



Council Chambers  
17 February 2022

The **3756th MEETING** of **COUNCIL** will be held at the Council Chambers, North Sydney at **7.30pm** on Monday, 21 February 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**
  - 4. Confirmation of Minutes**
  - 5. Disclosures of Interests**

*(Note: Agenda Items will be considered By Exception)*

- 6. Mayoral Minutes**
- 7. Reports of Committees**
  - 7.1 Traffic Committee Minutes - 4 February 2022
  - 7.2 Audit, Risk and Improvement Committee Minutes - 19 November 2021
- 8. Reports to Council**
  - 8.1 Matters Outstanding February 2022
  - 8.2 2022 Meeting Schedule
  - 8.3 Appointment of Council Representatives on External Bodies
  - 8.4 2022 LGNSW Special Conference

- 8.5. Response to Notice of Motion - Rapid Antigen Testing
- 8.6. Council Chambers Audio Visual Requirements
- 8.7. Quarterly Operational Plan Review December 2021/22
- 8.8. Quarterly Budget Review - December 2021
- 8.9. Investment and Loan Borrowings Report held as at 31 January 2022
- 8.10. Customer Feedback and Complaints Report July 2021 to December 2021
- 8.11. Deferred Report - Planning Proposal 1/21 - 270-272 Pacific Highway, Crows Nest
- 8.12. Deferred Report - Planning Proposal 8/21 - North Sydney Centre, Height of Buildings Variation
- 8.13. Sydney North Planning Panel - Membership Nomination 2022
- 8.14. NSW Government Infrastructure Contributions Reforms
- 8.15. Draft Plan of Management for Foreshore Parks and Reserves
- 8.16. Proposed Community Garden French Street McMahons Point
- 8.17. Provision of pop-up drive through COVID-19 PCR testing facility - Balls Head Reserve
- 8.18. Outdoor Dining Licences
- 8.19. North Sydney Olympic Pool Redevelopment Monthly Progress Report

## **9. Notices of Motion/Questions with Notice**

- 9.1. Notice of Motion 11/22 - Textile Recycling - Crs Drummond & Lamb
- 9.2. Notice of Motion 12/22 - Acknowledgement of Country - Crs Drummond & Lamb
- 9.3. Notice of Motion 13/22 - Outdoor Gyms - Crs Drummond & Lamb
- 9.4. Notice of Motion 14/22 - Uluru Statement from the Heart - Crs Welch, Baker, Beregi, Lamb and Santer
- 9.5. Notice of Motion 15/22 - Food Waste Pick-up Service - Cr Gibson
- 9.6. Notice of Motion 16/22 - Provision of Council suppers – Cr Gibson
- 9.7. Notice of Motion 17/22 – Amendment to Council agenda page – Cr Gibson
- 9.8. Notice of Motion 18/22 - Safeguarding the independence of Precincts - Councillors Santer and Welch

## **10. Confidential Matters**

- 10.1. Advertising on Selected Council Infrastructure (Small Format) - Reject & Negotiate
- 10.2. Tender 32/2021 - Wondakiah Wharf Reconstruction
- 10.3. Tender 35/2021 - Southern Lawn, St Leonards Park
- 10.4. North Sydney Council's Community Awards 2022
- 10.5. Don Bank Writer – Selection of writer for 2022
- 10.6. North Sydney Olympic Pool Progress and Governance Report February 2022
- 10.7. Appointment of Senior Staff

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**TO:** The Mayor, Zoë Baker and Councillors Beregi, Bourke, Drummond, Gibson, Lamb, Mutton, Santer, Spenceley, and Welch.

**SUBJECT:** 3755TH MEETING OF COUNCIL TO BE HELD ON MONDAY, 21 FEBRUARY 2022

**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 3755<sup>th</sup> Council Meeting held on Monday, 24 January 2022 be taken as read and confirmed.

**5. DISCLOSURES OF INTEREST**

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**6. MINUTES OF THE MAYOR**

Nil.

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## 7. REPORTS OF COMMITTEES

### 7.1 Traffic Committee Minutes 4 February 2022

**AUTHOR:** Peita Rose, Governance Officer

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

This report presents the recommendations of the last meeting of the Legal and Planning Committee held on 4 February 2022 for Council adoption. The minutes are attached for information.

The financial implications are considered in the individual reports to the Traffic Committee.

**Recommending:**

- 1. THAT** the Traffic Committee and Council endorses cashless parking meters be rolled out in stages to the six (6) parking meter areas at the implementation stage of On-Street Parking Management System 2022, subject to EOI and future tender outcomes and resolutions of Council. (5.1)
  - 2. THAT** Council seek direction from Transport for New South Wales (TfNSW) on the possibility to conduct a “Meter-less” trial within high credit card use and business locations. (5.1)
  - 3. THAT** Council change one (1) existing unrestricted parking space fronting property No. 200 Kurraba Road, Kurraba Point, to “2 Hour Parking 8.30am - 6pm Mon – Fri Permit Holders Excepted Area 32”. (5.2)
  - 4. THAT** Council notify the residents before installing the parking restriction changes in Kurraba Point South Parking Area 32. (5.2)
  - 5. THAT** the new parking restrictions be reviewed six (6) months after the date of installation in Kurraba Point South Parking Area 32. (5.2)
  - 6. THAT** should Council receive subsequent requests for parking changes in Baden Road, the matter be referred to a future meeting of the Traffic Committee. (5.2) 3755th Council Meeting - 21 February 2022 Agenda Page 2 of 14
  - 7. THAT** the existing two spaces of “½ Hour Parking 8.30am-10pm Mon-Fri Permit Holders Excepted Area 7” spaces on the northern side of Princes Street between Princes Place and Blues Point Road, to “1 Hour Parking 8.30am-10pm Mon-Fri Permit Holders Excepted Area 7” (Zone 534). (5.3)
  - 8. THAT** the existing three spaces of “½ Hour Parking 8.30am-10pm Mon-Fri Permit Holders Excepted Area 7” on the southern side of Princes Street, between Princes Place and Blues Point Road, be converted to “1 Hour Parking 8.30am-10pm Mon-Fri Permit Holders Excepted Area 7” (Zone 535) (5.3)
  - 9. THAT** Council notifies the residents, businesses, and all submitters before installing the parking restriction changes in Princes Street. (5.3)
  - 10. THAT** the new parking restrictions in Princes Street be reviewed six (6) months after the date of installation. (5.3)
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**7.2 Audit Risk and Improvement Committee Minutes - 19 November 2021**

**AUTHOR:** Peita Rose, Governance Officer

This report presents the Minutes of the last meeting of the Waverton Peninsula Working Group held on 5 October 2021.

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

There are no financial implications associated with the recommendation of this report.

**Recommending:**

**1. THAT** the Minutes of the 19 November 2021 Audit, Risk and Improvement Committee meeting be noted.

## 8. REPORTS TO COUNCIL

### 8.1 Matters Outstanding September 2021

**AUTHOR:** Ian Curry, Manager Governance & Committee Services

To report to Council on the status of Councillor resolutions.

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

The attached table has been updated to include resolutions up to the 24 January 2022 Ordinary Meeting of Council.

**Recommending:**

**1. THAT** the report be received.

### 8.2 2022 Meeting Schedule

**AUTHOR:** Ian Curry, Manager Governance & Committee Services

To propose a revised meeting schedule for 2022 to include Reference Groups and Streetscape Committees, subject to the outcome of a review of the Council meeting schedule, which is currently on exhibition. The report also seeks to nominate chairpersons or representatives to these Committees, as well as the Audit, Risk and Improvement Committee (ARIC) and Performance and Remuneration Panel.

At its meeting on 25 October 2021, Council adopted a meeting schedule for 2022, without any Council Committee meetings or Reference Group meetings included to allow the newly elected Council to determine its preferred schedule. The resolution of Council on 24 January 2022 to place on public exhibition a proposed Council Meeting schedule and practice for 2022 included the potential abolition of the two Committees of Council being the: - Governance and Finance Committee; and - Legal and Planning Committee. Currently no dates have been scheduled by Council for the conduct of these Committees of Council. Given to date no determination has been made regarding the conduct of these Committees dates are recommended for them to be held allowing the status quo to continue until Council determines otherwise. A proposed schedule has been prepared for Reference Groups meetings and Streetscape Meetings to allow for planning for these meetings, should Council determine to continue with their operation. It is also proposed that Council determine the Councillor representation on the Audit, Risk and Improvement Committee and the Performance and Remuneration Panel. There are no financial implications arising from this report.

