



AGENDA

Council Chambers
20 January 2022

A **MEETING of Council** will be held at the Council Chambers, 200 Miller Street, North Sydney at 7:30 PM on Monday 24 January 2022.

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 Leave of Absence by Councillors**
- 4. Confirmation of Minutes**

THAT THE MINUTES of the previous 3754th Council Meeting held on Monday, 10 January 2022 be taken as read and confirmed.

5. Disclosures of Interest

6. Mayoral Minutes

Nil.

7. Reports of Committees

Nil.

8. Reports to Council

Nil.

9. Notice of Motion

9.1. Notice of Motion 1/22 by Councillor Spenceley - Upgrading Council Chambers IT and Video Streaming Infrastructure

THAT a report be presented to Council identifying the options and cost to upgrade Council Chambers IT infrastructure and video streaming equipment with the intent of implementing improvement as a matter of urgency.

BACKGROUND

There is an urgent need to improve Council's aged and unreliable IT and video streaming equipment in Council Chambers. It is essential for the local democracy and transparency that all members of the public who wish to observe Council meetings are able to do so either directly at the meeting or via a quality livestream video service. It is therefore necessary to provide a fixed service for the Chambers that will be able to support, or closely able to support, the following:

- Display monitors in the chamber that can easily be read by all councillors as well as viewers in the gallery
- Multiple HD cameras that are capable of automatically zooming in on those speaking
- Stream a checkerboard of multiple cameras plus a larger format of the person/s speaking
- Be capable of supporting at least 200 concurrent viewers at 720p quality but with higher 1080p as an option
- At a minimum the system should be capable of streaming proceedings to 500 concurrent viewers at 480p if required
- Be future proof to be able to support upwards of 1,000 concurrent viewers at an acceptable quality if required
- Provide audio that is clear and capable to be heard clearly
- Live streaming of the minutes and motions, that is clear and can be read by the public at all times
- Able to operate at an acceptable level 99.9% of the time.

The options for observing Council meetings should be actively and prominently promoted and included as a core element of Council's engagement strategy. Attendance should be monitored and reported as part of regular reporting on Council's engagement performance.

Note: Council recommends that a link to stream council meetings be permanently and prominently displayed to promote the ability to view the online council meetings and increase attendance. Council should also consider applying trackable metrics as additional key performance indicators for evaluating the performance of the appropriate staff members responsible for upgrading IT and Video Streaming Infrastructure in Council Chambers.

Executive Manager Governance Comment

Staff have commenced working with providers to deliver these requirements and others. A report can be provided to Council setting out options including upgrade of existing equipment, provision of new equipment and any constraints associated with the current space. The report will identify costs and timeframe, as well as the ability to deliver the changes while continuing the Council Meeting cycle.

The Mayor and Councillors have also previously highlighted constraints of the existing Council Chambers, including:

- Limited space around the Council table
- Limited space in the Public Gallery
- Councillors having their back to the Public Gallery
- Antiquated style of the Chambers set out and raised plinth at the head of the table.

The physical size/shape of the current Council Chambers and heritage, constrains the capacity to address the above issues. Nevertheless, the existing Chambers could be improved or a new larger Chambers established, possibly in Hutley Hall.

If Council is of the mind to undertake more extensive improvements to Council Chambers, these should be undertaken in unison with technology improvements.

In August 2020, the Office of Local Government published a Guide to webcasting Council and committee meetings. The guide, available [here](#), includes comparative information from 16 councils including regarding the cost, resource impacts and technical details.

9.2. Notice of Motion 2/22 by Councillors Spenceley, Mutton and Beregi - Rescission of Military Road Corridor Planning Study - Exhibition Outcomes and Amended Future Direction Report

THAT Council's resolution relating to item 8.7 passed at the meeting of Council held on 22 February 2021:

1. THAT Council note the submissions received and the issues raised during the exhibition.

2. THAT Council adopt the Future Directions Report, as amended, as the strategic development framework for Neutral Bay town centre, with the exception of Site 4. Determination of the Study outcomes for the area known as Site 4 is to be deferred for a site inspection.

3. THAT Council note the Future Directions Report will guide future Planning Proposals.

Be and is hereby **rescinded**.

THAT the following resolution be passed in lieu thereof:

- 1. THAT** Council notes the submissions received and the issues raised during the exhibition.
- 2. THAT** Council notes the strong community feedback on the height and scale of the existing report received during the recent election.
- 3. THAT** Council does not adopt the Future Directions Report, as amended, as the strategic development framework for the Neutral Bay town centre.
- 4. THAT** Council adds to its program and budget, the creation of an updated strategic development framework for the Military Road Corridor including Neutral Bay centre by engaging with the community and stakeholders to prepare a revised recommendation that has a better balance between development height and the provision of additional public open space.

