



Council Chambers
21 April 2022

The **3758th MEETING of COUNCIL** will be held at the Council Chambers, North Sydney at **7.30pm** on Tuesday, 26 April 2022. The agenda is as follows.

KEN GOULDTHORP
GENERAL MANAGER

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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 Audit & Risk Improvement Committee Minutes – 25 March 2022
 - 7.2 Environment Reference Group Minutes – 11 April 2022
- 8. Reports to Council**
 - 8.1 Matters Outstanding April 2022
 - 8.2 Councillor Pecuniary Interest Returns
 - 8.3 Code of Meeting Practice - Adoption for Public Exhibition
 - 8.4 Draft Community Strategic Plan

- 8.5. Proposed Additional Special Rate Variation for 2022/23
- 8.6. Investment and Loan Borrowings Report held as at 31 March 2022
- 8.7. IPART Review of Domestic Waste Management Charge
- 8.8. Draft Amendment to NSDCP 2013 - Ward Street Precinct - Post Exhibition Report
- 8.9. PP2/22 – 12-14 Waters Road, Neutral Bay
- 8.10. PP3/21 – 20 Berry Street, North Sydney
- 8.11. Planning Proposal 378-380 Pacific Highway, Crows Nest
- 8.12. Burton Street Temporary Road Closure and Plaza Community Feedback
- 8.13. Holtermann Street Carpark Redevelopment - Community Consultation
- 8.14. Floodplain Risk Management Study and Plan Public Consultation
- 8.15. Draft MOU - Consultation Outcomes
- 8.16. North Sydney Olympic Pool Redevelopment Progress Report

9. Notices of Motion/Questions with Notice

- 9.1. Notice of Motion 24/22 - Cr Drummond - Removal of tree at 15 Richmond Ave Cremorne
- 9.2. Notice of Motion 26/22 - Cr Welch - Community Centres levy
- 9.3. Notice of Motion 27/22 - Cr Baker - Adoption of the Draft Design and Place SEPP
- 9.4. Notice of Motion 28/22 - Cr Gibson - Young Street Plaza and the Transparency of Current Council Processes

10. Confidential Matters

- 10.1. Young Street Plaza - Tender 34/2021
- 10.2. Tender No 39 2021 Tunks Park Amenity Block Upgrade
- 10.3. 6 John Street, McMahons Point
- 10.4. Sydney Harbour Bridge Cycle Ramp proposal -Transport for NSW Acquisition of Bradfield Park
- 10.5. 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: 3758TH MEETING OF COUNCIL TO BE HELD ON TUESDAY, 26 APRIL 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 3757th Council Meeting held on Monday, 28 March 2022 be taken as read and confirmed.

5. DISCLOSURES OF INTEREST

6. MINUTES OF THE MAYOR

Nil.

7. REPORTS OF COMMITTEES

7.1 **Audit & Risk Improvement Committee Minutes – 25 March 2022**

Report of Peita Rose, Governance Officer

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

Recommending:

1.THAT the Minutes of the 25 March 2022 Audit, Risk and Improvement Committee meeting be noted.

2.THAT Council adopt the Enterprise Risk Management Framework and Enterprise Risk Management Policy as endorsed by the Committee and attached to this report.

7.2 **Environment Reference Group Minutes – 11 April 2022**

Report of Peita Rose, Governance Officer

To report the proceedings of the Environment Reference Group to Council.

There are no financial implications associated with this report.

Recommending:

1. THAT the Minutes of the Environment Reference Group meeting of 11 April 2022 be noted.

8. REPORTS TO COUNCIL

8.1 Matters Outstanding April 2022

Report of Ian Curry, Manager Council & Committee Services
To report to Council on the status of Councillor resolutions.

Recommending:

1. THAT the report be received.

8.2 Councillor Pecuniary Interest Returns

Report of Ian Curry, Manager Council and Committee Services
To report on the submission of Returns of Interest by Councillors following the 2021 Local Government Elections as required under the Code of Conduct.
There are no financial implications arising from this report.

Recommending:

1. THAT the report be received and Council note the tabling of Returns as required under the Model Code of Conduct.

8.3 Code of Meeting Practice - Adoption for Public Exhibition

Report of Shane Sullivan, Executive Manager Governance

The purpose of this report is for Council to consider changes to the Code of Meeting Practice as a result of changes made to the Model Code of Meeting Practice issued by the Office of Local Government for the purpose of a public exhibition period as required under the Local Government Act and Regulations.

There are no financial implications as a result of Council determining to place the draft Code of Meeting Practice on public exhibition.