**Recommending:**

**1. THAT** Council resolve to conduct meetings of the Environment, Sport and Recreation and Sustainable Transport Reference Groups in accordance with the dates set out in this report noting that a further report will be provided in September 2022 as required under the Terms of Reference.

**2. THAT** the following Councillors be appointed as Chairpersons to the nominated Reference Groups for the term to September 2022:

- Environment Reference Group – Councillor \_\_\_\_\_,

- Sport and Recreation Reference Group – Councillor \_\_\_\_\_, and
- Sustainable Transport Reference Group – Councillor \_\_\_\_\_,

**3.THAT** Council confirm the Deputy Mayor as a Councillor representative to the Audit, Risk and Improvement Committee and appoint one further Councillor representative for the term of this Council.

**4. THAT** Council adopt the following meeting dates for the committees of Council:

Date	Time	Council Committee
Monday, 14 March 2022	6.00pm	Legal and Planning
Monday, 9 May 2022	6.00pm	Governance and Finance
Tuesday 14 June 2022	6.00pm	Legal and Planning

**5. THAT** the Mayor, Deputy Mayor and Councillor Mutton be appointed to the the Performance and Remuneration Panel, together with a Councillor to be nominated by the General Manager, for the term of Council.

**6. THAT** Matthew McArthur of McArthurs Recruitment and HR Consulting be reappointed to the Performance Review Panel as the independent HR Specialist/facilitator.

**7.THAT** Council resolve to conduct meetings of the Streetscape Committees in accordance with the dates set out in this report noting that a further report will be provided prior to October 2022 for the purpose of determining meeting dates for 2023.

### 8.3 Appointment of Council Representatives on External Bodies

**AUTHOR:** Ian Curry, Manager Council & Committee Services

To appoint Councillors as representatives on NSROC and provide information of other external bodies requiring Council representation.

North Sydney Council holds positions on or participates in other groups or committees external to the Council. The following Committees and other bodies require Council to nominate representatives:

Northern Suburbs Regional Organisation of Councils (NSROC) - The Mayor, 1 representative and 1 alternate

Shorelink Committee (Library Network) - 1 representative and 1 alternate

Sydney Coastal Councils Group - 2 representatives

**1.THAT** Council appoint to the Northern Sydney Regional Organisation of Councils (NSROC) as representatives the Mayor, and Councillor \_\_\_\_\_ and Councillor \_\_\_\_\_ (alternate) as its representative for the term until September 2022.

**2.THAT** Council appoint to the Shorelink Committee (Library Network) Councillor \_\_\_\_\_ and Councillor \_\_\_\_\_ (alternate) for this term of Council.

**3.THAT** Council appoint to the Sydney Coastal Councils Group Councillor \_\_\_\_\_ and Councillor \_\_\_\_\_ for this term of Council.

**4. THAT** Council write to the external bodies to inform them of Council’s representatives.



#### 8.4 2022 LGNSW Special Conference

**AUTHOR:** Ian Curry, Manager Council & Committee Services

To confirm attendance by Councillors at the 2022 LGNSW Special Conference. Council is a member of Local Government NSW (LGNSW), an independent organisation that exists to serve the interests of New South Wales general and special purpose councils. From 28 February to 2 March, LGNSW's Special Conference is an opportunity for councillors to share ideas, seek inspiration, and help determine our sector's policy directions for the coming year at the Hyatt Regency Sydney to debate and discuss the key issues, as we work towards a better future in a post-COVID NSW. Registrations closed on 17 February and to ensure Council delegates are registered, interim voting delegate information based on councillor expressions of interest have been lodged with LGNSW. Councillor representation can be changed at any time and this has been confirmed with LGNSW.

The standard registration cost for each delegate is \$1,094.50. There are a number of optional dinners and events that incur additional costs. An amount of \$10,000 has been allocated in 2021/22 for delegates expenses, nil has been expended to date.

**Recommending:**

**1. THAT** Council confirm the appointment of the Mayor, Councillors Bourke, Beregi, Santer and Welch as its voting delegates to the 2022 LGNSW Special Conference.

#### 8.5 Response to Notice of Motion - Rapid Antigen Testing

**AUTHOR:** Shane Sullivan, Executive Manager Governance

The purpose of this report is to report to Council in accordance with the resolution of Council at its meeting of 24 January 2022 regarding the potential for Council to administer Rapid Antigen Tests.

Commencing this meeting of Council, Council will be requiring all attendees at Council Meetings to provide evidence of or a declaration of an appropriate negative test prior to entering the Chambers. This requirement is in addition to a number of COVID safety measures already in place including but not limited to physical distancing and mask wearing.

Should Council determine to administer the rapid antigen test to all attendees, this should be done by a suitable health practitioner and in accordance with the Therapeutic Goods Administration guidelines. The direct cost of this is between \$720 and \$1,080 per Council Meeting.

Council has obtained a quotation for the provision of point-of-care testing prior to Council Meetings.

For the period 5.30pm to 6.30pm the cost would be \$416.25. This is \$92.50 per hour with double time payable after 6pm. A minimum four hour shift is payable.

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It is recommended by the supplier that Council have two technicians to manage the number of anticipated people in the period immediately prior to the meeting. The cost of two technicians would be \$832.50 per meeting.

The tests themselves cost \$250 for a box of 25 kits. There are consumables required also at a cost of \$1.50 per test. Thirty tests would cost \$345

The total estimated cost per meeting is \$1,177.50. This is on the assumption of two technicians and thirty tests.

**Recommending:**

**1. THAT** Council note the report

**2. THAT** that the current process with regard to Rapid Antigen Testing for Council Meetings be reviewed by way of a further report to Council to its May 2022 Meeting.

## 8.6 Council Chambers Audio Visual Requirements

**AUTHOR:** Shane Sullivan, Executive Manager Governance

The purpose of this report is to report to Council options and cost to upgrade the Council Chambers audio visual system and IT requirements with the intent of improving the experience for those watching the webcast, participating remotely and participating in the meeting in person.

Council has resolved to upgrade Council Chambers IT infrastructure and video streaming equipment with the intent of implementing improvement as a matter of urgency.

The current webcast meets Council's legislative obligations and is comparable to neighbouring Councils. However, there have been issues with stability and consistency which is not acceptable. Council is required to webcast meetings and may also be required to continue the facilitation of remote attendance at meetings depending on Council's decision in this regard prior to 30 June 2022. It is estimated that an upgrade to the system will be approximately \$100,000 although this is subject to a formal procurement process. The current system was installed in 2014 at a cost of approximately \$88,000.

This report provides options to Council with regard to the upgrade of the Council Chambers IT infrastructure and video streaming equipment.

The options considered are:

Proceed to request for quotation process to engage a provider

Undertake an expression of interest process to engage a provider

Consider an out-sourced model for provision of this service for each meeting

Focus on ongoing incremental improvement

Given the recent advances and changes in the conduct of meetings and events via audio-visual means it is recommended that Council proceed through an Expression of Interest process to drive innovative and agile solutions.

Staff sought a preliminary estimate of the cost of upgrading the Chambers IT infrastructure and video streaming equipment on 3 February 2022 but have not yet received this estimate.

In March 2020 the Office of Local Government issued a Guide to webcasting Council and Committee Meetings. This document included a summary of amounts expended by Councils for installation and ongoing maintenance.

Given the requirements identified in the Notice of Motion, the cost identified by Ballina Shire Council have been used as an indicative cost as it has similar system equipment. The cost estimate for installation was \$110,000 for the system design and equipment supply, installation and commissioning.

There is currently no budget allocation for this project. Council is unable to go to the market formally without having a budget allocation for the proposed work to be undertaken. A funding allocation has therefore been included in the Quarter 2 Budget Review, to be considered separately at this meeting.

Should Council resolve to proceed it is recommended that provision be made in the Quarter 2 budget review to make allowance for this work to commence and that any adjustment to the provision be managed by way of a future quarterly review in response to final costings.

**Recommending:**

**1.THAT** subject to inclusion of funding in the Quarter 2 Budget Review, Council proceed with a project to upgrade the Council Chambers IT infrastructure and video streaming equipment through an Expression of Interest procurement process.

