



## MINUTES

The Minutes of the **3740<sup>th</sup> EXTRAORDINARY MEETING** of **COUNCIL** held at the Council Chambers, 200 Miller Street, North Sydney on Monday 21 December 2020.



<b>1. Opening Meeting .....</b>	<b>3</b>
<b>2. Acknowledgement of Country .....</b>	<b>3</b>
<b>3. Apologies and Applications for Leave of Absence by Councillors.....</b>	<b>3</b>
<b>4. Confirmation of Minutes .....</b>	<b>3</b>
<b>5. Disclosures of Interest.....</b>	<b>4</b>
<b>6. Notices of Motion .....</b>	<b>4</b>
<i>6.1. Notice of Rescission No. 6/20 by Councillors Baker, Beregi and Carr - Redevelopment of the North Sydney Olympic Pool - Tender 24/2020 (15 December 2020).....</i>	<i>4</i>
<i>6.2. Questions with Notice - Cr Beregi.....</i>	<i>5</i>
<b>7. Closure .....</b>	<b>7</b>

## 1. Opening Meeting

The Mayor, Jilly Gibson, in the Chair, and Councillors Baker, Barbour, Beregi, Brodie, Carr, Drummond, Keen and Mutton.

At the commencement of business (9.01am) those present were:

The Mayor and Councillors Keen and Mutton.

Those participating remotely were:

Councillors Baker, Barbour, Beregi, Brodie, Carr and Drummond.

The meeting was opened by the Mayor.

## 2. Acknowledgement of Country

The Acknowledgement of Country was read by Councillor Keen.

## 3. Apologies and Applications for Leave of Absence by Councillors

Nil.

## 4. Confirmation of Minutes

The Minutes of the previous 3739<sup>th</sup> Extraordinary Council Meeting held on Tuesday, 15 December 2020, copies of which had been previously circulated, were taken as read and confirmed.

A Motion was moved by Councillor Keen and seconded by Councillor Mutton,

**THAT** the Minutes of the previous 3739<sup>th</sup> Extraordinary Council Meeting held on Tuesday, 15 December 2020 copies of which had been previously circulated, were taken as read and confirmed.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 6 / 3

**For:** Councillor Gibson, Councillor Keen, Councillor Brodie, Councillor Barbour, Councillor Drummond, Councillor Mutton

**Against:** Councillor Beregi, Councillor Carr, Councillor Baker

**Absent:** Councillor Gunning

**227. RESOLVED:**

**THAT** the Minutes of the previous 3739<sup>th</sup> Extraordinary Council Meeting held on Tuesday, 15 December 2020 copies of which had been previously circulated, were taken as read and confirmed.

**5. Disclosures of Interest**

Nil.

**6. Notices of Motion**

**6.1. Notice of Rescission No. 6/20 by Councillors Baker, Beregi and Carr - Redevelopment of the North Sydney Olympic Pool - Tender 24/2020 (15 December 2020)**

**THAT** the Council's resolution relating to Item 6.1 Redevelopment of the North Sydney Olympic Pool - Tender 24/2020 where Council resolved:

- 1. THAT Council increase the budget allocation to the North Sydney Olympic Pool by \$6 million comprising \$3 million from Open Space and Recreation Reserve and \$3 million in additional borrowings.*
- 2. THAT the General Manager be authorised to enter a loan arrangement for the revised borrowing amount of \$31 million with TCorp on the same terms and conditions as previously approved for the \$28 million loan offer.*
- 3. THAT Council reject all offers for Tender No. 24/2020 for the redevelopment of the North Sydney Olympic Pool.*
- 4. THAT Council does not invite fresh tenders as the initial EOI process identified suitable construction companies, the non-proposed conformance amendments to Condition of Contract can be resolved through negotiation, and Council is satisfied the pricing already provided through the process to date ensures competitive marked pricing. Furthermore, it is considered that re-tendering, rather than negotiating, will not attract additional suitable submissions for the project.*
- 5. THAT Council resolves to enter into direct negotiation with the preferred tenderer(s) for the redevelopment of the North Sydney Olympic Pool in sequence of their ranking order.*
- 6. THAT authority be delegated to the General Manager to negotiate with the preferred tenderer and enter into a contract for the redevelopment of the North Sydney Olympic Pool subject to:*
  - i) the contract value being within the amended budget after allowing for contingencies and project management costs as identified in the Confidential Report.*
  - ii) gaining unanimous consent from a committee comprising the Mayor, Deputy Mayor and Cr Mutton; in respect to negotiated amendments to the Construction Contract.*
- 7. THAT once Council has executed the Contract, information relating to the contract be published in Council's Register of Contracts as required by Government Information (Public Access) Act 2009 - Part 3 Division 5 - Government Contracts with Private Sector.*

8. ***THAT** a further report be presented to Council addressing the outcome of the negotiations.*
9. ***THAT** the further report be presented to Council on the performance of Council's property lease portfolio for the purpose of considering liquidating low performing properties and reducing the ultimate draw down of debt.*
10. ***THAT** the Confidential Report relating to matters specified in Sections 10A(2)(d) be treated as confidential and remain confidential until Council determines otherwise.*

Passed at the meeting of the Council held on 15 December 2020 be and is hereby **rescinded**.

