



MINUTES

The Minutes of the Council held at the
Council Chambers, North Sydney
at 6:30 PM on Monday 28 August 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 (6.30pm) those present were: The Mayor, and Councillors Beregi, Bourke, Gibson, Lamb, Lepouris, Santer, 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 Santer.

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

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

1. THAT Council grant leave of absence to Councillor Mutton and Councillor Spenceley

The Motion was put and **Carried**.

Voting was as follows:

For/Against 7 / 1

For: Councillor Baker, Councillor Beregi, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Santer and Councillor Welch

Against: Councillor Lepouris

Absent: Nil

240. RESOLVED:

1. THAT Council grant leave of absence to Councillor Mutton and Councillor Spenceley.

4. Confirmation of Minutes

The Motion was moved by Councillor Santer and seconded by Councillor Bourke:

1. THAT the Minutes of the 3787th Council Meeting held on Monday 14 August 2023 be taken as read and confirmed.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 8 / 0

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

Against: Nil

Absent: Nil

241. RESOLVED:

1. THAT the Minutes of the 3787th Council Meeting held on Monday 14 August 2023 be taken as read and confirmed.

5. Disclosures of Interest

The following Disclosure of Interest was made:

Item 10.3	Owner's consent request - Grosvenor Lane Carpark
Councillor Lepouris	Pecuniary/Significant I hold an interest in a property that falls somewhat within the vicinity of the area

6. Public Forum

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

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

Item 8.1	MM01: Interim Heritage Order - 7-9 Selwyn Street Wollstonecraft
Item 8.2	MM02: Parraween Street – State Significant Development Application

Item 10.3	Owner's consent request - Grosvenor Lane Carpark - Arkadia
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The Motion was put and **Carried**.

Voting was as follows:

For/Against 8 / 0

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

Against: Nil

Absent: Nil

242. RESOLVED:

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

Item 8.1	MM01: Interim Heritage Order - 7-9 Selwyn Street Wollstonecraft
Item 8.2	MM02: Parraween Street – State Significant Development Application
Item 10.3	Owner's consent request - Grosvenor Lane Carpark - Arkadia

7. Items Considered by Exception

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

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

Item 9.1	Sport and Recreation Reference Group Minutes - 8 August 2023
Item 10.1	Matters Outstanding August 2023
Item 10.6	Variation to Development Standards Q4 2022/23 Financial Year
Item 10.7	Investment and Loan Borrowings Report as at 31 July 2023
Item 10.8	Arts and Cultural Pop-Up Activation of Berrys Bay Quarantine Depot
Item 10.10	Tender for Contract 5-2023 Willoughby Road Early Works

The Motion was put and **Carried**.

Voting was as follows:

For/Against 7 / 1

For: Councillor Baker, Councillor Beregi, Councillor Bourke, Councillor Lamb,
Councillor Lepouris, Councillor Santer and Councillor Welch

Against: Councillor Gibson

Absent: Nil

243. RESOLVED:

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

Item 9.1	Sport and Recreation Reference Group Minutes - 8 August 2023
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Item 10.1	Matters Outstanding August 2023
Item 10.6	Variation to Development Standards Q4 2022/23 Financial Year
Item 10.7	Investment and Loan Borrowings Report as at 31 July 2023
Item 10.8	Arts and Cultural Pop-Up Activation of Berrys Bay Quarantine Depot
Item 10.10	Tender for Contract 5-2023 Willoughby Road Early Works

8. Mayoral Minutes

8.1. MM01: Interim Heritage Order - 7-9 Selwyn Street Wollstonecraft

On Friday 18 August 2023, I attended a meeting with residents in Selwyn Street, Wollstonecraft who expressed their concerns in relation to Development Application 219/23 which seeks to demolish two existing Federation houses at 7 and 9 Selwyn Street, Wollstonecraft and construct 10 attached dwellings.

There are currently a number of heritage items listed under North Sydney Local Environmental Plan 2013 including 9, 13, 17, and 29 Milner Crescent, and 62 Shirley Road.

These heritage items are detached dwelling houses of a 'Federation bungalow', 'Arts and Craft', 'Queen Anne' or similar period. They have been listed as they have historical, social, and aesthetic significance.

Residents expressed shock that the houses at 7 and 9 Selwyn Street are not currently listed as items of local heritage.