**2.THAT** Council make provision for \$110,000 in the Quarter 2 Budget Review for that purpose.

## **8.7 Quarterly Operational Plan Review - September 2021/22**

**AUTHOR:** Sarah Malcolm, Corporate Planning Coordinator

This Quarterly Review of the Operational Plan 2021/22 gives a status update for projects scheduled to commence, or in progress in Q2 2021/22. The results for the cross functional operational key performance indicators (KPIs) are reported biannually and are included in this review.

The Operational Plan 2021/22, i.e. Year 4 of the Delivery Program 2018/19-2021/22, was adopted by Council on 27 June 2021 and commenced 1 July 2021.

The Quarterly Review (Attachment 1) gives a status update for the projects adopted in the Delivery Program/Operational Plan 2021/22 by Division for the period 1 October to 31 December 2021. There were 227 projects scheduled to commence or continue in Q2. 90% of projects were on track (green and blue status) and 10% projects were behind schedule/delayed (red and amber status). The primary drivers of the delays were the impacts of COVID-19 and the delay in the conduct of the Local Government election.

Attachment 1 also details biannual performance against the KPIs, of which 13 were on track and two were off track for the period 1 July to 31 December 2021. Attachment 1 includes further detail outlining the key drivers.

Financial performance information is detailed in the Quarterly Budget Review Statement (QBRs) presented separately to Council (refer Item 8.8).

**Recommending:**

**1. THAT** the Quarterly Review of the Operational Plan - October to December 2021 be received.

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## 8.8 Quarterly Budget Review - December 2021

**AUTHOR:** Darren Goode, Manager Accounting Services

This report should be read in conjunction with Item 8.7 Q2 Review of the Operational Plan 2021/22. The purpose of this report is to inform Council of the results of the review of the budget for the quarter ended 31 December 2021 and to seek approval to make the necessary adjustments to the 2021/22 budget to reflect the current projected estimates of income and expenditure for the year.

The 2021/22 Original Budget forecast a net operating surplus of \$5.05 million before capital grants and contributions of \$25.68 million and a net operating surplus of \$30.73 million after capital grants and contributions.

It was necessary to make some adjustments to the budget at the end of the September quarter and these were reported to the Council on 25 October 2021 (Item 8.8). After the adjustments, the forecast net operating result before capital grants and contributions was a deficit of \$2.54 million, which was a deterioration of \$7.59 million from the \$5.05 million surplus forecast in the Original Budget. The forecast net operating result after capital grants and contributions was a surplus of \$18.94 million, a deterioration of \$11.79 million from the \$30.73 million surplus forecast in the Original Budget.

At the end of the December quarter, actual operating income was \$1.2 million (1.3%) above the year-to-date current budget and actual operating expenditure was \$3.99 million (8.3%) below the year-to-date current budget.

The review of the budget at the end of the December quarter has identified the need to make some additional adjustments and these are disclosed within this report. After the proposed adjustments, the forecast net operating result for 2021/22 before capital grants and contributions is a deficit of \$1.96 million which is an improvement of \$572,000 from the \$2.54 million deficit forecast in the September Budget Review. The forecast operating result after capital grants and contributions is now a surplus of \$16.73 million, a deterioration of \$2.21 million from the \$18.94 million surplus forecast in the September Budget Review.

The adjustments to the budget outlined in this report have increased the drawdown from reserves by \$2.08 million to \$40.59 million. The forecast balance of cash reserves at 30 June 2022 is \$51.72 million.

Following the budget adjustments proposed in this report, the net operating result for 2021/22 is now forecast to be a deficit of \$1,963,368 before capital grants and contributions and a surplus of \$16,731,172 after capital grants and contributions.

The adjustments to the budget outlined in this report have increased the drawdown from reserves by \$2.08 million to \$40.59 million. This amount includes funds carried forward from 2020/21 to complete capital projects still in progress at 30 June 2021. The forecast balance of cash reserves at 30 June 2022 is \$51.72 million.

**Recommending:**

- 1. THAT** the Quarterly Budget Review Statement – December 2021 report be received.
  - 2. THAT** the revised 2021/22 Budget be adopted.
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## 8.9 Investment and Loan Borrowings Report held as at 31 January 2022

**AUTHOR:** Christian Munday, Manager Financial Services

The report provides details of the performance of Council's investment portfolio and borrowing limits for the period ending 31 January 2022.

### **Investment Portfolio:**

The Investment Portfolio (excluding cash balances) held for the period ending 31 January 2022 had a market value of \$99,928,000. The annualised returns were 1.36%. This return exceeded the Australian bond Bank Bill performance benchmark by 1.33%

Cash deposits at call were \$21,025,474 with \$19,021,104 of these held in interest bearing accounts. \$2,004,370 cash is held in Council's non-interest-bearing transaction account with the Commonwealth Bank to meet day-to-day operational needs.

The investment portfolio is managed to ensure liquidity to meet operational requirements and to fund outflows on major projects. Cashflow is monitored and assessed on an on-going basis.

The actual year to date returns for cash and investments for January 2022 was \$724,628 compared to a year-to-date budget of \$652,166.

The Reserve Bank of Australia (RBA) has indicated that economic data does not warrant an increase in its official cash rate from current historic lows in this Financial Year 2022. It has suggested increases in 2023 are plausible. The RBA is tolerating inflation at the top of its target band of 2-3%

Historically, returns on cash (i.e. "at call" accounts) and short-term investments have been quite strong. With the low official cash rate, market variability in monthly returns may mean the short to medium term investment returns could be flat or potentially slightly negative. The capacity for Council staff to invest in a manner that meets liquidity requirements whilst achieving the "enhanced" benchmark returns (as detailed in the Investment Policy) is increasingly limited. However, the best available returns are still actively sought when surplus funds are invested.

### **Borrowings:**

#### ***Loan Facility for Council Projects***

Council entered into a fixed interest loan of \$9.5 million with quarterly interest and principal payments on 31 July 2018. The principal outstanding as at January 2022 is \$6,598,874.

The projects funded are outlined in the body of the report.

#### **North Sydney Olympic Pool Redevelopment**

Council has made provision for borrowings of \$31 million to partially fund the redevelopment of North Sydney Olympic Pool. At the Extraordinary Council Meeting of 24 January 2022, Council deferred consideration of a report related to this loan.

Council's total investment portfolio performance for the financial year to date is 1.33% above the benchmark (1.36% against 0.03%). The actual returns for cash and investments for the year-to-date are \$724,628 compared to year-to-date budget of \$652,166.

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The budgeted investment returns over the medium term needs to reflect the current low interest rate environment which is likely to continue over the next financial years.

Investment returns will continue to be monitored and reported to ensure the estimate is consistent with the actual returns.

**Recommending:**

**1. THAT** the report on Investments and Loan Borrowings held 31 January 2022 be received.

**8.10 Customer Feedback and Complaints Report July 2021 to December 2021**

**AUTHOR:** Sarah Malcolm, Corporate Planning Coordinator

To provide a summary of the complaints and compliments received during the period 1 July to 31 December 2021.

This report compares the number of complaints to the total number of customer contacts for the period 1 July to 31 December 2021, summarised below:

- total number of customer contacts - 19,771
- number of compliments - 67
- number of complaints - seven (57%) considered justified or partially justified

This report is provided to Council every six months.

There are no direct financial implications relating to this report.

**Recommending:**

**1. THAT** the Customer Feedback and Complaints Report: 1 July to 31 December 2021 be received.

**8.11 Deferred Report - Planning Proposal 1/21 - 270-272 Pacific Highway, Crows Nest**

**AUTHOR:** Jayden Perry, Strategic Planner

Resolution of Council, 25 October 2021

Council at its meeting on 25 October 2021 considered a report into the planning proposal at 270-272 Pacific Highway, Crows Nest and resolved:

1. THAT the matter be deferred for consideration by the new Council.

This report presents the deferred matter.

Purpose of Deferred Report

To present an assessment report for Planning Proposal No. 1/21 at 270-272 Pacific Highway, Crows Nest after its consideration by the Local Planning Panel on 29 September 2021.

Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 270-272 Pacific Highway, Crows Nest.

The Planning Proposal seeks to make the following amendments to the North Sydney Local Environmental Plan 2013 (NSLEP 2013):

- Increase the maximum Height of Buildings Map from 16m to 59m;

- Impose a maximum Floor Space Ratio Map of 5.6:1;
- Increase the minimum Non-residential Floor Space Ratio Map from 0.5:1 to 5.6:1;
- Insert a Site-specific clause allowing a maximum FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and comprises non-residential uses.

