

4 March 2024

At 12.00 pm

## **Extraordinary Council**

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**Agenda**

- 1. Statement of Ethical Obligations and Disclosures of Interest**
- 2. Minutes by the Lord Mayor**
  - 2.1 Action on Asbestos
- 3. The City's Response to Contaminated Mulch**
- 4. Notices of Motion**
  - 4.1 City of Sydney Asbestos Crisis
  - 4.2 Asbestos in City of Sydney Parks
  - 4.3 Asbestos Contamination of City Parks and Gardens

## Item 1

### Statement of Ethical Obligations

In accordance with section 233A of the Local Government Act 1993, the Lord Mayor and Councillors are bound by the Oath or 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 Sydney and the City of Sydney Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act 1993 or any other Act, to the best of their ability and judgement.

### Disclosures of Interest

Pursuant to the provisions of the Local Government Act 1993, the City of Sydney Code of Meeting Practice and the City of Sydney Code of Conduct, Councillors are required to disclose and manage both pecuniary and non-pecuniary interests in any matter on the agenda for this meeting.

In both cases, the nature of the interest must be disclosed.

This includes receipt of reportable political donations over the previous four years.

**Item 2.1**

**Action on Asbestos**

Document to Follow

**Item 3**

**The City's Response to Contaminated Mulch**

Document to Follow

## Item 4.1

### Notices of Motion

#### City of Sydney Asbestos Crisis

By Councillor Scott

It is resolved that:

- (A) Council note:
- (i) asbestos in all forms is a carcinogenic mineral, resistant to heat, electricity and corrosion, extremely dangerous to humans when exposed to;
  - (ii) on 13 January 2024, a community request from Ms Natasha Moulton was passed onto the Chief Executive Officer, requesting confirmation that Greenlife was not part of the City's supply chain, along with a request to test all City parks;
  - (iii) on 15 January 2024, in response, the Chief Executive Officer provided advice to Councillors that Greenlife was not part of the City's supply chain, and that the request to test City parks was rejected;
  - (iv) on 12 February 2024, Councillors were advised via email that, following an Environment Protection Authority (EPA) notification to the City of Sydney, that mulch has tested positive for both bonded and friable asbestos contamination;
  - (v) first media reports about the asbestos concerns were at Monday 12 February 2024 at 10:06pm Australian Eastern Daylight Time, nearly 12 hours prior to fences or physical barriers to protect the City community going up;
  - (vi) the following sites across the City of Sydney have been confirmed to have asbestos contamination, with confirmation on the following dates:
    - (a) Rozelle Parklands - 10 January 2024;
    - (b) Belmore Park, Haymarket - 12 February 2024;
    - (c) Victoria Park, Camperdown - 12 February 2024;
    - (d) Harmony Park, Surry Hills - 12 February 2024 (friable asbestos);
    - (e) Munn Reserve, Millers Point - 17 February 2024;
    - (f) North Rosebery Park - 20 February 2024;
    - (g) Bicentennial Park between Glebe Point Road and Johnstons Creek - 20 February 2024 (friable asbestos);
    - (h) Bicentennial Park between Chapman Road and Johnstons Creek - 22 February 2024;

- (i) Jubilee Park - 22 February 2024;
  - (j) Wentworth Park - 22 February 2024;
  - (k) Harold Park - 22 February 2024;
  - (l) Wood Street Lands - 22 February 2024 (friable asbestos);
  - (m) Observatory Hill Park - 22 February 2024;
  - (n) Robyn Kemmis Reserve - 23 February 2024; and
  - (o) Giba Park - 26 February 2024;
- (B) Council formally refers this matter to the City of Sydney Audit, Risk and Compliance Committee, and requests the Chair to commission an independent investigation into the asbestos outbreak, with terms of reference to be determined by the City's Audit, Risk and Compliance Committee, which reports back to the Audit, Risk and Compliance Committee and Council; and
- (C) the Chief Executive Officer be requested to:
- (i) undertake testing for all City of Sydney early education and care centres, parks, playgrounds, garden beds and areas with mulch, and ensure results are publicly available on the City's website;
  - (ii) provide legal advice to Councillors on the legal and other liability risks to the Lord Mayor and Councillors;
  - (iii) provide advice to Councillors on the estimated resourcing implications, regulatory requirements, and steps undertaken to meet these requirements, by 8 March 2024;
  - (iv) provide a weekly briefing to Councillors on progress and precautions undertaken, and a daily update if and when changes are made to the City's asbestos register; and
  - (v) bring to Council a revised Budget with appropriate provisions for any future liability and other relevant expenses by May 2024.

