



MINUTES

The Minutes of the Council Meeting held at the
Council Chambers, North Sydney
at 6:30 PM on Monday 22 May 2023.



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1. Opening Meeting

Statement of ethical obligations

Councillors are reminded of the oath or affirmation taken upon commencement of office that they will undertake the duties of the office of councillor in the best interests of the people of North Sydney and the North Sydney Council and that they will faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the [Local Government Act 1993](#) or any other Act to the best of their ability and judgment.

Councillors are also reminded of their obligations under the Code of Conduct to disclose and appropriately manage conflicts of interest.

At the commencement of business (6:30 pm) those present were: The Mayor, and Councillors Bourke, Gibson, Lamb, Lepouris, Mutton, Santer (remotely), Spenceley, and Welch.

The meeting was opened by the Mayor.

2. Acknowledgement of Country

RECOGNITION OF THE CAMMERAYGAL PEOPLE

We respectfully acknowledge the Traditional Custodians of the land and waters of North Sydney local government area, the Cammeraygal people.

The Acknowledgement of Country was read by Councillor Gibson.

3. Apologies and applications for leaves of absence or attendance by audio-visual link by councillors

It was moved by Councillor Gibson and seconded by Councillor Welch:

1. THAT Council grant permission for Councillor Santer to attend remotely for the following reason: travel.

2. THAT Council grant Leave of Absence to Councillor Beregi.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Lepouris, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Nil

148. RESOLVED:

- 1. THAT** Council grant permission for Councillor Santer to attend remotely for the following reason: travel.
- 2. THAT** Council grant Leave of Absence to Councillor Beregi.

4. Confirmation of Minutes

1. THAT THE MINUTES of the previous 3881st Council Meeting held on Monday 8 May 2023 be taken as read and confirmed.

The Motion was moved by Councillor Mutton and seconded by Councillor Lamb.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Lepouris, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Nil

149. RESOLVED:

1. THAT the Minutes of the 3,881st Ordinary Council Meeting held on Monday 8 May 2023 be taken as read and confirmed.

5. Disclosures of Interest

The following Disclosures of Interest were made:

Item 10.8 Councillor Baker	Current Appeals and Results - May 2023 Relative objected to a DA which was the subject of an appeal on the list Non-pecuniary, less than significant
Item 10.8 Councillor Welch	Current Appeals and Results - May 2023 Relationship with a party on the list Non-pecuniary, significant

6. Public Forum

A Motion was moved by Councillor Gibson and seconded by Councillor Mutton:

1.THAT the Public Forum be opened, and that the following items be moved forward as part of the Public Forum:

Item 9.1	Traffic Committee Minutes - 21 April 2023
Item 10.5	Planning Proposal 1/23 - 1-7 Rangers Road and 50 Yeo Street Neutral Bay
Item 10.6	Planning Proposal 8/22 - 15 Allister Street Cremorne - Post Exhibition Report

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Lepouris, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Nil

150. RESOLVED:

1.THAT the Public Forum be opened, and that the following items be moved forward as part of the Public Forum:

Item 9.1	Traffic Committee Minutes - 21 April 2023
Item 10.5	Planning Proposal 1/23 - 1-7 Rangers Road and 50 Yeo Street Neutral Bay
Item 10.6	Planning Proposal 8/22 - 15 Allister Street Cremorne - Post Exhibition Report

7. Items Considered by Exception

It was moved by Councillor Welch and seconded by Councillor Lamb:

1.THAT the Recommendations for the following Items be considered by exception:

Item 9.2	Audit, Risk and Improvement Committee Minutes - 28 April 2023
Item 10.1	Matters Outstanding May 2023
Item 10.3	Quarterly Budget Review - March 2023
Item 10.4	Investment and Loan Borrowings Report as at 30 April 2023

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Lepouris, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Nil

151. RESOLVED:

1. THAT the Recommendations for the following Items be considered by exception:

Item 9.2	Audit, Risk and Improvement Committee Minutes - 28 April 2023
Item 10.1	Matters Outstanding May 2023
Item 10.3	Quarterly Budget Review - March 2023
Item 10.4	Investment and Loan Borrowings Report as at 30 April 2023

8. Mayoral Minutes

Nil

9. Reports of Committees

9.1. Traffic Committee Minutes - 21 April 2023

AUTHOR Peita Rose, Governance Officer

PURPOSE:

