

EXTRAORDINARY COUNCIL MEETING

AGENDA

Notice is hereby given that an Extraordinary Council Meeting will be held at the:

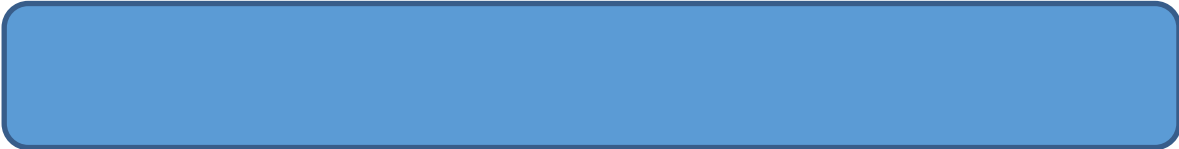
Council Chambers, City of Canada Bay Civic Centre, Drummoyne

Wednesday, 20 December 2023

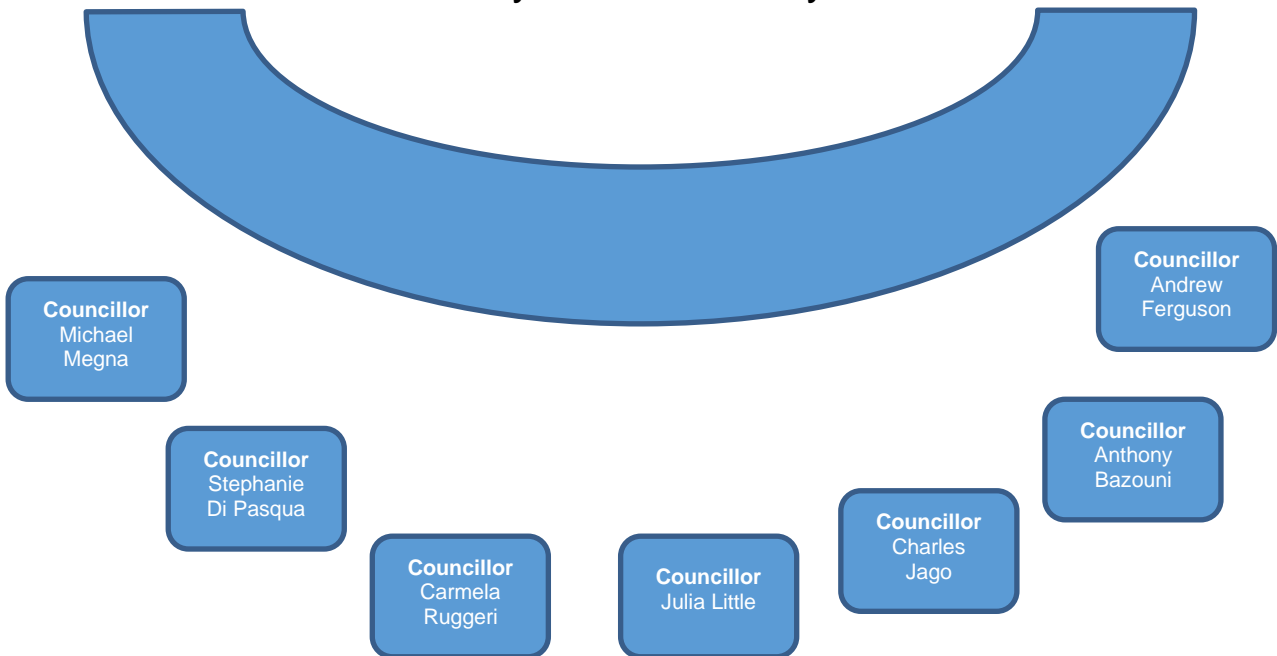
Beginning at 5.30pm for the purpose of considering and determining matters included in this agenda.



John Clark
General Manager



Councillors
City of Canada Bay



Statement of Ethical Obligations

The Mayor and Councillors are bound by the Oath/Affirmation of Office made at the start of the Council term to undertake their civic duties in the best interests of the people of the City of Canada Bay and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act or any other Act, to the best of their skill and judgement.

It is also a requirement that the Mayor and Councillors disclose conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with Council's Code of Conduct and Code of Meeting Practice.

**Agenda for an Extraordinary Council Meeting
to be held on Wednesday 20 December 2023
at the Council Chambers, City of Canada Bay Civic Centre, Drummoyne
Commencing at 5:30pm**

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1 ACKNOWLEDGEMENT OF COUNTRY

The City of Canada Bay acknowledges the Wangal clan, one of the 29 tribes of the Eora nation and the traditional custodians of this land.

The City's Council pays respect to Elders past and present and extends this respect to all Aboriginal people living in or visiting the City of Canada Bay.

2 APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE BY COUNCILLORS

In accordance with clauses 6.3, 6.4 and 6.5 of Council's Code of Meeting Practice, apologies must be received and accepted from absent Councillors and a leave of absence from the Council Meeting may be granted.