Director City Strategy Comment

Council resolved to prepare the Military Road Corridor Study in May 2018. The primary driver behind the work was to maximise the local public benefit from existing development pressure within the precinct and deliver improved placemaking outcomes such as public open space and community facilities. Various consultation processes were undertaken including an initial engagement in July-August 2018, exhibition of discussion papers in August-September 2019 and the final proposal in April-July 2020. The total cost of the planning study, exclusive of council staff time, was in the order of \$250,000.

Whilst adoption of the Military Road Corridor planning study is clearly a matter for Council to determine, the wider strategic context should be considered. Council prepared, adopted and had “assured” (by the Greater Sydney Commission), the North Sydney Local Strategic Planning Statement (LSPS). The LSPS acknowledges the preparation of the Military Road Planning Study. The LSPS also references the Local Housing Strategy (LHS). Both these documents contain various references to the Study. The former, in particular, references the Military Road Corridor Study with regard to opportunities for improved community facilities and the public domain, placemaking, modest jobs growth and “varying degrees” of housing growth.

Council staff are aware that several parties are using the adopted planning study as a framework to prepare proposals that deliver on public benefits such as new public spaces and community facilities. Proponents have been made aware that height is a sensitive issue in the community and that proposals should overwhelmingly, be characterised by the public benefit offering to the local community. A planning proposal has recently been lodged for 12 Waters Road, Neutral Bay with further planning proposals, currently commercial-in-confidence, expected to be submitted in 2022 for several key sites.

Revisiting this work in a different light would be a significant undertaking and should be subject to further discussions with Councillors in the first half of 2022. Please note that a councillor briefing on the MRC study is currently set for 12 April 2022.

9.3. Notice of Motion No 3/22 by Councillor Councillors Baker, Beregi, Bourke, Lamb, Santer and Welch: Holt Avenue (East) – Interim Heritage Order and review of heritage conservation area

- 1. THAT** Council obtain urgent advice in relation to whether an Interim Heritage Order(s) can be supported in respect of a group of dwellings known as 115, 117,119, 121, 123, 125 and 131, 133 Holt Avenue, Cremorne.
- 2. THAT** Council prepare an urgent report to assess whether a new Heritage Conservation Area ought to be identified and adopted in relation to the area bounded by Spofforth Street, Military Road, Cranbrook Avenue and Cabramatta Road, Cremorne and that such review consider the inclusion of the group of dwellings at 115, 117,119, 121, 123, 125 and 131, 133 Holt Avenue, Cremorne and be informed by the provisions relating to Mosman Council’s Holt Estate Conservation Area.
- 3. THAT** the review consider whether there are contributory items within any recommended conservation area.

BACKGROUND

In recent years, as development pressure is felt in Neutral Bay and Cremorne, Council has responded by seeking Interim Heritage Orders in respect of properties that have been otherwise overlooked by Council’s heritage controls. For example, 3 Anderson Street, Neutral Bay, 24 Cranbrook Avenue, Cremorne and 8 Hayes Street, Neutral Bay.

Holt Avenue, Cremorne has been the subject of a number of new multi-unit developments and remains under significant development pressure. Holt Avenue straddles the North Sydney and Mosman Council local government areas. Under Mosman Council controls Holt Avenue is part of a Heritage Conservation Area. The area is cited as “a complete early subdivision containing a great many buildings from its original residential development” (Ref 1996, Godden Mackay Heritage Consultants).

However, there is an existing group of dwellings at 115, 117,119, 121, 123, 125 and 131, 133 Holt Avenue, which are not listed as items of local heritage significance nor part of an Heritage Conservation Area under the North Sydney LEP 2013 or DCP.

These dwellings are located on land which was originally part of the Neutral Bay Thrupp Estate. This land was later sold to Daniel Cooper who bequeathed his property assets to his nephew John Cooper who in turn began releasing allotments with 99 year leases in the late 1800s. The initial lessees of the land on Holt Avenue (East) included the Estate of W.H. Palings (music emporium entrepreneur). On 21 November 1885 land on Holt Avenue (known then as Shadler Street), was first advertised for sale as part of the Longview Estate.

The dwellings now standing at 115, 117,119, 121, 123, 125 and 131, 133 Holt Avenue all stand on land that can be traced back to ownership by John Cooper and are the original dwellings constructed on land purchased from the Longview Estate land release of 1885.

