



Council Chambers
4 November 2021

The **3753rd MEETING** of **COUNCIL** will be held at the Council Chambers, North Sydney at **7.30pm** on Monday, 8 November 2021. 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**
 - 4. Confirmation of Minutes**
 - 5. Disclosures of Interests**

(Note: Agenda Items will be considered By Exception)

6. Mayoral Minutes

Nil

7. Reports of Committees

Nil

8. Reports to Council

- 8.1 Audited Financial Statements for the Year Ended 30 June 2021
- 8.2 North Sydney Council Annual Report 2020/21
- 8.3 North Sydney Council End of Term Report 2021

9. Notices of Motion/Questions with Notice

- 9.1 Notice of Rescission No. 6/21 by Councillors, Gibson, Brodie and Drummond - Item - 8.13 Managing Council's Parks: New Booking Arrangements and Proposed Fees - Post Exhibition
- 9.2 Notice of Motion No. 27/21 by Councillors Mutton and Keen - Domestic Violence Support
- 9.3 Notice of Motion No. 28/21 by Councillors Baker, Beregi & Carr - Release of Information on Status of North Sydney Olympic Pool Redevelopment
- 9.4 Questions With Notice - Councillor Carr

10. Confidential Matters

Nil

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: 3753RD MEETING OF COUNCIL TO BE HELD ON MONDAY, 8 NOVEMBER 2021

1. OPENING MEETING

2. ACKNOWLEDGEMENT OF COUNTRY

3. APOLOGIES AND APPLICATIONS FOR LEAVES OF ABSENCE BY COUNCILLORS

4. CONFIRMATION OF MINUTES

THAT THE MINUTES of the previous 3752nd Council Meeting held on Monday, 25 October 2021 be taken as read and confirmed, including the incorporation of a Public Forum and Ordinary Meeting of Council on 21 February to be included in the 2022 Schedule of Meetings (Item 8.3).

5. DISCLOSURES OF INTEREST

6. MINUTES OF THE MAYOR

Nil.

7. REPORTS OF COMMITTEES

Nil

8. REPORTS TO COUNCIL

8.1 Audited Financial Statements for the Year Ended 30 June 2021

AUTHOR: Margaret Palmer, Director Corporate Services

To present the audited Financial Statements for the year ended 30 June 2021, including the Independent Auditor's Report and submissions received from the public exhibition of these reports.

The Draft Financial Statements (Statements) were presented to the Audit, Risk, and Improvement Committee (ARIC) on 15 October 2021 and the Council meeting of 25 October 2021. It was highlighted at the Council meeting that a change to the Statements would be needed to address an accounting entry regarding the valuation of Land Improvement Assets. It had been agreed with the external Auditors Prosperity that the valuation should be taken into the Statements as 'a change in accounting policy.' The Auditor General Office NSW (AONSW) technical team reviewed the Statements after the ARIC report and prior to the Council meeting and did not agree with this change.

Due to the lateness of this advice, it was agreed between the AONSW and the Council that the valuation of these assets will be brought to account in the 2021/22 financial year. To this end the Council reversed the entries in the Statements and forwarded an updated version to the AONSW Office for review and sign-off.

The change in accounting approach to Land Improvement Assets has had no bearing on the Profit and Loss as reported to Council, nor does it affect the cash balance held. The change is limited to the Balance Sheet asset value and community equity.

After the Council meeting, the Statements were updated and forwarded to the AONSW for review. The Engagement Closing Report confirmed an unqualified Audit Opinion. The Auditor's Report and Statements were forwarded to the Office of Local Government (OLG) on 28 October 2021. The Statements and Audit Reports have been placed on public exhibition for a period of 7 days in accordance with s418 the Local Government Act together with public notice that they will be presented to the Council meeting on 8 November.

An online information session has been scheduled for 14 December 2021 at 6pm to provide an opportunity to explain the Financial Statements and current financial position of Council to interested members of the

Following the Council meeting, the only amendment, on advice from the Auditor General's Office NSW to the Financial Statements has been to reverse the accounting entries and disclosure relating to the revaluation of Land Improvement Asset class. The removal has no impact on the Profit and Loss as reported to Council, nor does it affect the cash balance

held. The change is limited to the Balance Sheet asset value and community equity.

The net operating result before capital grants and contributions was a loss of \$0.5 million, a \$11 million improvement on 2019/20.

The operating result from continuing operations inclusive of capital grants and contributions for 202/21 was \$23.7 million, \$28.8 million higher than 2019/20.

The very small deficit before capital grants and contributions is a significant improvement on 2019/20 and marks a return to a relatively balanced position on Council's operating income and expenditure.