A resident subsequently provided me with a copy of a submission prepared on their behalf by Emma Rogerson, town planner, which relevantly states:

The dwelling houses at both 7 and 9 Selwyn Street are considered to be individually worthy of a heritage listing for the same reasons as the other nearby items, given their distinct architectural features that are reminiscent of a traditional period home and their high level of intactness of original fabric.

Council are encouraged to investigate the significance of both sites and consider implementing an Interim Heritage Order to allow for reasonable research and any future Planning Proposal to heritage list the sites.

There are concerns that the demolition of two homes that have clear local heritage value, and the construction of a contemporary, obtrusive and bulky townhouse development in their place will negatively impact on the heritage value of the heritage items shown in figure 5. The large scale and uncharacteristic form of the proposal is expected to drastically alter the context of the nearby items and visually dominate the area when viewed from the public domain.

This impact does not satisfy the requirements of Clause 5.10 Heritage Conservation of the North Sydney Local Environmental Plan 2013 which clarifies that the environmental

heritage of North Sydney should be conserved, including “heritage items and heritage conservation areas, including associated fabric, settings and views”.

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

I therefore recommend:

- 1. THAT** Council obtain urgent advice in relation to whether an Interim Heritage Order(s) can be supported in respect of dwellings known as 7 and 9 Selwyn Street, Wollstonecraft.
- 2. THAT** the advice consider whether the properties may be heritage or contributory items within the conservation area.

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

- Kieren Chidgey (remote attendance)

The Motion was moved by The Mayor.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 6 / 2

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

Against: Councillor Gibson and Councillor Lepouris

Absent: Nil

244. RESOLVED:

- 1. THAT** Council obtain urgent advice in relation to whether an Interim Heritage Order(s) can be supported in respect of dwellings known as 7 and 9 Selwyn Street, Wollstonecraft.
- 2. THAT** the advice consider whether the properties may be heritage or contributory items within the conservation area.

8.2. MM02: Parraween Street – State Significant Development Application

On 5 May 2023 Council resolved:

- 1. THAT Council note the recommendations of the North Sydney Local Planning Panel Meeting of 19 April 2023 on Planning Proposal No PP 3/23.*
- 2. THAT Council endorse the Planning Proposal (PP 3/23 contained at Attachment No 1) to amend the North Sydney Local Environmental Plan 2013 as follows:*

- *the properties at 50, 52, 54, 56, 70, 72, 78, 80, 82, 84, 86 and 88 Parraween Street, Cremorne are identified as local heritage items through their listing within Schedule 5 – Environmental Heritage and identification on the Heritage Map.*
 - *Zoning Map for the properties at 50, 52, 54, 56, 58, 60, 62, 64, 66, 68, 70, 72, 74, 76, 78, 80, 82, 84, 86 and 88 Parraween Street, Cremorne is amended from Zone R4 High Density Residential to Zone R3 Medium Density Residential; and*
 - *Height of Building Map for the properties at 50, 52, 54, 56, 58, 60, 62, 64, 66, 68, 70, 72, 74, 76, 78, 80, 82, 84, 86 and 88 Parraween Street, Cremorne is amended from 12m to 8.5m.*
3. *THAT Council resolve to forward the Planning Proposal (PP 3/23) to the Department of Planning and Environment to seek Gateway Determination.*

The Planning Proposal commenced public exhibition on 25 August 2023. Council is pursuing an amendment to the LEP to protect the heritage significant of these properties.

On 21 August 2023 the Department of Planning commenced a public exhibition of State Significant Development Application No. SSDI 49472213 which seeks consent for a seniors housing development including:

- construction of a five-storey residential care facility comprising 41 beds, kitchen, ancillary services, rooftop communal open space;
- construction of 58 independent living units in 2 x four-storey buildings fronting Parraween Street and an eight-storey building fronting Gerard Street including on-site ancillary services, café, and rooftop open space areas; and
- construction of a two-level basement containing 134 car parking spaces.

The public exhibition period for the State Significant Development Application closes on 17 September 2023.

There is very significant community interest and concern in respect of the Parraween Street cottages and the impacts of the proposed development.

I therefore recommend:

1. THAT Council prepare a submission to the Department of Planning based on the heritage advice in the Lucas Stapleton Johnson & Partners report and addressing height, bulk, scale, and impacts of the development on the surrounding precinct.