3 DISCLOSURES OF INTERESTS

In accordance with Part 16 of Council's Code of Meeting Practice, all Councillors must disclose and manage any conflicts of interest they may have in matters being considered at the meeting.

4 CORPORATE SERVICES AND STRATEGY DIRECTORATE REPORTS

ITEM 4.1 OPERATION TOLOSA

Reporting Manager Manager Governance and Customer Services

Attachments: Nil

RECOMMENDATION OF DIRECTOR CORPORATE SERVICES AND STRATEGY

That:

1. The tabling of the Independent Commission Against Corruption (ICAC) report of its investigation titled 'Operation Tolosa' be noted.
 2. It be noted that the Operation Tolosa report did not include:
 - (a) Any findings against any past or present Council Official, being Councillors and staff, except for Angelo Tsirekas
 - (b) Any recommendations in relation to Council's Governance framework or systems.
 3. It be noted that on 13 December 2023, the Governor of New South Wales dismissed Angelo Tsirekas from civic office and disqualified him from holding civic office for a period of five years, with this dismissal being effective immediately and the period of disqualification commencing on that day.
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PURPOSE

To table the Independent Commission Against Corruption (ICAC) report titled 'Operation Tolosa' and to note the dismissal and disqualification of Angelo Tsirekas from civic office.

REPORT

On Thursday 9 November 2023 the Independent Commission Against Corruption (ICAC) published the report on its investigation titled Operation Tolosa. This investigation was into the conduct of the City of Canada Bay Council Mayor, Angelo Tsirekas and others, and the Commission found that, between November 2015 and February 2019, Mr Tsirekas engaged in serious corrupt conduct. It is considered appropriate that the report be formally tabled at Council.

In accordance with the published opinion of the Commission, Mayor Tsirekas was suspended from civic office by the Minister for Local Government, the Hon Ron Hoenig MP, under Section 440C of the Local Government Act 1993 (the Act) on 9 November 2023. This suspension continued until Wednesday 13 December 2023, with Minister Hoenig announcing on that day, that upon his advice, and pursuant to Section 440B(1) of the Act, the Governor of New South Wales dismissed Angelo Tsirekas from civic office and disqualified him from holding civic office for a period of five years. This dismissal was effective immediately and the period of disqualification commenced on that day.

A critical outcome of the investigation is that Angelo Tsirekas is the only past or present Council Official, being Councillors and staff, for whom ICAC handed down any findings. Further, and also critically, no recommendations were made by ICAC in relation to Council's Governance framework or systems.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 5: Civic Leadership

Goal CL 1: Council is accountable, efficient, and ready to meet future challenges

- ITEM 4.2** **VACANCY IN THE OFFICE OF MAYOR**
- Reporting Manager** **Manager Governance and Customer Services**
- Attachments:** 1. **Nomination Form** [↓](#)
 2. **Procedures for Conduct of Election** [↓](#)
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RECOMMENDATION OF DIRECTOR CORPORATE SERVICES AND STRATEGY

That:

1. Council nominates a Councillor for the Governor of NSW to appoint to the vacant office of Mayor for the remainder of the current term of Council in accordance with Section 294(3) of the Local Government Act 1993.
 2. Writes to the Minister of Local Government advising of the outcome of 1 above and seeks his assistance in referring the nomination to the Governor of NSW.
 3. Upon a Councillor being appointed to the vacant office of Mayor pursuant to 1 above, Council make application to the Minister for Local Government, in accordance with Section 294(2) of the Local Government Act 1993, to dispense with the requirement to fill the casual vacancy of Councillor.
 4. Deputy Mayor Joseph Cordaro be paid the Mayoral fee, effective from 10 November 2023 until such time a new Mayor is appointed by the Governor of NSW.
 5. It be noted that in the event that the Deputy Mayor is Council's nominated Councillor referred to in 1. above, an election for the office of Deputy Mayor for the remainder of the Council term would be conducted at a subsequent Council Meeting.
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PURPOSE

For Council to consider:

1. Nominating a Councillor for the Governor of New South Wales to appoint to the vacant office of Mayor for the remainder of the current term of Council, and the requirements relating to the subsequent vacancy of a councillor.
2. Payment of the Mayoral fee to the Deputy Mayor until such time a new Mayor is appointed by the Governor of NSW.

REPORT

Vacancy in the Officer of Mayor

On 13 December, 2023, pursuant to section 440B of the Local Government Act 1993 ('the Act'), the Governor of NSW dismissed Angelo Tsirekas from civic office and disqualified him from holding civic office for a period of 5 years.

