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## Minutes of the Council Meeting 16 August 2023

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### PRESENT

#### Councillors

Lisa Lake (Mayor)	Councillor
Suman Saha (Deputy Mayor)	Councillor
Steve Christou	Councillor
Diane Colman	Councillor
Greg Cummings	Councillor
Glenn Elmore	Councillor
Sabrin Farooqui	Councillor
Paul Garrard	Councillor
Ola Hamed	Councillor
Kun Huang	Councillor
Helen Hughes	Councillor
Mohamad Hussein	Councillor
Joseph Rahme	Councillor
Michael Zaiter	Councillor

#### Officers

Peter Fitzgerald	General Manager
Melissa Attia	Director Corporate Performance (Deputy General Manager)
Daniel Cavallo	Director Environment & Planning
Brendan Govers	Director City Services
Nicole Byrn	Director Community & Culture
Charlie Ayoub	Director Governance & Risk
Colin McFadzean	General Counsel
Lyndall Thompson	Acting Coordinator Governance
Bianca Mourched	Governance Officer

The Mayor, Councillor Lake declared the meeting open at 6:30pm.

Councillor Rahme left the Chamber at 6:30pm before the Opening Prayer.

#### Opening Prayer

The opening prayer was read by Mr Yousef Al-Zoubi from the Auburn Islamic Community Centre.

#### Acknowledgement of Country

The Mayor, Councillor Lake read the following Acknowledgement of Country:

*"I would like to acknowledge the traditional owners of this land – the Darug People, and pay my respects to their elders past, present and emerging."*

### National Anthem

At this point in the meeting the Mayor, Councillor Lake asked all of those in attendance to stand for the playing of the Australian National Anthem.

Councillor Rahme returned to the Chamber at 6:34pm after the National Anthem.

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### Min. 501      Apologies / Requests for Leave of Absence/ Requests for Attendance by Audio-Visual Link

#### Motion (Saha/Hussein)

That Council approve the apology tendered by Councillor Sarkis for this Council meeting, due to the illness of a family member.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion:                      Christou, Colman, Cummings, Elmore, Farooqui, Garrard, Hamed, Huang, Hughes, Hussein, Lake, Rahme, Saha and Zaiter.

Councillor(s) Against the Motion:              Nil.

### Notice of Live Streaming of Council Meeting

The Mayor, Councillor Lake advised that the Council meeting was being streamed live on Council's website and all in attendance must ensure their speech to the Council is respectful and use appropriate language.

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### Confirmation of Minutes

#### Min. 502      C08/23-364 Minutes of the Ordinary Meeting of Council - 02 August 2023

#### Motion (Elmore/Saha)

That Council confirm the minutes of the Ordinary Meeting of Council held on 02 August 2023.

#### Amendment (Christou/Garrard)

Add the following to the Motion:

"but also include a description of the circumstances which led to the adjournment of the meeting under clause 15.13 of the *Code of Meeting Practice* (p.12)".

The Amendment on being Put was declared **LOST**.

Councillor(s) For the Amendment: Christou, Cummings, Garrard, Hughes, Rahme and Zaiter.

Councillor(s) Against the Amendment: Colman, Elmore, Farooqui, Hamed, Huang, Hussein, Lake and Saha.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Colman, Cummings, Elmore, Farooqui, Garrard, Hamed, Huang, Hughes, Hussein, Lake, Rahme, Saha and Zaiter.

Councillor(s) Against the Motion: Christou.

During the consideration of this item, Councillor Rahme raised a Point of Order, citing an alleged breach of Clause 15.11 (e) of the *Code of Meeting Practice* alleging Councillor Colman's speech made false inferences towards himself and other Councillors. The Mayor, Councillor Lake did not uphold the Point of Order.

During the consideration of this item, Councillor Rahme raised a Point of Order, citing an alleged breach of Clause 15.11 (d) of the *Code of Meeting Practice* alleging Councillor Colman directed an unfavourable generalised remark toward him by pointing in his direction. The Mayor, Councillor Lake did not uphold the Point of Order, and clarified that Councillor Colman was making a general statement and requested that Councillor Rahme resume his seat.

During the consideration of this item, Councillor Colman raised a Point of Order, citing an alleged breach of Clause 15.11 (d) of the *Code of Meeting Practice* alleging Councillor Rahme made an unfavourable remark and requested he retract his comment and apologise. The Mayor, Councillor Lake upheld the Point of Order, requesting that Councillor Rahme retract his comment and apologise. Councillor Rahme retracted his comment and apologised.

During the consideration of this item, Councillor Christou raised a Point of Order, citing an alleged breach of Clause 15.11 (e) of the *Code of Meeting Practice* alleging Councillor Colman was conducting herself in a way to disrupt the Chamber. The Mayor, Councillor Lake did not uphold the Point of Order, requesting Councillor Christou resume his seat.

