2000 requires Council to publish notice of its decision on its website within 28 days after the decision is made. This did not occur within the specified 28-day timeframe as the accompanying LEP amendment was not made until considerably later (15 May 2020).

In order to ensure procedural correctness, the previously endorsed DCP amendment is being re-presented for Council's adoption. The DCP amendment introduces a 6m ground level setback along the Atchison Street frontage of the site and will help guide the detailed design of the proposal through the Development Application assessment process.

During the previous exhibition, there were no submissions received concerning the DCP amendment.

There are no financial implications arising as a result of this matter.

Recommending:

1. THAT in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000, Council adopts the amendment to North Sydney Development Control Plan 2013 forming Attachment 1 to this report.

2. THAT in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000, a copy of the adopted amendment to North Sydney Development Control Plan 2013 be forwarded to the Planning Secretary of the Department of Planning, Industries and Environment.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.11_development_control_plan_-_23-35_atchison_street_st_leonards.pdf

8.12 **Voluntary Planning Agreement - 173-179 Walker Street and 11-17 Hampden Street, North Sydney**

Report of Neal McCarry, Team Leader – Policy

This report considers a proposed Voluntary Planning Agreement offer associated with a Planning Proposal at No's 173-179 Walker and 11-17 Hampden Streets North Sydney.

On 22 March 2019, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to 173-179 Walker Street and 11-17 Hampden Street, North Sydney. The Planning Proposal sought the following amendments to NSLEP 2013:

- Increase the maximum building height from 12m to RL133 (representing approximately 62- 72m of additional height)
- Establish a minimum floor space ratio of 6.1:1
- Introduce a new special provision to establish controls for the site relating to overshadowing, community infrastructure and allowance for maximum height and FSR greater than the above associated with amalgamation of all lots within the site.

Council refused the Planning Proposal at its meeting on 26 August 2019. In response, the applicant lodged a request with the Department of Planning, Infrastructure and Environment on 2 September 2019 for a Rezoning Review.

On 12 February 2020, the Rezoning Review request was considered by the Sydney North Regional Planning Panel (SNRPP), which recommended that the Planning Proposal progress to Gateway Determination. Council subsequently resolved not to perform the role of Planning Proposal Authority in the further processing of the Proposal.

A Gateway Determination was then issued on 6 July 2020 enabling the Planning Proposal to be exhibited subject to various conditions.

The Planning Proposal is accompanied by a letter of offer to enter draft Voluntary Planning Agreement (VPA), with the following contributions:

- Dedication of 5% of the residential yield to Council for use as affordable housing (approximately 11-14 units); and
- A monetary contribution for the provision of community infrastructure at a rate of \$15,100 per net additional dwelling (approximately \$3.1 - \$3.3 million).

This report recommends that Council endorses in principle, the VPA offer subject to further refinement. Endorsing the VPA as part of the planning process currently afoot does not represent an acceptance of the planning proposal as submitted.

The Planning Proposal is accompanied by a VPA offer that proposes to provide dedication of affordable housing units and a monetary contribution of \$3.1-\$3.3 million towards the provision of community infrastructure.

Recommending:

- 1. THAT** Council endorse, in principle, the contents of the Voluntary Planning Agreement offer provided at Attachment 1, for the purposes of public exhibition.
- 2. THAT** Council confirm its preference for the delivery and dedication of dwellings within the development for the purposes of affordable housing.
- 3. THAT** the General Manager be granted delegated authority to negotiate the detailed contents and terms of the VPA and that the draft VPA then be the subject of public exhibition.
- 4. THAT** the outcomes of the public exhibition be reported back to Council.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.12_voluntary_planning_agreement_-_173-179_walker_street_and_11-17_hampden_street_north_sydney.pdf

8.13 **Review for 2019/20 of the North Sydney Men’s Shed Joint Strategic Plan**

Report of Martin Ellis, Director Community & Library Services

To report on the annual review of the North Sydney Men’s Shed Joint Strategic Plan with Council.

The Men’s Shed Joint Strategic Plan is a joint planning statement by Council and the North Sydney Men’s Shed. It is based on the Shed’s Strategic Plan 2019-2021 as well as Council’s Community, Cultural and Recreational Facilities Policy and program of works. The plan is reviewed annually which is the purpose of this report.

This year, the Men’s Shed was required to close 23 March due to a COVID-19 NSW Public Health Order (COVID-19 Restrictions on Gathering and Movement) Order 2020 (30 March 2020). They were able to reopen in June after completing a COVID Safe Plan.