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

- Fiona Gracie (on behalf of the Cremorne Conservation Group)
- Chris Holding (former Co-Chair of Brightmore Precinct and current member of the Cremorne Conservation Group)

The Motion was moved by The Mayor.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 6 / 2

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

Against: Councillor Gibson and Councillor Lepouris

Absent: Nil

245. RESOLVED:

1. THAT Council prepare a submission to the Department of Planning based on the heritage advice in the Lucas Stapleton Johnson & Partners report and addressing height, bulk, scale, and impacts of the development on the surrounding precinct.

8.3. MM03: Matildas World Cup matches – live site at North Sydney Oval

The Women's World Cup and the historic performance of the Matildas provided a unique opportunity for our community to unite. It was an absolute delight to see thousands of residents, students, and workers - families, friends, and neighbours - come together at North Sydney Oval to watch these games.

Council staff from the Oval, Open Space, Communications and Events, and across the organisation exhibited exemplary professionalism, passion, and commitment to deliver the events within tight timeframes, managing commitments to sporting clubs to do so.

This work was truly appreciated by our community and ought to be recognised.

A Motion was moved by The Mayor:

1. THAT Council acknowledge and thank all of the staff from across Council who worked so hard to deliver the live site at North Sydney Oval for the Women's World Cup.

2. THAT Council ask the Minister for Sport Hon. Steve Kamper to improve support and funding for Women's sport teams and training facilities, including Women's youth teams and programs, and to continue to work on improving financial equality between professional sports teams of all genders.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 8 / 0

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

Against: Nil

Absent: Nil

246. RESOLVED:

1. THAT Council acknowledge and thank all of the staff from across Council who worked so hard to deliver the live site at North Sydney Oval for the Women's World Cup.

2. THAT Council ask the Minister for Sport Hon. Steve Kamper to improve support and funding for Women's sport teams and training facilities, including Women's youth teams and programs, and to continue to work on improving financial equality between professional sports teams of all genders.

9. Reports of Committees

9.1. Sport and Recreation Reference Group Minutes - 8 August 2023

AUTHOR: Peita Rose, Governance Officer

PURPOSE:

The purpose of this report is to report the proceedings of the Sport and Recreation Reference Group to Council, and for Council to consider any recommendations from the Reference Group.

- This report presents the recommendations of the last meeting of the Sport and Recreation Reference Group held on 8 August 2023.
- As there were no recommendations for further actions, it is recommended that the Minutes be received by Council.
- The Minutes are attached for the information of Council.

RECOMMENDATION:

1. THAT the Minutes of the Sport and Recreation Reference Group dated 8 August 2023 be received.

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

247. RESOLVED:

1. THAT the Minutes of the Sport and Recreation Reference Group dated 8 August 2023 be received.

10. Reports to Council

10.1. Matters Outstanding August 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 24 July 2023 Ordinary Meeting of Council.

RECOMMENDATION:

- 1. THAT** the report be received.

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

248. RESOLVED:

- 1. THAT** the report be received.

10.2. 2023 Local Government NSW Annual Conference - Delegates and Motions

AUTHOR: Ian Curry, Manager Council & Committee Services

PURPOSE:

The purpose of this report is to determine Council's delegates to attend the LGNSW Conference and outline the process for submitting Motions for consideration at the Conference.

- The Local Government NSW (LGNSW) Annual Conference is taking place from 12 to 14 November 2023 at Rosehill Gardens Racecourse, and will feature a range of keynote speakers, workshops, training sessions and more.
- As the main policy-making event for the NSW local government sector, the Annual Conference is an opportunity to help set the advocacy agenda for the year ahead. Motions passed at the Conference become Resolutions, which LGNSW actions on behalf of its members, as part of its advocacy program.
- Council is entitled to five voting delegates at the Conference.

RECOMMENDATION:

- 1. THAT** Council nominates five voting delegates for the 2023 LGNSW Conference at Rosehill Gardens Racecourse.
- 2. THAT** other councillors interested in attending the conference as non-voting delegates advise the General Manager before Thursday 28 September 2023.
- 3. THAT** the councillors submit suggested issues for Council's consideration as Motions to the Conference by 6 September 2023 for inclusion in a further report to Council on 25 September 2023.