Council is required to consider the Minutes of this Committee. Section 5.3.2 of the RMS Delegation to Council for the Regulation of Traffic states that: *All proposals recommended by the LTC must still be formally approved by the elected Council (or their sub-delegate), subject to certain limitations.*

- This report presents the Minutes of the last meeting of the Traffic Committee held on 21 April 2023 for Council adoption. The Minutes are attached for information.
- There are no matters referred from the Traffic Committee Meeting of 21 April 2023 to Council for adoption.
- The full reports to the Traffic Committee can be viewed at <https://www.northsydney.nsw.gov.au/homepage/82/traffic-committee>.

RECOMMENDATION:

1. THAT the Minutes of the Traffic Committee dated 21 April 2023 be received.

This matter was moved forward as part of the Public Forum (see page 5).

The following people spoke on this item as part of the Public Forum:

- Tony Stanley (local resident - remotely)
- Meredith Trevallyn-Jones (on behalf of Willoughby Bay Precinct)

A Motion was moved by Councillor Welch and seconded by Councillor Gibson:

- 1. THAT** the Minutes of the Traffic Committee dated 21 April 2023 be received.
- 2. THAT** Council notes that the Young Street and Grosvenor Street roundabout and intersection will be subject to a separate design and consultation.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Lepouris, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Nil

152. RESOLVED:

- 1. THAT** the Minutes of the Traffic Committee dated 21 April 2023 be received.
- 2. THAT** Council notes that the Young Street and Grosvenor Street roundabout and intersection will be subject to a separate design and consultation.

9.2. Audit, Risk and Improvement Committee Minutes - 28 April 2023

AUTHOR Ian Curry, Manager Council & Committee Services

PURPOSE:

The purpose of this report is to enable Council to consider the Minutes of this Committee as required under the Audit, Risk and Improvement Committee Charter.

- This report presents the recommendations of the last meeting of the Audit, Risk and Improvement Committee held on 28 April 2023 for Council adoption. The minutes are attached for information.
- There are no items from the meeting for Council determination.

RECOMMENDATION:

- 1. THAT** the Minutes of the Audit, Risk and Improvement Committee meeting held on 28 April 2023 be adopted in accordance with the Audit, Risk and Improvement Committee Charter.

This matter was considered by exception (see page 5).

153. RESOLVED:

1. THAT the Minutes of the Audit, Risk and Improvement Committee meeting held on 28 April 2023 be adopted in accordance with the Audit, Risk and Improvement Committee Charter.

10. Reports to Council

10.1. Matters Outstanding May 2023

AUTHOR Ian Curry, Manager Council & Committee Services

PURPOSE:

The purpose of this report is to report to Council on the status of resolutions arising from Mayoral Minutes, Notices of Motion, and Questions Without Notice.

- Each month, a report is presented to Council on the status of resolutions arising from Mayoral Minutes, Notices of Motion, and Questions Without Notice.
- The attached table has been updated to include resolutions up to the 26 April 2023 Ordinary Meeting of Council.

RECOMMENDATION:

1. THAT the report be received.

This matter was considered by exception (see page 5).

154. RESOLVED:

1. THAT the report be received.

10.2. Q3 Review of the Delivery Program/Operational Plan 2022/23

AUTHOR Jenny Gleeson, Manager Corporate Planning and Engagement

PURPOSE:

The purpose of this report is to present a progress update against the Delivery Program/Operational Plan 2022/23 for the third quarter (Q3), 1 January to 31 March 2023 with project status. The report also proposes amendments to the Delivery Program/Operational Plan.

- The Operational Plan 2022/23 (Year 1 of the Delivery Program 2022-2026) was originally adopted by Council on 27 June 2022 and commenced 1 July 2022.
- The Q3 Review presents a status update for projects scheduled to commence, or that were in progress from 1 January to 31 March 2023.
- Of the total 220 projects in Q3 2022/23:
 - 85% (188) of projects were completed/on track (blue and green status);

- 8% (17) of projects are delayed/not progress (red and amber status); and
- 7% (15) of projects are unfunded or discontinued.
- The number of projects marked as unfunded or discontinued increased by 5.6% compared to the previous quarter. Nine of the 15 were duplicate projects or services or subsets of other projects or services.
- Five amendments to the Delivery Program/Operational Plan have been identified, including four scheduling changes and one change to the project description.

