



Council Chambers
10 December 2020

The **3739th EXTRAORDINARY MEETING** of **COUNCIL** will be held at the Council Chambers, North Sydney at **5.30pm** on Tuesday, 15 December 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. Confidential Matters**
 - 6.1 Redevelopment of the North Sydney Olympic Pool - Tender 24/2020
- 7. Notices of Motion/Questions with Notice**
 - 7.1 Notice of Rescission No. 5/20 by Councillors Beregi, Baker and Carr - 10.5 Noakes Boatyard - 6 John Street, McMahons Point (30 November 2020)
 - 7.2 Notice of Motion No. 21/20 - Crs Baker and Beregi - Keep North Sydney Olympic Pool Open
 - 7.3 Notice of Motion No. 22/20 - Crs Baker and Beregi - Vale Councillor Deborah Hutchens

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, Jilly Gibson and Councillors Baker, Barbour, Beregi, Brodie, Carr, Drummond, Gunning, Keen and Mutton.

SUBJECT: 3739th MEETING OF COUNCIL TO BE HELD ON TUESDAY, 15 DECEMBER 2020

THAT THE MINUTES of the previous 3738th Council Meeting held on Monday, 30 November 2020 be taken as read and confirmed.

DISCLOSURES OF INTEREST

Confidential Matters

6.1 **Redevelopment of the North Sydney Olympic Pool - Tender 24/2020**

Report of Duncan Mitchell, Director Engineering and Property Services
This report is to provide Council with an analysis and recommendation of the tender process for Tender 24/2020 for the redevelopment of the North Sydney Olympic Pool.

Tenders were called and were received until 4pm, Thursday 19 November 2020 for the redevelopment of the North Sydney Olympic Pool.

The associated Confidential Report to this item addresses commercial information of a confidential nature. If the Council wishes to discuss the report, the meeting should be closed to the public to do so in accordance with s10A(2)(d) of the Local Government Act (LGA).

Recommendation:

1. THAT the meeting be closed to the public in accordance with Section 10A(2) (d) commercial information of a confidential nature that would, if disclosed;

(i) prejudice the commercial position of the person who supplied it, or
(ii) confer a commercial advantage on a competitor of the Council, or
(iii) reveal a trade secret..

2. THAT the report be treated as confidential and remain confidential until Council determines otherwise.

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

7.1 Notice of Rescission No. 5/20 by Councillors Beregi, Baker and Carr - 10.5 Noakes Boatyard - 6 John Street, McMahons Point (30 November 2020)

THAT the Council's resolution relating to Item 10.5 Noakes Boatyard - 6 John Street, McMahons Point:

- 1. THAT Council authorises the General Manager to negotiate and agree to minor changes or amendments to the Deed of Settlement.*
- 2. THAT Council authorises the General Manager to execute the Deed of Settlement.*
- 3. THAT Council notes the Deed of Settlement may be provided to residents, interested parties or complainants, upon request and subsequent to execution by the General Manager.*
- 4. THAT Council notes that if the Deed of Agreement is not agreed between the parties, the s34 Conciliation Conference will likely be terminated and the Proceedings will thereafter be listed for defended hearing.*
- 5. THAT the Confidential Report relating to matters specified in Sections 10A(2)(g) be treated as confidential and remain confidential until Council determines otherwise.*

Passed at the meeting of the Council held on 30 November 2020 be and is hereby rescinded.

THAT the following resolution be passed in lieu thereof:

- 1. THAT, if Council is prepared to finalise the matter based on any agreement reached as part of the s34 conciliation conference currently before the Land and Environment Court, Council instruct its solicitors to resolve the matter by way of Consent Orders in order to ensure that the terms of any agreement are made public prior to final orders being made.*

Council Solicitor's Comments

As this matter involves legal advice on a case that remains active in the Land and Environment Court, the Officer's Note in respect to the Rescission Motion should be treated as Confidential and Council should go into closed session if it intends to debate the matter in accordance with section 10A(2) (g) of the Local Government Act 1993, advice concerning

litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

7.2 **Notice of Motion No. 21/20 - Crs Baker and Beregi - Keep North Sydney Olympic Pool Open**

1. **THAT** the North Sydney Olympic pool complex remain open as far as is possible given Government advice and guidelines, until the end of the Easter School holidays 2021 - that is until Monday 19 April 2021.
2. **THAT** Council note the important role that swimming, exercise and the North Sydney Pool complex plays in assisting our community to recover and re-connect as the impact of the COVID-19 pandemic eases.
3. **THAT** Council note the strong community support for the pool staying open until the end of the summer swimming season.
4. **THAT** Council note that many residents and families will be staying at home in Sydney over the Christmas/January holiday period due to the on-going travel restrictions, including international, and hence the need for a community facility such as North Sydney Pool to remain open is of even greater need and importance.
5. **THAT** Council notes the crucial role exercise and particularly swimming has on our community's mental and physical health.
6. **THAT** Council note that final approval for the DA following the imposing of conditions of consent has only just be granted.
7. **THAT** Council note that the tender process for the building and construction of the pool is still on-going.
8. **THAT** Council note that no appointment has been made in relation to the building and construction works associated with the redevelopment of NSOP and no contract for the works has been entered into.
9. **THAT** Council note that the pool was re-opened earlier in the year following a recent Structural report on the pool which allowed the pool to re-open.
10. **THAT** Council note that, with a hot summer predicted and social distancing measures being enforced at beaches and other locations where the community can swim and cool down, keeping the North Sydney Olympic Pool complex open over the summer is an appropriate and responsible measure and will contribute to the community's well-being.
11. **THAT** Council note that during summer, the pool usually operates at a surplus and that should there be any shortfall in revenue vs expenses, then Council absorb these costs as part of its relief initiative to support the community recovery from COVID-19.