The external auditor's *Report of the Audit for Year Ending 30 June 21* (refer p73 of the attached Statements) includes a succinct, but comprehensive analysis of Council's financial position. It identifies that Council meets all six of the financial performance measures.

Recommending:

1. THAT under Section 413(1) of the Local Government Act, 1993, the financial statements for the year ended 30 June 2021 be received.

8.2 North Sydney Council Annual Report 2020/21

AUTHOR: Sarah Malcolm, Corporate Planning Coordinator

The purpose of the Annual Report is to outline the achievements in implementing Year 3 of Council's *Delivery Program 2018/19-2021/22*, which contribute to the strategic outcomes in the *North Sydney Community Strategic Plan*. Council has an obligation to prepare an Annual Report in accordance with legislation.

Council's Annual Report for the financial year ended 30 June 2021 has been completed in accordance with section 428 of the *Local Government Act 1993*, the *Local Government (General) Regulation 2005 (Part 9, Division 7)*, the Office of Local Government's *Integrated Planning & Reporting Guidelines* and the Annual Report Checklist (Circular 21-16), issued 30 June 2021

The 'Our Performance' section details highlights and key achievements against the projects in the *Operational Plan 2020/21* (Year 3 of the *Delivery Program 2018/19-2021/22*). This year the Annual Report also includes the End of Term Report, which is mandatory in the year of a Local Government election, reporting against the Community Strategic Plan (this is also presented under separate cover, refer to item 8.3) and the State of the Environment Report.

In accordance with the requirements outlined in the Office of Local Government's *Pre-election Guide for Councils 2021* (Circular 21-30), Council's Annual Report 2020/21 will be presented as part of the business paper for this meeting and will be formally published on the Council website following the Council election 4 December 2021.

Following the conduct of the election, copies of the Annual Report 2020/21 will be made publicly available for viewing at Council's Customer Service Centre and Stanton Library as well as on the Council website. Copies will be provided to the North Sydney Heritage Centre and NSW State Library and a link provided to the Minister for Local Government, in accordance with statutory/record keeping requirements.

The Annual Report contains the Council's Audited Financial Statements, which were initially submitted to the Audit, Risk and Improvement Committee on 15 October 2021 and endorsed by the Council at its meeting of 25 October 2021 for the purposes of public exhibition. The Financial Statements are also presented under separate cover, refer to item 8.1.

Also, as required in the IPART Instrument, under section 508A of the Act, the Annual Report 2020/21 includes a report on expenditure funded by the additional income drawn from Year 2 of the three-year Special Rate Variation.

Recommending:

THAT the Annual Report 2020/21 be received.

8.3 **North Sydney Council End of Term Report 2021**

AUTHOR: Sarah Malcolm, Corporate Planning Coordinator

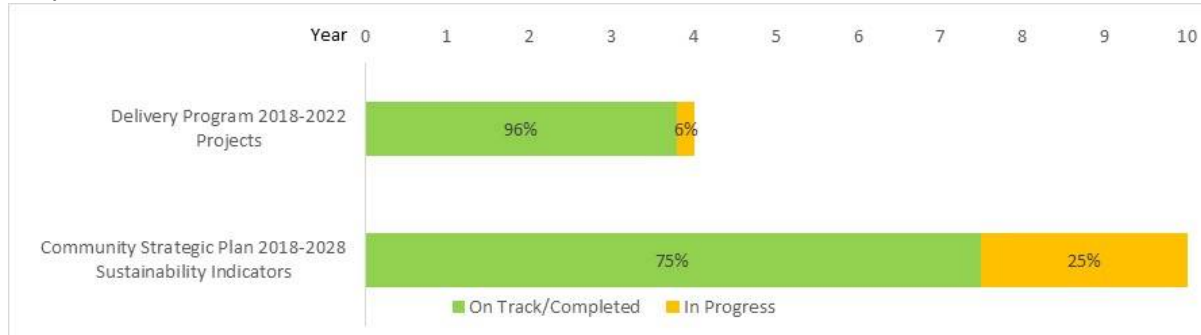
The purpose of this report is to present the *End of Term Report 2021* to Council. It is a statutory requirement in accordance with Integrated Planning & Reporting Framework that the End of Term Report is tabled at the final meeting of the outgoing Council.

The *Community Strategic Plan 2018-2028* outlines the long term aspirational vision for the North Sydney community. While Council is the custodian of the plan, it is not wholly responsible for its implementation. Other partners, including state agencies, non-government organisations, businesses and community groups share this responsibility.