The indicative concept scheme accompanying the Planning Proposal includes a 13-storey building, comprising approximately 22,853m<sup>2</sup> Gross Floor Area (GFA), and basement car parking over three levels.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) (Attachment 5) offer which proposes to provide:

- A monetary contribution of \$3.0 million for the provision of local infrastructure and facilities.

A detailed assessment of the proposal and accompanying documentation has been undertaken in the recent report prepared for the North Sydney Local Planning Panel (NSLPP) (Attachment 1).

For the reasons outlined in this NSLPP Assessment Report (Attachment 1), it is recommended that Council support the progression of the Planning Proposal to the DPIE seeking a Gateway determination, noting a recommended reduction in height from 59m to 54m and the recommendation for site-specific DCP provisions to be prepared to help guide future detailed design and development application assessment process.

It is also recommended that Council accept, in principle, the letter of offer to enter into a Voluntary Planning Agreement.

On 11 November 2021, the applicant lodged a rezoning review with the Department of Planning, Industry and Environment (DPIE). The Sydney North Regional Planning Panel is scheduled to convene to consider this proposal on 2 March 2022.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) offer which proposes to provide a monetary contribution of \$3.0 million for the provision of local infrastructure and facilities.

**Recommending:**

**1. THAT** the Planning Proposal (Attachment 3) be amended to Council's satisfaction

addressing the recommendations outlined in this report including a reduction in maximum building height to 54m.

**2. THAT** the General Manager be authorised to negotiate the detailed terms and provisions of a Voluntary Planning Agreement consistent with the applicant's offer (Attachment 5) and as outlined in this report.

**3. THAT** upon satisfactory negotiation of the contents and detailed terms of the draft VPA and completion of Recommendation No.1, the Planning Proposal be forwarded in accordance with Section 3.34 of the Environmental Planning and Assessment Act 1979 seeking a Gateway Determination.

**4. THAT** a draft site specific DCP be prepared and further considered by Council for the purpose of concurrent public exhibition with the Planning Proposal.

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5. THAT upon receipt of a Gateway Determination and the completion of Recommendation No. 4, the associated draft Voluntary Planning Agreement be exhibited concurrently with the Planning Proposal and draft DCP.

## 8.12 **Deferred Report - Planning Proposal 8/21 - North Sydney Centre, Height of Buildings Variation**

**AUTHOR:** Marcelo Occhiuzzi, Manager Strategic Planning

### **Resolution of Council, 25 October 2021**

Council at its meeting on 25 October 2021 considered a report into Planning Proposal 8/21 - North Sydney Centre, Height of Buildings Variation and resolved:

1. THAT the matter be deferred for consideration by the new Council.

This report presents the deferred matter.

### **Purpose of deferred report**

To amend North Sydney Local Environmental Plan 2013 by amending clauses 6.3(3) and 6.3(5) and thereby confine all applications that seek to vary the building height development standards to clause 4.6 (Exceptions to Development Standards) ensuring greater consistency and transparency.

North Sydney Council endorsed the North Sydney CBD Land Use and Capacity Strategy in March 2017. One of the important outcomes of this work was the preparation of a Planning Proposal (PP 7/19) to amongst other things, increase building heights in parts of the North Sydney CBD to accommodate increased heights, whilst managing impacts on solar access to surrounding residential development and Special Areas within the CBD. PP 7/19 (which resulted in Amendment 23) was gazetted on 26 October 2018.

Clause 6.3(3) of the North Sydney Local Environmental Plan 2013 (NSLEP) contains provisions that enable the consent authority to consider variations to height standards within the North Sydney Centre. Clause 4.6 of the NSLEP represents a more generic mechanism that enables consideration of applications to vary any development standard throughout the Local Government Area including height in the North Sydney Centre.

Clause 6.3(3) is a mechanism that is increasingly being used to vary the height of buildings on sites that have already been afforded significant increases in height.

There is an increasing body of opinion that if clause 6.3(3) can be complied with, clause 4.6 is not required to be considered to vary height limits in the North Sydney Centre. This is problematic as clause 6.3(3) limits the matters for consideration by the consent authority in conducting this assessment. The two clauses have the same capacity to provide a framework for consideration of variation to height standards, but clause 6.3(3) represents a narrower set of matters for consideration which limits the consent authority's discretion considerably. In addition, at a time that significant increases in CBD height limits was pursued and gazetted to achieve increased heights (via Amendment 23), clause 6.3(3) is now considered superfluous as it represents a less restrictive approach to seeking height variations in the North Sydney CBD.

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Clause 4.6 can perform this function effectively, as it does in virtually every local government area in NSW.

Then North Sydney Local Planning Panel considered this Planning Proposal at its meeting on 29 September 2021. It resolved to recommend to the Council that the Planning Proposal be forwarded to the Department of Planning and Environment to seek a Gateway Determination.

The Planning Proposal seeks to serve an important governance role in improving the transparent functioning of the North Sydney LEP 2013. It has no financial implications for Council apart from the need to invest resources in its preparation and exhibition which will be sourced from existing budget allocations.

**Recommending:**

**1. THAT** Council note the recommendation of the North Sydney Local Planning Panel that the Planning Proposal be forwarded to the Department of Planning, Industry (DPIE) and Environment to seek a Gateway Determination.

**2. THAT** Council forward the Planning Proposal to DPIE in accordance with Section 3.34 of the Environmental Planning and Assessment Act 1979, seeking a Gateway Determination.

**3. THAT** upon receipt of a Gateway Determination, the Planning Proposal be exhibited for public exhibition in accordance with the conditions of the Gateway Determination.

**4. THAT** a further report be prepared for Council's consideration outlining any submissions received.

### 8.13

#### **Sydney North Planning Panel - Membership Nomination 2022**

**AUTHOR:** Stephen Beattie, Manager Development Services

For Council to determine its appointment of representatives to the Sydney North Planning Panel.

On 25 November 2019, Council considered a report on the nomination of members to the Sydney North Planning Panel (SNPP) for the 2019-20 reporting period. Council resolved:

1. THAT Council nominate Kenneth Robinson and Virginia Waller as the community representatives to represent North Sydney Council on the Sydney North Planning Panel, with Councillor Barbour and Kevin Alker as alternates up to 31 March 2021.

2. THAT the Panel membership be reviewed following the Local Government elections in September 2020.

3. THAT community representatives continue to be paid \$750 per Panel meeting.

THAT Council write to Veronique Marchandea and Michel Reymond expressing gratitude for their service to the Sydney North Planning Panel on behalf of our community.

The above appointments were made due to the Council not taking up the option of having Councillor representation on the Panel. The appointments were due or expire in March 2021 aligned with the original Local Government election date in September 2020. Given that the Local Government elections

have been deferred from September 2020 to September 2021 and then to December 2021, these appointments were extended by further Council resolution until the ordinary council meeting in March 2022 thus allowing the newly formed Council to select their representatives.

It is now necessary for the Council to consider appointing new representatives to the Sydney North Planning Panel. In the first instance Council should consider Councillor representation, being two qualified Councillors and an alternative. The alternative option is to seek Expressions of Interest from the North Sydney Local Planning Panel Community representative pool.

There are no additional financial considerations arising from this report and the current Sydney North Planning Panel operational budget of \$10,000 remains adequate.

**Recommending:**

**1.THAT** Council nominates 2 representatives, Councillor \_\_\_\_\_ and Councillor \_\_\_\_\_ and at least one alternate, Councillor \_\_\_\_\_, to sit on the Sydney North Planning Panel.

**2.THAT** should Council fail to find at least 3 representatives from the sitting members of Council that expressions of interest be called from the North Sydney Local Planning Panel Community representatives with delegation to appoint this additional representation being granted to the General Manager.

**3.THAT** Council thanks the outgoing representatives for their service to the North Sydney Community.

## 8.14

### NSW Government Infrastructure Contributions Reforms

**AUTHOR:** Neal McCarry, Team Leader - Policy

To seek Council's endorsement of a submission to the NSW Government's proposed Infrastructure Contributions Reforms. The detailed submission identifies that the proposed reforms will result in significant financial impacts on North Sydney Council and affect its ability to deliver necessary infrastructure to support growth.

In October 2021, the State Government released details of a proposed suite of reforms relating to how Local Government could levy development for the payment of infrastructure contributions. The exhibition period concluded on 10 December 2021. Due to the timing of the NSW Local Government elections (4 December 2021) this matter was not able to be reported to Council prior to submission. This report seeks the endorsement of the detailed submission provided at Attachment No 1.

