

## **MEETING NOTICE**

The **Ordinary Meeting** of  
**Bayside Council**  
will be held in the Rockdale Town Hall, Council Chambers,  
Level 1, 448 Princes Highway, Rockdale  
on **Wednesday 8 August 2018** at **7:00 pm**.

## **AGENDA**

### **1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

### **2 OPENING PRAYER**

### **3 APOLOGIES**

### **4 DISCLOSURES OF INTEREST**

### **5 MINUTES OF PREVIOUS MEETINGS**

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### **6 MAYORAL MINUTES**

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### **7 PUBLIC FORUM**

Members of the public, who have applied to speak at the meeting, will be invited to address the meeting.

Any item the subject of the Public Forum will be brought forward and considered after the conclusion of the speakers for that item.

### **8 REPORTS**

8.1 128 and 130-150 Bunnerong Road, Eastgardens - Meriton Voluntary  
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8.3 Bayside Council F6 Submission..... 155

8.4 The Future of the Fishermans Club- 100B Bestic Street, Kyeemagh ..... 198

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8.15	Community Representatives - Sydney East Planning Panel and Bayside Local Planning Panel .....	481
<b>9</b>	<b>MINUTES OF COMMITTEES</b>	
9.1	Minutes of the Sport & Recreation Committee Meeting - 16 July 2018 .....	483
9.2	Minutes of the Finance & Asset Management Committee Meeting - 30 July 2018.....	490
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<b>10</b>	<b>NOTICES OF MOTION</b>	
	Nil	
<b>11</b>	<b>QUESTIONS WITH NOTICE</b>	
<b>12</b>	<b>CALL FOR RESCISSION MOTIONS</b>	

The meeting will be video recorded and live streamed to the community via Council's Facebook page, in accordance with Council's Code of Meeting Practice.

Meredith Wallace  
**General Manager**

## Council Meeting

8/08/2018

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Item No	5.1
Subject	<b>Minutes of the Council Meeting - 11 July 2018</b>
Report by	Michael Mamo, Director City Performance
File	SF17/2775

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## Officer Recommendation

That the Minutes of the Council meeting held on 11 July 2018 be confirmed as a true record of proceedings.

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## Present

Councillor Bill Saravinovski, Mayor  
Councillor Joe Awada, Deputy Mayor  
Councillor Liz Barlow  
Councillor Christina Curry  
Councillor Tarek Ibrahim  
Councillor James Macdonald  
Councillor Ed McDougall  
Councillor Scott Morrissey  
Councillor Michael Nagi  
Councillor Vicki Poulos  
Councillor Dorothy Rapisardi  
Councillor Paul Sedrak  
Councillor Andrew Tsounis

## Also Present

Meredith Wallace, General Manager  
Michael McCabe, Director City Futures  
Debra Dawson, Director City Life  
Michael Mamo, Director City Performance  
Colin Clissold, Director City Presentation  
Fausto Sut, Manager Governance & Risk  
Matthew Walker, Manager Finance  
Clare Harley, Manager Strategic Planning  
Samantha Urquhart, Manager Property  
Hayla Doris, Manager Recreation and Community Services  
Karin Targa, Major Projects Director  
Vincenzo Carrabs, Head of Communications & Events  
Matthew Torta, IT Support Officer  
Anne Suann, Governance Officer

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The Mayor opened the meeting in the Council Chambers, Rockdale Town Hall, Level 1, 448 Princes Highway, Rockdale at 7.09 pm.

The Mayor informed the meeting, including members of the public, that the meeting is being video recorded and live streamed to the community via Council's Facebook page, in accordance with Council's Code of Meeting Practice.

## **1 Acknowledgement of Traditional Owners**

The Mayor affirmed that Bayside Council respects the traditional custodians of the land, elders past and present and future leaders, on which this meeting takes place, and acknowledges the Gadigal and Bidjigal Clans of the Eora Nation.

## **2 Opening Prayer**

Senior Minister Steve Bryan from St John's Anglican Church in Rockdale opened the meeting in prayer.

## **3 Apologies**

RESOLUTION

Minute 2018/139

Resolved on the motion of Councillors Tsounis and Awada

That the following apologies be received and leave of absence granted:

- Councillor Ron Bezic
- Councillor Petros Kalligas

## **4 Disclosures of Interest**

Councillor Ibrahim declared a Less than Significant Non-Pecuniary Interest in Item 8.3 on the basis that he lives several blocks away from the development, but stated he would remain in the Chamber for consideration and voting on the matter because it won't impact on his property.

## **5 Minutes of Previous Meetings**

### **5.1 Minutes of the Council Meeting - 13 June 2018**

RESOLUTION

Minute 2018/140

Resolved on the motion of Councillors Tsounis and Nagi

That the Minutes of the Council meeting held on 13 June 2018 be confirmed as a true record of proceedings.



## **5.2 Minutes of the Extraordinary Council Meeting - 27 June 2018**

### **RESOLUTION**

Minute 2018/141

Resolved on the motion of Councillors Nagi and Poulos

That the Minutes of the Extraordinary Council meeting held on 27 June 2018 be confirmed as a true record of proceedings.

## **6 Mayoral Minutes**

### **6.1 Mayoral Minute - Recognition of Contribution to Community by Dick Caine**

The Mayor, Councillor Saravinovski, and Councillor Macdonald presented Mr Caine with a Certificate of Recognition for his significant contribution to sport at the Dick Caine Gym and Olympic Pool in Carss Park areas over many decades. The Mayor acknowledged Mr Caine for a lifetime dedicated to coaching many World and Olympic Champions, as well as tireless fundraising activities over the years for a wide range of charities.

### **RESOLUTION**

Minute 2018/142

Resolved on the motion of Councillors Saravinovski

That the Mayoral Minute be received and noted.

### **6.2 Mayoral Minute - Bayside Enterprise Agreement**

The Mayor, Councillor Saravinovski, accompanied by the Member for Rockdale, Mr Stephen Kamper, MP, presented Mayoral Minutes to members of the Union and staff negotiating team who developed the new Bayside Enterprise Agreement.

### **RESOLUTION**

Minute 2018/143

Resolved on the motion of Councillors Saravinovski

- 1 That the Mayoral Minute be received and noted.
- 2 That Council thank the unions and the staff negotiating team for their efforts in achieving the first harmonised salary and employment conditions agreement for an amalgamated council, as listed below:

Members of the Union:

- Graeme Kelly, General Secretary, United Services Union
- Gordon Brock, Director, Local Government Engineers Association
- Ian Robertson, Secretary, The Development and Environmental Professionals' Association

Members of the staff negotiating team:

- Ben Thompson
- Dennis Café
- Pascal Van De Walle
- Ross Santonoceto
- Michael Azzi
- Glenn Ritchie
- Peter Ward
- Kara Adams
- Linda Parkes
- Terri Smeith
- Eric Bohme
- Jan Nash.