Holt Avenue (East) is significant as the only intact remaining section of the “Longview Estate”. It demonstrates a consistent early 20th century residential area with medium sized dwellings of mixed styles including Federation Queen Anne and Italianate.

There is significant community concern and interest that without Council acting to protect these dwellings they will be lost.

Director City Strategy Comment

With respect to issuing IHOs, they can be issued by Council subject to meeting a number of criteria, particularly, Council would need to demonstrate a “threat of harm” to the property. The NSW Heritage Office’s Local Government Heritage Guidelines indicate that a threat of harm can constitute:

- Council’s own observation of the item (i.e. actual works to the item),
- Notification under other legislation;
- Pre-development application consultation;
- Lodgement of a development application; or
- Community lobbying.

There is no guidance as to how much community lobbying would be required to trigger a “threat of harm”. It is unclear at this point, without further research, how many identified properties have had developer interest. If Council were to be currently assessing a DA or part of pre-DA discussions, in relation to any of the listed properties, then Council only has an ability to apply an IHO on those specific properties and not as a group. The prospects of obtaining a defensible IHO in this instance would seem small.

Undertaking urgent heritage conservation area investigations would appropriately be outsourced to consultancies through Councils procurement processes as internal resourcing is not available. The planning policy review budget has been allocated and or spent in full for 2020/2021. As such a funding allocation is required to commission the HCA review work would be in the order of \$35,000. Alternatively, preliminary work could be completed in the June quarter and the necessary heritage study undertaken as a priority in the second half of the calendar year subject to funding in the 2022/23 budget.

9.4. Notice of Motion 4/22 by Councillors Baker, Beregi, Bourke, Lamb, Santer and Welch: Cremorne Orpheum Cinema – State heritage significance

- 1. THAT** Council seek urgent heritage advice in relation to the heritage significance of the Cremorne Orpheum Cinema and its curtilage, in particular, whether State heritage listing is appropriate to protect this important local heritage item.
- 2. THAT** such advice be sought as part of the heritage advice to be obtained in respect of the Parraween Street, Cremorne cottages and surrounds under the resolution of Council at the meeting held on 10 January 2022.

Director City Strategy Comment

Considering a state listing would include the establishment of a curtilage to the site which would require referral to the heritage council. This curtilage is likely to include the sites opposite in Parraween Street, as described in point 2 of the motion. Without further research, it is not readily evident as to whether there has been previous heritage investigations into potentially upgrading the local listing to a state listing nor landowner engagement on the matter.

Urgent heritage investigations are appropriately outsourced to consultancies through Council's procurement processes as internal resourcing is not available to undertake the work in full. The planning policy review budget has been allocated and or spent in full for 2020/2021. As such a funding allocation is required to commission both the potential state listing and the heritage conservation area review in the order of \$35,000. Alternatively, preliminary work could be completed in the June quarter and the necessary heritage study undertaken as a priority in the second half of the calendar year subject to funding in the 2022/23 budget.

9.5. Notice of Motion 5/22 by Councillors Baker, Beregi, Bourke, Lamb, Santer and Welch: St Leonards/Crows Nest 2036 Plan – maximum heights on Pacific Highway

- 1. THAT** Council reiterate its strong opposition to the significant increases to the exhibited maximum heights on at least 29 sites, and particularly to the maximum heights along the western side of the Pacific Highway, under the 2036 Plan.
- 2. THAT** Council condemns the significant adverse amenity impacts of the increased heights along the western side of the Pacific Highway on residents and properties of St Leonards, Crows Nest and the eastern slopes of Wollstonecraft.
- 3. THAT** Council seek immediate amendments to the final adopted 2036 Plan to return the maximum heights, which were increased following community consultation and exhibition of the Draft 2036 Plan, to the exhibited heights.
- 4. THAT** Council note that there are currently at least two Planning Proposals submitted to Council that seek heights in excess of the exhibited heights under the Draft 2036 Plan.

5. THAT Council write to Lane Cove and Willoughby Councils seeking support for a joint delegation to the Minister for Planning in relation to the maximum heights under the 2036 Plan and the operation of the State Infrastructure Contributions within the 2036 Plan boundaries.

6. THAT Council provide a copy of this resolution to the immediately impacted Precincts including Wollstonecraft, Holtermann and Hayberry Precincts and to the Combined Precincts Committee.

BACKGROUND

In August 2016 the State government announced the St Leonards/Crows Nest Priority Precinct. In October 2018 the Department of Planning commenced community consultation on the Draft 2036 Plan. The exhibition period ended on 8 February 2020.