RECOMMENDATION:

- 1. THAT** the Quarterly Review (January - March 2023) of the Operational Plan be received.
- 2. THAT** the Council notes the remedial action for the projects that were not on track for period ending 31 March 2023.
- 3. THAT** the Council adopts the identified amendments to the Delivery Program 2022-2026 and the Operational Plan 2022/23 as outlined in this report.

The Motion was moved by Councillor Welch and seconded by Councillor Gibson.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Lepouris, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Nil

155. RESOLVED:

- 1. THAT** the Quarterly Review (January - March 2023) of the Operational Plan be received.
- 2. THAT** the Council notes the remedial action for the projects that were not on track for period ending 31 March 2023.
- 3. THAT** the Council adopts the identified amendments to the Delivery Program 2022-2026 and the Operational Plan 2022/23 as outlined in this report.

10.3. Quarterly Budget Review - March 2023

AUTHOR Christian Menday, Manager Financial Services

PURPOSE:

To review the budget for quarter ended 31 March 2022. It highlights and tracks variances from the original budget. It also seeks approval to adjust the 2022/23 budget accordingly. This report should be read in conjunction with Item 10.3 Q3 Review of the Operational Plan 2022/23.

- Decrease in Operating Deficit before Capital Grants and Contributions of \$368 thousand to \$2.06 million
- Increase in Operating Surplus including Capital Grants and Contributions of \$8.12 million to \$25.47 million due to increase Capital Grants and Contributions received.
- A reduction of Capital Works program of \$30.51 million due mostly due to deferral of works to 2023/24 as advised in Draft 2023/24 budget.

RECOMMENDATION:

- 1. THAT** Council adopts the Quarterly Budget Review Statement – March 2023 report in accordance with clause 203 of the Local Government (General) Regulation 2021
- 2. THAT** Council acknowledges the budget amendments in this report.

This matter was considered by exception (see page 5).

156. RESOLVED:

- 1. THAT** Council adopts the Quarterly Budget Review Statement – March 2023 report in accordance with clause 203 of the Local Government (General) Regulation 2021
- 2. THAT** Council acknowledges the budget amendments in this report.

10.4. Investment and Loan Borrowings Report as at 30 April 2023

AUTHOR Christian Munday, Manager Financial Services

PURPOSE:

The purpose of this report is to provide Council with the details of the performance of Council’s investments and details of loans for the month of April 2023.

- This report outlines Council’s investment portfolio and performance to 30 April 2023.
- All investments have been made in accordance with the Act, Regulations, Council’s Investment Policy and the specific conditions of the TCorp Loan Agreement.
- For the month of April, the total portfolio (Term Deposits, Floating Rate Notes, and Bonds) provided a return of +0.22% (actual) or +2.67% p.a. (annualised), marginally under-performing the benchmark AusBond Bank Bill Index return of +0.30% (actual) or +3.77% p.a. (annualised). Council’s investment adviser considers this underperformance to be temporary.
- Returns on investments exceed original YTD budget by \$1.8 million due to higher than expect cash balances and higher than expected interest rates.

RECOMMENDATION:

- 1. THAT** the report on Investments held on 31 April 2023, prepared in accordance with clause 212 of the Local Government (General) Regulation 2021 and information on Loan Borrowings, be received.

This matter was considered by exception (see page 5).

157. RESOLVED:

1. THAT the report on Investments held on 31 April 2023, prepared in accordance with clause 212 of the Local Government (General) Regulation 2021 and information on Loan Borrowings, be received.

10.5. Planning Proposal 1/23 - 1-7 Rangers Road & 50 Yeo Street, Neutral Bay

AUTHOR Katerina Papas, Senior Strategic Planner

PURPOSE:

The purpose of this report is to present to Council the assessment report of Planning Proposal No. 1/23 for 1-7 Rangers Road and 50 Yeo Street Neutral Bay which seeks to amend North Sydney Local Environmental Plan 2013, following its review by the North Sydney Local Planning Panel on 19 April 2023.