### **6.3 Mayoral Minute - Certificate of Recognition, Mr George Lundy, President Pagewood Botany Football Club**

The Mayor, Councillor Saravinovski, and Councillors Curry and Morrissey presented Mr Lundy with a Certificate of Recognition for his significant contribution as a volunteer administrator of the Pagewood Botany Football Club and for the local community youth development.

RESOLUTION

Minute 2018/144

Resolved on the motion of Councillors Saravinovski

That the Mayoral Minute be received and noted.

## **7 Public Forum**

Details associated with the presentations to the Council in relation to items on this agenda can be found in the individual items.

### **8.3 Planning Proposal - Post-Exhibition Report: 75-81 Railway Street, Rockdale**

Councillor Ibrahim had previously declared a Less than Significant Non-Pecuniary Interest.

Mr Giovanni Cirillo, planning consultant from Planning Lab, speaking for the Officer Recommendation, addressed the Council.

#### **RESOLUTION**

Minute 2018/145

Resolved on the motion of Councillors Nagi and Ibrahim

- 1 That, in accordance with Section 3.36(2) of the Environmental Planning and Assessment Act 1979, Council exercise its delegation and make the Local Environmental Plan amendment, as exhibited, for 75-81 Railway Street, Rockdale.
- 2 That Council consider the recommendation of the Bayside Planning Panel on 1 May 2018 to make the amendment to the Rockdale Local Environmental Plan 2011.
- 3 That Council note that a separate report has been tabled in relation to the Voluntary Planning Agreement for the site and that the Voluntary Planning Agreement will be registered on title prior to amendment of the Rockdale Local Environmental Plan 2011 in relation to 75-81 Railway Street, Rockdale.

Division called by Councillors Nagi and Ibrahim

For: Councillors Tsounis, Saravinovski, Sedrak, Morrissey, Curry, Rapisardi, Nagi, Ibrahim, Poulos, McDougall, Macdonald, Barlow and Awada

The Motion was carried.

### **8.4 Voluntary Planning Agreement, 75-81 Railway Street, Rockdale**

#### **RESOLUTION**

Minute 2018/146

Resolved on the motion of Councillors Nagi and Ibrahim

- 1 That Council notes the outcomes of the exhibition of the Voluntary Planning Agreement (VPA) for 75-81 Railway Street, Rockdale.
- 2 That Council adopts an amendment to the VPA as offered by Zoe Holdings Rockdale which results in the delivery of works and land dedication for both Option A and B combined.
- 3 That Council acknowledges the amendment is not required to be notified.

- 4 That the Council authorises the General Manager to finalise the commercial terms associated with the VPA and execute the relevant documentation.

Division called by Councillors Nagi and Ibrahim

For: Councillors Tsounis, Saravinovski, Sedrak, Morrissey, Curry, Rapisardi, Nagi, Ibrahim, Poulos, McDougall, Macdonald, Barlow and Awada

The Motion was carried.

### **8.11 Proposed Off-Leash Dog Areas at Kyeemagh - Community Engagement Outcomes**

Miss Isabella Gale, speaking for the Officer Recommendation, addressed the Council.

Mr Gary Rosenberg, speaking for the Officer Recommendation, addressed the Council.

#### **RESOLUTION**

Minute 2018/147

Resolved on the motion of Councillors McDougall and Nagi

- 1 That Council notes the results of the community consultation regarding the establishment of off-leash dog parks at Lady Robinson's Beach Kyeemagh and Lance Studdert Reserve, Bestic Street Kyeemagh.
- 2 That Council defers the establishment of the off-leash dog area proposed at Lance Studdert Reserve, based on the support of stakeholders responding to survey until such time as a holistic plan can be considered for that park.
- 3 That Council notes the feedback from local residents and others regarding the establishment of an off-leash dog area at Lady Robinson's Beach, Kyeemagh.
- 4 That Council proceeds with a timed (4pm – 10 am daily) off-leash dog area at Lady Robinsons Beach, Kyeemagh, with an allocation of \$180,000 in the Capital Works Program being utilised for this purpose.
- 5 That the Director City Life report to the Sport and Recreation Committee on the operation and compliance of the off-leash area after six months of commencement.

The Mayor, Councillor Saravinovski, and Councillor McDougall, accompanied by the Member for Rockdale, Mr Stephen Kamper, MP, presented a Certificate of Recognition to Bella Gale in recognition of her enthusiastic community commitment to helping improve Council's off-leash dog parks for the benefit of all our residents.

## 8 Reports

### 8.1 Development of a Bayside Local Environmental Plan, Local Strategic Planning Statements and Development Control Plan

#### RESOLUTION

Minute 2018/148

Resolved on the motion of Councillors Tsounis and Nagi

- 1 That Council supports the preparation of the Bayside Local Environmental Plan, Local Strategic Planning Statements and Development Control Plan in accordance with the requirements of the recently amended *Environmental Planning and Assessment Act 1979* and the Eastern City District Plan.
- 2 That Council prepares and implements a comprehensive Stakeholder Engagement Plan to inform the preparation of Bayside Council's new planning framework.

Division called by Councillors Tsounis and Nagi

For: Councillors Tsounis, Saravinovski, Sedrak, Morrissey, Curry, Rapisardi, Nagi, Ibrahim, Poulos, McDougall, Macdonald, Barlow and Awada

The Motion was carried.

### 8.2 Planning Proposal - 119 Barton Street, Monterey

#### MOTION

Motion moved by Councillors Macdonald and Tsounis

- 1 That Council endorse the Planning Proposal for Gateway Determination based on the recommendation of the Bayside Planning Panel dated 1 May 2018.
- 2 That Council submit the draft Planning Proposal for 119 Barton Street, Monterey to the Department of Planning and Environment, for a Gateway Determination, pursuant to section 3.34 of the Environmental Planning & Assessment Act 1979 (EP&A Act).

Division called by Councillors Macdonald and Tsounis

For: Councillors Tsounis and Macdonald

Against: Councillors Saravinovski, Sedrak, Morrissey, Curry, Rapisardi, Nagi, Ibrahim, Poulos, McDougall, Barlow and Awada

The Motion was lost.