At its meeting held 21 February 2022, Council resolved to establish an IT project Working Group to provide high level support and guidance in relation to Council's audio-visual requirements. This project includes work required to facilitate the effective operation of remote attendance at Council Meetings. A budget provision of \$110,000 was made at the same meeting as part of the Quarterly Budget Review – December 2021 for this purpose.

Recommending:

1. THAT Council adopt the attached draft Code of Meeting Practice for the purpose of public exhibition of not less than 28 days with a period of not less than 42 days during which submissions may be made.

2. THAT a further report be provided to Council prior to 30 June 2022 for the purpose of considering submissions and adopting a Code of Meeting Practice.

8.4 Draft Community Strategic Plan

Report of Jenny Gleeson, Manager Corporate Planning & Engagement

This report seeks endorsement of the Draft Community Strategic Plan for the purpose of public exhibition, to allow stakeholders a final opportunity to make submissions.

The resourcing requirements to deliver Council responsibilities in the Draft Community Strategic Plan, will be outlined in the Draft Resourcing Strategy and Draft Delivery Program/Operational Plan.

Recommending:

1. **THAT** the *Draft North Sydney Community Strategic Plan - North Sydney Vision 2040* be placed on public exhibition for 42 days being in excess of the required minimum of 28 days.
2. **THAT** a further report be prepared for Council’s consideration at the end of the submissions closing period.

8.5 Proposed Additional Special Rate Variation for 2022/23

Report of Jenny Gleeson, Manager Corporate Planning & Engagement
 Christian Menday, Manager Financial Services

The purpose of this report is for Council to determine whether it will apply to the Independent Pricing and Regulatory Tribunal (IPART) for a one off, permanent Additional Special Variation (ASV) under section 508(2) of the *Local Government Act 1993*.

The proposed ASV increase of 2% (including the rate peg) would raise approximately \$607,000 more than 0.9% rate peg as outlined in the following table:

<i>Comparison of Rates Income Under 0.9% and 2.0% Scenarios</i>				
	<i>2021/22</i>	<i>2022/23</i>	<i>2022/23</i>	<i>ASV Increase</i>
<i>Ordinary Rates</i>	<i>50,450,000</i>	<i>50,904,05</i>	<i>51,459,000</i>	<i>554,950</i>
<i>Environmental Levy</i>	<i>2,210,000</i>	<i>2,229,890</i>	<i>2,254,200</i>	<i>24,310</i>
<i>Infrastructure Levy</i>	<i>2,480,000</i>	<i>2,502,320</i>	<i>2,529,600</i>	<i>27,280</i>
<i>Total</i>	<i>55,140,000</i>	<i>55,636,26</i>	<i>56,242,800</i>	<i>606,540</i>

Recommending:

- 1.**THAT** the Council resolves to apply for a permanent additional special variation under section 508(2) of the *Local Government Act 1993*, generating approximately \$607,000 additional rates income.
- 2.**THAT** the Council resolves the additional rates income is required to maintain Council’s financial sustainability, service levels, asset renewal and financial sustainability commitments as identified in the Councils 2021/22 IP&R documentation.

3.THAT the Council has considered the impact on ratepayer and the community in 2022/23 and future years and considers that it is reasonable.

8.6 Investment and Loan Borrowings Report held as at 31 March 2022

Report of Christian Menday, Manager Financial Services

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

Council's total investment portfolio performance for the financial year to date is 1.29% above the benchmark (1.33% against 0.04%). The actual year to date returns for cash and investments for March 2022 were \$978,000 compared to a year-to-date budget of \$811,500.

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 at 31 March 2022 be received.

8.7 IPART Review of Domestic Waste Management Charge

Report of Bo Karaula, Waste Management Coordinator

To inform Council of the Independent Pricing and Regulatory Tribunal's (IPART) Domestic Waste Management Charge (DWMC) Review – Draft Report released for stakeholder consultation and the implications of the draft decisions on Council's residential waste management services. The Report also seeks Council's endorsement for a submission to IPART.

The proposed IPART Draft Decisions, if adopted would have a general fund budget impact of around \$2.34M for 2022/23.

Recommending:

1. THAT Council note the IPART Review of the DWMC report.

2. THAT Council endorse the submission (Attachment A) to IPART *Domestic Waste Management Charge (DWMC) Review – Draft Report* .

8.8 Draft Amendment to NSDCP 2013 - Ward Street Precinct - Post Exhibition Report

Report of Ben Boyd, Executive Strategic Planner

To address the issues raised in the submissions to the public exhibition of the draft amendment to North Sydney Development Control Plan 2013 relating to the Ward Street Precinct and to seek Council's endorsement for the amendment.

The modest costs associated with the progression of the DCP amendment are covered by existing budget lines.