Consistent with the overarching strategic planning framework, Council is responsible for managing population, housing and employment growth as part of its planning role in the Greater Sydney Commission's Eastern Harbour City. Fundamental to this role, and consistent with community expectations, is the need to support growth with the necessary level of local infrastructure in order to maintain an appropriate level of amenity, health and overall well-being of residents and workers that live and work in North Sydney.

The reforms will have a significant impact on North Sydney Council. Contrary to assurances that "no council will be worse off under the proposed reforms",

it is estimated that North Sydney Council will, dependent on likely final reforms, potentially be between \$2.8-\$9.3 million per annum worse off. Council's planned program of infrastructure works in the medium and longer term may have to be reconsidered and reduced as a result.

The introduction of a new Regional Infrastructure Contribution (RIC), with no corresponding obligation to establish any nexus as the basis for levying, nor any commitment to how and where the funds raised will be spent, is strongly opposed. This is contrary to the strict principles upon which local councils have been required to levy funds for several decades and which provide for a high degree of local transparency.

North Sydney Council supports a joint review and reform of the contributions regime to address agreed inadequacies, however, opposes the introduction of mechanisms that prevent Council being able to reasonably and adequately provide for the level of growth and intensification being experienced in both the North Sydney CBD and broader local government area. Further, the quality and amenity of infrastructure must align with community expectations and be sustainable over the medium and longer term under intense use.

This submission identifies the potential financial impacts of the proposed reforms to Local Infrastructure Contributions reforms. Modelling indicates that North Sydney Council may be between \$2.8-\$9.3 million per annum worse off than current projected income.

**Recommending:**

**1. THAT** Council endorse the detailed submission contained at Attachment 1 and re-iterate its objection to the proposed legislative reforms to Local Infrastructure Contributions.

**2.THAT** Council write to the Minister for Planning and Local Members requesting that progression of the reforms be paused and re-considered in light of the identified financial impacts to Local Government.

**3.THAT** should the reforms progress, the NSW Government be asked to provide financial compensation, to the extent of identified shortfalls, to those Councils that are financially disadvantaged as a result of the proposed reforms.

**4.THAT**, as the caretaker period has now concluded, Council proceed to write to all residents regarding the changes to infrastructure charges and the implications for ratepayers in accordance with the resolution of Council arising from the Notice of Motion No. 21/21 - Councillors Keen and Mutton.

## **8.15 Draft Plan of Management for Foreshore Parks and Reserves**

**AUTHOR:** Megan White, Landscape Architect/Planner

To undertake the processes required by the Crown Land Management Act 2016 and the Crown Land Management Regulation 2018 to enable the new draft Plan of Management (PoM) for Foreshore Parks & Reserves to be publicly exhibited for community information and comment and adopted.

Section 3.23(6) & (7) of the Crown Land Management Act 2016 requires all NSW Councils to adopt new Plans of Management (PoMs) for all reserves for which they are the appointed Crown Land Manager. The new PoMs must meet

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both the requirements of the Crown Land Management Act 2016 and the Local Government Act 1993.

The new draft PoM for Foreshore Parks & Reserves is the fifth Crown land PoM to be prepared for North Sydney. When adopted, it will supersede Council's Foreshore Parks and Reserves PoM 2017.

Councils must obtain written advice from a qualified native title manager that the PoM and the activities under the PoM comply with the Native Title Act 1993. Crown Land Management Regulation 2018 provides additional details about the steps that must be undertaken by Council's to prepare and adopt Crown land PoMs. Council must notify the department of the draft PoM prior to public exhibition of the plan and must seek written consent to adopt the draft PoM.

Preparation of a new draft PoM for Foreshore Parks & Reserves is now complete, and the draft PoM is ready to be referred to the Department.

There are no financial implications.

**Recommending:**

- 1. THAT 1. THAT** Council attests that it has considered Native Title Manager advice in relation to the draft PoM for Foreshore Parks & Reserves
- 2. THAT** Council notifies the department, as the landowner, of the draft PoM, prior to public exhibition of the plan under S39 of the LG Act
- 3. THAT** Council seeks the department's written consent to adopt the draft PoM (under clause 70B of CML Regulation). The PoM will be adopted pursuant to section 40 of the LG Act in accordance with 3.23(6) of the CLM Act

## 8.16

### **Proposed Community Garden French Street McMahons Point**

**AUTHOR:** Peter Massey, Environmental Services Manager

The purpose of this report is to provide Council with a high-level report on the progress of the redevelopment of the North Sydney Olympic Pool.

At its meeting of 26 July 2021, Council resolved as follows:

1. THAT the General Manager provide a high-level update/report on the progress of the redevelopment of the North Sydney Olympic Pool to each Council meeting until the redevelopment is completed.
2. THAT Council notes that this report does not alter the governance structure of the project.

This report is the third report which responds to this resolution. This report details Progress since the last Council meeting held on 27 September 2021.

The financial position of the project is reported through the Quarterly Governance report which will be reported up to Council at the October Meeting

**Recommending:**

- 1. THAT** the report be received.

## 8.17

### **Provision of pop-up drive through COVID-19 PCR testing facility - Balls Head Reserve**

**AUTHOR:** Rob Emerson, Director Open Space & Environmental Services

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The purpose of this report is to provide information to Council in relation to a request from NSW Health to allow a pop-up drive through COVID -19 Polymerase Chain Reaction (PCR) testing facility within Balls Head Reserve, Waverton.

Council has been approached by NSW Health to provide a location within the North Sydney Local Government area for a pop-up drive through COVID -19 Polymerase Chain Reaction (PCR) testing facility.

There are no predicted financial implications for providing permission for this COVID-19 testing site to establish for a short-term period on Balls Head Reserve

**Recommending:**

**1. THAT** Council approves the NSW Health request to provide Balls Head Reserve as a location for a pop-up drive through COVID -19 Polymerase Chain Reaction PCR testing facility.

**2. THAT** the term of the initial approval be for a period of three months.

**3. THAT** the General Manager be authorised to determine any request for extension, subject to NSW Health COVID response requirements and minimising impacts.

## 8.18

### **Albert Lo, Manager Property Assets**

**AUTHOR:** Albert Lo, Manager Property Assets

This report is to inform Council on the current arrangements that are in place for all Outdoor Dining Licence holders including “Temporary Outdoor Licence” holders and is recommending a transition back to Pre-Covid-19 arrangements now that the Pandemic crisis has eased.

As part of North Sydney Councils response to assist businesses through the COVID-19 pandemic, Council resolved to waive all Outdoor Dining Licence Fees payable from 1 July 2021 (Q1 2021/22). This waiver applied to 171 Outdoor Dining Licences that were active at the time and was to be in place until such time as the NSW Government lifts the Public Health Orders in force preventing outdoor dining.

North Sydney Council’s response is consistent with Lane Cove, Mosman and Willoughby Councils waiver of Outdoor Dining Licence Fees for the duration of the existing Orders. The City of Sydney has waived all Outdoor Dining Fees until 30 June 2022.

Furthermore at its meeting of 27 September 2021 Council also resolved to extend the period of waiver for Outdoor Dining Licences to 30 January 2022 while also introducing a new “Temporary Outdoor Licence” initiative.

On the 10 February 2022 the NSW Government lifted all restrictions for outdoor dining and no density limits apply.

The revenue foregone to Council through waiving Outdoor Dining Licence fees was reported to Council in the Quarterly Property Portfolio Report of August 2021 as being estimated to be \$52,020 per month. The total actual revenue foregone over a 7-month period from 1 July 2021 to 31 January 2022 amounts to \$461,927 which equates to \$65,989 per month.

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The revenue foregone as a result of Councils initiative of the Temporary Outdoor licences based on the combined size of areas permitted to be licenced was \$28,900 for a 5-month period from November 2021 to March 2022.

**Recommending:**

1. **THAT** the Report be received.
2. **THAT** all existing Outdoor Dining Licences fees continue to be waived until 31 March 2022
3. **THAT** all Temporary Outdoor Dining Licences, nine (9) in total, also be extended to 31 March 2022 and that those Operators who wish to continue with occupying the temporary licenced area apply for a formal Outdoor Dining Licence which is subject to approval based on Councils existing Outdoor Dining Policy and Guidelines and will be subject to the adopted fees and charges for Outdoor dining Licences.
4. **THAT** Councils Property Management Agents-Colliers International write to all current Outdoor Dining Licence holders immediately after this Council Meeting informing them of Councils decision.