Comment from General Manager

Council has been aware of the North Sydney Olympic Pool (NSOP) redevelopment program including closure for construction at the end of 2020, for a significant period of time. Council has further resolved to

undertake various actions in line with this construction schedule including undertaking an expression of interest process prior to shortlisting potential construction companies, followed by a tender process. All tenderers submitted on this basis with the scheduled commencement and site possession varying from early January to early February. NSOP must be closed in advance of handing over site possession to decommission equipment, empty the pools and relocate equipment to be re-used in the new facility.

NSOP was originally closed in March 2020 as a result of the COVID pandemic. The expectation at the time was that it would remain fully closed for at least six months (i.e. to the anticipated commencement of construction) and staff were made redundant or transferred. In accordance with the Award requirements the necessary notice has been provided to remaining staff and Unions that the facility will close on 31 December 2020 and employment will cease in January following the decommission.

Any decision to continue to operate the pool must take into consideration the structural condition of the facility, public safety, and the capacity and duration that the facility can continue to be operated while ensuring public safety. It is also important that the expectations of the Pool are realistically managed in light of the significantly deteriorated structural integrity of the facility.

A number of extensive reports have been provided to Council in relation to the structural condition of NSOP, the need for its redevelopment, the cost of doing so and the options available; prior to the resolution to proceed with current option. Councillors' attention is particularly drawn to the three reports provided throughout 2019 (25 February, 25 March, and 26 August). These remain available to the Councillors on the Hub and to the public on the Council website.

The reports reference a range of independent structural engineering assessments of the 50m pool, the pool concourse, and the grandstand dating back to 1998, A specialist structural engineering review in 2013 identified:

The 50m pool concourse sub-floor space was investigated and a photographic survey of the back of the pool walls and the underside of the pool concourse identified advanced corrosion of the pool walls, concourses, steel beams supporting pipework and all metal work. In addition, exposed reinforcement was prevalent and major pipe leakages and leaks through the pool walls were observed. The pool and concourses have been subject to a highly corrosive environment of chlorinated seawater since 1936.

- *Corrosion to the pool walls is very severe and will most likely compromise the structural integrity of the pool walls in some areas. It is possible some reinforcement has totally lost its structural integrity.*
- *The original concourse slab is also severely corroded and should be replaced.*
- *The cost of repairing the pool has been estimated to be more than the cost of a new pool. The repairs will have a limited life whereas a new pool will have a minimum life of between 40 to 60 years.*
- *The 50m pool should be replaced in the shortest possible timeframe.*
- *The leakage from the pool structure and pipes is very significant and flooding the sub-floor space causing further corrosion of steelwork beams and reinforcement.*
- *The leakage needs to be reduced or stopped as it is possible it could lead to a complete failure of a pipe or pipes. Most leakage is due to failed pipe junctions into the pool structure and along the pipe's length.*

While there have been attempts to reduce leakage including the use of a liner, these have not fully addressed the situation. The pool has continued to leak and the pool structure and concourse have continued to deteriorate.

A separate engineering structure report on the grandstand in 2018 advised:

There is evidence of active corrosion throughout the grandstand. The corrosion activity can primarily be attributed to the elevated chloride and carbonation levels, internally and externally, respectively. Reinforcement corrosion is apparent at a number of locations due to elevated chloride at the reinforcement depth.

The report went on to conclude:

A structure designed and constructed in accordance with the current Australian Standard, AS3600, is expected to have a design life of 50±10 years. This structure has been in place for considerably longer than 50 years and the testing has indicated that it has effectively reached the end of its design life.

In June/July 2019 further investigations on the condition and structural assessment of the pool shell and concourse were undertaken. This involved a subterranean inspection in the confined space underneath the concourse and around the pool shell. The void space surrounding the pool shell and under the concourse had to be pumped out to clear water from the leaking pool before the inspection could be conducted. Observations made during the inspection identified significant corrosion of steel tie rod

bars and many cracks in the underside of the original concourse slab. The structural engineering and condition reports advise:

"Although in our opinion the pool structure and the concourse are at the end of their structural life, there is no significantly compelling visual evidence (based on photographs) of structural cracking in the pool or concourse that will lead us to believe these structures would be in imminent danger of collapse or fail suddenly. This opinion is on the condition that there is no high Loading on the concourse from persons or equipment. For example, no crowd loading should be permitted on any of the concourse and persons should be limited to approximately 2 persons per square metre at a maximum." [My emphasis].

Subsequent detailed core sample testing resulting in the load limit around the concourse being increased to 3Kpa (approximately 3 persons per square metre) except for the area around the toddler pool which remained at 2 persons per square metre.

Should Council seek to keep the outdoor pool open, it will be necessary to apply strict control mechanisms to ensure that load limits on the concourse are not exceeded. This will require controls such as that which have been in place since the outdoor pool reopened on 23 May 2020. Even with these controls, Council should be cognisant that a level of risk remains in continuing to utilise the facility.

7.3 Notice of Motion No. 22/20 - Crs Baker and Beregi - Vale Councillor Deborah Hutchens

- 1. THAT** Council acknowledge the significant contribution to the Lane Cove community and the Lower North Shore community by the late Councillor and former Mayor of Lane Cove Deborah Hutchens.
 - 2. THAT** Council write to Lane Cove Council and to Councillor Hutchens' family expressing deep sympathy and condolences on the passing of Councillor Deborah Hutchens.
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