Recommending:

1.THAT Council note the submissions made to the exhibition of the draft DCP amendment.

2.THAT Council adopt the draft amendment to NSDCP 2013 as amended, forming Attachment 3 to this report, in accordance with clause 14(1) of the Environmental Planning and Assessment Regulation, 2021.

3.THAT public notice of the publication of the amendment to NSDCP 2013 be given on Council's website in accordance with clause 14(2) of the Environmental Planning and Assessment Regulation, 2021.

4.THAT all submitters be notified of Council's decision and thanked for their submissions.

8.9

PP2/22 – 12-14 Waters Road, Neutral Bay

Report of Neal McCarry, Team Leader- Policy

To present to Council the assessment report of Planning Proposal No.2/22 for Nos. 12-14 Waters Road, Neutral Bay which seeks to amend the North Sydney Local Environmental Plan 2013, following its review by the North Sydney Local Planning Panel. A Voluntary Planning Agreement offer is also presented as part of this report.

Should the Planning Proposal be supported, the costs associated with the administration and any exhibition of the Planning Proposal and DCP will be drawn from existing budget lines which anticipate this type of activity. The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) offer which proposes to provide:

- A 1.5m wide building setback from Waters Lane with an easement for public access;
- Embellishment of the public domain within the Neutral Bay Town Centre to a value of \$1,925,000.00 (excl. GST) which would include the full length of Waters Lane and either a portion of Grosvenor Street or Grosvenor Plaza (to the agreement of Council).

Recommending:

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

- The proposal does not demonstrate strategic merit as it challenges the implementation of Action L1.5 of the *North Sydney Local Strategic Planning Statement* (LSPS). In particular, it seeks to progress a planning proposal that is not endorsed by any planning study. This would result in the ad hoc redevelopment of the area and potentially give rise to poor and unplanned outcomes for the Neutral Bay community.
- The proposal does not demonstrate site specific merit due to the following:
 - the height being sought by the proposal is excessive given its stated objectives of achieving a single additional storey; and
 - the proposed underground portion of commercial floor space is of sub-standard amenity.

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

8.10 PP3/21 – 20 Berry Street, North Sydney

Report of Neal McCarry, Team Leader- Policy

To present to Council the assessment report of Planning Proposal No.3/21 at No. 20 Berry Street, North Sydney which seeks to amend the North Sydney Local Environmental Plan 2013, following its review by the North Sydney Local Planning Panel.

Should the Planning Proposal be supported, the costs associated with the administration and any exhibition of the Planning Proposal will be drawn from existing budget lines which anticipate this type of activity.

Recommending:

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

- a) The proposal does not demonstrate strategic merit as it challenges the implementation of a number of recently adopted policies including the *North Sydney Local Strategic Planning Statement (LSPS)* and would significantly undermine the extensive place-based strategic planning work that has been undertaken in the locality which is enshrined within the LSPS, particularly the *North Sydney CBD Public Domain Strategy (PDS)*.
- b) The proposal is contrary to delivering on the key priorities of the North District Plan, namely:
 - it will not deliver a great place, through the proposal's lack of prioritising a people-friendly public realm as a central organising design principle, nor comfortable human scale, due the excessive bulk and associated impacts along Berry Street; and;
 - it will reduce the amenity of the public domain in terms of reduced access to sunlight and daylight;
- c) The proposal does not demonstrate site specific merit due to the following:
 - the expected reduction in sunlight and daylight access to Berry Street resulting from the proposal; and
 - The proposed height is excessive and will result in overshadowing to the Berry Street (West) Special Area with potential to overshadow the Miller Street Special Area;
 - The proposal will result in a built form that does not adhere to established or envisioned urban design elements including podium heights and setbacks, tower setbacks and the provision of awnings;
- d) The proposed new Special Area does not provide a high enough level of public amenity to warrant classification as a Special Area nor does it adequately offset the reduction in solar access to the existing Berry Street (West) Special Area.

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

8.11 Planning Proposal 378-380 Pacific Highway, Crows Nest

Report of Neal McCarry, Team Leader – Policy

To present to Council the assessment report of Planning Proposal No.7/21 at Nos. 378-380 Pacific Highway, Crows Nest which seeks to amend the North Sydney Local Environmental Plan 2013, following its review by the North Sydney Local Planning Panel.

Should the Planning Proposal be supported, the costs associated with the administration and any exhibition of the Planning Proposal, should it proceed to exhibition, would be drawn from existing budget lines which anticipate this type of activity.