**8.19. North Sydney Olympic Pool Redevelopment Monthly Progress Report**

**AUTHOR:** John Thomson, Manager Corporate Contracts

The purpose of this report is to provide Council with a high- level report on the progress of the redevelopment of the North Sydney Olympic Pool.

At its meeting of 26 July 2021, Council resolved as follows:

1. **THAT** the General Manager provide a high-level update/report on the progress of the redevelopment of the North Sydney Olympic Pool to each Council meeting until the redevelopment is completed.
2. **THAT** Council notes that this report does not alter the governance structure of the project.

This report addresses the above resolution.

The financial position of the project is reported through the Quarterly Governance Report which is a separate confidential report for this meeting

**Recommending:**

1. **THAT** the report be received.

## 9. NOTICES OF MOTION

### 9.1. Notice of Motion 11/22 - Textile Recycling - Crs Drummond & Lamb

In accordance with Clause 3.9 of the North Sydney Council's Code of Meeting Practice, please place on the next business paper the following motion:

1. **THAT** Council join the RecycleSmart program to enable recyclable textiles to be collected from residences within the North Sydney LGA
2. **THAT** Council coordinate with a textile recycling organisation (such as Upparel, or asuitable equivalent) to provide a central collection point for used textiles at our Community Recycling Centre in Artarmon
3. **THAT** Council provide a brief report on the feasibility of other places where textile recycling points could be located, such as at Council Chambers
4. **THAT** Council educate residents on the impact of textile waste on our environment and to inform residents of the new textile recycling collection points via our communication channels (newsletter, social media etc)

#### **BACKGROUND (provided by the submitters)**

The waste-reduction attitude of our community is to be commended. Over past decades our residents have steadily adopted sustainable practices for the complex recycling of items such as paint, e-waste, batteries and printer cartridges, which are not able to be processed through simple recycling (ie not via our yellow bins)

One area that has not yet become as common practice is textile recycling. Every year we experience massive garment overproduction, largely as a result of the global fast fashion industry. 'Fast fashion' is the result of mass industrial production of cheap and low-quality clothes made from cheap costs and (usually exploited) labour, which is accepted by the

'single use'/disposable mindset of our society that is encouraged by the many corporations who encourage people to join the most current trend, every trend, but who ultimately profit off this practice. This results in mass waste that takes up space in our landfills, with an

estimate of 'every 10 minutes, Australians dump 15 tonnes of clothing and fabric waste. That adds up to 800,000 tonnes, or 31 kilograms per person, every year' (Clean up.org), and adds up to 10% of all Co2 production in the world.

The production alone damages the environment, but then when said clothes become 'off

trend' and thrown away there is few recycling efforts for textiles in Australia; and since most clothes are synthetic they will not decompose for decades to come, and will simply take up room and gradually pollute the surrounding area with micro plastics and contamination.

Working towards extending the life of textiles through a circular textile economy - upcycling and recycling – can reduce the impact of textile waste on our environment.

Whilst we see positive donations of still-wearable clothing, it is end-of-life textiles that continue to cause environmental issues. Charities such as St Vincent de Paul are constantly swamped with textile donations that are too old or worn to on-sell, and then face the problem of sending these excess items to landfill, at a cost to their own charity.

Locals have the option to recycle their clothing free to several major retailers, such as Zara, yet the closest locations for these are in the Sydney City CBD or Chatswood. Given that many residents are working from home, and are likely to do so in the future, these large collection hubs are no longer convenient and necessitate travel into busy shopping malls, which can be crowded.

A key driver for positive behavioural change in waste reduction is education and convenience. There are a range of social enterprises that have started over recent years, to support people and businesses looking to recycle clothing directly from their home or business. A key option for home-collection recycling for residents is RecycleSmart; a logistics company that partners with NSW councils to facilitate the donation of clothing for recycling. Participating councils enable the collection of recyclables via an app which consolidates collection bookings. This program currently services the following Councils: City of Sydney, Mosman, Hunters Hill, Willoughby, Inner West, City of Canada Bay, Woollahra, Sutherland Shire, Camden, Penrith City, Randwick, Burwood. For those who prefer to upcycle away from their home, another example is Upparel. As is the case with most home-collection clothing recycling systems, there is a small collection fee. To consolidate collection costs and avoid individual fees, communities can opt to provide a central collection point. To enable residents a local, free option for recycling textiles, it would be of benefit for a communal textile recycling bin(s) to be made available within the North Sydney municipality. To tap into existing positive consumption behaviours and minimise transport, it may be feasible to add textile recycling points to existing venues such as the Artarmon Community Recycling Centre.

## **9.2. Notice of Motion 12/22 - Acknowledgement of Country - Crs Drummond & Lamb**

1. THAT Council updates the practice of Acknowledgement of Country to provide a more personalised and contextual wording. 2. THAT each Councillor draft their own personalised acknowledgement of Country that be narrated when it is their turn in the sequence. 3. THAT Council documents, where the lands of the North Sydney LGA are referenced, aim to identify the place as being on Cammeraygal Land, where possible. BACKGROUND (provided by the submitters) Acknowledgement of Country is a critical aspect of paying our respects to the traditional custodians of the land on which the North Sydney Municipality sits; Cammeraygal Land. The significant practice of Acknowledgement of Country has been widely adopted across a wide range of public and private meeting scenarios, including of course the meetings of

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Council. It is critical that North Sydney Council demonstrates our cultural reflexivity and commitment to accurate acknowledgement of indigenous peoples by staying abreast of the most current information and research. A number of recent studies have demonstrated that rote-learned or scripted Acknowledgements of Country are less meaningful than personalised acknowledgements. The practice of reading a generic, pre-prepared statement can, in fact, project a sentiment of routine practice that overlooks the deeply emotional and contextual significance of the acknowledgement practice. The traditional practice of Acknowledgements of Country relates to the recognition of visitation of a traveller as they entered the lands of another peoples; the intent is to describe the individual's purpose for their visit and their connection to that place. An acknowledgement should, in essence, introduce the person providing the acknowledgement and transparently outline their connection to the land on which the acknowledgement is occurring. Throughout the years, it has become customary for Councillors to take turns providing the Acknowledgement of Country at the beginning of meetings, which is the same for each Councillor. It would be meaningful for this routine practice to be updated to allow each Councillor to articulate their personal connection to the Cammeraygal Land. Over the past years, some Councillors have provided their own individualised acknowledgements, and it would be positive for all Councillors to continue this practice. An example of the personalised acknowledgement by Councillor Drummond is provided below, for reference: I was born on Cammeraygal land, and spent my childhood on its beautiful shores, and I now live here once again. My children are lucky enough to have been born on Cammeraygal land too. This land has taken care of my family. I have lived in other parts of the world, but this is home. I would like to acknowledge the Cammeraygal people as the custodians of this land and thank them for showing us how special a place our home is. I would like to pay my respects to the elders who have cared for this land over many centuries. I will work hard to ensure that my family, and future generations, continue to show respect for this land. Executive Manager Governance's Comment Council's adopted Code of Meeting Practice (based on the Office of Local Government Model Code of Meeting Practice) includes an Acknowledgement of Country in the general order of business. The Code does not specify how this is practiced. The practice at North Sydney Council was established at the Council Meeting of 21 July 2014 where Council resolved in part: That Council amend the Order of Business to include an Acknowledgement of Country as the first item, and that we adopt the practice of a number of other councils and that the acknowledgement is read by a different Councillor at each meeting. The practice then commenced at the Council Meeting of 15 September 2014 and has been continued since. Wording has been provided for the Acknowledgement of Country for Councillors who choose to use it and this has been supplied by the Aboriginal Heritage Manager.

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**9.3. Notice of Motion 13/22 - Outdoor Gyms - Crs Drummond & Lamb**

**1.THAT** Council provide a report identifying locations for new outdoor gym stations.

**2.THAT** Council allocate in the upcoming budget the inclusion of more outdoor gym stations, particularly in proximity to children’s play areas and cycling routes.

**BACKGROUND (provided by the submitters)**

Throughout the past two years we have seen frequent disruptions to exercise programs, particularly those who are members of indoor gyms and fitness centres. With frequent closures and reduced capacity mandates, as well as concern over the potential transmission of infection through indoor touch-points and close proximity to fellow exercisers, many residents have looked for alternative means to stay fit.

The usage of outdoor gymnasiums across North Sydney has always been high. As residents seeks ways of increasing physical strength and fitness during this covid era, the demand for outdoor gyms has further increased.