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### **Min. 503      Motion of Expulsion – Councillor Rahme**

#### **Motion (Elmore/Hussein)**

That Councillor Rahme be expelled from the Meeting in accordance with clause 15.15 of the *Code of Meeting Practice*.

The Motion on being Put was declared **LOST**.

Councillor(s) For the Motion: Colman, Elmore, Hamed and Hussein.

Councillor(s) Against the Motion: Christou, Cummings, Farooqui, Garrard, Huang, Hughes, Lake, Rahme, Saha and Zaiter.

During the consideration of this item, Councillor Christou raised a Point of Order, citing an alleged breach of Clause 15.11 (e) of the *Code of Meeting Practice* alleging Councillor Elmore made an unfavourable remark towards him. The Mayor, Councillor Lake upheld the Point of Order, requesting that Councillor Elmore withdraw his comment. Councillor Elmore withdrew his comment.

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### Declarations of Pecuniary & Non Pecuniary Conflicts of Interest

There were no declarations of interest.

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#### Min. 504 MM08/23-34 - Mayoral Minute - 109A Church St Lidcombe Development Application - Response to Community Concerns

#### Motion (Lake)

1. That Council request the General Manager to:
  - a) Undertake a review of Council's Development Control Plan with respect to the written notification requirements for development applications for designated development, with a view to extending the area for such notification and report back to Council at a future meeting, and
  - b) Take steps to arrange for an external planning consultant to prepare a draft submission to the Sydney Central City Planning Panel that can be considered for adoption and formal submission by the elected body of Council that reflects opposition to the application by the elected body on public interest grounds.
2. That any financial implications associated with the adoption of this Mayoral minute be funded from Council's legal operational budget.

The Motion on being Put was declared **CARRIED** Unanimously.

Councillor(s) For the Motion: Christou, Colman, Cummings, Farooqui, Garrard, Huang, Hughes, Hussein, Lake, Rahme, Saha and Zaiter.

Councillor(s) Against the Motion: Nil.

Councillor Hamed left the Chamber at 7:07pm during the consideration of this item.

Councillor Elmore left the Chamber at 7:07pm during the consideration of this item.

Councillor Zaiter left the Meeting at 7:13pm and returned at 7:14pm during the consideration of this item.

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### **Matter of Urgency – Councillor Garrard**

#### **Motion (Garrard/Christou)**

That, based on the available information presently stated within the Environmental Impact Statement provided as part of the DA documentation for 109A Church Street, Lidcombe, and other professional information available to Councillors, that each Councillor indicates their support, opposition, or otherwise, to the development proposal presently submitted to Council.

The Mayor ruled that she would accept the Motion under clause 9(2)(a) as it related to a matter that was already before the Council that evening. It was not necessary therefore for her to rule on whether it was a matter of urgency. Further, the Mayor advised that she did not believe the Motion was necessary as the resolution passed by Council from the Mayoral Minute had already indicated Councillors in-principle position of opposition to the application.

The Mayor then advised that if they chose, Councillors could once again voluntarily indicate their in-principle opposition to the application, based on information of which they were currently aware, by raising their hands.

Councillors Christou, Colman, Cummings, Farooqui, Garrard, Huang, Hughes, Hussein, Lake, Rahme, Saha and Zaiter raised their hands to indicate this way.

Councillor Hamed returned to the Chamber at 7:36pm and left at 7:36pm during the consideration of this item.

Councillor Elmore returned to the Chamber at 7:36pm and left at 7:36pm during the consideration of this item.

Councillor Hamed returned to the Chamber at 7:41pm after the consideration of this item.

Councillor Elmore returned to the Chamber at 7:41pm after the consideration of this item.

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### **Public Forum**

Nil

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### **Min. 505      Items Resolved by Exception**

#### **Motion (Cummings/Saha)**

That Council adopt items C08/23-365, C08/23-366, C08/23-368 and C08/23-371 on the Council Agenda as per the recommendations in the reports.

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The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Christou, Colman, Cummings, Elmore  
Farooqui, Garrard, Hamed, Huang, Hughes,  
Hussein, Lake, Rahme, Saha and Zaiter.

Councillor(s) Against the Motion: Nil.

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**C08/23-365 Legal Report**

***Resolved by Exception***

That the report be received.

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**C08/23-366 Investment Report - July 2023**

***Resolved by Exception***

That Council receive the July 2023 Investment Report.

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**C08/23-368 Draft Local Shops Study**

***Resolved by Exception***

That Council place the Draft Cumberland Local Shops Study on public exhibition for a period of 28 days, with a report to be provided back to Council.