**FORESHADOWED MOTION**

Foreshadowed Motion moved by Councillor Nagi and Poulos

That the Planning Proposal for Gateway Determination not be supported.

The Foreshadowed Motion became the Motion.

**MOTION**

Motion moved by Councillor Nagi and Poulos

That the Planning Proposal for Gateway Determination not be supported.

Division called by Councillors Nagi and Poulos

For: Councillors Tsounis, Saravinovski, Sedrak, Morrissey, Curry, Rapisardi, Nagi, Ibrahim, Poulos, McDougall, Macdonald, Barlow and Awada

The Motion was carried.

**RESOLUTION**

Minute 2018/149

Resolved on the motion of Councillors Macdonald and Tsounis

That the Planning Proposal for Gateway Determination not be supported.

**8.5 Stronger Communities Fund Reporting Major Projects****RESOLUTION**

Minute 2018/150

Resolved on the motion of Councillors Nagi and Tsounis

That Council approves the Stronger Communities Fund 6 monthly Major Projects report for the period from 1 January – 30 June 2018 to be submitted to the NSW Office of Local Government.

**8.6 Lever Street Reserve Landscape Masterplan****RESOLUTION**

Minute 2018/151

Resolved on the motion of Councillors Nagi and Sedrak

That Council endorses the Lever Street Reserve Landscape Masterplan as attached to this report.

## **8.7 Linear Park Mascot**

### **RESOLUTION**

Minute 2018/152

Resolved on the motion of Councillors Ibrahim and Nagi

- 1 That Council receives and notes the content of the report.
- 2 That Council acknowledges the advice received from the Member for Heffron regarding Sydney Water's intentions for Linear Park and notes that the remediation works being undertaken are being funded by Sydney Water.
- 3 That Council acknowledges the limited scope of works and the potential maintenance issues associated with the protective turf layer and crushed sandstone pathway.
- 4 That Council notes that no lighting is to be provided within the park, and that the provision of solar lighting be investigated by Council.
- 5 That Council notes that a proportion of the funding remaining in Section 94 for Linear Park may be required to be spent following completion of the Sydney Water program with the remainder able to be reallocated to other Section 94 projects, particularly those that enhance open space.

## **8.8 Rowland Park Amenities and Playground Upgrade**

### **RESOLUTION**

Minute 2018/153

Resolved on the motion of Councillors Morrissey and Curry

- 1 That the report be received and noted.
- 2 That Council endorses the design for the Rowland Park amenities upgrade and proceed to Tender Documentation for the Rowland Park Amenities and implementation of the Stage 1 works.
- 3 That Council endorses the final Masterplan for Rowland Park playground renewal and embellishments and proceed to Tender Documentation for the Rowland Park Amenities.
- 4 That Council notes that additional funding may be required to provide the youth activities (ping-pong table and basketball practise area) and BBQ facilities.

## **8.9 Acquisition of Land Reservation 8 Guinea Street, Kogarah**

### **RESOLUTION**

Minute 2018/154

Resolved on the motion of Councillors Tsounis and Barlow

- 1 That Attachments 3 and 6 to this report be withheld from the press and public as they are confidential for the following reason:

With reference to Section 10(A) (2) (c) of the Local Government Act 1993, the attachments relate to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.

- 2 That Council authorise the purchase of 8 Guinea Street, Kogarah for the agreed figure tabled in this report.
- 3 The purchase of 8 Guinea Street, Kogarah (including expenses and demolition be funded from the Rockdale Section 94 Contributions Plan 2004 (Old Plan Carried Forward).
- 4 That the General Manager be authorised to finalise the terms of the acquisition.
- 5 That the General Manager be authorised to sign, where required, all documentation required to finalise this matter.
- 6 That Council resolve to classify 8 Guinea Street, Kogarah as community land (in accordance with the Local Government Act 1993).

## **8.10 Acquisition of Land Reservation at 27 Downey Street, Bexley**

### **RESOLUTION**

Minute 2018/155

Resolved on the motion of Councillors Ibrahim and Nagi

- 1 That Attachments 3 and 6 to this report be withheld from the press and public as they are confidential for the following reason:

With reference to Section 10(A) (2) (c) of the Local Government Act 1993, the attachments relate to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.

- 2 That Council authorise the purchase of 27 Downey Street, Bexley for no more than the upper end valuation range tabled in the Commercial Terms at Attachment 6 in this report.



- 3 That Council vote funds from Section 94 contributions Plan 2004 to cover all acquisition expenses and demolition of the existing premises.
- 4 That the General Manager be authorised to finalise the terms of the acquisition.
- 5 That the General Manager be authorised to sign, where required, all documentation required to finalise this matter.
- 6 That Council resolve to classify 27 Downey Street, Bexley as Community Land (in accordance with the Local Government Act 1993).

### **8.12 Draft WARR Strategy 2030**

#### RESOLUTION

Minute 2018/156

Resolved on the motion of Councillors Nagi and Tsounis

- 1 That Council endorse the Policy titled “Waste Avoidance and Resource Recovery Policy”.
- 2 That Council endorse the Strategy titled “Waste Avoidance and Resource Recovery Strategy 2030”.

### **8.13 Council Organisational Structure**

#### RESOLUTION

Minute 2018/157

Resolved on the motion of Councillors Morrissey and Nagi

That the existing structure of Bayside Council, as outlined in this report, be confirmed as appropriate.

### **8.14 Delegations to the General Manager**

#### RESOLUTION

Minute 2018/158

Resolved on the motion of Councillors Nagi and Tsounis

- 1 That the General Manager be delegated all of the functions of the Council other than those specified in Section 377(1) of the Local Government Act 1993.
- 2 That the General Manager also be delegated the function relating to the granting of financial assistance subject to the limitations specified in section 377(1A) of the Local Government Act.

**8.15 Statutory Financial Report for May 2018**

## RESOLUTION

Minute 2018/159

Resolved on the motion of Councillors Tsounis and Macdonald

That the Statutory Financial Report by the Responsible Accounting Officer be received and noted.

**8.16 Conference Attendance Report - National General Assembly Local Government, Canberra**

## RESOLUTION

Minute 2018/160

Resolved on the motion of Councillors Nagi and Macdonald

- 1 That the report be received and noted.
- 2 That the Councillors' reports included in this summary, inform their individual professional development plan for 2018.