The Shed’s supervisors implemented hygiene procedures, social distancing and restricted numbers. A hand sanitation station purchased and installed by Council was appreciated.

Before the advent of COVID-19, the Men’s Shed was able to complete a joint project with Council, in which the participants created garden beds for a White Ribbon Day garden located outside the front of Council Chambers.

The Shed also took part in Council’s Seniors’ Festival Open Day.

Council leases the Shed to the Men’s Shed on a peppercorn basis. Council maintains the building. This year equipment replacement and internet access cost \$5,778.00, with the Men’s Shed contributing \$4,003.00.

This year, the Men’s Shed budget has returned a deficit of \$1,186.00 after a surplus last financial year of \$31.

Recommending:

1. THAT the report on the North Sydney Men’s Shed 2019/20 review of the Joint Strategic Plan be noted.

https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2020/oct_26_2020_730pm/reports_to_council_26_oct_2020/8.13_review_for_2019-20_of_the_north_sydney_mens_shed_joint_strategic_plan.pdf

**MOTIONS OF WHICH DUE NOTICE
HAS BEEN GIVEN**

9.1 Notice of Motion No. 14/20 - Crs Beregi, Baker and Carr - Environmental and Compliance Fines

- 1. THAT** Council prepare a report outlining and explaining the reasons for the significant decrease in revenue from environmental and compliance fines over the past three years.
- 2. THAT** the report include a table detailing the nature, type and penalty amount of each PIN/fine issued for environmental and compliance breached for the past three years as well as details of any PINs issued that were subsequently waived/cancelled/appealed and the reasoning for such action.

BACKGROUND (as provided by the submitters)

Recently in the Sydney Morning Herald, it was reported that:

Parking fines alone in North Sydney generated north of \$7 million for the council in 2019, while fines for so-called “environmental and compliance” issues - such as errant furniture on terraces - brought in just over \$55,000. A year earlier those environmental fines brought in triple the amount: \$168,000 - SMH August 18, 2020 - 12.00am

The council has taken a more lenient approach to so-called “environmental and compliance” fines, which generated just over \$50,000 in the last financial year, down from \$168,000 in 2018 - SMH, August 18, 2020 - 11.59pm

This is a significant decrease which requires explanation and understanding.

Comment from Director City Strategy

In March 2017 Environment and Building Compliance presented a Construction Works Management Strategy to the Legal and Planning Committee that was approved at the subsequent Council meeting. This was in response to a Council resolution:

“That Council develop an action plan to address the management of construction traffic and construction hours associated with simultaneous construction on multiple sites in the North Sydney, Crows Nest and St Leonards over the next 2-3 years.”

The approved Construction Works Management Strategy included Ranger staff regularly patrolling the area with particular focus on after-hours construction works and greater liaison between compliance staff and building contractors. Council issued 2017/2018 and 2018/2019 PINs relating to Development not According to Consent – Corporation, largely focussed in this area. PINs issued for the offence, Development not According to Consent – Corporation are \$6,000 per instance.

- 2017/2018 – 44 PINS issued at a total of \$ 264,000
- 2018/2019 – 39 PINS issued at a total of \$ 234,000
- 2019/2020 – 13 PINS issued at a total of \$ 78,000

Arguably, the level of enforcement over a two-year period has seen a higher compliance rate in 2019/2020 as demonstrated by the reduction in the number of PINs issued. Development sites within NSC seem to be more compliant – developers, with the assistance of Council staff, liaise with each other in respect to managing construction timings as they are aware of our strategy.

Additionally, during the above time period Council opted to prosecute two development sites for continual breaches for Development not According to Consent instead of issuing more PINs. Council then entered into newly legislated Enforceable Undertakings to ensure ongoing compliance and these were accompanied by monetary payment to Council to offset the community impact caused by the breaches. Enforceable Undertakings for compliance breaches were enabled by a legislative amendment that took effect around March 2018. Monetary payments associated with Enforceable Undertakings entered by Council amount to \$150,000 plus legal costs and compliance costs. These have been reported separately to PIN statistics through the Legal and Planning Committee.

The revised compliance strategy resulting from the aforementioned Council resolution and legislative change enabling Enforceable Undertakings has improved Council's capacity to manage Environment and Building Compliance. When Enforceable Undertakings revenue is considered, the total revenue from Compliance remains relatively consistent.