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## Item 4.2

### Notices of Motion

#### Asbestos in City of Sydney Parks

By Councillor Jarrett

It is resolved that:

(A) Council note:

- (i) on 10 January 2024, mulch in the Rozelle Parklands was discovered to have been contaminated with asbestos;
- (ii) on 13 January 2024, a request was submitted to the Chief Executive Officer by Ms Natasha Moulton, asking the City to test all City parks for potential asbestos contamination;
- (iii) on 15 January 2024, the Chief Executive Officer provided advice that the request to test all City parks was rejected;
- (iv) on 19 January 2024, Councillors at the City of Sydney received an email from the Chief Executive Officer which stated "at the CoS mulch is generally replaced on a six-monthly to annual basis, the oldest mulch in the CoS was installed within a 24-month period. During this period the City has not sourced mulch for parks and open spaces from Greenlife Resource Recovery (the supplier named in the Rozelle Parklands issue);
- (v) on 12 February 2024, almost one month after this initial email was sent out by the Chief Executive Officer, Councillors received another email from the Chief Executive Officer confirming that after receiving notification by the NSW Environmental Protection Authority (EPA) on 8 February 2024, three City parks had returned positive results for asbestos contamination;
- (vi) the following sites across the City of Sydney have further been confirmed to have asbestos contamination, with confirmation on the following dates:
  - (a) Rozelle Parklands - 10 January 2024 ;
  - (b) Belmore Park, Haymarket - 12 February 2024;
  - (c) Victoria Park, Camperdown - 12 February 2024;
  - (d) Harmony Park, Surry Hills - 12 February 2024 (friable asbestos);
  - (e) Munn Reserve, Millers Point - 17 February 2024;
  - (f) Bicentennial Park - 19 February 2024 (friable asbestos);
  - (g) North Rosebery Park - 19 February 2024;



- (h) Honeykiss Park - 20 February 2024;
  - (i) Jubilee Park - 21 February 2024;
  - (j) Observatory Hill Park - 21 February 2024;
  - (k) Wood Street Lands - 22 February (friable asbestos);
  - (l) Harold Park - 22 February 2024;
  - (m) Wentworth Park – 22 February 2024;
  - (n) Robyn Kemmis Reserve – 23 February 2024; and
  - (o) Giba Park - 26 February 2024; and
- (vii) throughout the duration of this debacle, the Lord Mayor Clover Moore has not explained to ratepayers, users of our recreational facilities or anyone else affected by the asbestos contaminated parks, why the City chose not to take action before it was too late;
- (B) the Lord Mayor be requested to:
- (i) provide written advice explaining and justifying the inaction of the Council on behalf of the residents and ratepayers of the City of Sydney including why:
    - (a) the City rejected the call by Ms Moulton to test all City parks for potential asbestos contamination until prompted by the EPA approximately one month after the initial contamination in Rozelle Parklands; and
    - (b) the Lord Mayor has failed to exercise a duty of care in relation to the asbestos risk by not proactively prioritising testing and inquiries into the potential risk given the available and disturbing information and in keeping Councillors informed on behalf of the community and ratepayers safe and fully informed of the potential risks;
  - (ii) write to key stakeholders in the LGBTQIA+ community apologising for the City's partial responsibility for the cancellation of the Mardi Gras Fair Day at Victoria Park due to the lack of proactive investigation into the potential asbestos contamination of the City's parks; and
  - (iii) write to the key stakeholders in the Yabun Festival held on 26 January 2024 at Victoria Park apologising for the City's lack of communication regarding the lack of proactive investigation into the potential asbestos contamination of the City's parks and festivalgoers' potential exposure to asbestos considering Victoria Parks' positive contamination result after the festival had taken place; and

- (C) the Chief Executive Officer be requested to:
- (i) disclose how much it has cost and will continue to cost the City to:
    - (a) test all sites necessary where there may be asbestos contamination;
    - (b) construct fences, tape affected areas and install signs to keep the public out of harm's way;
    - (c) hire licensed asbestos removalists to clean up the sites;
    - (d) provide adequate insurance to cover any risk to Council resulting from Council's neglect to act and care for the community properly; and
    - (e) remediate all contaminated sites;
  - (ii) provide Councillors with a copy of the contract and tender documents that the City has with its mulch supplier/s and responses from suppliers concerning their testing practices; and
  - (iii) explain to Councillors via a CEO Update what compliance measures were implemented in the tender and contractual process undertaken by the City with its mulch supplier/s to ensure adherence to best practice and the law in avoiding the risk of asbestos exposure or harm to any person.

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**Item 4.3****Notices of Motion****Asbestos Contamination of City Parks and Gardens**

By Councillor Weldon

It is resolved that the Chief Executive Officer be requested to provide a report to Council:

- (A) detailing what steps staff took to investigate the possibility and determine the likelihood of asbestos contamination in City of Sydney parks and gardens, following the initial discovery of asbestos in Rozelle Parklands;
- (B) advising when the City was first notified by the NSW Environmental Protection Authority (EPA) of an increased risk of contamination and whether the EPA directed and determined the location of initial testing;
- (C) detailing the process for the testing of City parks and gardens, including who undertakes this work, how long it takes to get results, the confidence of these results, and the costs involved;
- (D) outlining the City's capacity to conduct testing, independent of EPA direction;
- (E) detailing the process for the remediation of contaminated sites, including who is responsible for undertaking this work, the health and safety measures workers are following, how the City is coordinating and prioritising remediation and the estimated timeline and cost; and
- (F) advising the process for notifying staff and contractors who have had direct exposure to mulch in contaminated sites and how the City is fulfilling its duty of care to these workers.

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