**9 Minutes of Committees****9.1 Minutes of the Risk & Audit Committee Meeting - 24 May 2018**

## RESOLUTION

Minute 2018/161

Resolved on the motion of Councillors Nagi and Tsounis

That the Minutes of the Risk & Audit Committee meeting held on 24 May 2018 be received and the recommendations therein be adopted.

**9.2 Minutes of the Community Relations Committee Meeting - 25 June 2018**

## RESOLUTION

Minute 2018/162

Resolved on the motion of Councillors Nagi and Macdonald

That the Minutes of the Community Relations Committee meeting held on 25 June 2018 be received and the recommendations therein be adopted with the exception of

Item 5.3, and subject to Councillor Barlow having her name recorded as voting against Item 5.2.

**9.5 Item 5.3 Minutes of the Community Relations Meeting 25 June 2018  
- Ramadan Food Festival 2019**

RESOLUTION

Minute 2018/163

Resolved on the motion of Councillors Nagi and Macdonald

- 1 That the Committee endorses a Ramadan Food Festival 2019 to proceed to Council for decision and allocation of planning, financial and staffing resources.
- 2 That Council formally thanks Canterbury Bankstown for the hospitality shown during the attendance of Bayside Council Committee members and Senior Staff, at their Lakemba Food event in June 2018.
- 3 That the Committee endorses the Ramadan Food Festival to run for up to 30 days of Ramadan in 2019.
- 4 That Councillor Nagi be elected as Chair of the Committee to have oversight of the event, in consultation with the Mayor and General Manager and that the Committee structure be determined by the Chair.

**9.3 Minutes of the Public Works & Maintenance Committee Meeting - 2 July 2018**

RESOLUTION

Minute 2018/164

Resolved on the motion of Councillors Rapisardi and Macdonald

That the Minutes of the Public Works & Maintenance Committee meeting held on 2 July 2018 be received and the recommendations therein be adopted.

**9.4 Minutes of the Bayside Traffic Committee Meeting - 4 July 2018**

RESOLUTION

Minute 2018/165

Resolved on the motion of Councillors Tsounis and McDougall

That the Minutes of the Bayside Traffic Committee meeting held on 4 July 2018 be received and the recommendations therein be adopted.

## **10 Notices of Motion**

There were no Notices of Motion.

## **11 Questions With Notice**

There were no Questions With Notice.

## **12 Call For Rescission Motions**

There were no Rescission Motions lodged at the meeting.

The Mayor closed the meeting at 9:04 pm.

Councillor Bill Saravinovski  
**Mayor**

Meredith Wallace  
**General Manager**

## **Attachments**

Nil

## **Council Meeting**

**8/08/2018**

Item No	6.1
Subject	<b>Mayoral Minute - The Big Drought Appeal</b>
File	SF17/2775

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## **Motion**

That Council recognise and supports our rural NSW farming communities who are facing a devastating drought by making a \$5,000 donation to The Big Dry Drought Appeal.

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## **Mayoral Minute**

For most of us, it is difficult to imagine what it is like to live in Rural Australia. In the Fifties we saw Australia grow on the back of its sheep and cattle.

Sadly today the reality is that our rural farmers and their families have been crippled, brought to their knees, by a merciless drought that continues to this day, killing their livestock and leaving farming families struggling financially and emotionally.

We must do something to help them and so I ask my fellow Councillors to join me in supporting The Big Drought Appeal by offering a significant donation to help our country men and women.

The Big Dry Drought Appeal is a partnership between Fairfax Media, Macquarie Radio and the 'Buy A Bale' charity whose members are delivering essential relief to drought-stricken farmers across a burnt rural landscape that stretches across New South Wales.

All money donated to The Big Dry Drought Appeal is used to purchase vital feed and water for their starving remaining livestock and for the purchase of essential amenities for their deserving families.

This is a perilous period of drought and those of us who have the luxury of city living should willingly support our farming communities and so I propose Council support The Big Dry Drought Appeal with a donation of \$5,000.

Council's donation will be added with others and will go a long way to ensure that our NSW rural communities are receiving some relief from this devastating drought.

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## **Attachments**

Nil

## **Council Meeting**

**8/08/2018**

Item No	8.1
Subject	<b>128 and 130-150 Bunnerong Road, Eastgardens - Meriton Voluntary Planning Agreement Offer</b>
Report by	Michael McCabe, Director City Futures
File	F18/740

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## **Summary**

In April 2017 Meriton lodged a draft Planning Proposal with Bayside Council for the site known as BATA II at 128 and 130-150 Bunnerong Road, Eastgardens.

In August 2017 Meriton requested that the NSW Department of Planning and Environment issue a Pre-Gateway Review as Council had not determined the rezoning application within 90 days.

In December 2017, a Gateway Determination was issued by the Department of Planning and Environment outlining that Council is now Relevant Planning Authority and that the Planning Proposal be placed on public exhibition. Therefore, the Planning Proposal was not considered by the Bayside Planning Panel or Bayside Council prior to the Gateway Determination.

A Draft Letter of Offer from Meriton to enter into a Voluntary Planning Agreement (VPA) for 128 and 130-150 Bunnerong Road, Eastgardens has been received by Council.

This report profiles the offer and recommends that Council request amendments to the offer prior to public exhibition.

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## **Officer Recommendation**