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

- 1. THAT** the Mayor and Councillors Beregi, Lamb, Santer, and Welch be the Voting Delegates for the 2023 LGNSW Conference.
- 2. THAT** other councillors interested in attending the conference as non-voting delegates advise the General Manager before Thursday 28 September 2023.
- 3. THAT** the councillors submit suggested issues for Council's consideration as Motions to the Conference by 6 September 2023 for inclusion in a further report to Council on 25 September 2023.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 7 / 0

For: Councillor Baker, Councillor Beregi, Councillor Bourke, Councillor Lamb, Councillor Lepouris, Councillor Santer and Councillor Welch

Against: Nil

Absent: Councillor Gibson

249. RESOLVED:

- 1. THAT** the Mayor and Councillors Beregi, Lamb, Santer, and Welch be the Voting Delegates for the 2023 LGNSW Conference.
- 2. THAT** other councillors interested in attending the conference as non-voting delegates advise the General Manager before Thursday 28 September 2023.
- 3. THAT** the councillors submit suggested issues for Council's consideration as Motions to the Conference by 6 September 2023 for inclusion in a further report to Council on 25 September 2023.

Councillor Lepouris declared a pecuniary, significant interest in item 10.3 and left the meeting at 6.56pm.

10.3. Owner's consent request - Grosvenor Lane Carpark - Arkadia

AUTHOR: Neal McCarry, Manager Strategic Planning

PURPOSE:

The purpose of this report is to consider a request from a landowner ('Arkadia') in Neutral Bay, seeking Council's consent as the owner of the Grosvenor Lane carpark in Neutral Bay, to lodge a development application. Arkadia seeks to carry out public domain works to create a partially pedestrianised plaza on Council land within the southern side of the existing at grade carpark.

- Arkadia owns land along Military Road and Young Street and has asked Council for owner's consent for the purposes of preparing a development application. The

development concept proposes to carry out public domain works within Council's Grosvenor Lane carpark. The concept includes the removal of approximately 30-35 parking spaces, creation of an area of public domain approximately 16m x 80-100m, and includes a service lane through part of this area.

- Arkadia acknowledges that a more detailed design process for a future plaza/public domain area is important, and that Council would retain control and ownership of this area. Arkadia's request describes this treatment as a potential interim position whilst Council's Neutral Bay Town Centre Study is progressed.
- Council may issue owner's consent to Arkadia for the lodgement of a DA as it does not present imply support for the broad scheme proposed. In doing so, however, Council would be facilitating the progression of a scheme that:
 - promotes a temporary solution which is not time-sensitive and which could potentially be pursued by Council following the preparation of the wider Neutral Bay Town Centre Planning Study, particularly if a more ambitious and potentially transformational plaza proposal is not able to be realised;
 - could be negotiated more transparently with any future redevelopment of the Arkadia site (or others) if and when proposed;
 - delivers a significant shortfall of public car parking with no clear plan to address such deficit;
 - represents significant design and submission costs to the applicant with little obvious utility to the planning process given its temporary status in the context of a wider planning study being undertaken; and
 - may represent a temporary (uncosted) solution, paid for in the longer term by Council, that may need to be removed to make way for a more permanent solution in future.

The delivery of the works proposed are offered at 'no cost' to Council at this point, however, relief would be sought from any future payable Developer Contributions should future development applications be progressed on the applicant's land holdings.

In the context of Council's existing Development Control Plan provisions and the current Neutral Bay Town Centre Study that is currently under development, the concept as presented does not appear to deliver the overarching aims and long-term vision for the Grosvenor Lane carpark.

This report recommends that Council not issue owner's consent at this point in time but commit to further collaboration with the applicant and surrounding landowners and stakeholders to work towards a design and treatment of Grosvenor Lane carpark that best meets the needs of the immediate and wider community.

RECOMMENDATION:

- 1. THAT** Council withhold the issuing of landowner's consent at this time for the lodgement of a Development Application on its land as currently presented.
- 2. THAT** Council commits to engage in a consultative and collaborative design process for any future plaza at the Grosvenor Lane carpark site and that this work be undertaken as part of

the Neutral Bay Town Centre Study and anticipated future development applications from surrounding properties.

3. THAT a policy be developed to guide the issue of owner's consent to lodge development applications on Council land.

This item was brought forward as part of the Public Forum (see page 5).