On 27 July 2020 North Sydney Council unanimously resolved not to support the Draft 2036 Plan and urged the Minister to engage in "true consultation and collaboration" with the Council and the community before finalising the plan.

On 28 August 2020 the State government announced that it had finally adopted the 2036 Plan. There were important and significant changes between the exhibited and community consulted maximum heights and those in the final 2036 Plan. That is, there were significant increases to the exhibited maximum heights on at least 29 sites and particularly to the maximum heights along the western side of the Pacific Highway opposite the Metro site.

For example:

- the 4 buildings that make up the Nicholson, Christie and Oxley Streets 'triangle' in St Leonards have been increased by 12, 10, 2 and 2 storeys;
- the site north of the Pacific Highway next to the Gore Hill Oval has been increased by 7 storeys from 18 to 25 storeys; and
- the site on the west side of the Pacific Highway between Oxley and Hume Streets has been increased by 6 storeys from 18 to 24 storeys

This is in the context of at least 9 residential towers ranging from 27 to 49 storeys already approved or under construction in St Leonards/Crows Nest under existing local controls.

North Sydney Council continues to meet and exceed State government targets for residential and commercial development under the existing local planning controls – that is, without contemplating these increased heights under the 2036 Plan.

These massive, unnecessary and unconsulted increases in heights on the western side of the Pacific Highway will have significant adverse amenity impacts on both the existing and future populations of Wollstonecraft, Crows Nest and St Leonards.

The State government promised to listen – the unanticipated and unjustified increases on these sites delivers only to developers and not to our community. Council must continue to

press the State government to listen and amend the 2036 Plan to reflect the exhibited heights.

Director City Strategy Comment

Following the Department of Planning Industry and Environment's exhibition of the 2036 Plan, it adopted the Final 2036 Plan in August 2021. There were indeed a significant number of changes made to the Plan between its exhibition and its adoption as the motion accurately describes. Council staff from affected Councils have pointed these matters out to Departmental staff on various occasions, alongside many other less notable discrepancies. In recognition of this, at its meeting on 30 November 2021, Council resolved:

1. THAT Council write urgently to the Minister for Planning (copied to the relevant State and Federal local MPs) seeking immediate amendments to the final adopted 2036 Plan to return the maximum heights which were increased following community consultation and exhibition of the Draft 2036 Plan to the exhibited heights.

2. THAT the letter to the Minister include a submission prepared by Council's strategic planning staff, particularly with reference to the significant adverse amenity impacts of the proposed massive increase in heights along the western side of the Pacific Highway on eastern Wollstonecraft residents and properties.

3. THAT Council provide a copy of this resolution and the letter to the Minister to Wollstonecraft, Holtermann, Hayberry and Waverton Precincts.

9.6. Notice of Motion 6/22 by Councillors Baker, Beregi, Santer, Welch, Bourke and Lamb: Western Harbour Tunnel/Northern Beaches Link Projects

1. THAT Council reinstate its strong opposition to the WHT/NBL projects due to the devastating impacts of the proposed projects on the North Sydney Local Government Area and the absence of any public benefit to be gained from the projects and for the following reasons:

- a) the lack of a business case for the project
- b) the lack of meaningful community consultation
- c) the lack of alternative transport options including public transport
- d) the lack of filtering in the proposed exhaust stacks

- e) significant and devastating loss of public open space and future open space, loss of sporting facilities, loss of trees and canopy, loss of stormwater harvesting and water treatment infrastructure
- f) significant adverse impacts on public health and wellbeing, particularly on schools, school children and residents
- g) devastating environmental impacts on waterways, reserves, flora and fauna
- h) inappropriate and untested mitigation measures
- i) significant adverse impacts on aboriginal heritage and maritime environment
- j) the substantial increase in traffic flows through arterial and surface roads in the North Sydney CBD and LGA more generally.

2. THAT Council continue and escalate the current campaign informed by the position set out in Part 1 above.

General Manager comment

The list of issues identified in the notice of motion have largely been conveyed by Council submissions on the project. Responses have been provided by TfNSW in their 'response to submissions' documentation to varying degrees of satisfaction for Council and the Community.