- On 11 January 2023, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to 1-7 Rangers Road and 50 Yeo Street Neutral Bay.
- The Planning Proposal seeks to increase the increase the maximum building height control for the site from 16m to part 27m and part 33m; and increase the non-residential floor space ratio control from 0.5:1 to 1.8:1.
- The Planning Proposal includes a part six-storey and part eight-storey mixed-use indicative building comprising a supermarket in the subterranean level, retail and commercial floorspace in the podium, and approximately 63 residential apartments located above. A basement car park comprising 350 car spaces is proposed.
- The Planning Proposal is accompanied by a non-binding letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council to deliver a publicly accessible square and pedestrian through-site link connecting Rangers Road to Yeo Street, public wi-fi, and 88 basement car parking spaces for public use, in perpetuity. The Planning Proposal is also accompanied by a draft site-specific Development Control Plan (DCP) to guide the assessment of any future Development Application on the site.
- On 19 April 2023, the North Sydney Local Planning Panel (NSLPP) considered the Planning Proposal and agreed that the proposal should not be supported for the following reasons:
 - the Planning Proposal challenges Actions L1.5 and L3.2 of the North Sydney Local Strategic Planning Statement (LSPS), which requires Planning Proposals to be underpinned by an endorsed placed-based strategy;
 - the Planning Proposal is inconsistent with Council’s rescinded MRCPS and the objectives of Council’s renewed Study for the Neutral Bay Town Centre, as it would facilitate an overly intense and visually dominant built form in its context and prevent the delivery of identified high-quality public open space by limiting the capacity of the adjacent site (183-185 Military Road) from contributing to the public domain;
 - the height sought by the proposal is excessive given its stated objectives of achieving a part six-storey and part eight-storey building, and would result in

- unacceptable overshadowing impacts to residential dwellings to the south;
- the bulk, scale, and massing of the proposed built form is excessive in its context and does not provide an appropriate interface and transition to the low-scale residential areas immediately to the south of the site;
- the proposed publicly accessible plaza and pedestrian through-site link is of compromised amenity and reduced public benefit; and
- the quantum of proposed on-site parking is excessive and not justified in the context of the site's highly accessible location and cumulative impacts to the surrounding area.
- The Panel also noted in its recommendations that if a Planning Proposal were to progress for the subject site, an amended site-specific DCP would be appropriate to better guide and manage the bulk and scale, massing, open space, solar access, and pedestrian amenity of any future development on the site.

RECOMMENDATION:

1. THAT Council resolves to not support the Planning Proposal proceeding to Gateway Determination, for the following reasons:

- the Planning Proposal challenges Actions L1.5 and L3.2 of the North Sydney Local Strategic Planning Statement (LSPS), which requires Planning Proposals to be underpinned by an endorsed place-based strategy;
- the Planning Proposal is inconsistent with Council's rescinded MRCPS and the objectives of Council's renewed Study for the Neutral Bay Town Centre, as it would facilitate an overly intense and visually dominant built form in its context and prevent the delivery of identified high-quality public open space by limiting the capacity of the adjacent site (183-185 Military Road) from contributing to the public domain;
- the height sought by the proposal is excessive given its stated objectives of achieving a part six-storey and part eight-storey building and would result in unacceptable overshadowing impacts to residential dwellings to the south;
- the bulk, scale and massing of the proposed built form is excessive in its context and does not provide an appropriate interface and transition to the low-scale residential areas immediately to the south of the site;
- the proposed publicly accessible plaza and pedestrian through-site link is of compromised amenity and reduced public benefit; and
- the quantum of proposed on-site parking is excessive and not justified in the context of the site's highly accessible location and cumulative impacts to the surrounding area.

2. THAT Council notifies the applicant of Council's determination in accordance with section 9 of the Environmental Planning and Assessment Regulation 2021.

3. THAT if a Planning Proposal were to progress for the subject site via an alternate approval pathway, that an amended site-specific Development Control Plan be prepared addressing the matters of concern identified in the Council Officer's assessment report and NSLPP recommendations. This includes:

- reduction of podium height and overall building height;
- removal of two-storey retail structure;
- demonstration of adjacent site integration;
- reconsideration of plaza design;
- provision of through-site link open-to-sky;

- reduction of on-site parking provision;
- maintaining the proposed 1.8:1 non-residential FSR; and
- provision of key worker and affordable housing components.

This matter was considered as part of the Public Forum (see page 5).