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

- Craig Allchin (Urban Designer Ethos Urban, on behalf of Arkadia). Council resolved to accept documentation from Mr Allchin in relation to this matter.
- David Brandon-Cooper – (Project Manager, on behalf of Arkadia). Council resolved to accept further documentation from Mr Brandon-Cooper in relation to this matter.
- Tom Goode (Planner Ethos Urban, on behalf of Arkadia)
- Ric O'Connell (CEO Arkadia)
- James Hayter – remotely (Landscape Architect, on behalf of Arkadia)
- Travis Wright – remotely (Landscape Architect, on behalf of Arkadia)

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

1. THAT Council defer the determination of the issuing of landowner's consent at this time for the lodgement of a Development Application on its land as currently presented.

2. THAT Council invite the proponents and their consultants to brief Councillors.

3. THAT Council commits to engage in a consultative and collaborative design process for any future plaza at the Grosvenor Lane carpark site and that this work be undertaken as part of the Neutral Bay Town Centre Study and anticipated future development applications from surrounding properties.

4. THAT a policy be developed to guide the issue of owner's consent to lodge development applications on Council land.

The Motion was put and Carried.

Voting was as follows:

For/Against 6 / 1

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

Against: Councillor Gibson

Absent: Councillor Lepouris

250. RESOLVED:

1. THAT Council defer the determination of the issuing of landowner's consent at this time for the lodgement of a Development Application on its land as currently presented.

2. THAT Council invite the proponents and their consultants to brief Councillors.

3. THAT Council commits to engage in a consultative and collaborative design process for any future plaza at the Grosvenor Lane carpark site and that this work be undertaken as part of the Neutral Bay Town Centre Study and anticipated future development applications from surrounding properties.

4. THAT a policy be developed to guide the issue of owner's consent to lodge development applications on Council land.

Councillor Lepouris returned to the meeting at 7.38pm.

10.4. Western Harbour Tunnel Modification 2 Submission

AUTHOR: Gavin McConnell, Public Projects Interface Manager

PURPOSE:

The purpose of this report is to advise Council of the submission to Modification 2 of the Western Harbour Tunnel (WHT) application as resolved by Council on 24 July 2023.

- At its meeting of 24 July 2023, Council resolved to prepare a detailed submission on the Modification Report relating to the proposed modification of the approval of the Western Harbour Tunnel, Warringah Freeway Upgrade State Significant Infrastructure project (WHT SSI project) to address the impacts on North Sydney and advocate for further amendments and/or conditions of consent to ameliorate the impacts of the project on open space, local roads, and the environment.
- Modification 2 of the WHT SSI project seeks consent for the proposed change to tunnel methodology from submerged tunnel sections to continuous boring via a tunnel boring machine. This change will result in a deeper tunnel through sandstone strata below the bottom of the harbour. This method will negate the need for dredging the tunnel route and the need for two coffer dams including one at Balls Head, southwest of the Coal Loader.
- The submission was required to be made by the General Manager ahead of the Council meeting of 28 August 2023, having regard to the Department of Planning and Environment's consultation deadline of 15 August 2023.
- The submission raises concerns regarding adverse environmental, community, and infrastructure impacts arising from the WHT SSI project. A copy of the submission is attached to this report.
- Despite some environmental benefits there are still significant community, traffic, and environmental impacts that have not been addressed in the modification.
- Key issues omitted from the modification application include:
 - o loss of approximately two hectares of open space for the WHT operations centre at Cammeray;
 - o failure to underground the operations building for the WHT at Cammeray;

- the continued reliance on using Berry Street to funnel vehicles through the middle of the North Sydney CBD to the WHT, cutting the CBD in half;
- failure of the WHT project to be aligned with the North Sydney Integrated Transport Plan or the Metro project with respect of impacts on the local road network;
- failure to adequately address the lack of viable active and sustainable transport within the corridor and North Sydney; and
- reconsideration of the proposed route in response to the changed construction methodology.

RECOMMENDATION:

1. THAT Council note that the submission was required to be made by the General Manager ahead of the Council meeting of 28 August 2023, having regard to the Department of Planning and Environment’s consultation deadline of 15 August 2023.

2. THAT Council endorse the submission already made as attached and in accordance with this report.

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

1. THAT Council note that the submission was required to be made by the General Manager ahead of the Council meeting of 28 August 2023, having regard to the Department of Planning and Environment’s consultation deadline of 15 August 2023.