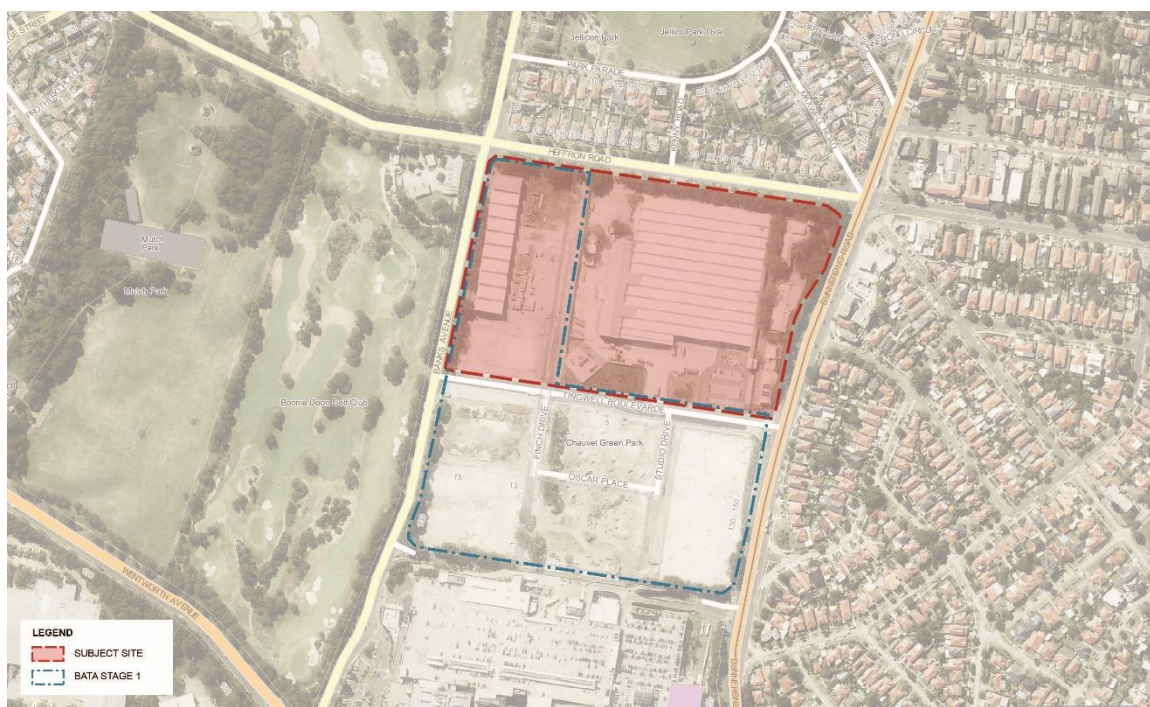
That Council draft a Voluntary Planning Agreement in relation to 128 and 130-150 Bunnerong Road, Eastgardens (known as BATA II) for public exhibition for a period of 28 days as profiled in Table 2 of this report.

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## **Background**

BATA I is an 'L' shaped land parcel edged in blue as illustrated below being the Southern and Western area of land.

BATA II is a rectangular shaped land parcel coloured in red (North Eastern corner) but also includes a portion of land to the Western side that overlaps BATA I.



## BATA I Summary

Council entered into a Voluntary Planning Agreement with Karimbla Properties in relation to the development of 130-150 Bunnerong Road, Eastgardens on 7 August 2015.

The agreement included:

- Providing a monetary contribution of \$10.5 million to Council for upgrade of intersections on Wentworth Avenue, upgrades to Jellicoe Park, improvements to Munch Park and the balance of funds on other defined public works.
- Other works contributions included:
  - a. Dedication at no cost to Council approximately 8,000 sqm of publically available open space (Central Park).
  - b. Dedication at no cost to Council approximately 2,700 sqm of publically available open space.
  - c. Embellish and dedicate road, East West Boulevard, Civic Avenue, Road Lot 2 North South, Road Lot 4 and Road Lot 5 North South Street and Local Road Lot 6.
  - d. Design and Construct traffic lights at Banks Avenue and Heffron Road.
  - e. Design and construct traffic lights at Bunnerong Road and Heffron Road, Maroubra Road.

BATA I was determined pursuant to section 34 of the *Land and Environment Court Act* and provided for:

- Subdivision into seven lots.
- Subdivision for parks being Central and Linear Park.

- Subdivision into Lots for public road.
- An indicative maximum of 2223 residential apartments, up to 5000 sqm of retail space and four child care centres.

See **Attachment 1** – Land and Environment Court Orders August 2015 and associated tables.

### **BATA II – Summary**

The land that forms part of BATA II incorporates Lot 2 in Deposited Plan 1187426 with a site area of approximately 60,800 sqm and 28,600sqm that overlaps BATA I with a total site area subject to the proposal 89,500 sqm.

The land is currently zoned part IN1 General Industrial and part R3 Medium Density (BATA I).

In December 2017, a Gateway Determination was issued by the Department of Planning and Environment for BATA II - See **Attachment 2** – Gateway Determination

The planning proposal includes the following elements:

- Rezoning of Lot 1 from IN 1 General Industrial to R4 High Density Residential.
- Rezoning of part lot 2 from R3 Medium Density Residential to R4 High Density Residential.
- Increasing FSR from 1:1 to 2.35:1.
- Increasing the Height Limit from 11m -32m to part 28 metres and part 65 metres.
- A Draft Masterplan

### **Voluntary Planning Agreement Offer**

A Draft Letter of Offer to enter into a Voluntary Planning Agreement for 128 and 130-150 Bunnerong Road, Eastgardens has been received by Council.

VPAs are provided for in s7.4 of the *Environmental Planning & Assessment Act 1979* ('**EPA Act**'). VPAs enable planning authorities and developers to negotiate the provision by developers of public infrastructure, facilities and benefits in the planning process. These can be in addition to, or in substitution for, development contributions and works obligations imposed by development consent conditions VPAs can be used in connection with *planning proposals* or *development applications* ('**DAs**') under the EPA Act

See **Attachment 4**– Meriton Covering Letter to offer

See **Attachment 5** - Meriton Voluntary Letter of Offer

See **Attachment 6** – Meriton Masterplan Concept

The key elements of the offer are outlined below:

- Dedication of Affordable Housing Units with a total of 100 bedrooms located within Stage 1 of the Pagewood Green Development – delivered circa 2020



- A single Monetary Contribution of \$23,900,000 (GST exclusive) provided up front circa 2020
- Dedication of approximately 20,000 sqm of Public Open Space. The embellishment works only for the net increase of 17,300sqm to be offset against the Section 7.11 (section 94) contributions.
- The VPA excludes 7.11 (sect 94) contributions. However, Meriton request that all contributions be capped at the existing \$20,000 cap and that the affordable housing component be excluded from contributions payable.

### **Community Benefit as Part of Value Uplift**

In terms of the legislation and supporting Department of Planning and Environment's Guidance Notes, Councils are encouraged to develop a Voluntary Planning Proposal Policy to encourage transparency and consistency in the process. Council is in the process of preparing Draft VPA Policy for Council consideration and adoption.

Typical VPA policies are linked to 'value capture' and may seek affordable housing outcomes. Value capture is most commonly used in proponent initiated Planning Proposals which seek increased density or zoning changes. Bayside Council does not have a published policy however to date in lieu of a specific policy Council's practice has been to benchmark a 50% value capture requirement.

Hill PDA were appointed to undertake an assessment of the Value Uplift, given the significant size of the proposed BATA II development with total yield potentially exceeding 1589 (net yield) apartments, retail and commercial spaces and a 20 year development program.