Recommending:

1. THAT the Planning Proposal not be supported to proceed to a Gateway Determination as it is inconsistent with *Ministerial Direction 7.11 - St Leonards and Crows Nest 2036 Plan* in that it has not demonstrated consistency with the objectives and actions of the 2036 Plan as it does not ensure that a suitable interface and transition to the western boundary can be achieved.

2. THAT the proposal as lodged is not supported as it represents a poor planning outcome and approval would set a negative and detrimental precedent for similar tower forms across the precinct.

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

4. THAT Council progress amendments to the *North Sydney Development Control Plan 2013* for the St Leonards and Crows Nest Precinct to better manage and accommodate the height limits and densities foreshadowed in the *2036 Plan* in relation to interface issues, character, internal and external amenity and other matters relevant to accommodating the significant extent of change in the most place sensitive manner possible.

8.12 Burton Street Temporary Road Closure and Plaza Community Feedback

Report of Duncan Mitchell – Director of Engineering and Property Services

The purpose of this report is to outline the results of the community consultation, traffic and pedestrian studies that have been undertaken from 27 September 2021 to 31 March 2022 on the Burton Street, trial plaza and road closure.

This report is now seeking Council endorsement to proceed with detailed design and construction of the permanent public plaza and closure of Burton Street, between Broughton Street and Humphrey Place and the transformation of Bligh Street to a permanent "Shared Zone" in Kirribilli.

The trial closure of Burton Street and Pilot Closure of Bligh Street, Kirribilli were both fully funded under the grant that Council received through the "Streets as Shared Spaces" Program through the Department of Primary Industries and Environment (DPIE) in July 2020.

Note: A number of the streetscape elements installed as part of the "trial closure" in Burton Street will be retained in the design for the permanent closure to mitigate costs. These items include the following:

- The decorative lighting of a number of street trees in the Plaza
 - The inground landscaping around the eating areas in the Plaza
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- The bins that were installed in and around the Plaza
All of these streetscape elements received positive feedback during the consultation period.

Funding for the permanent closure of Burton Street and transformation of Bligh Street into a “Shared Zone” is available in the 2021-22 Capital Works Budget through the Kirribilli & McMahons Point Village Centre Master Plan budget as well as the Traffic Facilities Budget.

Recommending:

- 1. THAT** Council notes the community feedback received during the trial pedestrian plaza and road closure in Burton Street, Kirribilli.
- 2. THAT** Council notes the results of the Traffic Study as well as the Human Movement Data Study that was undertaken during the trial pedestrian plaza and road closure in Burton Street Kirribilli.
- 3. THAT** Council proceeds with the permanent closure of Burton Street, between Humphrey Place and Broughton Street and the permanent transformation of Bligh Street into a Shared Zone, Kirribilli.
- 4. THAT** the final designs for both the permanent closure of Burton Street and the transformation of Bligh Street be brought back to Council for endorsement before proceeding to detail design, tender and construction.
- 5. THAT** the current Burton Street Road closure and the Bligh Street Shared Zone remain in place until Council makes a decision to proceed with the permanent closure and shared zone designs.

8.13 Holtermann Street Carpark Redevelopment - Community Consultation

Report of Robert Esdaile, Engineering Project Manager

This report details the results of the community consultation undertaken on the three (3) design concept options for the Holtermann Street Carpark Redevelopment, Crows Nest and recommends the preferred option to proceed to Development Application Stage.

The NSW Department of Planning, Industry and Environment, now the NSW Department of Planning and Environment (DPE) has provided an initial funding grant of \$2.5 million under a Funding Deed with Council, to enable Council to design this new Public Park and underground carpark and develop its supporting business case. The Funding Agreement was executed on 26 March 2021.

On 31 August 2020, DPE advised Council that subject to a Business Case, a further \$15.1 million of Special Infrastructure Contributions, has also been set aside to facilitate the future construction of the Holtermann Street Public Park. This Funding Arrangement would be subject to a separate deed of agreement between the DPE and Council.

In addition, Council at its meeting held on 24 May 2021 resolved to allocate \$2 million from the Voluntary Planning Agreement with Sydney Metro for the Crows Nest Metro Over Station Development to the construction of this project.

The estimated total project cost of the Holtermann Street Carpark Redevelopment is currently \$25 million including design and construction costs.

Recommending:

1. **THAT** Council note the submissions received on the proposed Holtermann Street Park design options.
2. **THAT** Council adopt Option 1 as the preferred option with to proceed to Development Application Stage, with the inclusion of the minor additional/modified design elements as outlined in this report.

8.14 Floodplain Risk Management Study and Plan Public Consultation

Report of Jim Moore, Engineering Project Manager

This report is seeking Council's endorsement to undertake community consultation on the Floodplain Risk Management Study & Plan.