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**C08/23-371 Approval of Heavy Vehicle Access to Linfox Australia Pty Ltd**

***Resolved by Exception***

That Council:

1. Approve heavy vehicles under Higher Mass Limits, including Quad Mass Limits, to access Council roads identified under recommendation 2, subject to the payment of a fee as agreed between the parties.
2. Note that permissible access to Council's roads would be restricted to the following road sections:
  - From the State Road Cumberland Highway (Betts Road) to Woodpark Road.
  - From the State Road Gipps Road to Woodpark Road via Long Street and Cooper Street.

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**Min. 506      C08/23-367 Six-Monthly Performance Report on the Operational Plan 2022-2023****Motion (Saha/Farooqui)**

That Council receive the report.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Christou, Colman, Cummings, Elmore  
Farooqui, Garrard, Hamed, Huang, Hughes,  
Hussein, Lake, Rahme, Saha and Zaiter.

Councillor(s) Against the Motion: Nil.

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**Min. 507      C08/23-369 Planning Proposals for Targeted Sites in Merrylands and Guildford - Update and Next Steps****Motion (Elmore/Christou)**

That Council:

1. Note the status of the Planning Proposal for targeted sites in Merrylands and Guildford.
2. Endorse that a Council initiated Planning Proposal for the following locations not proceed at this time, as outlined in this report:
  - i) Merrylands Road (between Burnett Street and Chetwynd Road), Merrylands
  - ii) 7-10 Wayman Place, Merrylands
  - iii) 242-252 Pitt Street, Merrylands
  - iv) Merrylands Road (east of station), Merrylands
  - v) 32-34 Marian Street and 2A Bury Road, Guildford
3. Note that landowner initiated Planning Proposals may be received for these locations and would be assessed and reported to Council in accordance with statutory and policy requirements.
4. Endorse that a Council initiated Planning Proposal be progressed to cover the Burnett Street Neighbourhood Centre in Merrylands, and that the Planning Proposal be forwarded to the Department of Planning and Environment for a Gateway Determination.
5. Note that the endorsed draft amendments to the Cumberland Development Plan for Merrylands Town Centre continue to public exhibition, as the amendments are not impacted by the recommendations in this report.
6. Note that the endorsed Draft Merrylands Town Centre Public Domain Plan continue to public exhibition, subject to minor amendments as outlined in this report.
7. Note that the Department of Planning and Environment has advised that the Planning Proposal for Victor Brazier Park not proceed.

The Motion on being Put was declared **CARRIED** Unanimously.

Councillor(s) For the Motion: Christou, Colman, Cummings, Elmore  
Farooqui, Garrard, Hamed, Huang, Hughes,  
Hussein, Lake, Rahme, Saha and Zaiter.

Councillor(s) Against the Motion: Nil.

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**Min. 508 C08/23-370 Draft Submission to Sydney Metro Independent Review**

**Motion (Huang/Saha)**

That the matter be deferred to the following Council meeting.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Christou, Colman, Cummings, Elmore  
Farooqui, Garrard, Hamed, Huang, Hughes,  
Hussein, Lake, Rahme, Saha and Zaiter.

Councillor(s) Against the Motion: Nil.

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**Min. 509 C08/23-372 Notice of Motion - Trial and Implementation of Heat Mitigating Strategies**

**Motion (Farooqui/Hussein)**

That Council urgently bring a report to Council at its next meeting that seeks to:

1. Implement targeted programs across the Cumberland LGA that assists and provides relief for the community during the anticipated summer heat waves.
2. Ensure the programs cater for vulnerable groups within the community that are more at risk.
3. The programs are to specifically include a range of initiatives that can funded on an ongoing basis.
4. Liaise with NSW Health and WSROC to provide input into the proposed program.

**Amendment (Garrard/Christou)**

Add a point 5 as follows:

5. 'Investigate changes that can be made to our residential DCP to support the objectives of heat mitigation.'

The proposed Amendment was accepted by the Mover and Seconder of the Motion, and was incorporated to become the substantive Motion as follows:



**Motion (Farooqui/Hussein)**

That Council urgently bring a report to Council at its next meeting that seeks to:

1. Implement targeted programs across the Cumberland LGA that assists and provides relief for the community during the anticipated summer heat waves.
2. Ensure the programs cater for vulnerable groups within the community that are more at risk.
3. The programs are to specifically include a range of initiatives that can funded on an ongoing basis.
4. Liaise with NSW Health and WSROC to provide input into the proposed program
5. Investigate changes that can be made to our residential DCP to support the objectives of heat mitigation.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Christou, Colman, Cummings, Elmore  
Farooqui, Garrard, Hamed, Huang, Hughes,  
Hussein, Lake, Saha and Zaiter.

Councillor(s) Against the Motion: Nil.

Councillor Rahme left the Meeting at 7:55pm and returned at 8:00pm during the consideration of this item.

Councillor Rahme left the Meeting at 8:01pm during the consideration of this item.