The assessment identified a residual land value, per apartment of \$265,000 based on a hypothetical building of 120 apartments. (refer **Attachment 3** – Hill PDA Value Uplift Assessment) Assumptions in the financial model included:

- 1 Professional/application fees – 9%
- 2 Construction - \$376,000 per apartment plus parking \$45,000 per space, \$17,000 for balcony and \$7,500 for site costs
- 3 7.11 (Section 94) Charges \$20,000 per unit
- 4 Revenue \$12,600 per sqm less sale costs with sales volumes at 160 apartments per annum
- 5 Finance, equity plus 6% interest per annum

Performance indicators or returns deemed acceptable to the market were adopted at a target Internal Rate of Return of 18% and development margin of 25%. The Residual Land Value was attributed to the marginal apartments over a 20 year cash flow which discounted it at 6% per annum (reflecting a land holding discount rate) and deducted various costs (such as demolition, remediation, roads and services, etc.) to derive a present value of the uplift.

The base case assumed that the affordable housing which has a negative impact on development returns, would be delivered on the final stages, as would be the market expectation.

The value uplift was determined at \$73.5 million and if Council considers a 50% share as an acceptable target value uplift share this equates to a \$36.6 million share or \$23,000 per apartment in today's values. A mechanism would then be put in place to accommodate escalation over the project time frame with payment on Occupation Certificate for the various stages in BATA II.

As part of Council's negotiations and given the extended development time frame, we have requested that the developer consider the delivery of the affordable housing and potentially the value share uplift at an earlier stage in the development or within soon to be constructed buildings in BATA I. Given the earlier payments or delivery, this has a negative impact on the value uplift. However, Council would receipt the returns earlier as opposed to receiving them proportionally throughout construction of BATA II.

If Council was to receipt the affordable housing as part of BATA I (or year 2020), then the value uplift would be reduced to \$60.2 million and resultant value share reduces to \$30.1 million.

### Offer Analysis

The offer of \$23.9 million equates to about 40% of the value uplift as determined by Council's consultants', Hill PDA. The park would be dedicated with no value apportioned to the land, however the park embellishment would be offset against the section 7.11 charges for the net increase in open space dedication from BATA I as determined by an independent QS.

**Table 1 - BATA I Comparison with BATA II**

	BATA I	BATA II	Total
Units	2,223	1,589	3,812
Cash Contribution	\$10,500,000	<b>\$23,900,000</b> (Botany Aquatic, Hensley etc)	\$34,400,000
Per unit contribution	\$4,723	<b>\$15,040</b>	
Offset (Estimate) Section 94 (7.11)	\$NIL	<b>(\$6,293) per dwelling</b>	
NET PER UNIT	\$4,723	<b>\$8,747</b>	
Park	11,700sqm	<b>17,300 sqm</b> <b>(\$10 million)</b>	29,000sqm
Affordable Housing	NIL	<b>100 bedrooms</b> <b>(equivalent to say 50 units)</b>	<b>100 bedrooms</b>

We have tabled the Draft Letter of Offer, received from Meriton, with suggested amendments for Council to consider in adopting the proposal. Noting that Council will seek further legal advice during the drafting process.

**Table 2 – Tabulated VPA Offer**

Tabulated VPA offer	Council's Position
<b>LEP Amendment:</b> Means to rezone the Land to R4 High Density Residential (with provisions for retail, seniors living and hotel uses to be permissible with consent) and achieve a minimum FSR of 2.35:1 (excluding any the affordable housing provision) and heights at least 91mAHD (or higher if supported by a controlled activity approval).	Delete reference to 'minimum' FSR.
<b>Development:</b> Means the future development of the Land subject to and in accordance with the LEP Amendment including the construction of a mixed use / residential development with associated roads and open space across a range of stages (Commonly referred to as Eastgardens Green (Part II)).	Noted
Principles:  The offer is contingent on all of the following matters:	
<ul style="list-style-type: none"> <li>• Gazettal of the LEP Amendment to rezone the Land to R4 High Density Residential (with provisions for retail, seniors living and hotel uses to be permissible with consent) and achieve a minimum FSR of 2.35:1 (excluding any the affordable housing provision) and heights up to 20 storeys (higher if supported by CASA)</li> </ul>	Delete reference to 'minimum' FSR.
<ul style="list-style-type: none"> <li>• Approval of a Stage 1 Masterplan DA covering the Land that achieves the maximum permitted height and density of the LEP Amendment generally in accordance with the plan in Appendix A.</li> </ul>	Noted
<ul style="list-style-type: none"> <li>• Approval of the Stage 1 Masterplan DA must not include any conditions that exceed the provisions of SEPP65/ADG (that may change from time to time).</li> </ul>	Noted
<ul style="list-style-type: none"> <li>• Approval of the Stage 1 Masterplan DA must adopt the minimum residential parking rates in our Planning Proposal (i.e. 0.5spaces per ST/1B; 1spaces per 2B; and 1.5spaces per 3+B)</li> </ul>	Not Agreed
<ul style="list-style-type: none"> <li>• Approval of the Stage 1 Masterplan without any requirements for design competitions for the Development. (Note – there will be a separate design excellence strategy outlined in the revised PP to ensure the use of various tier 1 architects throughout the development)</li> </ul>	Noted

<b>Tabulated VPA offer</b>	<b>Council's Position</b>
The Developer agrees to provide the following public benefits:	
<ul style="list-style-type: none"> <li>Recognition of Meriton's contribution to the area by the naming of future public elements after Meriton (roads, open space etc).</li> </ul>	Not Agreed
<ul style="list-style-type: none"> <li>Dedication of Affordable Housing Units (AHU's) to Bayside Council with a total of 100 bedrooms located within Part 1 of our Eastgardens Green development (subject of DA14/96). The AHU's will be identified at Meriton's discretion and with a preference for a higher proportion of 3-bedroom apartments. The units are to be used in-perpetuity for the purpose of providing affordable / key-worker housing for the local area and be managed by a registered Community Housing Provider. The units will be finished to a standard Meriton specification (to be included in an annexure to the VPA).</li> </ul>	Noted – Additional conditions of Council required including selection process of units and operation in perpetuity.
<ul style="list-style-type: none"> <li>A single Monetary Contribution of \$23,900,000 (GST exclusive) that will be utilised by the Council to fund works or acquisitions inclusive of but not limited to upgrade to Hensley Athletic Field, upgrade to Botany Aquatic Centre and to other local public facilities that would benefit future residents of the Development in agreement with the Developer.</li> </ul>	Noted
<ul style="list-style-type: none"> <li>A Local Contribution payment of \$20,000 per residential dwelling/apartment in the Development.</li> </ul>	Not Agreed – Payable as per Council's Adopted Development Contributions Plan at any time in the future.
<ul style="list-style-type: none"> <li>Dedication of all nominated Public Roads as generally indicated on the plan in <b>Attachment 6</b></li> </ul>	Noted
<ul style="list-style-type: none"> <li>Dedication of approximately 20,000m<sup>2</sup> (2ha) of Public Open Space throughout the Development as generally indicated on the plan in <b>Attachment 6</b></li> </ul>	Noted – Council's Botany Bay Development Contribution Plan 2016 as amended (2018) identifies the need for Council to acquire land as public reserve.
<b>Timing:</b>	
<ul style="list-style-type: none"> <li>AHU's – Prior to any Construction Certificate for residential GFA under the Development</li> </ul>	Noted
<ul style="list-style-type: none"> <li>Monetary Contribution – Prior to any Construction Certificate for residential GFA under the Development</li> </ul>	Noted