9.2

Questions With Notice - Crs Beregi, Baker and Carr

The following Questions with Notice were submitted by the aforementioned Councillors: Responses are provided under each question

Question 1. Neutral Bay Club (NBC) Penalty Infringement Notice

- a) When was the \$6,000 penalty infringement notice (PIN) issued to the Neutral Bay Club? The PIN was referred to in the NBC General Manager’s update dated 24 July 2020 which stated:**

You may have noticed the removal of the Marquee and furniture on the upper terrace of the club. This has been forced on us by North Sydney Council who have issued a \$6,000.00 infringement notice. This has been a long-term dispute as the Marquee is partially on council land and deemed a permanent structure. What was a safe area/environment for children’s parties and shade is now a safety hazard; what was for community use and enjoyment is now a community eyesore. We have kept the area spotless and have had it cleaned daily for years – we hope that council will now do the same. We are appealing the fine and may ask for community support at a later stage.

- b) Who were the attendees at the meeting between the Club, North Sydney Council and the Mayor which is referred to in the Neutral Bay Club President’s email of 14 August 2020 which stated:**

As advised in the GM Update email sent on 24 July 2020 the marquee and furniture on the upper terrace of the club were cleared because of an infringement notice received from North Sydney Council. Following a very productive meeting last week between the Club, North Sydney Council and the Mayor, I am delighted to report that we have their support to finding the right short and long-term resolutions to this situation and we were advised yesterday that our application to have the penalty notice cancelled has been approved. We greatly appreciate the tremendous level of support from the local community and members who responded with their offers of support and willingness to get involved.

- c) On what basis was the PIN cancelled? Please provide a copy of the Neutral Bay Club’s “application to have the penalty notice cancelled” and any other documentation that supported the application to have the penalty notice cancelled including communication from the State Debt Recovery Office (SDRO) and/or the Council and/or the Mayor and/or any other councillor/member of council staff, and minutes/files notes of the meeting referred to in b) above.**

- d) What is the status of the “dispute” and has it been resolved?**
-

Response: A PIN was issued to the Neutral Bay Club on 7 July 2020 as a result of a Marquee erected by the club that partially crossed the boundary of its land onto the neighbouring Council park.

On 6 August 2020, after being advised of the matter by the Director of Open Space and Environmental Services, Rob Emerson; the General Manager wrote to the A/Director City Strategy and Manager Compliance advising:

The Marquee had been subject to discussion between myself, Rob Emerson and the club executive early this year and certain commitments were given, including that no further legislative action/fines would be commenced without further discussion with them. It appears that there may have been a breakdown in this being communicated, possible at my end.

Council's Compliance and Engagement policy encourages compliance through education and cooperation and, other than dangerous matters, promotes matters being resolved cooperatively where possible. Given the commitment provided to the Neutral Bay Club and the fact that liaison had commenced, I would like the PIN withdrawn.

On 7 August 2020 the Mayor, Cr Keen and Mr Emerson met with representatives of the Neutral Bay Club to discuss a longer-term solution.

Mr Emerson is continuing to liaise with the club to resolve land boundary issues with the objective of getting a mutually beneficial outcome for the Club and the community. A survey has recently been undertaken and the land boundary matter will be the subject of a further report to Council.

Question 2. Other Penalty Infringement Notices and Fines

- a) Was a Penalty Infringement Notice (PIN) issued to the Mayor, and/or a member of her election team, during the 2017 election campaign, for the illegal use of a flashing sign, or for any other reason? (refer Sydney Morning Herald extract below) If so, please provide details of when and why the PIN was issued, and the quantum of fine.**

Whether it's a concerted effort to be kinder and gentler by Mayor Jilly Gibson and general manager Ken Gouldthorp is difficult to determine. But it seems Gibson herself knows the joy of a last-minute reprieve.

Sources close to the council believe that in late 2017, Gibson's campaign team was slapped with a \$6,000 infringement notice from the council's

own rangers over the use of a flashing sign during the local government elections. Flashing signs are against the rules.

Apparently, the fine was withdrawn in early 2018 following a decision by council officials who concluded that Gibson's team wasn't in the wrong - SMH, August 18, 2020 - 11.59pm

b) If a PIN was issued, was the PIN paid by the Mayor or paid by anyone else? If a PIN was issued but not paid, please provide all details including reasoning, documentation and communications outlining what happened and an explanation as to why the fine was not paid/waived or otherwise not enforced. Please include any correspondence with the SDRO and any other parties.

Response: No, a PIN was not issued to the Mayor or member of her election team. A PIN was initially issued to the hire company who installed the sign. The PIN was subsequently withdrawn on the recommendation of the then Public Officer supported by legal advice.

This matter was subject to a complaint to the Office of Local Government (OLG) in September 2019. After independently reviewing the matter, including associated documentation, OLG determined that further action was not required and closed the file.