The following people spoke on this item as part of the Public Forum:

- Efi Carr (on behalf of Neutral Precinct Committee)
- Ben Craig (Ethos Urban, on behalf of Woolworths - remotely)
- Meredith Trevallyn-Jones (on behalf of the Neutral Bay and Cremorne Progress Association and Willoughby Bay Precinct Committee)

A Motion was moved by Councillor Gibson and seconded by Councillor Lepouris:

1. THAT Council continues to engage with the applicants with the view to delivering an amended site-specific development control plan which addresses the matters of concern identified in the assessment report and the NSLPP recommendations, and these include all points listed on page 3/15 of the report, with the exception of the reduction in on-site parking conditions.

The Motion was put and **Lost**.

Voting was as follows:

For/Against 3 / 6

For: Councillor Gibson, Councillor Mutton and Councillor Lepouris

Against: Councillor Baker, Councillor Bourke, Councillor Lamb, Councillor Spenceley, Councillor Santer and Councillor Welch

Absent: Nil

A Further Motion was moved by Councillor Bourke and seconded by Councillor Lamb:

1. THAT Council resolves to not support the Planning Proposal proceeding to Gateway Determination, for the following reasons:

- the Planning Proposal challenges Actions L1.5 and L3.2 of the North Sydney Local Strategic Planning Statement (LSPS), which requires Planning Proposals to be underpinned by an endorsed placed-based strategy;
- the Planning Proposal is inconsistent with Council's rescinded MRCPS and the objectives of Council's renewed Study for the Neutral Bay Town Centre, as it would facilitate an overly intense and visually dominant built form in its context and prevent the delivery of identified high-quality public open space by limiting the capacity of the adjacent site (183-185 Military Road) from contributing to the public domain;
- the height sought by the proposal is excessive given its stated objectives of achieving a part six-storey and part eight-storey building and would result in unacceptable overshadowing impacts to residential dwellings to the south;
- the bulk, scale and massing of the proposed built form is excessive in its context and does not provide an appropriate interface and transition to the low-scale residential

areas immediately to the south of the site;

- the proposed publicly accessible plaza and pedestrian through-site link is of compromised amenity and reduced public benefit; and
- the quantum of proposed on-site parking is excessive and not justified in the context of the site's highly accessible location and cumulative impacts to the surrounding area.

2. THAT Council notifies the applicant of Council's determination in accordance with section 9 of the Environmental Planning and Assessment Regulation 2021.

3. THAT if a Planning Proposal were to progress for the subject site via an alternate approval pathway, that an amended site-specific Development Control Plan be prepared addressing the matters of concern identified in the Council Officer's assessment report and NSLPP recommendations. This includes:

- reduction of podium height and overall building height;
- removal of two-storey retail structure;
- demonstration of adjacent site integration;
- reconsideration of plaza design;
- provision of through-site link open-to-sky;
- reduction of on-site parking provision;
- maintaining the proposed 1.8:1 non-residential FSR; and
- provision of key worker and affordable housing components.

The Further Motion was put and **Carried**.

Voting was as follows:

For/Against 6 / 3

For: Councillor Baker, Councillor Bourke, Councillor Lamb, Councillor Spenceley, Councillor Santer and Councillor Welch

Against: Councillor Gibson, Councillor Mutton and Councillor Lepouris

Absent: Nil

158. RESOLVED:

1. THAT Council resolves to not support the Planning Proposal proceeding to Gateway Determination, for the following reasons:

- the Planning Proposal challenges Actions L1.5 and L3.2 of the North Sydney Local Strategic Planning Statement (LSPS), which requires Planning Proposals to be underpinned by an endorsed placed-based strategy;
- the Planning Proposal is inconsistent with Council's rescinded MRCPS and the objectives of Council's renewed Study for the Neutral Bay Town Centre, as it would facilitate an overly intense and visually dominant built form in its context and prevent the delivery of identified high-quality public open space by limiting the capacity of the adjacent site (183-185 Military Road) from contributing to the public domain;
- the height sought by the proposal is excessive given its stated objectives of achieving a part six-storey and part eight-storey building and would result in unacceptable overshadowing impacts to residential dwellings to the south;
- the bulk, scale and massing of the proposed built form is excessive in its context and does not provide an appropriate interface and transition to the low-scale residential areas immediately to the south of the site;

- the proposed publicly accessible plaza and pedestrian through-site link is of compromised amenity and reduced public benefit; and
- the quantum of proposed on-site parking is excessive and not justified in the context of the site's highly accessible location and cumulative impacts to the surrounding area.