Funds for the Community Consultation have been allocated as part of the original contract project budget. If required, the funds will be rolled over to the following financial year to complete this study and plan

Recommending:

1. **THAT** this report on the Floodplain Risk Management Study & Plan be noted.
2. **THAT** the Floodplain Risk Management Study & Plan be placed on public exhibition in accordance with the project-specific Engagement Strategy.
3. **THAT** the tagging of individual lots as being located within the Flood Planning Area be undertaken after the final adoption by Council of the Floodplain Risk Management Study & Plan.
4. **THAT** a report on the outcomes of the community consultation be prepared and brought back to Council for consideration at the end of the exhibition and consultation period.

8.15 Draft MOU - Consultation Outcomes

Report of Rob Emerson, Director Open Space & Environmental Services

This report details the stakeholder feedback received in accordance with the Council resolution of 25 October 2021.

Lack of availability and high cost of land in North Sydney local government area (LGA) makes it financially unviable for Council to acquire additional public open space; particularly of any significant size. The draft MOU provides a mechanism to maximise long-term retention of harbour front public space within the municipality

Recommending:

1. **THAT** Council continues to strongly advocate that the State Government needs to design and engineer the proposed motorway facility buildings within Cammeray Park to be fundamentally constructed fully, or partially, underground.
 2. **THAT**, subject the inclusion of the principle included in (1) above, Council enter the MOU with TfNSW to ensure the quantum of open space within the municipality is maintained.
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8.16 North Sydney Olympic Pool Redevelopment Progress Report

Report of John Thomson, Corporate Contracts 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.

The financial position of the project is reported through the Quarterly Governance report which will be reported up to the Governance and Finance Committee on 9 May 2022.

Recommending:

- 1. THAT** the report be received.

9. NOTICES OF MOTION

9.1. Notice of Motion 24/22 - Cr Drummond - Removal of tree at 15 Richmond Ave Cremorne

1.THAT Council investigate how the mature tree on the verge in front of 15 Richmond Avenue Cremorne came to be cut down on Sunday 20 March

2.THAT Council review the arborist reports for the site and identify whether the land excavation was conducted according to the DA consent in terms of tree root removal

3.THAT Council strengthen the processes surrounding the protection of mature trees on Council land when adjacent private land is being developed

BACKGROUND (as provided by the submitter)

A residential development at 15 Richmond Avenue has been progressing for several years with much complexity. The site is steep, and required deep excavation close to the site boundary. There was a very tall, old, beautiful and much loved mature gumtree on the ridgeline, on the verge directly in front of the property. Much of the root structure on private land was removed during site excavation. Whilst early reports indicated that the tree would remain viable, the recent heavy rain resulted in a landslide under the tree, meaning it was later deemed to be at risk of collapse. It was removed in full on Sunday 20 March, to the dismay of surrounding residents.

Whilst it is acknowledged that there has been an excessive amount of rainfall over the last months, the extent of which resulted in flooding across the LGA and no doubt caused unexpected site complications, we cannot allow our tree canopy to be eroded. It is critical that we work more closely at DA consent level to ensure that mature trees on Council land are identified and adequately protected during construction.

Comment from A/Director City Strategy Development Process

Development application no 326/16 was approved on 28 May 2017. The consent provided for the creation of a duplex building while retaining a small proportion of the original dwelling house.

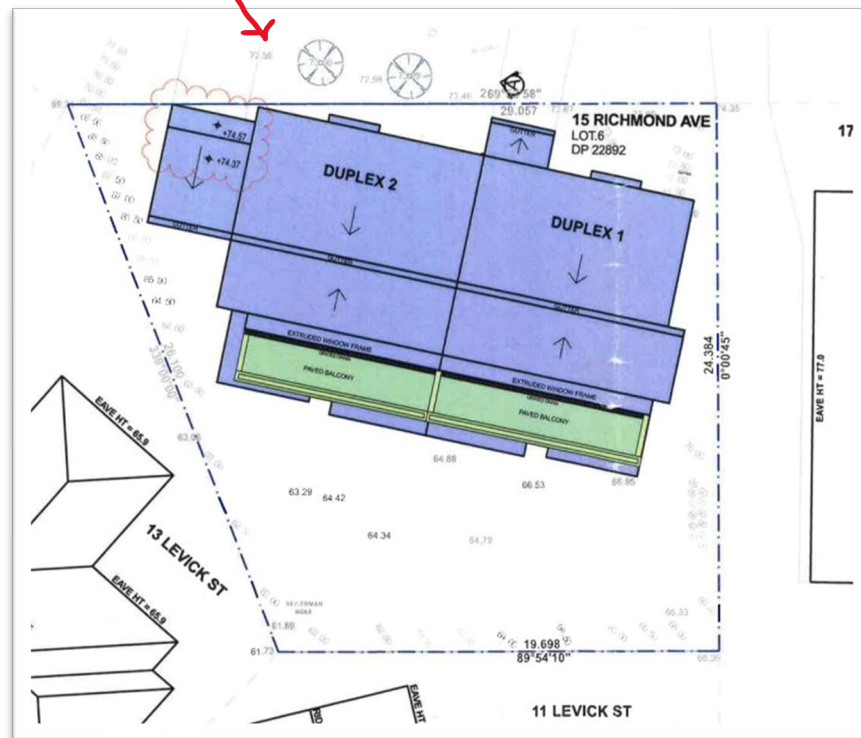
That approval included a bond of \$15,000 to protect two mature street trees. Council's landscape development officer observed;