In order to allow the residents and visitors to North Sydney a range of ventilated, outdoor, distributed (non-crowded) exercise options, it is important that we allocate budget to increase the number of workout stations across the LGA.

It appears that stations located close to children’s play equipment, as well as along cycle routes, are particularly popular as they allow for incidental and sustainable access.

**General Manager’s comment**

This Notice of Motion does not identify the quantum of additional funds proposed to be allocated in the budget or the source of the additional funds. Council has limited funds and their allocation must be considered in competition with all priorities. This should occur as part of the budget process

**9.4. Notice of Motion 14/22 - Uluru Statement from the Heart - Crs Welch, Baker, Beregi, Lamb and Santer**

**1.THAT** North Sydney Council accepts the invitation of the Uluru Statement from the Heart and:

hears and supports the Aboriginal and Torres Strait Islander peoples’ call for the establishment of a First Nations Voice to be enshrined in the Constitution and for a referendum on this matter; and

welcomes working with the First Nations Voice once established with respect to the development of relevant local government policy and laws; and looks forward to working with our constituents, other levels of governments and all Australians to take this next step in our shared future.

**BACKGROUND (provided by the submitters)**

North Sydney Council has published and articulated the principles of the Uluru statement from the Heart on the website.

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The Motion helps to build grassroots support which will be needed for a successful referendum to enshrine the First Nation's Voice in the Constitution.

**9.5. Notice of Motion 15/22 - Food Waste Pick-up Service - Cr Gibson**

**1.THAT** Council receives a progress report on its commitment and initiatives to introduce a municipality wide food waste pick-up service for all residential dwellings.

**2.THAT** The report come to Councils March Meeting.

**BACKGROUND (provided by the submitter)**

At Council's meeting on July 26 2021 the elected body reiterated its commitment to deliver a LGA wide food-waste pickup service. I believe it's imperative our newly elected Council promptly act on this important commitment to our community.

**9.6. Notice of Motion 16/22 - Provision of Council suppers – Cr Gibson**

**1.THAT** Council's Catering Provision Policy be amended to provide a meal at the completion of each Council Meeting and in other circumstances deemed appropriate by the General Manager.

**2.THAT** clause 4.1.1 of the current Catering Provision Policy be amended to read:

Council meetings – Supper - in the form of a hot or cold meal - be provided at the completion of Council meetings for Councillors, the General Manager and other staff at the discretion of the General Manager.

**BACKGROUND (provided by submitter)**

All councils in NSW provide a sit-down meal for elected officials and the General Manager. An informal gathering which includes all Councillors provides the elected body with an opportunity to build good working relationships as well as discuss ideas, policies and initiatives of importance to the North Sydney and wider community

**Executive Manager Governance's comment**

Council has adopted a Catering Provision Policy, which was last reviewed and readopted in November 2018):

4.1.1 Council and Committee meetings - light refreshments are provided before the meeting for Councillors and the General Manager. This food is provided only for Councillors, the General Manager and if appropriate for staff by invitation from the General Manager. Non-alcoholic drinks will be provided at Council meetings.

Further, the Mayor and Councillors Facilities and Benefits Policy states:

4.1.3 Meals/refreshments on evenings of Council, Committee, Reference Group and Working Group supplied in accordance with Council's Catering Policy and or at any other time deemed appropriate by the Mayor or General Manger whilst on Council business.

The Facilities Policy must be reviewed by Council within 12 months of the election in accordance with section 252 of the Local Government Act. A report for this purpose will be provided to Council within the next few months.

**9.7. Notice of Motion 17/22 – Amendment to Council agenda page – Cr Gibson**

**1.THAT** the Council agenda cover sheet be amended to acknowledge that North Sydney Council meets on Cammeraygal Land.

**2.THAT** Council's Aboriginal Heritage Officer be consulted regarding the appropriate wording and protocol.

**BACKGROUND (provided by submitter)**

This simple amendment will publicly demonstrate North Sydney Council's ongoing commitment to Reconciliation and further strengthen our Aboriginal and Torres Strait Islander Cultural Protocol Guidelines.

**9.8. Notice of Motion 18/22 - Safeguarding the independence of Precincts - Councillors Santer and Welch**

**1. THAT** a clause be inserted in the Precinct Code of Conduct guaranteeing the right of Precincts to nominate and elect their own office holders and set their agendas, meeting places and schedules without Council involvement, including at election times.

**2. THAT** Council undertake to introduce a fixed amount of time at each Council meeting to be devoted to the addressing of submissions from Precincts.

**3. THAT** Council express its support for the democratic right of assembly of its citizens on publicly used Council administered property and facilities, including at election times, subject to non-interference with the lawful exercise of the rights of other users of these facilities.

**BACKGROUND (provided by submitters)**

During the recent Council election period Council staff issued a number of directives constraining office holding and attendance by otherwise authorised residents and Councillors who had announced their intention of running for Council office in the election. Initially, the directive stated that residents who had publicly announced their candidature and who held office in Precincts were to temporarily stand down from office and would not be allowed to attend Precinct meetings. This was later modified to allow attendance but without voting rights. The suspension against office holding was maintained. Similar restrictions were applied for Councillors seeking re-election.

This was an undemocratic imposition on the right of assembly of Precincts, introduced, not by the elected Council, but by staff. At subsequent Council meetings it was amended; and some Precincts ignored it and continued meetings with candidate office holders remaining in office and maintaining full voting rights.

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The unnecessary imposition of these restrictions should be unambiguously removed through the inclusion in the Precincts' Code of Conduct of a clause establishing the rights of Precincts to freely assemble. After all, the Code of Conduct for the Precincts should apply also to Council itself as well as to the Precincts, which are after all not policy making, but advisory bodies.

Equally important should be the Council's recognition of its citizens' rights of assembly. At a time when democracy worldwide is increasingly under threat from would-be autocracies, Council should embrace our democratic process by making available publicly used Council facilities for election purposes. During the Council election Council representatives imposed further restrictions on election volunteers' activities, in addition to the already draconian restrictions applied by the Electoral Commission. In one case, the Council prevented use of an area for volunteers to gather, forcing them on to a narrow footpath which restricted the right of passage of pedestrians not involved in the elections. In future elections, Council should ensure that it facilitates, not hinders, the democratic process.

#### **Executive Manager Governance's comment**

##### **Precincts Review**

The Code of Conduct - Precinct Office Bearers and Members was reviewed in 2020 in conjunction with the Stage 1 of the Precinct System Review. Amendments to the Code were ultimately adopted by Council on 30 November 2020.

On 28 June 2021 the Council resolved to defer consideration of the recommendations arising from the Precinct System Review until after the Local Government election. A further report on the Precinct System Code and Guidelines is therefore scheduled to be reported to Council. It is recommended that this be done holistically to address multiple recommendations.

##### **Conduct of Council Meetings**

The conduct of Council Meetings is governed by the Code of Meeting Practice. The Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is prescribed under section 360 of the Local Government Act 1993 and the Local Government (General) Regulation 2021.

Any proposed changes to the conduct of Council Meetings need to be undertaken in accordance with the legislation and comply with the requirements of the Model Code of Meeting Practice. Any allocation of time for the addressing of submissions from Precincts would need to be done in accordance with the Code of Meeting Practice and the Model Code of Meeting Practice for Local Councils in NSW. This would require that time be allocated outside the conduct of Council Meeting in a similar manner to that provided for pre-meeting briefing sessions.

Public comment is currently being sought regarding the conduct and timing of Council Meetings. This is prior to a further report being provided to Council presenting that feedback and recommending changes to Council's Code of Meeting Practice. This revised Code of Meeting Practice then needs to be placed on public exhibition for 28 days with public comment accepted for a period of 42 days in accordance with section 361 of the Local Government Act.

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**Use of Council resources and facilities during election period**

The use of equipment and facilities during an election period is in part governed by the Code of Conduct. Similar to the Code of Meeting Practice, the Model Code of Conduct for Local Councils in NSW is made under section 440 of the Local Government Act 1993 and the Local Government (General) Regulation 2005. The Model Code provides that:

You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.

Further, in the lead up to the election the Office of Local Government provided specific advice that Council officials must not use council resources (including intellectual property), and facilities for the purposes of assisting their election campaign or the election campaign of others unless the use is lawfully authorised and proper payment is made where appropriate.

Council is bound by these requirements.