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**Min. 510 C08/23-373 Notice of Motion - Withdraw Support of the Pilot FOGO Service****Motion (Christou/Garrard)**

Recognising the Lidcombe community's concern relating to the proposed Organic Waste Transfer Station, that this Council withdraw its support of the pilot FOGO service, previously promoted at Council's meeting of 18 May 2022.

The Motion on being Put was declared **LOST**.

Councillor(s) For the Motion: Christou, Garrard, Hughes and Rahme.

Councillor(s) Against the Motion: Colman, Cummings, Elmore, Farooqui,  
Hamed, Huang, Hussein, Lake, Saha and  
Zaiter.

During the consideration of this item, Councillor Garrard raised a Point of Order, claiming that Cllr Farooqi had misrepresented him by stating that he was not in support of FOGO.

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The Mayor, Councillor Lake requested Councillor Garrard resume his seat and allow Councillor Farooqui to finish her speech without interruption.

During the consideration of this item, whilst Cllr Christou was giving his right of reply, Councillor Huang made an application under clause 10.23 of the Code of Meeting Practise for permission to speak on the matter for a second time so as to clarify an alleged misrepresentation made by Cllr Christou. The Mayor ruled that there could be no further debate on the matter following Cllr Christou's right of reply.

Councillor Rahme returned to the Meeting at 8:02pm during the consideration of this item.

Councillor Elmore left the Meeting at 8:07pm and returned at 8:24pm during the consideration of this item.

Councillor Hamed left the Meeting at 8:11pm and returned at 8:24pm during the consideration of this item.

Councillor Elmore left the Meeting at 8:25pm and returned at 8:48pm during the consideration of this item.

Councillor Garrard left the Meeting at 8:28pm and returned at 8:30pm during the consideration of this item.

Councillor Cummings left the Meeting at 8:33pm and returned at 8:38pm during the consideration of this item.

Councillor Colman left the Meeting at 8:34pm and returned at 8:40pm during the consideration of this item.

Councillor Hamed left the Meeting at 8:43pm and returned at 8:48pm during the consideration of this item.

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#### **C08/23-374 Questions on Notice - Submitted by Councillor Huang**

The Questions on Notice were answered in the business paper for this Meeting.

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#### **Min. 511      Closed Session Reports**

At this stage of the meeting being 8:49pm, the Mayor advised that in accordance with Section 10A of the *Local Government Act 1993*, the meeting would now move into Closed Session to consider item C08/23-375 as the item contains the following:

*10A(2)(g) information involving advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*

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**Motion (Elmore/Huang)**

That in accordance with S.10A(2)(g) of the *Local Government Act 1993*, Council enter into Closed Session to continue to consider item C08/23-375 as it relates to advice concerning litigation.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Christou, Colman, Cummings, Elmore, Farooqui, Garrard, Hamed, Huang, Hughes, Hussein, Lake, Rahme, Saha and Zaiter.

Councillor(s) Against the Motion: Nil.

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**Min. 512      C08/23-375 Ongoing Instructions for Legal Proceedings - 13 John St, Lidcombe****Motion (Farooqui/Huang)**

That Council consider the offer of Piety to settle Supreme Court Proceedings No. 2022/38975 and resolve to take action in accordance with option 2 as contained in this report.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Christou, Colman, Elmore, Farooqui, Garrard, Hamed, Huang, Hughes, Hussein, Lake and Saha.

Councillor(s) Against the Motion: Rahme and Zaiter.

Councillor Hussein left the Meeting at 8:52pm and returned at 8:54pm during the consideration of this item.

Councillor Saha left the Meeting at 8:52pm and returned at 8:53pm during the consideration of this item.

Councillor Cummings left the Meeting at 9:02pm and did not return.

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**Min. 513      Open Session****Motion (Elmore/Hussein)**

That Council resume the public meeting.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Christou, Colman, Elmore, Farooqui, Garrard, Hamed, Huang, Hughes, Hussein, Lake, Rahme, Saha and Zaiter.

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Councillor(s) Against the Motion: Nil.

On resumption of the public meeting at 9:09pm, the Mayor, Councillor Lake read out the resolution made in Closed Session.

Councillor Garrard left the meeting at 9:09pm and did not return.

Councillor Hussein left the meeting at 9:09pm during the consideration of the item.

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### **Other/General Business**

Councillor Elmore advised that Council has an upcoming free compost giveaway (2x25L bags) where Cumberland residents can register and collect from the following sites:

- Auburn Community Picnic Ground on 9 September 2023
- Guildford Depot Guildford on 23 September 2023

Councillor Hussein returned to the Meeting at 9:10pm during General Business.

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The Mayor, Councillor Lake closed the meeting at 9:11pm.

Chairperson\_\_\_\_\_ General Manager\_\_\_\_\_