"There are two mature Eucalyptus Trees growing in the verge area outside the property. The proposed driveways appear to be far enough away from the trees that I am confident that the civil and building works associated with the driveway should not significantly affect the trees. However it would be prudent that a condition requiring that an appropriately qualified Arborist be consulted during the excavation necessary for the new driveway to ensure that any roots and larger roots in particular are cut by hand and any remedial treatment necessary to the tree or its roots remain as unaffected as possible."

It is to be noted that the site sloped steeply away from the road reserve with only limited excavation associated with driveways being required in the immediate vicinity of the trees. Deeper excavation was to occur within the site. The proposal was lowered during the assessment process to address other

issues related to bulk and scale and a significant variation to the building height control.

Trees that were protected:



A subsequent modification application which sought to demolish the remainder of the original dwelling house that was incorporated into the originally approved scheme was received. This modification was refused on 9 May 2018 as it was considered that it was not substantively the same development and introduced a number of changes to the design which were considered to be undesirable. This determination was subsequently appealed to the Land and Environment Court and settled by way of consent orders.

Works then proceeded on site in accordance with the approved plans, which exposed some of the roots of the trees in question. This was subject to a compliance investigation and subsequently a further modification application was lodged seeking approval for the removal of the trees. The applicant's arborist stated that one tree remained in reasonable health while the other tree had been damaged by the excavation activities and it was prudent to consider its removal.

Council maintained its view that both trees were capable of retention and ought to be maintained. The applicant lodged a deemed refusal appeal on 23 November 2020. Joint conferencing occurred between Council's independent tree expert and the applicant's expert, and it was agreed between the experts that both trees could be kept if appropriate measures were put in place. This appeal was subsequently discontinued by the applicant and the modification was issued which required the retention of both trees.

Compliance Investigations

The demolition and excavation work commenced on 9 March 2020. It came to Council's attention in November 2021, that the Site's builder had resigned and

in December 2021, the Accredited Certifier also terminated his involvement with the Site.

The works were suspended on Site from November 2021.

On 8 March 2022 compliance staff attended the site in response to a concern raised that the ground under the public footpath, along Richmond Avenue, had collapsed. As part of staffs' emergency response to the collapsed land, an Emergency Order was issued to the owner of the Site to provide concreting to the northern boundary, adjacent to Richmond Ave, to prevent further collapse. The owners were not able to engage the necessary tradespersons immediately.

Given the ongoing safety concerns regarding the trees due to the very significant adverse weather conditions, staff met on site with Council's consultant engineer on 18 March 2022. During this meeting, the engineer expressed concerns that the trees were likely to fall and there was no viable method of bracing the trees. Staff therefore made the difficult decision to remove the two Eucalyptus trees located upon public land, adjacent to the development at 15 Richmond Avenue, Cremorne (the "Site") due to public safety concerns.

As such, the trees were removed by Council's engaged arborists on 20 March 2022.

Ongoing compliance investigations

Compliance investigations relating to the excavation works adjacent to the subject trees are ongoing but to date have revealed that excavation had occurred generally within the areas approved by the Development Consent.

Evidence to date suggests that the circumstance leading to the footpath collapse on 8 March 2022 was possibly a result of the combination of the suspension of works on site and the unusual volume and intensity of rain during this time. Prior to the land collapse, Council had previously received arborist reports and civil engineering reports indicating that the subject trees were in a good healthy condition.

However, as noted the compliance investigation is still on-going, and in the interim, the owners of the site have been advised that Council intends to use the \$15,000 tree bond to address the loss of the valuable street trees. Additionally, it is also intended to require the owners of the Site to provide replacement trees to Council's specifications and satisfaction.