Subsequent to the approval of the project, Council continues to have a significant role as the project progress, specifically:

- Council and TfNSW are currently negotiating an **Interface Agreement** covering a range of matters including; design of, and return of assets to Council control post construction and replacement of open space lost within the LGA. The IA is in the final stages of negotiation with TfNSW.
- An unendorsed **Memorandum of Understanding (MOU)** regarding the land at Berrys Bay being granted to NSC as replacement for land lost at Cammeray Park has been drafted in consultation between Council and TfNSW. Consideration of the draft MOU was reported to Council on 25 October 2021 (10.3 Land Negotiations) and deferred pending further consultation.
- TfNSW has utilised provisions of the Roads Act to temporarily resume control of several sites road corridors adjacent to early works sites. The use of the Roads Act does not require negotiation or compensation.
- The resumption of Cammeray Park and Anzac Park is not covered by the Roads Act and is instead covered under the Crown Lands Management Act.
- TfNSW has commenced proceedings to compulsorily acquire parts of these properties on a temporary lease basis for the construction period. Council lodged a compensation claim with the NSW valuer general in September last year - the claim is still being assessed by the Valuer General. (Refer to Item 10.4 North Sydney Council - Compensation Claim submitted to the NSW Valuer General-TfNSW Compulsory Acquisitions - Councils Parks & Reserves-Warringah Freeway Upgrade 26 July 2021)

- With respect of the permanent use of part of Cammeray Park for road operation purposes, Council has questioned whether such a use requires the change in land designation from 'Community land' to 'Operational land'.

9.7. Notice of Motion 7/22 by Councillors Baker, Beregi, Bourke, Lamb, Santer and Welch: Early Works Warringah Freeway Upgrade and Western Harbour Tunnel – impacts on Cammeray Park and management of contamination and compliance issues

1. THAT Council notes that:

- a) The Detailed Site Investigation reports published by TfNSW under the development consent have identified contaminants at the construction site at Cammeray Park including the following:
 - lead hotspots - lead was found at TP09 at 5,300mg/kg and at TP12 at 1,900 mg/kg
 - Asbestos
 - Carcinogenic benzo(a)pyrene at high levels - up to 40mg/kg in samples tested for the areas for the current construction works.
- b) The 2014 contamination report prepared on behalf of North Sydney Council for the remediation works for the synthetic surface at Cammeray Oval - which adjoins the current works site- noted that there will be toxic metals from respirable fly ash on the site.
- c) The site is surrounded by sensitive residential dwellings and schools and is part of an important regional water catchment ultimately feeding into Middle Harbour.

2. THAT Council seek urgent legal advice in relation to:

- a) whether Council should be recognised as the principal affected party with an interest in the reserve and requiring compensation under the Land Acquisition (Just Terms Compensation) Act 1991;
- b) whether the early works being undertaken on Cammeray Park are permitted in the context of the dedication of the site for the purpose of “public recreation”; and
- c) the processes and steps for revocation and re-dedication of the reserve, including timelines, and the planning and approval pathways for any modifications to the reserve including the rainwater harvesting facility.

3. THAT in light of 1 above, Council obtain urgent legal advice in relation to contamination issues and compliance with the conditions of consent for the Warringah Freeway Upgrade Works and WHT. In seeking such advice, Council be informed by the various submissions prepared by WEPA and submitted to the Department of Planning and the various expert and schools submissions made to the Parliamentary Inquiry into the Impacts of the Western Harbor Tunnel and Beaches Link.

4. THAT Council write urgently to the EPA, the Minister for the Environment and the Minister responsible for Crown Lands to report serious concerns in respect of contaminated land at Cammeray Park and provide copies of all relevant reports relating to contamination of the

Park including, but not limited, to the 2014 reports prepared as part of Council's work on the synthetic surface at Cammeray Oval.

5. THAT Council urgently write to the Minister for Roads, the Minister for the Environment and the Minister for Planning demanding a halt to all destruction and removal of vegetation and trees in Cammeray Park, Anzac Park and St Leonards Park.

6. THAT Council write to Department of Planning and TfNSW to request that:

- a) The conditions of consent are tightened to ensure that:
 - i. Site Inspection reports are completed and issued **before** work commences;
 - ii. that the land is classified as recreational land not industrial land;
 - iii. that controls are put into place to assure the safety of surrounding land and not just the construction site itself, as the current conditions are oriented to the construction areas and not the surrounding community; and
 - iv. an undertaking that the land will be able to be returned for recreational use following the completion of any works.
- b) That TfNSW halt negotiations with the Cammeray Golf Club until strategic planning processes are completed.
- c) TfNSW develop a design for trafficable routes.
- d) TfNSW engage with North Sydney Council in developing the open space and active transport plan for the area.