The *End of Term Report 2021* reports on the progress made in implementing the first three years of the Community Strategic Plan. Prepared in accordance with the *Local Government Act 1993* and the *Integrated Planning & Reporting Guidelines*, it provides the incoming Council with a snapshot of progress to date towards achieving the community's vision for the North Sydney local government area.

The chart below shows progress against the Community Strategic Plan's sustainability indicators and the Delivery Program projects. The Delivery Program implementation progress is positive, with 94% of projects on track or completed at the end of 2021.

A review of the Community Strategic Plan sustainability indicators shows that 75% are on track and 25% are in progress/not yet on track. There has been significant progress made at the end of Year 3 of the ten-year plan. Because Council is the custodian of the Community Strategic Plan there are sustainability indicators for which Council is not wholly responsible.



In accordance with the requirements outlined in the Office of Local Government’s *Pre-election Guide for Councils 2021* (Circular 21-30), the *End of Term Report 2021* will be presented as part of a business paper at the final meeting of the outgoing Council and will not be formally published on the Council website until after the Council election being conducted on 4 December 2021.

This is the last time that NSW councils will be required to prepare an End of Term Report following a legislative amendment. Effective from the next term of Council, a State of our City Report will be presented to the incoming term rather than the outgoing term of Council.

Recommending:

- 1. THAT** Council receive the End of Term Report 2021.

9. NOTICES OF MOTION

9.1 Notice of Rescission No. 6/21 by Councillors, Gibson, Brodie and Drummond - Item 8.13 Managing Council's Parks: New Booking Arrangements and Proposed Fees - Post Exhibition

THAT the Council's resolution relating to item 8.13 - Managing Council's Parks: New Booking Arrangements and Proposed Fees - Post Exhibition passed at the meeting of the Council held on 25 October 2021, be and is hereby rescinded.

THAT the following resolution be passed in lieu thereof:

1.THAT the number of people who can gather in any park in North Sydney without making a booking is reduced from 60-40 people and a \$195 booking fee is implemented for groups of 40-60 people.

2.THAT groups wishing to use one of Council's prime Sydney Harbour foreshore parks for one of the following activities are required to make a booking (regardless of the number of people attending): corporate promotional activities, when a jumping castle or animal farm is present, weddings/commitment ceremonies, use for a film location and commercial photography (excluding wedding and family photography).

3.THAT groups wishing to use one of Council's prime Sydney Harbour foreshore parks for one of the following activities will not be required to make a booking: commercial fitness trainers and commercial dog walkers.

4.THAT groups wishing to use one of Council's prime Sydney Harbour foreshore parks for one of the following activities through the engagement of a commercial service provider will be required to make a booking and pay the \$100 booking fee: curated picnics, marriage proposal ceremonies and other celebrations.

5.THAT a booking fee of \$100 for less than 40 people gathering in one of Council's prime Sydney Harbour foreshore parks is applied for activities listed in Recommendation 2 only. Fees for activities listed in Recommendation 2 that already require a booking (amusement device or jumping castle, and commercial filming and photography) will remain the same.

6. THAT a further report be presented to Council reviewing the outcomes from this decision and any recommended refinements after an initial trial period of 6 months.

9.2 Notice of Motion No. 27/21 by Councillors Mutton and Keen - Domestic Violence Support

1.THAT Council recognise there is a requirement for more domestic violence refuges within the Lower North Shore.

2.THAT Council report back to the new Council on the potential to use affordable housing funds to develop housing for people who need to escape domestic and family violence.

BACKGROUND (as provided by submitters)

According to AIHW 2018, 1 in 6 women and 1 in 16 men have experienced domestic violence by an intimate partner. These national statistics are alarmingly high.

According to the Australia's National Research Organisation for Women's Safety. (2019):

- Women forced to leave their homes due to DFV can have trouble securing accommodation, long-term;
- Many women rely on their personal networks for housing after leaving a violent relationship;
- Women sometimes return to violent partners due to housing insecurity.

As Sydney is coming out of the restrictions now is the time to investigate future additional options for victims of domestic and family violence within North Sydney.

Response from Acting Director Community & Library Services

At the May Ordinary Council meeting this year, following consideration of Item 8.17 *Affordable housing for women escaping domestic violence*, it was resolved:

1. THAT Council endorses using the remainder of the Affordable Housing Reserve to purchase a property or properties for women escaping domestic violence.

2. THAT any property or properties purchased using the Affordable Housing Reserve will be 100% Council owned.

3. THAT Council's commercial property manager Colliers, under the direction of the General Manager (or Delegate) be authorised to bid on Council's behalf for a property or properties up to a value of \$2.1 million, to be funded from the Affordable Housing Reserve.