Tabulated VPA offer	Council's Position
<ul style="list-style-type: none"> <li>Local Contribution – Prior to any Construction Certificate for each Building within the Development (subject to CPI adjustments between the date of the relevant Development Consent and issue of the respective Construction Certificate).</li> </ul>	Noted
<ul style="list-style-type: none"> <li>Public Open Space – Prior to any Occupation Certificate in the final building/stage of the Development (may occur earlier subject to development phasing and in agreement with Council)</li> </ul>	Noted
<ul style="list-style-type: none"> <li>Public Roads – Prior to any Occupation Certificate in the final building/stage of the Development (may occur earlier subject to development phasing and in agreement with Council)</li> </ul>	Noted
<ul style="list-style-type: none"> <li>The timing for obligations will not commence until the 1st Construction Certificate for residential GFA in the Development. Therefore, prior to the obligations being triggered the principles will be able to be achieved. If the principles are all met, Meriton will be obliged to fulfil the respective obligations.</li> </ul>	Noted
<b>Application of Section 7.11 Contributions</b>	
<ul style="list-style-type: none"> <li>The application of s7.11 of the Act is excluded for the Development and the following provisions are adopted in the VPA as follows:</li> </ul>	Noted
<ul style="list-style-type: none"> <li>A payment of \$20,000 is payable on any residential apartment/dwelling within the development (including any Independent Living Unit development subject to the Seniors Living SEPP). As per Council's current s7.11 Plan, no Local Contribution is payable on the non-residential items.</li> </ul>	Not Agreed – Payable as per Council's Adopted Development Contributions Plan at any time in the future.
<ul style="list-style-type: none"> <li>Section s7.11 Contributions will not apply to any AHU's and if dedicated from a part of the existing development (under DA14/96) where they have already been paid, a credit should be applied to the Local Contributions or directly reimbursed from Council to the Developer in accordance with the Contributions levied under the respective Development Consent. If the AHU's are dedicated from the Development, the Local Contribution will not apply to the AHU.</li> </ul>	Noted
<ul style="list-style-type: none"> <li>The full amount of the embellishment of the Public Open Space is to be credited from the Local Contribution. The amount, timing and method for the credit is to be agreed between the parties using an independent QS and considering the public open space already approved on the Land under DA14/96 once the Stage 1 DA and</li> </ul>	Noted – The embellishment is accepted but only on the net increase in open space from BATA I VPA. Based on the offer, the

<b>Tabulated VPA offer</b>	<b>Council's Position</b>
associated Landscape Masterplan is and would be deducted proportionally through each stage of the Development.	net increase is 17,300 sqm
<b>Security:</b>	
<ul style="list-style-type: none"> <li>Meriton Properties Pty Ltd will enter into the Agreement as a Guarantor to guarantee all obligations in accordance with the VPA as opposed to provision of other forms of security (e.g. Bank Guarantee or Insurance Bond).</li> </ul>	Noted
<ul style="list-style-type: none"> <li>Registration of the VPA on the respective titles of the Land excluding any lots created under a strata subdivision (excluding common property)</li> </ul>	Subject to Legal Advice
<ul style="list-style-type: none"> <li>No caveats will be permitted to be registered on the title of the Land except in the following circumstances:</li> </ul>	Noted, subject to satisfaction to the Council of sufficient security offered through the proponent guarantees
<ul style="list-style-type: none"> <li>After execution and before and registration of the VPA on the Land; or</li> </ul>	Noted
<ul style="list-style-type: none"> <li>On the title of the identified AHU's once identified and the respective lot is registered</li> </ul>	Noted
<ul style="list-style-type: none"> <li>The Developer acknowledges that conditions of development consent on future Development Applications may be applied that will align with the obligations of the VPA and provide additional security for the delivery of the obligations.</li> </ul>	Noted

## Financial Implications

Financial Implications are detailed in the body of this report. Drafting of the VPA will be commissioned by Council with drafting costs as specified in the drafted VPA.

Not applicable ☐

Included in existing approved budget ☒

Additional funds required ☐

## Community Engagement

The VPA will go on public exhibition for a minimum 28 days.

**Attachments**

- 1 Section 34 Approval BATA I
- 2 Gateway Determination
- 3 Hill PDA Valuation Uplift Assessment
- 4 Meriton Covering Letter to VPA Offer
- 5 VPA Offer
- 6 Appendix A to offer, Masterplan Concept [↓↓↓↓↓↓](#)

Form 43 (version 1)  
UCPR 36.11

## ORDER

### COURT DETAILS

Court	LAND AND ENVIRONMENT COURT OF NEW SOUTH WALES
Division	Class 1
Registry	Level 4, 225 Macquarie Street, Sydney
Case number	10730 of 2014

### TITLE OF PROCEEDINGS

Applicant	KARIMBLA CONSTRUCTION SERVICES (NSW) PTY LTD
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Respondent	CITY OF BOTANY BAY
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### DATE OF ORDER

Date made or given	7 August 2015
Date entered	31 AUG 2015

### TERMS OF ORDER

The Court notes that the parties or their representatives have reached agreement at or after a conciliation conference held pursuant to s 34 of the *Land and Environment Court Act 1979*, presided over by Commissioner Dixon, as to the terms of a decision in the proceedings that would be acceptable to the parties (being a decision that the Court could have made in the proper exercise of its functions) as set out in the document annexed hereto.