7. THAT Council take all steps necessary to require the Sydney Project Alliance and TfNSW:

- (a) protect Cammeray Park and the surrounding residential premises and schools from the construction works including the movement of trucks carrying contaminated fill; and monitor contaminants within the broader water catchment from Cammeray Park to Middle Harbour and take all measures to prevent contamination of the water catchment.

BACKGROUND

The on-going destruction of Cammeray Park continues. Over the Christmas/New Year period more trees have been removed and destroyed and serious concerns in relation to the management of contamination and compliance with the conditions of consent remain.

Children continue to use the synthetic surface at Cammeray Oval as the early works continue unabated. There is a real risk that there are no protections in place to prevent the public (including young children) from being exposed to respirable contaminants including asbestos fibres (asbestos has been found in 2 locations next to the playing fields and in other locations where the works are being carried out), fly ash and carcinogenic benzo(a)pyrene in dust (generated when soil which is being disturbed).

There is widespread community concern that these major works are being rushed, over the Christmas/New Year period and under the cover of COVID, and without sufficient testing and information provided to ensure that public health is protected.

General Manager comment

Refer to General Manager comment on Item 9.6.

9.8. Notice of Motion 8/22 by Councillors Baker, Beregi, Santer and Welch: On-going compliance issues at 6 John Street, McMahons Point (Noakes' Boatyard)

1. THAT Council be provided with an urgent report on the status of compliance issues, investigations and actions to enforce the conditions of consent of DA 1164/90 for redevelopment of the existing boat maintenance facility at 6 John Street, McMahons Point and compliance with the terms of the s34 agreement and subsequent Court Orders made by the Court in respect of Land and Environment Court Proceedings No. 2020/00122833, including, but not limited to, the enforcement of:

- (a) the public benefit condition D51 which required the developer to "provide a public jetty extending from land below John Street, approximately in the location of the former sea baths, subject to the design and position being acceptable to Council";
- (b) the numbers of boats to be permitted on the site at any time;
- (c) the unauthorised caretaker's cottage and other unauthorised structures; and
- (d) environmental and operational conditions including noise standards and industrial equipment.

2. THAT Council be provided with an urgent report on the status of compliance issues, investigations and actions relating to fire safety at 6 John Street, McMahons Point including issues relating to access to and egress from the site for fire trucks and emergency and the storage and use of flammable chemicals and materials.

Director City Strategy Comment

Staff have issued a Notice of Intention to Issue a Development Control Order (DCO) to require Noakes to undertake the following:

- Demolish the unauthorised relocatable shed structure;
- Demolish the caretaker's shed
- Construct a public Jetty as required by condition D51 of Development Consent 1164/90.

Despite representations received from Noakes in response Council's Notice, staff are now in the process of finalising the Order to be issued requiring the above.

According to the Deed of Agreement from Council's previous legal proceedings, Noakes is permitted to have a maximum of 34 boats on site, with 30 for commercial operations and 4 non-commercial. It should be noted that this maximum number only includes boats that are 3m or longer in length.

Staff have initiated a number of investigations in this regard within the last 6 months but did not observe any evidence to prove an actual breach of this particular matter.

The issue of noise limits continues to be raised. Staff have repeatedly offered the spokesperson for Friends of Berry Bay to nominate the noisiest day of the week for Council to undertake noise measurements. To date, staff are yet to receive a nominated day of the

week to attend the site. As such, staff are unable to obtain any evidence to determine non-compliance with Noakes' condition of approval pertaining to noise.

In relation to fire safety, staff have issued a Fire Safety Order requiring the site to be upgraded in accordance with the findings of a privately commissioned Fire Safety Report. Fire safety upgrades to existing buildings are usually complex matters involving detailed works. As such, it is a standard operating procedure that all sites within the North Sydney LGA be given a reasonable and fair period to undertake compliance. A period of 2 years has been adopted as standard.

It should be noted that the period to complete works may vary in accordance with the Fire Safety Audit received by Council. In this instance, as there is no recommendation of reduction in time, staff have adopted the standard period for compliance.

Furthermore, it should also be noted that Council has received an Annual Fire Safety Statement indicating the installed Essential Fire Safety measures installed within the site are maintained and functioning to the relevant Australian Standards.

Within the last 6 months the issue of the size and location of boats stored upon the site impedes upon access to the site for fire trucks. Fire and Rescue NSW vehicles do not generally drive into private sites in the event of a fire. Customers have been advised that this is not a consideration of non-compliance nor requiring regulatory actions.

In terms of usage and storage of flammable materials at Noakes, so far as staff are aware, the site is being used for the purpose outlined within Development Consent 1164/90. Provided the usage and storage of materials do not contradict the Development Consent or conditions, then staff are unable to take regulatory actions.

