



northern
beaches
council

AGENDA

Notice is hereby given that an Ordinary Northern Beaches Council Meeting will be held in the Council Chambers at the Civic Centre, Dee Why on

Tuesday 25 June 2024

Beginning at 6:00pm for the purpose of considering and determining matters included in this agenda.

Scott Phillips
Chief Executive Officer

OUR VISION

Delivering the highest quality service valued and trusted by our community

OUR VALUES

Trust Teamwork Respect Integrity Service Leadership

OUR OBLIGATIONS

I swear/solemnly and sincerely declare and affirm that I will undertake the duties of the office of councillor in the best interests of the people of the Northern Beaches and the Northern Beaches Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgement.

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	Nil	
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1.0 ACKNOWLEDGEMENT OF COUNTRY

As a sign of respect, Northern Beaches Council acknowledges the traditional custodians of these lands on which we gather and pays respect to Elders past and present.

2.0 APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE AND REMOTE ATTENDANCE

In accordance with Part 6 of the Code of Meeting Practice, Council will consider apologies, requests for leave of absence, and requests to attend meetings remotely via audio-visual link.

3.0 CONFIRMATION OF MINUTES

3.1 MINUTES OF ORDINARY NORTHERN BEACHES COUNCIL MEETING HELD ON 28 MAY 2024

RECOMMENDATION

That the minutes of the Ordinary Northern Beaches Council Meeting held on 28 May 2024, copies of which were previously circulated, be confirmed as a true and correct record of the proceedings of that meeting.

3.2 MINUTES OF EXTRAORDINARY NORTHERN BEACHES COUNCIL MEETING HELD ON 17 JUNE 2024

RECOMMENDATION

That the minutes of the Extraordinary Northern Beaches Council Meeting held on 17 June 2024, copies of which were previously circulated, be confirmed as a true and correct record of the proceedings of that meeting.

4.0 DISCLOSURES OF INTEREST

In accordance with Part 17 of the Code of Meeting Practice, all Councillors must disclose and manage any conflicts of interest they may have in matters being considered at the meeting.

A councillor who has a **pecuniary interest** in any matter with which Council is concerned, and who is present at a meeting of Council at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.

The councillor must not be present at, or in sight of, the meeting:

- a. at any time during which the matter is being considered or discussed, or
- b. at any time during which Council is voting on any question in relation to the matter.

A councillor who has a **significant non-pecuniary** conflict of interest in a matter under consideration at a Council meeting, must manage the conflict of interest as if they had a pecuniary interest in the matter.

A councillor who determines that they have a non-pecuniary conflict of interest in a matter that is **not significant** and does not require further action, when disclosing the interest must also explain why the conflict is not significant and does not require further action in the circumstances.

5.0 PUBLIC FORUM AND PUBLIC ADDRESS

In accordance with Part 5 of the Code of Meeting Practice, residents, ratepayers, applicants or other persons may request to address Council in relation to any one matter related to the general business of Council but not the subject of a report on the agenda (Public Forum) and no more than two matters listed for consideration on the agenda (Public Address).

6.0 ITEMS RESOLVED BY EXCEPTION

In accordance with Part 14 of the Code of Meeting Practice, items that are dealt with by exception are items where the recommendations contained in the staff reports in the agenda are adopted without discussion.

ITEM 12.4 OUTCOME OF PUBLIC EXHIBITION - PLANNING PROPOSAL AT WARRINGAH RECREATION CENTRE PEX2023/0002

PURPOSE

The purpose of this report is to present the outcome of the Public Exhibition for the Planning Proposal for land at the Warringah Recreation Centre, North Manly (part of Lot 2742 DP 752038) and seek Council's adoption of the Planning Proposal, for forwarding to the Department of Planning, Housing and Infrastructure (DPHI) and Parliamentary Counsel Office (PCO) for finalisation.

EXECUTIVE SUMMARY

- The Planning Proposal seeks to amend *Warringah Local Environmental Plan 2011* (WLEP 2011) to allow 'registered club' as an additional permitted use on part of the land at the Warringah Recreation Centre to accommodate the new Warringah Golf clubhouse.
- As the land is owned by Council and the application was submitted by Council's property team, GHD was engaged to complete an independent assessment of the application and a probity advisor (Procure Group) was engaged to oversee the assessment of this Planning Proposal.
- On 24 October 2023, Council considered the Planning Proposal and resolved to submit the Planning Proposal to the Minister for Planning and Public Spaces for Gateway Determination.
- On 21 February 2024, DPHI issued a Gateway Determination and an Alteration of Gateway Determination was issued on 21 March 2024, which amongst other things, authorised Council to exercise the functions of the local plan-making authority under section 3.36(2) of the *Environmental Planning and Assessment Act 1979*, with respect to the Planning Proposal.
- Prior to exhibition, the draft Planning Proposal was updated addressing the social and traffic impacts likely from the proposed 'registered club' use, as required by the Gateway Determination.
- The draft Planning Proposal was formally exhibited from 2 April 2024 to 30 April 2024. Fifty two (52) submissions were received during the exhibition period and GHD's assessment (Attachment 1) of the concerns raised in submissions forms their report.
- Following statutory public exhibition, the Planning Proposal was updated to explicitly insert details of and the outcomes of statutory public exhibition, and state agency consultation.