9.2. Notice of Motion 26/22 - Cr Welch - Community Centres levy

1. THAT Council provides a report about adding a levy for the financial support of all the Community Centres in the LGA.

BACKGROUND (as provided by submitter)

Community Centres play a vital role in our community, providing services, support, recreational activities and markets, as well as providing spaces for community groups and residents to hire.

The Centres are continuously scrambling to find adequate funds so they can provide much needed programs.

Comment by Director Community and Library Services

Every two years Council works with each of the community centres to produce a Joint Strategic Plan which is reviewed annually. The plan is publicly exhibited and is endorsed by Council.

The Joint Strategic Plan informs Council's annual Grants & Subsidies budget in which each of the community centres receive an annual grant as well as subsidies. The purpose of the grant and subsidies is to provide support to each of the individual centres to enable them to continue to provide much valued services and programs to the North Sydney community.

Additionally each year Council runs a Small Grants Program and administers the Clubs Grants process in which community services, including the community centres can apply for small grants of up to \$2,000 to run a particular program or event.

If Council wishes to pursue an additional levy for the Community Centres over and above the existing rate cap, a full Special Rate Variation (SRV) application would be required to obtain IPART approval. This is a significant process requiring extensive community consultation. The earliest an application could be lodged is in 2023 for consideration by IPART and implementation, if approved, in 2023/24.

9.3. Notice of Motion 27/22 - Cr Baker - Adoption of the Draft Design and Place SEPP

1. THAT Council write to the Minister for Planning, The Hon Anthony Roberts, MLA urging him to review his decision not to proceed with the Design and Place SEPP and, instead, proceed to implement the proposed planning principles and sustainability measures set out in the Draft SEPP.

2. THAT Council call on NSROC to lobby the Minister for Planning to review his decision not to proceed with the Design and Place SEPP and to adopt the policy in order to promote design excellence and sustainability measures to mitigate and prepare for the impacts of climate change.

3. THAT a copy of this resolution and the letter to Minister Roberts be copied to the Shadow Minister for Planning, The Hon Paul Scully, MP, The Hon Jamie Parker, MP, and the leaders of the minor parties of the NSW Legislative Council.

4. THAT Council explore adoption of any best practice design excellence and sustainability measures from SEPP and Urban Design Guides in any review of Council's local planning controls, where such measures have not already been adopted by Council.

BACKGROUND (as provided by submitter)

Between 22 December 2021 and 28 February 2022, the State Government publicly exhibited the Draft Design and Place SEPP.

On 6 April 2022, the new Minister for Planning, the Hon Anthony Roberts, MLA, announced that the Government would not proceed to adopt the Design and Place SEPP in any form. Rather, Minister Roberts announced that he had

directed the Department of Planning, Infrastructure and Environment to update BASIX.

The Draft Design and Place SEPP proposed a principles-based planning system focussed around “achieving a desired outcome through a reasoned and considered approach” and introduced design principles to be given effect through matters for consideration and application requirements in the development evaluation and determination process.

The proposed guiding principles are:

1. Design places with beauty and character that people feel proud to belong to
2. Design inviting public spaces to support engaged communities.
3. Design productive and connected places to enable thriving communities.
4. Design sustainable and greener places for the well-being of people and the environment.
5. Design resilient and diverse places for enduring communities.

The proposed SEPP sought to introduce a place-based approach that considers the environment beyond the immediate site or precinct and the use of design review processes. A suite of important supporting documents was exhibited with the SEPP including the draft SEPP, Ministerial Direction, apartment and urban design guides, updates to BASIX and a manual for local government design review panels.

The Draft SEPP sought to address, at every level – from strategic planning to development applications, from design to delivery, on public and private land – design excellence and, significantly (and urgently), climate change mitigation embedded as part of planning and design for our cities and communities. The draft documents encompassed everything from mandating lighter coloured roofs on new development to mitigate urban heat island effects to tree canopy targets for public and private sites and public open space targets, to name but a few of the sensible, long overdue provisions.

The exhibition resulted in widespread support from the local government, planning and design sectors, from much of the development industry as well as from environmental advocates and the community.

Our community is demanding real action to mitigate both climate change and the adverse impacts of overdevelopment. The Draft Design and Place SEPP is a thoughtful response from the State Government to those demands and ought not be abandoned, but rather, adopted as soon as possible.

9.4. Notice of Motion 28/22 - Cr Gibson - Young Street Plaza and the Transparency of Current Council Processes

1. THAT all debate, discussion, staff responses to councillor questions, motions and amendments on the Young St Plaza Project be conducted in open session and fully recorded.

2. THAT discussion directly relating to selecting a preferred tenderer be held in the closed session of the meeting in accordance with s10A(2) (d) of the Local Government Act 1993, *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.