4. THAT the properties on which Colliers is engaged to bid meet the requirements for domestic violence accommodation specified by Council's community housing partner, Link Wentworth Housing.

Implementation of the above resolution was impaired by the COVID 19 lock down and escalating property price. The acquisition will occur when a suitable value property meeting the specifications is identified.

9.3 Notice of Motion No. 28/21 by Councillors Baker, Beregi & Carr - Release of Information on Status of North Sydney Olympic Pool Redevelopment

1. THAT Council immediately release the report from the 25 October 2021 Council meeting. *10.2. North Sydney Olympic Pool - Quarterly Project Governance Report - October 2021* and immediately publish it on Council's website.

BACKGROUND (as provided by submitters)

In relation to the report from the October 2021 Council meeting, 10.2. North Sydney Olympic Pool - Quarterly Project Governance Report - October 2021, the description of the item states that the report *"provides an update on the progress of the redevelopment of the North Sydney Olympic Pool"* and that *"This report provides a detailed progress report to Council on the North Sydney Olympic Pool Redevelopment. It includes information related to Budget, Cash Flow, Variations, Extensions of Time, Planned activities for next month, Stakeholder Management and Consultants."*

The redevelopment of North Sydney Pool is the largest infrastructure project undertaken by North Sydney Council and is being funded through multiple sources including a \$10million federal grant, a \$5million NSW State Government grant, North Sydney ratepayer funds and over \$30million of debt funding.

In the interests of open and transparent government, information regarding the progress of the redevelopment of the pool should be immediately made publicly available so that ratepayers and the public in general are aware of any cost variances, extension of timeframes and the like. Where information is commercial in confidence, the information can be redacted however redactions should only occur where absolutely necessary.

Response by General Manager

A number of matters addressed in the confidential report *10.2 North Sydney Olympic Pool – Quarterly Project Governance Report – October 2021*, remain under assessment and are yet to be resolved. Releasing the report at this time would undermine the relationship of trust between the respective parties to the contract and expose Council by releasing information that underpins its position while commercial matters are still in the process of being resolved.

Reporting to Council on the NSOP project is being undertaken in accordance with the North Sydney Olympic Pool governance structure established at the commencement of construction and reported to Council at its February 2021 ordinary meeting. In accordance with this project governance structure, detailed project governance reports are provided to the elected Council on a quarterly basis. This provides the elected Council with additional operational oversight that is over and above that provided routinely on all other capital projects.

Additionally, a monthly high level progress report is provided to Council within the public agenda. Following advice on the need to retain commercial confidentiality while contractual matters are resolved between the parties, the motion establishing the monthly public progress report, included:

2. ***THAT*** Council notes that this report does not alter the governance structure of the project.

The current reporting structure for NSOP provides greater public information on the progress of this specific project to any other capital project being undertaken. This includes the monthly progress reports, the public component of the quarterly governance report and further updates to Councillors via the Bulletin. Financial reporting on the overall project is also included in Council's financial reports and budget review as per all other projects.

A major project web page is also maintained on the NSOP redevelopment and is regularly updated. This includes time lapse video showing progress with construction.

9.4 Questions With Notice - Councillor Carr

In relation to the decision handed down by the NCAT (NSW Civil and Administrative Tribunal) on 17 March 2021 (Case 2020/00136495):

1. Has the Council apologised to the Applicant for the breach of their privacy?
2. Has the Council fully complied with the NCAT orders?
3. How much did the Council incur in external legal expenses for representation by a) Barrister Alexander Edwards and b) Maddocks solicitors?
4. How much has it cost the Council to comply with the NCAT orders?
5. Given the Council had orders made against it, did the Applicant seek a costs order against the Council?

In relation to the decision handed down by the NCAT (NSW Civil and Administrative Tribunal) on 27 October 2021 (Case 2021/80016):

6. Has the Council apologised to the Applicant for the breach of their privacy?
 7. Has the Council fully complied with the NCAT orders?
 8. How much did the Council incur in external legal expenses for representation by a) Brett Walker SC b) Barrister Alexander Edwards and c) Maddocks solicitors?
 9. Whose decision was it to appoint Brett Walker SC to represent the Council in NCAT Case 2021/80016?
 10. Given the Council had orders made against it, did the Applicant seek a costs order against the Council?
 11. Has the Council identified the person(s) responsible for the privacy breaches in the matters outlined above, being NCAT Case 2020/00136495 and NCAT Case 2021/80016?
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10. CONFIDENTIAL MATTERS

Nil

11. CLOSURE