RECOMMENDATION

That Council:

1. Note the outcome of statutory public exhibition.
2. Note the Probity Advisor's report on the assessment of the Planning Proposal.
3. Adopt the Planning Proposal.
4. Make the local environmental plan to amend the *Warringah Local Environmental Plan 2011* to include the additional permitted use of 'registered club' on a portion of the land at Warringah Recreation Centre (part of Lot 2742 DP 752038), currently zoned RE1 Public Recreation
5. Advise the applicant and submitters of Council's decision.

BACKGROUND

Project History

The existing Warringah Golf clubhouse was located at 397 Condamine Street, Allambie Heights and was not within the confines of the Warringah Golf Course. The recently decommissioned clubhouse previously operated as a 'registered club' under the *Liquor Act 2007*.

The Warringah Recreation Centre is subject to the District Park Plan of Management (DPPOM), adopted by Council on 25 August 2015. The DPPOM contemplates the relocation of the clubhouse to the District Park. Table 5 in the DPPOM also permits the lease/licence of community land in the District Park for combined sports and community club buildings for "activities for which a 'registered club' would be licensed".

A Heads of Agreement (HOA) has been signed between the Warringah Golf Club and Council, for the proposed clubhouse at the corner of Kentwell Road and Pittwater Road, North Manly. The HOA provides terms and conditions for the ground lease agreement for the future Golf clubhouse, parking and Recreation Centre. These conditions include restrictions for poker machines and gambling onsite.

On 19 June 2023, in accordance with the DPPOM, Council's Property Team lodged the Planning Proposal application (PEX2023/0002). The application was initially prepared by MG Planning and seeks to amend the *Warringah Council Local Environmental Plan 2011* (WLEP 2011) to allow 'registered club' as an additional permitted use on part of the land at the Warringah Recreation Centre. The additional permitted use is intended to apply to the land that will contain the future Warringah Golf Clubhouse. The proposal will facilitate the future lawful operation of a 'registered club', which is defined in WLEP 2011 as "a club that holds a club license under the *Liquor Act 2007*."

As the land is owned by Council and the application was submitted by Council's property team, probity measures have been implemented to ensure the appropriate separation of Council's responsibilities as a landowner and as planning proposal authority. GHD Consulting was engaged to independently assess the Planning Proposal application. Procure Group oversaw the assessment of the Planning Proposal application by managing any potential or perceived conflict of interest arising from the assessment of the Planning Proposal.

At its meeting of 24 October 2023, Council considered the Planning Proposal and its assessment and resolved as follows:

That Council:

1. *Forward the Planning Proposal for land at the Warringah Recreation Centre, North Manly to the Minister for Planning and Public Spaces for Gateway determination.*
2. *Publicly exhibit the Planning Proposal in accordance with Council's Community Participation Plan and any Gateway determination.*

Development Consent for Construction of the Warringah Golf Clubhouse

On 9 February 2023, the Warringah Golf Club submitted a Development Application (DA2022/2081) to Council for demolition works and construction of a clubhouse and associated facilities on part of the land at the Warringah Recreation Centre. The construction of a clubhouse is permissible within the zone RE1 "Public Recreation" ('RE1 zone') under the WLEP 2011 as it is ancillary to the Warringah Golf Course and meets the definition of 'Recreation facilities (outdoor)'.

At its meeting of 19 February 2024, the Sydney North Planning Panel unanimously resolved to approve the DA, with a condition preventing the use of the building as a 'registered club' as defined in the WLEP 2011. The 'registered club' will, as a use, need to be permissible, which is the intent of the subject Planning Proposal, and will require development consent in the future.

Gateway Determination

On 21 February 2024, Department of Planning, Housing and Infrastructure (DPHI) issued the Gateway Determination subject to the following assessments being undertaken before the Planning Proposal can be publicly exhibited, namely:

- social impacts of 'registered club' as an additional permitted use, which allows the sale of alcohol and the potential for gambling to take place, and the associated amenity impacts from operations, events and noise; and
- traffic impacts from the 'registered club' use – its operations and events.

On 5 March 2024, Council provided the additional information addressing the likely social and traffic impacts of a 'registered club' use and sought an Alteration of the Gateway Determination.

On 21 March 2024, DPHI issued an Alteration of Gateway Determination and removed the need to undertake both social impact and traffic impact assessments. Instead, Council was required to update the Planning Proposal to address the potential social and traffic impacts related to the additional permitted use and include an explanation of mitigation measures. These additions have been made to be Planning Proposal.

CONSULTATION

Statutory Public Exhibition

The Gateway Determination categorised the proposal as 'standard' and required a public exhibition period of 20 working days in accordance with the *Local Environment Plan Making Guidelines* (Department of Planning, 2023). The Planning Proposal was exhibited from 2 April to 30 April 2024, in accordance with the Gateway Determination. One public holiday (Anzac Day) was accounted for during this period.