BACKGROUND (as provided by submitter)

The Young Street Plaza project was first discussed at Council in 2018. Several rounds of community consultation subsequently occurred.

The outcomes of the first round of public consultation were reported to Council on August 26 2019. The results were clearly in favour of trialling a road closure to construct a temporary community plaza in the heart of Neutral Bay.

- 51% of those surveyed supported a trial closure.
- 17% supported a closure with design modifications.
- 32% opposed the road closure and temporary plaza trial.

Following the construction and trial of the temporary plaza Council released the project consultation website and welcomed community feedback via survey and email from November 2020 until April 20 2021.

Council received 353 submissions comprising 36 written submissions, 295 online feedback forms and 27 social media comments.

- 56% of all submissions supported the permanent plaza/road closure with some minor design amendments.
- 34% opposed the road closure/permanent plaza.
- 10% were neutral.

On June 28 2021 Council resolved (For/Against 6/2) to proceed with the detailed design and construction of the permanent road closure and construction of a new high quality community plaza.

It's important to note this decision was never rescinded. The local business and residential community are now wondering why the project has not commenced.

It's also important to note that Council holds \$1.9 million which has been granted to our Council by TfNSW. If the project doesn't proceed Council will be compelled to return the funds.

At its March meeting Council resolved to close the meeting to discuss the tender process and select a preferred tenderer. Instead Council resolved to defer the matter to a briefing (which is held away from the public)

Our community have no idea what was discussed during the confidential session on March 28 or at the subsequent councillor briefing.

In my opinion this is a matter of concern.

It's important for Councillors and the community to note that at Council's meeting on March 28 the time allocated to the Confidential component of the meeting exceeded the time allocated to the public component of the meeting.

In my mind this is unsatisfactory and goes against our commitment to open and transparent government.

I put this Notice of Motion to Council with the intention of drawing focus to what I consider an unsatisfactory delay to a fully funded, community supported project that will benefit the Neutral Bay Village and wider community.

10. CONFIDENTIAL MATTERS

10.1. Young Street Plaza - Tender 34/2021

Report of Robert Esdaile, Engineering Project Manager

This report is to provide Council with an analysis and recommendation of the tender process for Tender 34/2021 for Young Street Plaza Construction.

The proposed Young Street Plaza is identified in the list of projects funded under a deed agreement between Council and Transport for New South Wales (TfNSW) endorsed by Council at its meeting of 29 October 2018. The funding agreement includes an allocation for the construction of a public plaza in Young Street including the required design, approvals and community consultation.

Should a tender not be accepted for the construction of the Young Street Plaza, in accordance with the terms of the funding agreement, the balance of the funding received by Council for the Young Street Plaza (approx \$1.9million) will need to be returned to TfNSW.

In addition, should Council resolve to reopen Young Street, the cost of the removal of the temporary closure, estimated at approximately \$100,000 will have to be provided from within Council's own budget.

Recommending:

1. **THAT** Council accept the tender of the highest ranked Tenderer for Tender 34/2021 for Young Street Plaza Construction.
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 No 39 2021 Tunks Park Amenity Block Upgrade

Report of Alicja Batowowicz, Landscape Architect/Project Co-ordinator

The purpose of this report is to provide Council with an analysis of the tender process for Tender No. 39/2021 Tunks Park Amenity Block Upgrade.

Recommending:

1. THAT the meeting be closed to the public in accordance with Section 10A(2):

- (d) commercial information of a confidential nature that would, if disclosed;
- (i) prejudice the commercial position of the person who supplied it and because consideration of the matter 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.

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

10.3

6 John Street, McMahons Point

Report of Long Huynh, Team Leader Building Compliance

The purpose of this report is to provide Council with recommendations regarding Stannards Pty Ltd appeal against Council's Development Control Order, dated 1 February 2022.

Recommending:

1. THAT the meeting be closed to the public in accordance with Section 10A(2) (g) 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.

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

10.4.

Sydney Harbour Bridge Cycle Ramp proposal -Transport for NSW Acquisition of Bradfield Park

Report of Rob Emerson, Director Open Space and Environmental Services

The purpose of this report is to inform Council of correspondence received from Transport for NSW (TfNSW) foreshadowing the issuing of a Proposed Acquisition Notice (PAN) for parts of Bradfield Park North and Bradfield Park Central in order that the State Government can construct their proposed Cycle ramp.

Recommending:

1. THAT the meeting be closed to the public in accordance with Section 10A(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 tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services.
- (g) 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.

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

10.5. Appointment of Senior Staff

Report of Ken Gouldthorp, General Manager

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

Recommending:

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

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

11. CLOSURE