2. THAT Council endorse the submission already made as attached and in accordance with this report.

3. THAT Council again write to the State Government asking them to immediately release the business case for the Western Harbour Tunnel.

4. THAT Council note that the period for consultation was not extended, and expresses its disappointment that the community was not given a greater opportunity to comment.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 6 / 2

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

Against: Councillor Gibson and Councillor Lepouris

Absent: Nil

251. RESOLVED:

1. THAT Council note that the submission was required to be made by the General Manager ahead of the Council meeting of 28 August 2023, having regard to the Department of Planning and Environment’s consultation deadline of 15 August 2023.

2. THAT Council endorse the submission already made as attached and in accordance with this report.

3. THAT Council again write to the State Government asking them to immediately release the business case for the Western Harbour Tunnel.

4. THAT Council note that the period for consultation was not extended, and expresses its disappointment that the community was not given a greater opportunity to comment.

10.5. Vaping in North Sydney LGA - Response to Council Resolution

AUTHOR: Marcelo Occhiuzzi, Director Community, Planning and Environment

PURPOSE:

The purpose of this report is to respond to a Council resolution regarding harm minimisation relating to vaping.

- At its meeting on 22 May 2023, Council resolved to write to Environmental Health NSW for advice on the best practice for minimising harm from vaping. Council has now received a response.
- Council has a policy regarding smoking in public places. This report recommends that, for abundance of clarity, vaping be included in the policy and treated in the same way as smoking.

RECOMMENDATION:

- 1. THAT** Council update its current *Smoke-Free Environment - Declared Public Areas Policy* to ensure that references to smoking also include e-cigarette smoking to reflect the provisions of the *Smoke Free Environment Act 2000* and the *Smoke-free Environment Regulation 2016*.
- 2. THAT** given that no policy change is proposed, the amendment to the Policy not be exhibited for public comment.

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

The Motion was put and **Carried**.

Voting was as follows:

For/Against 7 / 1

For: Councillor Baker, Councillor Beregi, Councillor Bourke, Councillor Gibson, Councillor Lamb, Councillor Santer and Councillor Welch

Against: Councillor Lepouris

Absent: Nil

252. RESOLVED:

- 1. THAT** Council update its current *Smoke-Free Environment - Declared Public Areas Policy* to ensure that references to smoking also include e-cigarette smoking to reflect the provisions of the *Smoke Free Environment Act 2000* and the *Smoke-free Environment Regulation 2016*.
- 2. THAT** given that no policy change is proposed, the amendment to the Policy not be exhibited for public comment.

10.6. Variation to Development Standards Q4 2022/23 Financial Year

AUTHOR: Jenny Gracey, Team Leader Administration Services

PURPOSE:

The Department of Planning and Environment mandates certain reporting requirements for the application of Clause 4.6 (of the North Sydney Local Environmental Plan) variations to development standards as they apply to the determination of development applications. The purpose of this report is to address those requirements for Quarter 4 of the 2022/23 financial year.

- When assessing a development application, any variation to a “development standard” contained in the North Sydney LEP 2013 (NSLEP) greater than 10% must be reported to the North Sydney Local Planning Panel (NSLPP) for determination.
- The Department of Planning and Environment requires that “a report of all variations approved under delegation by a Council must be provided to a meeting of the Council at least once each quarter”.
- Of 116 applications determined in Quarter 4 (Q4), there were ten approved variations pursuant to clause 4.6 of the NSLEP 2013: three approved by NSLPP, two under delegated authority in accordance with Ministerial directions, and a further five accepted under delegation in accordance with expanded delegations given by the Panel.

RECOMMENDATION:

- 1. THAT** the report be received.

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

253. RESOLVED:

- 1. THAT** the report be received.

10.7. Investment and Loan Borrowings Report as at 31 July 2023

AUTHOR: Christian Menday, 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 ending 31 July 2023.