9.9. Notice of Motion 9/22 by Councillors Baker, Beregi, Santer and Welch: Council meeting schedule 2022

1. THAT Council resolve to amend the draft 2022 schedule of Council meetings adopted at the 25 October 2021 Council meeting.

2. THAT as of 24 January 2022, Council resolve to hold Council meetings fortnightly during 2022 (allowances have been made for the Easter/Anzac Day break, the ALGA conference).

3. THAT the following schedule of Council meetings be adopted by Council for 2022:

- Monday 7 February 2022
- Monday 21 February 2022
- Monday 7 March 2022
- Monday 21 March 2022
- Monday 4 April 2022
- Tuesday 26 April 2022
- Monday 9 May 2022
- Monday 23 May 2022
- Monday 6 June 2022
- Monday 27 June 2022
- Monday 11 July 2022
- Monday 25 July 2022
- Monday 8 August 2022
- Monday 22 August 2022
- Monday 5 September 2022
- Monday 19 September 2022
- Tuesday 4 October 2022
- Monday 17 October 2022
- Monday 31 October 2022
- Monday 14 November 2022
- Monday 28 November 2022
- Monday 12 December 2022

4. THAT a report be provided to the next Council meeting with proposed dates for Committee meetings to work within the new Council meeting framework including the option of holding committee meetings within Council meetings.

BACKGROUND

On 10 January 2022, the first Council meeting of the new Council was held following the 4 December 2021 Local Government election.

The next scheduled Council meeting isn't until 21 February 2022, some 6 weeks away.

Then, the next scheduled Council meeting isn't until 28 March 2022 meaning 5 weeks between Council meetings.

Such a long time frame between Council meetings results in large agendas, long meetings, few opportunities for the community to be engaged with and address their Council and a less responsive Council.

During the last term of Council, agenda papers including reports were at times hundreds of pages in length with Council meetings often going past 10pm. In one instance, the Council meeting had to be suspended for the evening due to the late hour as per the Code of Meeting practice (refer Section 18, Code of Meeting Practice), and re-convened at a later date.

In circumstances where Councillors are provided with agenda papers on the Thursday evening prior to a meeting on the following Monday evening, it is unreasonable to expect Councillors to have read and asked questions about the reports as well as discussed and responded to communication when the agenda is so large.

Holding fortnightly meetings would allow the Council to be more responsive to our community, allow Councillors sufficient time to read and analyse the reports before them, would provide additional opportunities for the community to participate and address their Council and ensure meetings finish at a reasonable time.

Executive Manager Governance Comment

At its meeting of 25 October 2021 when determining the Council Meeting scheduled, it was noted that the schedule is subject to review and adoption by the new Council.

The decision regarding the frequency of Council Meetings is a key one for Council. It requires balancing the frequency of meetings for decision making with the amount of time available, and mechanisms, to be informed about a matter. It also requires a balance between decision making, implementation of the subsequent decisions and delivery of services and projects.

Conducting Council meetings fortnightly will impact the ability to hold briefing sessions for the purpose of informing Councillors on key issues. Council Meetings are decision making forums and it is through briefings and workshops that it is possible to provide Councillors with the information and background necessary to be fully informed prior to decision making.

Alternate mechanisms such as briefings, workshops and Committee meetings provide more interactive formats for Councillor participation than the more formal Ordinary Council Meeting. It is essential that Councillors have the opportunity to contribute to Policy and Strategy as it is compiled. Consequently Council's meeting structure should allow for both formal decision making meetings and interactive meetings such as briefings/workshops or committees.

The length of Council Meeting business papers is acknowledged. Currently, the business paper is provided on the Thursday prior to the Council Meeting. Council may wish to consider whether there is benefit in providing the business paper to Councillors and the public earlier

giving all parties additional time to review the documents. Additional time between issuing the business papers and holding the meeting increases transparency and time to consult.

Council must, within 12 months of election, review its Code of Meeting Practice. In addition, a revised Model Code of Meeting Practice was gazetted in late November 2021 containing new non-mandatory provisions that would allow Council to permit individual Councillors to attend meetings by audio-visual link. Council would need to adopt this provision should it so determine by 30 June 2022 (having undertaken public exhibition). Given this it has been planned to provide a report to Council to its February meeting to consider a draft Code of Meeting Practice for the purpose of public exhibition.

As such, options for consideration by Council will be presented to Council as part of the report on the draft Code of Meeting Practice as well as consideration of the timeframe for publishing the agenda papers and conduct of Committee meetings. Options for meeting structures will also be discussed with Councillors as part of the Councillor induction program.