2. THAT Council notifies the applicant of Council's determination in accordance with section 9 of the Environmental Planning and Assessment Regulation 2021.

3. THAT if a Planning Proposal were to progress for the subject site via an alternate approval pathway, that an amended site-specific Development Control Plan be prepared addressing the matters of concern identified in the Council Officer's assessment report and NSLPP recommendations. This includes:

- reduction of podium height and overall building height;
- removal of two-storey retail structure;
- demonstration of adjacent site integration;
- reconsideration of plaza design;
- provision of through-site link open-to-sky;
- reduction of on-site parking provision;
- maintaining the proposed 1.8:1 non-residential FSR; and
- provision of key worker and affordable housing components.

10.6. Planning Proposal 8/22 - Post Exhibition Report - 15 Allister Street, Cremorne

AUTHOR Katerina Papas, Senior Strategic Planner

PURPOSE:

The purpose of this report is to outline the results of the public exhibition of a Council-initiated Planning Proposal (PP 8/22) to amend the North Sydney Local Environmental Plan (NSLEP) 2013 to list 15 Allister Street, Cremorne as a heritage item of local significance.

- At its meeting of 10 October 2022, Council resolved to forward the Planning Proposal to the Department of Planning and Environment (DPE) for identification and listing of 15 Allister Street Cremorne as a local heritage item.
- The Planning Proposal is supported by a detailed heritage assessment which demonstrates that the site meets the threshold for local heritage listing.
- On 19 December 2022, the DPE issued a Gateway Determination permitting public exhibition of the Planning Proposal to commence after amending the Planning Proposal as required by the Gateway Determination.
- The Planning Proposal was exhibited for a period of 43 calendar days (31 working days) from 6 March to 17 April 2023 in accordance with the Gateway Determination and Council's Community Engagement Protocol.
- 13 submissions were received during the exhibition period, including two received from government agencies. The 11 community submissions all supported the proposed heritage listing.
- The submissions received from the government agencies (Heritage Council of NSW and North Shore Historical Trust) did not object to the proposal.

- No objections were received from the owner(s) of the subject site at the time of preparation of this report.

RECOMMENDATION:

- 1. THAT** Council note the submissions made.
- 2. THAT** Council endorse the Planning Proposal, as exhibited, forming Attachment 1 to this report.
- 3. THAT** Council as a delegated Local Plan Making Authority make the Plan in accordance with section 3.36 of the Environmental Planning and Assessment Act 1979, consistent with the Gateway Determination.
- 4. THAT** Council forward a copy of Council resolution and the Planning Proposal, as exhibited to the Parliamentary Counsel's Office and the DPE for the legal drafting of the instrument, to give effect to the Planning Proposal.
- 5. THAT** Council notify all submitters of Council's decision.

This matter was considered as part of the Public Forum (see page 5).

The following person spoke on this item as part of the Public Forum:

- Catherine Clarke

The Motion was moved by Councillor Welch and seconded by Councillor Bourke.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Lepouris, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Nil

159. RESOLVED:

- 1. THAT** Council note the submissions made.
- 2. THAT** Council endorse the Planning Proposal, as exhibited, forming Attachment 1 to this report.
- 3. THAT** Council as a delegated Local Plan Making Authority make the Plan in accordance with section 3.36 of the Environmental Planning and Assessment Act 1979, consistent with the Gateway Determination.
- 4. THAT** Council forward a copy of Council resolution and the Planning Proposal, as exhibited to the Parliamentary Counsel's Office and the DPE for the legal drafting of the instrument, to give effect to the Planning Proposal.
- 5. THAT** Council notify all submitters of Council's decision.

10.7. Sydney Coastal Councils Group - Council Representative

AUTHOR Ian Curry, Manager Council & Committee Services

PURPOSE:

The purpose of this report is for Council to determine a Councillor representative on the Sydney Coastal Council Group following the resignation of Councillor Bourke from the role.