- This report outlines Council's investment portfolio and performance to 31 July 2023.
- All investments have been made in accordance with the Local Government Act, Regulations, Council's Investment Policy, and the specific conditions of the TCorp Loan Agreement.
- For the month of July, the total investment portfolio (Term Deposits, Floating Rate Notes and Bonds) provided a return of +0.25% (actual), or +2.98% p.a. (annualised), marginally under-performing the benchmark AusBond Bank Bill Index return of +0.37% (actual), or +4.48% p.a. (annualised). This is due to recent interest rate rises and Council holding term deposits made in a low inflation environment, when rises were not expected.
- Council's investment adviser considers this underperformance to be temporary (less than the next 6 months) as the AusBond benchmark is expected to fall in line with official interest rates, with staff reinvesting maturing term deposits at rates higher than those taken in the low-interest rate environment.
- Returns on investments exceed the YTD budget by \$61,000. The total return for the 2023/2024 financial year to date is approximately \$270,000. The total budget for 2023/2024 is \$2.5 million. The total budget for this FY is less than the 2022/23 budget as it is forecast that Council will draw down on cash reserves to fund the large (\$79.4 million) 2023/24 capital works program.

RECOMMENDATION:

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

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

254. RESOLVED:

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

10.8. Arts and Cultural Pop-Up Activation of Berrys Bay Quarantine Depot

AUTHOR: Helen Campbell, Manager Community Development

PURPOSE:

The purpose of this report is to provide a response to Council’s Resolution of 13 March 2023, to investigate temporary activation of the Quarantine Depot cottages at Berrys Bay with a focus on arts and culture.

- There are presently two unused (circa) 1912 four-bedroom cottages at the Quarantine Depot site. While longer-term uses are foreshadowed, the cottages offer the opportunity for temporary “Pop-Up” community uses which will draw visitors to this prominent foreshore site and activate the space.
- At its meeting of 13 March 2023, Council resolved:
 1. THAT Council investigate and prepare a report on Pop Up activation of the Quarantine Depot cottages at Berrys Bay with a focus on arts and culture.
- This report recommends Council opens an Expression of Interest for local arts and cultural organisations or groups to lease the cottages for a six-month pop-up activation.
- Council should also be aware that given the history and zoning of the site, development consent would be required, even for a temporary use. This process of seeking approval will be pursued concurrently with the Expression of Interest process.

RECOMMENDATION:

1. THAT Council calls for ‘Expressions of Interest’ from organisations or groups to apply to lease Cottage One, Cottage Two, or both for the purpose of arts and cultural “pop-up” activation between February and September 2024.

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

255. RESOLVED:

1. THAT Council calls for ‘Expressions of Interest’ from organisations or groups to apply to lease Cottage One, Cottage Two, or both for the purpose of arts and cultural “pop-up” activation between February and September 2024.

10.9. North Sydney Olympic Pool Redevelopment - Project Update

AUTHOR: Gary Parsons, Director Open Space & Infrastructure

PURPOSE:

The purpose of this report is to provide an update on the redevelopment of North Sydney Olympic Pool.

- Construction work on the North Sydney Olympic Pool is anticipated to reach Practical Completion in May 2024.

- Total approved construction contract variations to date are \$4.8m. Council continues to assess variations and EOT claims.
- A Business Plan for the operation of the facility is currently being finalised and will be presented to Councillors at a briefing session in October 2023.
- Confirmation of final project forecasts continues, as outstanding claims continue to be assessed, and scoping for additional works are progressed.
- Should Council wish to discuss this report it is noted that the attached confidential document includes information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. Further, release of the information would on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services. As such should this matter be discussed it should be considered in closed session.

RECOMMENDATION:

1. THAT Council read and note the report providing an update in relation to the North Sydney Olympic Pool Project.

2. THAT in accordance with section 55(3)(i) of the Local Government Act, Council authorise the General Manager to seek and enter a contract with APP Group for Project Management resources to provide project management services for the North Sydney Olympic Pool redevelopment, noting that due to the extenuating circumstances to undertake a Request for Tender process would not result in a satisfactory result.

3. THAT Council resolves that the identified attachment to this report is to be treated as confidential in accordance with section 11(3) of the Local Government Act for the following reasons under section 10A (2) of the Local Government Act:

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 as it would affect Council's ability to obtain value for money services.

It is further noted that release of this information would on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services.

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

The Motion was put and **Carried**.

Voting was as follows:

For/Against 6 / 2

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

Against: Councillor Gibson and Councillor Lepouris

Absent: Nil

256. RESOLVED:

1. THAT Council read and note the report providing an update in relation to the North Sydney Olympic Pool Project.

2. THAT in accordance with section 55(3)(i) of the Local Government Act, Council authorise the General Manager to seek and enter a contract with APP Group for Project Management resources to provide project management services for the North Sydney Olympic Pool redevelopment, noting that due to the extenuating circumstances to undertake a Request for Tender process would not result in a satisfactory result.