Where a Council has a popularly elected Mayor, as is the case with the City of Canada Bay, and there is a vacancy in that role, the Act prescribes the methods by which the vacancy is filled. As the current Council term is shorter than the legislated four years there are some variances to what the legislation envisaged would normally occur. However, in summary, as the vacancy occurred after 14 March 2023, in accordance with Section 294(3) of the Act, the vacancy is filled by the Governor of NSW appointing to the vacant office a councillor nominated by Council. If Council does not nominate a councillor, the Governor may appoint a councillor to the vacant office pursuant to Section 294(4) of the Act. Should the vacancy have occurred prior to 14 March 2023, it would have been filled through a by-election, with such by-election held within three months of the vacancy occurring.

It is therefore recommended that Council nominate a Councillor for the Governor of NSW to appoint to the vacant office of Mayor for the remainder of the current term of Council. It is noted that in the event that the Deputy Mayor is Council's nominated Councillor, a subsequent election for the office of Deputy Mayor for the remainder of the Council term would be conducted at a subsequent Council Meeting.

Vacancy of Councillor

Irrespective of which Councillor is appointed as Mayor for the remainder of the Council term, there will be a casual vacancy of a councillor. At its meeting on 11 January 2022 Council resolved that pursuant to section 291A(1)(b) of the Act, casual vacancies occurring in the office of a councillor within 18 months after the last ordinary election of councillors for the Council, which was conducted on 4 December 2021, are to be filled by a countback of votes cast at that election for the office in accordance with section 291A of the Act.

This resolution means that had the casual vacancy occurred before June 2023 it could have been filled by countback instead of by-election. Notwithstanding, and again as a result of the reduced term of the current Council, as the vacancy of a councillor is to occur on or after 14 March 2023, Council may make application to the Minister, under Section 294(2) of the Act, to dispense with the requirement to fill the casual vacancy of Councillor. It is recommended that Council adopt this approach. It is noted that should Council wish to fill the vacancy that will be created, the only method available is through a by-election.

Deputy Mayor

In accordance with the Act, Deputy Mayor Joseph Cordaro has been performing the functions of the Mayor since the Mayor was suspended on 9 November 2023. Payment of the Mayoral Fee to Angelo Tsirekas ceased as at that date.

Section 249(5) of the Local Government Act 1993 prescribes that a council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee. To this time, Council has not previously resolved to pay a deputy mayor any fee. In the current circumstances it is recommended that Deputy Mayor Joseph Cordaro be paid the Mayoral fee, effective from 10 November 2023 until such time a new Mayor is appointed by the Governor of NSW.

Nomination of a Councillor for the Governor of NSW to Appoint to the Vacant Office of Mayor

There is no prescribed method by which Council is required to apply in determining a councillor to be nominated for the Governor of NSW to appoint to the vacant office of Mayor. In the circumstances there are two options as follows:

1. Council may resolve to nominate a Councillor for consideration by the Governor of NSW without an election.
2. Elect a Councillor for consideration by the Governor of NSW. Should Council opt to conduct an election to determine this nomination, it would be required to follow the procedures that it routinely follows when electing a Deputy Mayor. These procedures, including nomination forms, are contained in attachment 2 to this report.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 5: Civic Leadership

Goal CL 1: Council is accountable, efficient, and ready to meet future challenges

FINANCIAL CONSIDERATIONS

There are no financial considerations associated with this report.

LEGISLATIVE AND POLICY CONSIDERATIONS

Section 294 of the Act prescribes the requirements and options for the filling of a casual vacancy in the office of both a popularly elected mayor and councillors.

Section 249 of the Act facilitates the payment of the mayoral fee to the Deputy Mayor when carrying out the functions of the Mayor.

**ELECTION OF A COUNCILLOR FOR
NOMINATION TO THE GOVERNOR OF
NSW FOR APPOINTMENT AS MAYOR
NOMINATION FORM****We, the undersigned, nominate:**

Councillor

**To be recommended to the Governor of NSW for appointment to the Office of
Mayor****Signed:**

Date:

I consent to the nomination

Signed:

Date:

Nomination Procedure

1. A Councillor may be nominated without notice for the election.
2. The nomination is to be made in writing by 2 or more Councillors, (one of whom may be the nominee). The nomination is not valid unless the nominee had indicated consent to the nomination in writing.
3. The nomination is to be delivered or sent to the Returning Officer.
4. The Returning Officer is to announce the names of the nominees at the Council Meeting at which the election is to be held.

PROCEDURES FOR CONDUCT OF ELECTION

The procedure for election is as outlined in Schedule 7 of the Local Government (General) Regulation 2021 and is summarised below.

1. The Returning Officer will announce the names of the candidates for whom nomination forms have been received.
2. The Returning Officer will then ask if there are any other nominations.
3. If there is only one (1) councillor nominated, the Returning Officer shall declare that councillor to be elected.
4. If there is more than one (1) councillor nominated, the Returning Officer shall advise the Council that it must resolve whether the election will be by:
 - Open Voting (show of hands)
 - Ordinary Ballot
 - Preferential ballot
5. Once the Council resolves the form of election, the Returning Officer shall conduct the election in accordance with the procedures outlined in the schedule.