- Council is a member of the Sydney Coastal Councils Group Inc.
- Councillor Bourke, who is Council's delegate has resigned.
- Council may appoint an individual as its Delegate to represent the Member Council and exercise its rights at general meetings and an individual to sit on the Executive Committee. These cannot be the same individual.
- Although delegates do not have to be from the elected body, most Member Councils send Councillors as their delegates.
- Council originally resolved to nominate both Councillor Bourke and Councillor Santer however only one nominee was permitted. For this reason it is now recommended that Councillor Santer be appointed as Council's Annual General Meeting delegate. Council is still required to nominate a Council representative to sit on the Sydney Coastal Councils Group Executive Committee noting it cannot be the same as Council's Annual General Meeting delegate.

RECOMMENDATION:

1.THAT Council appoint Councillor Santer to the Sydney Coastal Councils Group for this term of Council, to replace Councillor William Bourke as Council's Annual General Meeting delegate.

2.THAT Council appoint Councillor _____ as Council's representative to sit on the Sydney Coastal Councils Group Executive Committee noting it cannot be the same as Council's Annual General Meeting delegate.

3.THAT Council write to the Sydney Coastal Councils Group to inform them of Council's representative/s.

A Motion was moved by Councillor Bourke and seconded by Councillor Gibson:

1.THAT Council appoint Councillor Santer to the Sydney Coastal Councils Group for this term of Council, to replace Councillor William Bourke as Council's Annual General Meeting delegate.

2.THAT Council appoint Councillor Welch as Council's representative to sit on the Sydney Coastal Councils Group Executive Committee noting it cannot be the same as Council's Annual General Meeting delegate.

3.THAT Council write to the Sydney Coastal Councils Group to inform them of Council's representative/s.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Lepouris, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Nil

160. RESOLVED:

1.THAT Council appoint Councillor Santer to the Sydney Coastal Councils Group for this term of Council, to replace Councillor William Bourke as Council's Annual General Meeting delegate.

2.THAT Council appoint Councillor Welch as Council's representative to sit on the Sydney Coastal Councils Group Executive Committee noting it cannot be the same as Council's Annual General Meeting delegate.

3.THAT Council write to the Sydney Coastal Councils Group to inform them of Council's representative/s.

10.8. Current Appeals and Results - May 2023

AUTHOR Simone Brew, Legal Services

PURPOSE:

The purpose of this report is to provide Council with information on current appeal and prosecution matters.

- Attached is a list of current appeal and prosecution matters as at 30 April 2023 for Council's information.
- Six attachments are provided, including a public listing and a separate confidential report. The confidential report includes additional detail (as highlighted) on the legal nature of the appeal, status update and legal issues relating to matters still afoot.
- The most significant matter listed is IOF Custodian Pty Limited atf the 105 Miller Street North Sydney Trust v Special Minister of State [2022] NSWLEC 86 which delivered a decision in favour of Council. This was considered by Council at its meeting of 8 May 2023, where Council resolved to the Minister for Heritage, The Hon Penny Sharpe, MLC urging her to urgently act to take all steps necessary to direct the listing of the MLC Building on the State Heritage Register pursuant to s 34(2) of the Heritage Act 1979.
- Should Council wish to discuss this report it is noted that the attached confidential document includes advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege and because consideration of the matter in open Council would be, on balance, contrary to the public interest as it would affect Council's ability to manage legal matters effectively and in the best interests of the community. As such should this report be discussed it should be considered in closed session.

RECOMMENDATION:

1. THAT the report be noted.

1. THAT should Council resolve to debate or discuss this matter that the meeting be closed to the public in accordance with Section 10A(2) of the Local Government Act and the Local Government (General) Regulation 2005 for the reason listed below:

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

It is further noted that release of this information would be, on balance, contrary to the public interest as it would affect Council's ability to manage legal matters effectively and in the best interests of the community.

The Mayor declared a non-pecuniary, less than significant interest in the Item due to a relative objecting to a DA which was the subject of an appeal in the report.

Councillor Welch declared a non-pecuniary, significant interest in the Item due to a relationship with a party on the list and left the meeting at 7.36pm.

The Motion was moved by Councillor Gibson and seconded by Councillor Lepouris:

1. THAT the report be noted.

2. THAT should Council resolve to debate or discuss this matter that the meeting be closed to the public in accordance with Section 10A(2) of the Local Government Act and the Local Government (General) Regulation 2005 for the reason listed below:

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

It is further noted that release of this information would be, on balance, contrary to the public interest as it would affect Council's ability to manage legal matters effectively and in the best interests of the community.