**THAT** the following resolution be passed in lieu thereof:

1. ***THAT** Council revise the scope of the works for the North Sydney Olympic Pool.*
2. ***THAT** Council reject all offers for Tender 24/2020 for the redevelopment of North Sydney Pool.*
3. ***THAT** Council not proceed with increasing the budget allocation to the North Sydney Olympic Pool redevelopment by \$6 million, comprising \$3 million from Open Space and Recreation Reserve and \$3 million in additional borrowings.*
4. ***THAT** the Council not enter a loan arrangement with TCorp.*
5. ***THAT** Council adopt the original \$28 million budget for the rebuild and refurbishment of the North Sydney Olympic Pool.*
6. ***THAT** Council prepare amended plans with a reduced scope and cost as a matter of urgency, for the rebuild and refurbishment of the North Sydney Olympic Pool, within the original \$28 million budget.*
7. ***THAT** Council seek advice as to whether a modest rebuild and refurbishment of the North Sydney Olympic Pool, as per option 2(a), requires a DA.*
8. ***THAT** a report with the amended plans and revised budget be provided as soon as possible to the Council for review and endorsement.*
9. ***THAT** Council obtain a Quantity Surveyors report for the more modest rebuild and refurbishment plans.*
10. ***THAT** following the public consultation, Council resolve upon a final design and either lodge an amended DA or proceed to undertake the works.*

The Rescission Motion was moved by Councillor Beregi and seconded by Councillor Baker.

The Motion was put and **Lost**.

Voting was as follows:

For/Against 4 / 5

**For:** Councillor Beregi, Councillor Keen, Councillor Carr, Councillor Baker

**Against:** Councillor Gibson, Councillor Brodie, Councillor Barbour, Councillor Drummond, Councillor Mutton

**Absent:** Councillor Gunning

## **6.2. Questions with Notice - Cr Beregi**

The General Manager advised that Council Beregi had submitted a series of questions regarding Tender 24/2020 and advised that these were taken as Questions on Notice. The

responses were shared with the meeting and the General Manager read the responses, as follows:

**Q1. When was the Probity Adviser was appointed, who appointed them, were other probity advisers considered, what was the criteria for their appointment etc.? Can you please send me a copy of the Probity Plan and also the letter of engagement etc. which outlines the scope of the work. How much did the Probity Adviser cost?**

**Response:** Council engaged the services of Prevention Partners NSW on 4 December 2019. The engagement was for \$4,900 to prepare a Probity Plan for the redevelopment of the North Sydney Olympic Pool. This Probity Plan has been submitted to the Office of Local Government as part of a suite of documents on the redevelopment of the North Sydney Olympic Pool that was required to be submitted in accordance with the NSW Office of Local, Government, Capital Expenditure Guidelines - December 2010 issued pursuant to section 23A of the Local Government Act 1993. The OLG wrote back to Council on 17 April 2020 informing Council that it had satisfactorily met the requirements of the guidelines for this project. On 2 September 2020 Prevention Partners NSW were engaged again to oversee the tender process for the redevelopment of the North Sydney Olympic Pool through to the award of tender. This engagement, which is still current and running, is for a total cost of \$8,400 excluding GST.

**Q2. Re the tender rankings, can you please advise the tender ranking by each of the four tender panel members - that is, the ranking each member of the tender panel assigned to each tenderer.**

**Response:** Council's Tender Assessment reports provide the consolidated assessment of the assessment team. Supporting reasons for the team's assessment were provided both at the Confidential Briefing and within the Confidential Tender Assessment report considered by Council in Closed Session. Members of the panel were also present and available to respond to any questions put by Councillors. The assessment reports do not provide individual member scores established in the process of undertaking the overall assessment.

**Q3. What was the sum quoted in the QS report for the project? Can you please send me a copy of the QS report/Bill of Quantities that was used by each of the tenderers.**

**Response:** As previously advised in the Confidential Briefing, Council's QS pre-tender estimate for the project - Lump Sum Construction Component only was for \$49,100,000. The QS report(s) bill of estimates obtained and used by the tenderers is a matter for them.

**Q4. Last week, we discussed the tender and I asked if you could please send me the tender specs - can these please be provided.**

**Response:** As previously advised the full tender package that went to tender included hundreds of detailed/technical drawings, over 50 x reports and 11 volumes of technical specifications that is in excess of 3.5GB or 3500MB of information that professional teams from each tenderers took over 1.5 months to review. The information since coming off Tenderlink is now stored in separate records and due to the size of data cannot be readily compiled and forwarded to individual Councillors. It would also be difficult to understand how the tender package goes together as a package without a detailed explanation as the tender went out in three different packages and was also accompanied by a number of addendums. Nevertheless, if a Councillor wishes to go through the tender material, they can do so by making an appointment through

Governance and access will be provided via one of Council's on-site computers during work hours.

A Motion was moved by Councillor Drummond, seconded by Councillor Barbour,

**1. THAT** the Questions with Notice and responses thereto be noted and no further action is required.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 6 / 3

**For:** Councillor Gibson, Councillor Keen, Councillor Brodie, Councillor Barbour, Councillor Drummond, Councillor Mutton

**Against:** Councillor Beregi, Councillor Carr, Councillor Baker

**Absent:** Councillor Gunning

**228. RESOLVED:**

**1. THAT** the Questions with Notice and responses thereto be noted and no further action is required.

## **Season's Greetings**

The Mayor wished all Councillors and staff a Merry Christmas and safe holiday break.

## **7. Closure**

The Meeting concluded at 9.28am.