It is recommended that consideration be given to a range of meeting structure options in order to balance the factors outlined above, prior to amending the schedule. This should be done in conjunction with the review of the Code of Meeting Practice.

9.10. Notice of Motion 10/22 sponsored by Councillors Beregi and Welch: Rapid Antigen Testing

- 1. THAT** all attendees, staff, visitors, and Councillors to North Sydney Council Meetings have a negative rapid antigen test before entering the Council chambers.
- 2. THAT** if Rapid antigen tests are unable to be sourced then the meeting should be held by livestream.
- 3. THAT** this motion be reviewed in 3 months' time.

BACKGROUND

We are experiencing a Sars- Cov-2 virus, Omicron variant surge in our community. As of Monday January 17, the NSW State government will be requiring mandatory reporting of rapid antigen positive test results. It is expected that case numbers will rise above 100,000 a day.

North Sydney Council already has a Covid-19 safe plan including social distancing, QR code check in, antimicrobial disinfecting (which will help against the virus), all staff are vaccinated and mask wearing. Masks are required because the Virus has aerosol transmission. Masks will not only protect ourselves but also each other, it is an act of unselfishness to wear your mask properly.

Omicron will not be the last variant, but it is extremely easily transmissible. The tools North Sydney Council is already utilising to keep the attendees in the Council Chamber safe are acknowledged. Rapid antigen testing is another tool we can use to keep us safe. More test kits will be available soon. Hornsby Shire Council is already testing all attendees to Council Chambers. Lane Cove is Zooming their Council meetings.

Vaccination is an excellent tool but being vaccinated means you are much less likely to end up in ICU. It does not mean you won't get sick. Rapid antigen testing will significantly decrease the risk of even getting sick.

Executive Manager Governance Comment

In addition, to the COVID safe steps already being taken and identified above, Council requires those members of the public intending to attend Council Meetings to register in advance. Places are limited and are prioritised for those registered to speak in the public forum and on a "first in" basis.

Should testing be resolved by Council it will be necessary to set up an appropriate space for testing and engage suitably qualified staff to facilitate testing and put in place precautions to ensure care with what could be contagious (including disposal of tests). This process will require attendees, staff, visitors and Councillors to attend in advance of the meeting start time particularly noting the results take approximately 15 minutes.

Alternatively, onus could be placed on attendees to confirm that they have undertaken a negative rapid antigen test prior to attendance. Compliance would be dependent on the virtue of attendees.

Council has already taken steps to secure a limited supply of rapid antigen tests for operational purposes. Further supply would be required for Council to enforce testing prior to attending Council meetings.

Council is required to enable public attendance at Council meetings and to webcast its meetings. The latter requirement can be met by providing a video and/or audio recording after the meeting.

With regard to remote attendance, currently under section 237 of the *Local Government (General) Regulation* there is an exemption under clause 5.2 of the Code of Meeting Practice for Councillors to be personally present at meetings in order to participate. This provision expires 30 June 2022. A report is planned for the February Council Meeting for Council to consider what changes Council may wish to make to the Code of Meeting Practice which would then go on public exhibition. This would include whether Council wishes to provide for the ongoing capacity for remote attendance.

10. Confidential Matters

Nil.

10.1. NSOP Redevelopment Loan Proposal

AUTHOR: Margaret Palmer, Director Corporate Services

ATTACHMENTS: Nil

EXECUTIVE SUMMARY:

At the Council meeting held on 28 September 2020 it was resolved:

1. *THAT Council accept TCorp's revised loan offer dated 5 August 2020.*
2. *THAT the General Manager be authorised to do all things necessary to finalise the loan facility including establishing the number and timing of drawdowns.*
3. *THAT prior to the first drawdown being made, comparative rates be invited from major banks to ensure TCorp rates remain competitive.*
4. *THAT this confidential report relating to matters specified in Sections 10A(2)(d) be treated as confidential and remain confidential until Council determines otherwise.*

Council has been able to access TCorp's limited local government loan fund pool following NSW Government and TCorp approval. This enables Council to effectively access borrowing at a fixed margin above NSW Government wholesale rate.

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.

and because consideration of the matter in open Council would be, on balance, contrary to the public interest.

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

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

1. Our Living Environment

1.4 Public open space and recreation facilities and services meet community needs

2. Our Built Infrastructure

2.1 Infrastructure and assets meet community needs

5. Our Civic Leadership

5.2 Council is well governed and customer focused

11. Closure