3. THAT a full report on the NCAT EIG appeal and costs be presented to Council.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 8 / 0

For: Councillor Baker, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Lepouris, Councillor Mutton, Councillor Santer and Councillor Spenceley

Against: Nil

Absent: Councillor Welch

161. RESOLVED:

1. THAT the report be noted.

2. THAT should Council resolve to debate or discuss this matter that the meeting be closed to the public in accordance with Section 10A(2) of the Local Government Act and the Local Government (General) Regulation 2005 for the reason listed below:

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

It is further noted that release of this information would be, on balance, contrary to the public interest as it would affect Council's ability to manage legal matters effectively and in the best interests of the community.

3. THAT a full report on the NCAT EIG appeal and costs be presented to Council.

Councillor Welch returned to meeting at 7:38 pm.

11. Notices of Motion

11.1. Notice of Motion 8/23 - Vaping in North Sydney LGA - Cr Santer

1. THAT in its Smoke-Free Environment-Declared Public Areas Policy (D3-08), Council add the words: "*cigarettes, vaping and any future yet to be determined smoking methods*" to sections 1.2, 1.3, 4.1, 4.4, 4.6,4.7, 4.8, 4.9 and 4.10 of the Policy.

2. THAT a new paragraph be inserted in the policy, noting the following:

Guidelines on E-cigarettes and smoke free laws issued by the NSW Department of Health state that: "People cannot use e-cigarettes in smoke-free areas under the Smoke-free Environment Act 2000...Individual establishments and workplaces such as businesses, councils...may develop their own smoke-free policies to ban the use of e-cigarettes within the premises".

3. THAT the amended Smoke-Free Environment-Declared Public Areas Policy be endorsed for public exhibition for a minimum period of 42 days.

4. THAT a further report be provided to Council following the conclusion of the public exhibition period for the purpose of considering any submissions received and adopting the amended Smoke-Free Environment-Declared Public Areas Policy.

A Motion was moved by Councillor Welch and seconded by Councillor Bourke:

1. THAT Council write to Environmental Health NSW for advice on the best practice for minimising harm from vaping.

An Amendment was moved by Councillor Gibson and seconded by Councillor Lepouris:

1. THAT in its Smoke-Free Environment-Declared Public Areas Policy (D3-08), Council add the words: "*cigarettes and vaping*" to sections 1.2, 1.3, 4.1, 4.4, 4.6,4.7, 4.8, 4.9 and 4.10 of the Policy.

2. THAT a new paragraph be inserted in the policy, noting the following:

Guidelines on E-cigarettes and smoke free laws issued by the NSW Department of Health state that: "People cannot use e-cigarettes in smoke-free areas under the *Smoke-free Environment Act 2000*...Individual establishments and workplaces such as businesses, councils...may develop their own smoke-free policies to ban the use of e-cigarettes within the premises".

3. THAT the amended Smoke-Free Environment-Declared Public Areas Policy be endorsed for public exhibition for a minimum period of 42 days.

4. THAT a further report be provided to Council following the conclusion of the public exhibition period for the purpose of considering any submissions received and adopting the amended Smoke-Free Environment-Declared Public Areas Policy.

The Amendment was put and **Lost**.

Voting was as follows:

For/Against 3 / 6

For: Councillor Gibson, Councillor Lepouris and Councillor Spenceley

Against: Councillor Baker, Councillor Bourke, Councillor Lamb, Councillor Mutton, Councillor Santer and Councillor Welch

Absent: Nil

The Motion was moved by Councillor Welch and seconded by Councillor Bourke was then put:

1. THAT Council write to Environmental Health NSW for advice on the best practice for minimising harm from vaping.

Voting was as follows:

For/Against 2 / 7

For: Councillor Baker, Councillor Bourke, Councillor Lamb, Councillor Mutton, Councillor Santer, Councillor Spenceley, and Councillor Welch

Against: Councillor Gibson and Councillor Lepouris

Absent: Nil

162. RESOLVED:

1. THAT Council write to Environmental Health NSW for advice on the best practice for minimising harm from vaping.

12. Matters of Urgency

Nil

13. Closure

The Meeting concluded at 7:53 pm.