The updated Planning Proposal together with supporting technical studies, the Gateway Determination and Alteration of Gateway Determination, the District Park Plan of Management, supporting documentation from Warringah Golf Club, and reference documentation as requested by DPHI were placed on public exhibition.

The public exhibition process comprised of the following:

- Exhibition of materials on Council's application tracker webpage and the NSW Planning Portal
- Notification letters to adjoining landowners and occupiers
- Email to community members who had registered their interest in the project
- An updated Council 'Your Say' page with relevant information
- Inclusion in Council's Community News email

Fifty-two (52) submissions were received during the exhibition period.

GHD Consulting reviewed all the submissions received during the exhibition period. GHD's report (May 2024) is Attachment 1.

The key themes raised in the submissions are as follows:

- Community & Public Recreation
- Social and Economic Impacts
- Traffic Impacts
- Noise Impacts

- Operations
- Flooding
- Acid Sulfate Soils
- Riparian Lands and Vegetation
- District Park Plan of Management
- Technical Reports
- General e.g. duplication of applications (DA and Planning Proposal)

Consultation with State Agencies

In accordance with the Gateway Determination, Liquor and Gaming NSW was consulted regarding the Planning Proposal. On 16 April 2024, Liquor and Gaming advised as follows:

Liquor and Gaming does not provide comment in relation to DA's [applications] lodged with Council, as this does not relate to a liquor licence application lodged with Liquor and Gaming.

Post-Exhibition Changes to the exhibited Planning Proposal

GHD's report considered the concerns raised in the submissions. The recommendation from GHD is that the issues raised in submissions do not warrant the rejection of the Planning Proposal, nor require further changes to the Planning Proposal.

Details in relation to public exhibition and state agency consultation have been inserted into the Planning Proposal document in the following sections:

- Part 5 Community Consultation
- Section E State and Commonwealth interests

No other changes were made. The updated Planning Proposal is Attachment 2.

TIMING

This resolution will be forwarded to DPHI and Parliamentary Counsel Office to make the necessary arrangements for the drafting of the local environmental plan, which gives effect to the Planning Proposal and will amend the WLEP 2011.

The timeframe for the amendment being made is anticipated to be 3 months following receipt of Council's request for the Planning Proposal to be finalised.

FINANCIAL CONSIDERATIONS

This is a proponent-initiated application with payment of application fees.

GOVERNANCE AND RISK CONSIDERATIONS

The Planning Proposal has been assessed in accordance with all statutory requirements.

As the land is owned by Council and the application was submitted by Council's property team, probity measures have been implemented to ensure the appropriate separation of Council's responsibilities as a landowner and as planning proposal authority. GHD Consulting was engaged to independently assess the application. Procure Group oversaw the assessment of the Planning Proposal application by managing any potential or perceived conflict of interest arising from the assessment of the Planning Proposal.

Procure Group oversaw the assessment of submissions to the exhibition as well as the process post-exhibition. A probity report (Attachment 3) has been prepared on the exhibition and post-

exhibition assessment process to-date. Procure Group concluded it had no probity concerns with this phase of Planning Proposal assessment.

ENVIRONMENTAL CONSIDERATIONS

An assessment of the Planning Proposal has determined that it is unlikely to have any adverse environmental impacts on the subject site or surrounding land.

SOCIAL CONSIDERATIONS

It is considered that the Planning Proposal will have a positive impact on social outcomes for Warringah Golf Club members and the wider community by providing new facilities and meeting places. The Warringah Golf Club’s Operational Management Plan (August 2023) provides measures to manage potential negative social impacts including noise generation, operation hours, behavior of patrons, responsible service of alcohol, safety and security, and maintaining neighborhood amenity. Further, the current ‘Heads of Agreement’ for the Warringah Golf Club’s proposed clubhouse (dated 20 August 2020), restricts the use of poker machines for the duration of the twenty-year lease term on the subject land. This negates any negative social impacts associated with gambling.

LINK TO STRATEGY

This report relates to the Community Strategic Plan Outcomes and Goals:

- Community and belonging - Goal 7 Our diverse community is supported to participate in their chosen cultural life.
- Community and belonging - Goal 9 Our community is inclusive and connected.
- Housing, places and spaces - Goal 12 Our community has access to spaces that enable healthy and active living and allow for a broad range of creative, sporting and recreational opportunities to be enjoyed.
- Partnership and participation - Goal 21 Our community is engaged in decision making processes.

Reporting team	Strategic Planning 3
TRIM file ref	2024/269098
Attachments	<p>⇒1 GHD Planning Proposal for Warringah Recreation Centre Submissions Report (May 2024) (Included In Attachments Booklet)</p> <p>⇒2 Planning Proposal for adoption (Included In Attachments Booklet)</p> <p>⇒3 Procure Group Probity Report May 2024 (Included In Attachments Booklet)</p>