3. THAT Council resolves that the identified attachment to this report is to be treated as confidential in accordance with section 11(3) of the Local Government Act for the following reasons under section 10A (2) of the Local Government Act:

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 as it would affect Council's ability to obtain value for money services.

It is further noted that release of this information would on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services.

10.10. Tender for Contract 5-2023 Willoughby Road Early Works

AUTHOR: Paul Yang, Engineering Project Manager

PURPOSE:

The purpose of this report is to provide Council with an analysis and recommendation in relation to Tender 5-2023 Willoughby Road Early Works in Crows Nest.

- Tenders were called and received until 3pm on 25 July 2023 for the submission of tenders for Tender 5-2023 Early Works at Willoughby Road. The Early Works consist of the undergrounding of electricity and streetlighting upgrade, which are part of the Crows Nest Public Domain Masterplan Implementation project in 2023/2024.
- 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 as it would affect Council's ability to obtain value for money services.*
 - *S10A(2) (d)(i) 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 would, on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderer from submitting commercial information in future and would affect Council's ability to obtain value for money services

RECOMMENDATION:

- 1. THAT** the Council accept the tender of the highest ranked tenderer for Tender 5-2023 Willoughby Road Early Works
- 2. THAT** the General Manager be authorised to take any necessary action to implement the decision including entering into associated contracts.
- 3. THAT** once Council has executed the Contract, the 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 Council resolves that the identified attachment to this report is to be treated as confidential in accordance with section 11(3) of the Local Government Act for the following reason under section 10A(2) of the Local Government Act:
 - (a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business*
 - (b) commercial information of a confidential nature that would, if disclosed*
 - (c) prejudice the commercial position of the person who supplied it*

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

257. RESOLVED:

- 1. THAT** the Council accept the tender of the highest ranked tenderer for Tender 5-2023 Willoughby Road Early Works
- 2. THAT** the General Manager be authorised to take any necessary action to implement the decision including entering into associated contracts.
- 3. THAT** once Council has executed the Contract, the 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 Council resolves that the identified attachment to this report is to be treated as confidential in accordance with section 11(3) of the Local Government Act for the following reason under section 10A(2) of the Local Government Act:
 - a. information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business*
 - b. commercial information of a confidential nature that would, if disclosed*
 - c. prejudice the commercial position of the person who supplied it*

11. Notices of Motion

11.1. Notice of Motion 11/23 - Strategy for management of Council's properties and facilities - Cr Beregi

A Motion was moved by Councillor Beregi and seconded by Councillor Lamb:

1. THAT Council note that an Open Space and Recreation needs study is currently being undertaken to inform a new Open Space and Recreation Strategy which will set direction in relation to service levels and infrastructure.

2. THAT given the high demand for sporting, recreational and community facilities within the North Sydney Local Government Area, a service level review for all sporting, recreation and community assets be submitted to Council prior to any new leasing or licensing contracts being considered. The service level review should include but not be limited to consideration of the following:

- i. Is the current use of the property/facility the highest and/or best use of the property/facility?
- ii. Is the property/facility able to be adapted to accommodate multiple/different sporting, recreational and/or community services?
- iii. Is Council in a position to manage the property/facility itself?
- iv. Could the property/facility be leased to multiple lessors?

The Motion was put and **Carried**.

Voting was as follows:

For/Against 6 / 2

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

Against: Councillor Gibson and Councillor Lepouris

Absent: Nil

258. RESOLVED:

1. THAT Council note that an Open Space and Recreation needs study is currently being undertaken to inform a new Open Space and Recreation Strategy which will set direction in relation to service levels and infrastructure.

2. THAT given the high demand for sporting, recreational and community facilities within the North Sydney Local Government Area, a service level review for all sporting, recreation and community assets be submitted to Council prior to any new leasing or licensing contracts

being considered. The service level review should include but not be limited to consideration of the following:

- i. Is the current use of the property/facility the highest and/or best use of the property/facility?
- ii. Is the property/facility able to be adapted to accommodate multiple/different sporting, recreational and/or community services?
- iii. Is Council in a position to manage the property/facility itself?
- iv. Could the property/facility be leased to multiple lessors?

12. Matters of Urgency

Nil

13. Closure

The Meeting concluded at 8:09 pm.