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## 10. CONFIDENTIAL MATTERS

### 10.1. Tender 11/2021 - Bus Shelter & Comms Panel Advertising Tender - Reject & Negotiate

**Author:** Robert Esdaile, Engineering Project Manager

This report is to provide Council with an analysis and recommendation on the outcome of the reject and negotiate process for Tender 11/2021 for Advertising on Selected Council Infrastructure - Part A : Small Format (bus shelters and comms panels).

Submissions were called for and were received until 3pm, 28 October 2021 for “Best and Final Offers” to undertake Advertising on Selected Council Infrastructure - Part A : Small Format (bus shelters and comms panels).

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) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and because consideration of the matter in open Council would be, on balance, contrary to the public interest of the Local Government Act (LGA).

Refer to the Confidential Report for this tender.

**Recommending:**

**1. THAT** Council accept the offer of the highest ranked company following the Reject and Negotiate process that has been undertaken for Tender 11/2021 - Advertising on Selected Council Infrastructure - Part A : Small Format (bus shelters and comms panels).

**2. THAT** the General Manager be authorised to take any necessary action to implement the decision including entering associated contracts.

**3. THAT**, once Council has executed the Contract, information relating to the successful tender 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.

**4. THAT** the Confidential Report relating to matters specified in Section 10A(2)(d) be treated as confidential and remain confidential until Council determines otherwise.

### 10.2. Tender 32/2021 - Wondakiah Wharf Reconstruction

**AUTHOR:** Robert Esdaile, Engineering Project Manager

This report is to provide Council with an analysis and recommendation of the tender process for Tender 32/2021 for the Wondakiah Wharf Reconstruction. Tenders were called and were received until 3pm, 14 October 2021 for the submission of tenders to undertake the Wondakiah Wharf Reconstruction - Tender No. 32/2021.

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) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it, and because consideration of the matter in open

Council would be, on balance, contrary to the public interest. of the Local Government Act (LGA).

Funding for the project is appropriate.

**Recommending:**

- 1. THAT** Council accept the tender of the highest ranked Tenderer for Tender 32/2021 for The Wondakiah Wharf Reconstruction.
- 2. THAT** the General Manager be authorised to take any necessary action to implement the decision including entering associated contracts.
- 3. THAT**, once Council has executed the Contract, information relating to the successful tender 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.
- 4. THAT** the Confidential Report relating to matters specified in Section 10A(2)(d) be treated as confidential and remain confidential until Council determines otherwise.

### 10.3 Tender 35/2021 - Southern Lawn, St Leonards Park

**AUTHOR:** Kate Bambrick-Browne, Landscape Grants Coordinator

This report is to provide Council with an analysis and recommendation of the tender process for Tender 35-2021 for Southern Lawn, St Leonards Park

Tenders were called and were received until 3pm on 7 December 2021 for the submission of tenders to undertake Southern Lawn, St Leonards Park.

If the Council wishes to discuss the report, the meeting should be closed to the public to do so in accordance with s10A(2) (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and because consideration of the matter in open Council would be, on balance, contrary to the public interest. of the Local Government Act (LGA).

Council has allocated sufficient funds in the St Leonards Park Landscape Masterplan cost centre for the delivery of the Southern Lawn, St Leonards Park

**Recommending:**

- 1. THAT** Council accept the tender of the highest ranked Tenderer for Tender 35-2021 for Southern Lawn, St Leonards Park.
- 2. THAT** the General Manager be authorised to take any necessary action to implement the decision including entering associated contracts.
- 3. THAT**, once Council has executed the Contract, information relating to the successful tender 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.
- 4. THAT** the Confidential Report relating to matters specified in Section 10A(2)(d) be treated as confidential and remain confidential until Council determines otherwise.

### 10.4. North Sydney Council's Community Awards 2022

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**AUTHOR:** Eric Poulos, Community Worker- Social Planner

To present to Council a list of recommendations for North Sydney Council's Community Awards 2022.

North Sydney Council's Community Awards will be held on 1 April 2022. Due to COVID-19 and Council entering caretaker mode leading up to Election Day on 4 December 2021, Awards were postponed from previous years, where they were presented on 26 January. The 2022 awards will be presented by the Mayor, Zoë Baker on 1 April 2022.

This report is confidential in accordance with Section 10A(2) of the Local Government Act and the Local Government (General) Regulation 2005 for the reason listed below:

(a) personnel matters concerning particular individuals (other than councillors).

The related financial implications are negligible. The associated costs will be covered by the financial year 2021/22 budget.

Funding for the project is appropriate.

**Recommending:**

**1.THAT** the meeting be closed to the public in accordance with Section 10 2 (a); personnel matters concerning particular individuals (other than Councillors).

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

**10.5. Don Bank Writer – Selection of writer for 2022**

**AUTHOR:** Amanda Hudson, Community Development Librarian

The selection of the Don Bank Studio Writer in Residence for 2022.

Expressions of interest for the 2022 Writer in Residence at the Don Bank Studio have been processed and this report recommends one of the applicants.

The Writer in Residence for 2020/21 was The Mascara Literary Review who held a range of successful events despite the impact of Covid and the 2020 and 2021 lockdowns.

The events consisted of lunchtime readings with writers reading their poems and short stories. In March 2021 for Harmony Day, Stanton Library and The Mascara Literary Review celebrated multicultural literature with writers and poets. In December 2021 an event was held to say goodbye to the Mascara Review, the event consisted of a Q&A with the writers exploring their time at Don Bank Studio followed by readings produced during the residency.

The Don Bank Residency benefited the work of the writers from the Mascara Literary Review as shown by their list of achievements below:

Debbie Lim's poem, Hummingbird Country was one of five poems shortlisted in the Peter Porter Poetry Prize run by the Australian Book Review.

Debbie Lim wrote twenty-two new poems, eleven of these were published.

David Ades drafted twenty-six poems of which seven were published in national and international literary journals.

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This report is confidential in accordance with Section 10A(2) of the Local Government Act and the Local Government (General) Regulation 2005 for the reason listed below:

(a) personnel matters concerning particular individuals (other than councillors).

The Don Bank Writer in Residence pay a peppercorn rent.

**Recommending:**

**1.THAT** the meeting be closed to the public in accordance with Section 10 2 (a); personnel matters concerning particular individuals (other than Councillors).

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

**10.6. North Sydney Olympic Pool Redevelopment Governance Report  
February 2022**

**AUTHOR:** John Thomson, Manager Corporate Contracts

The purpose of this report is to provide Council with a detailed report on the progress of the redevelopment of the North Sydney Olympic Pool in accordance with the Governance Structure outlined to Council at the meeting of 22 February 2021.

**EXECUTIVE SUMMARY:**

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 report includes matters that remain under assessment by the Contract Superintendent. Determination of the Contract Superintendent may be subject to challenges in the case of contractual dispute.

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) 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  
(ii) confer a commercial advantage on a competitor of the Council, and because consideration of the matter in open Council would be, on balance, contrary to the public interest..

**Recommending:**

**1.THAT** the report be received.

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

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

## 10.7

### **Appointment of Senior Staff**

**AUTHOR:** Ken Gouldthorp, General Manager

The purpose of this report is to consult with Council in respect to the appointment of senior staff.

Section 332 of the Local Government Act states:

#### **332 Determination of structure**

(1) A council must, after consulting the general manager, determine the following—

- (a) the senior staff positions within the organisation structure of the council,
- (b) the roles and reporting lines (for other senior staff) of holders of senior staff positions,
- (c) the resources to be allocated towards the employment of staff.

(1A) The general manager must, after consulting the council, determine the positions (other than the senior staff positions) within the organisation structure of the council.

Council's adopted structure includes six Executive (senior staff) positions reporting to the General Manager. These Executives are employed under the mandated standard form of contract approved by the Department Chief Executive of the Office of Local Government (OLG).

The appointment, and direction of staff, together with the implementation of Council's workforce engagement strategy, are functions of the General Manager as outlined in Section 335 of the Act. However, prior to appointing or dismissing senior staff the General Manager is required to consult with Council (s337 of the Act).

The purpose of this report is to undertake such consultation. Should Council wish to discuss the report or provide feedback, the meeting should be closed to the public in accordance with s10A (2)(a) as it relates to:

*(a) personal matters concerning particular individuals (other than councillors).*

#### **Recommending:**

**1.THAT** Council close the meeting in accordance with s10(a)(2) (a) personal matters concerning particular individuals (other than councillors).

## 11. CLOSURE

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