By consent, the orders of the Court are:

### Recitals

- a. The Applicant acknowledges that the Council has only agreed to the approved development with significant variation to the relevant planning controls for building envelopes and height, unit sizes, Gross Floor Area (GFA) Floor Space Ratio (FSR) and has reached an agreement on the unit mix based on full compliance with the following:
  - i. Maximum dimensions of the building envelopes and building heights set out at in Table 5 in Condition 15 of the conditions which comprise Annexure 'A' to this Agreement;
  - ii. Maximum FSR and GFA figures as set out at Table 4 in Condition 12 of the conditions which comprise Annexure 'A' to this Agreement;
  - iii. Minimum unit sizes set out at Table 7 of Condition 33 of the conditions which comprise Annexure "A" to this Agreement;





- iv. The unit mix that is set out at Table 8 in Condition 34 of the conditions which comprise Annexure "A" to this Agreement;
- v. The minimum car parking rates that are set out in Table 6 in Condition 29 of the conditions which comprise Annexure "A" to this agreement.
- b. The Council acknowledges that the application as approved is appropriate on its merits and that the Applicant has provided a significant material public benefit in the form of a Voluntary Planning Agreement which provides for the following:
  - i. Construction, embellishment and dedication, at no cost to Council of a public park having an area of 8000 m2 within the development site;
  - ii. Construction, embellishment, and dedication, at no cost to the Council of a linear park having an area of 2703 m2;
  - iii. Construction of public domain embellishment and dedication for the use of a public road and at no cost to the Council that part of the site comprising roads identified on the approved plans;
  - iv. Provision of transport infrastructure in the form of the design and construction works inclusive of traffic lights and any other necessary traffic control devices and signals so as to upgrade the intersection of Banks Avenue and Heffron Road and the intersection of Bunnerong Road, Heffron Road and Maroubra Road;
  - v. Provision of \$10.5m towards the cost of providing transport infrastructure in the form of upgrade the intersection of Page Street and Wentworth Avenue.

The terms of the decision are as follows:

1. The Applicant is granted leave to rely upon the amended plans lodged with the Council in April and May 2015 as listed in Condition 1 of the conditions which comprise Annexure 'A' to this Agreement.
2. Pursuant to s.97B of the Environmental Planning and Assessment Act 1979, the Applicant to pay the Respondent's costs as agreed or assessed.
3. The Appeal is upheld.
4. Development Application 10730 of 2014 for a Stage 1 concept proposal for:
  - i. subdivision into seven lots, known as Urban Blocks;
  - ii. subdivision of lots for open space being a Central Park (Open Space lot 1) and Linear Park (Open Space lot 2);
  - iii. subdivision into lots for public roads being Road lot 1 (East West Boulevard);



Road lot 2 (North South Street 2), Road lot 3 (Civic Boulevard), Road lot 4, Road lot 5, (North South Street 1) and Local Street Road lot 6;

- iv. staging of the development in order of sequence being Stage 1 subject of DA 14/159, lodged by Karimbla Construction Services (NSW) Pty Ltd on 15 July 2014 for the kerb-to-kerb construction of East-West Boulevard and the realignment of the existing stormwater channel, Stage 2A(2) development of Urban Block 5W, Stage 2A(3) development on Urban Block 5C and construction of Central Park, Stage 2A(3) development of Urban Block 5 East, Stage 2B development of Urban Block 4 and Urban Block 5E, Stage 2C development of Urban Block 3, Stage 2D development of Urban Block 2 and Stage 2E development of Urban Block 1 and Open Space lot 2 "Linear Park";
- v. an indicative maximum of 2223 residential apartments, up to 5000 sq m of retail space and four child care centres;
- vi. building envelopes showing building dimensions, setbacks from streets and above podiums, building separation, articulation zone for balconies and heights on each Urban Block;
- vii. maximum Gross Floor Area (GFA) and Floor Space Ratio (FSR) for the proposed lots and Urban Blocks as shown in **Table 4 in Condition 12** of the development consent;
- viii. building heights (as defined in BBLEP 2013) as shown in **Table 5 in Condition 15** of the development consent;
- ix. residential unit mix in accordance with **Table 8 in Condition 34** of the development consent ;
- x. residential unit sizes in accordance with **Table 7 in Condition 33** of the development consent ;
- xi. car parking provided in above ground and basement car parking facilities in accordance with the rates in **Table 6 in Condition 29** of the development



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consent ;

- xii. public open space being "Central Park" comprising 8000 sq m and Open Space Lot 2 "Linear Park" comprising 2703 sq m;
- xiii. on site stormwater detention system and water sensitive urban design (WSUD) principles.

is approved in accordance with conditions at **Annexure A of this agreement.**

**SEAL AND SIGNATURE**

Court seal

Signature

Capacity

Date

*Maria Anastasi*  
Maria Anastasi  
Assistant Registrar

31 AUG 2015



**AGREEMENT BETWEEN THE PARTIES**

Pursuant to sections 34(3)(a) & (b) of the *Land and Environment Court Act 1979* (NSW)

**COURT DETAILS**

Court Land and Environment Court of New South Wales  
Class 1  
Case number 10730 of 2014

**TITLE OF PROCEEDINGS**

Applicant KARIMBLA CONSTRUCTION SERVICES (NSW) PTY LTD

Respondent COUNCIL OF THE CITY OF BOTANY BAY

**FILING DETAILS**

Filed for Respondent  
Legal representative Houston Dearn O'Connor  
Level 5  
12 Railway Pde  
BURWOOD NSW 2134  
Legal representative reference 113139-488  
Contact name and telephone Steven Shneider  
Phone: (02) 9744 9247

**AGREEMENT BETWEEN THE PARTIES****Recitals**

- A. The Applicant acknowledges that the Council has only agreed to the approved development with significant variation to the relevant planning controls for building envelopes and height, unit sizes, Gross Floor Area (GFA), Floor Space Ratio (FSR) and has reached an agreement on the unit mix based on full compliance with the following:
- maximum dimensions of the building envelopes and building heights set out at in Table 5 in Condition 15 of the conditions which comprise Annexure 'A' to this Agreement;
  - maximum FSR and GFA figures as set out at Table 4 in Condition 12 of the conditions which comprise Annexure 'A' to this Agreement;

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- iii. minimum unit sizes set out at Table 7 of Condition 33 of the conditions which comprise Annexure "A" to this Agreement;
  - iv. the unit mix that is set out at Table 8 in Condition 34 of the conditions which comprise Annexure "A" to this Agreement;
  - v. the minimum car parking rates that are set out in Table 6 in Condition 29 of the conditions which comprise Annexure "A" to this agreement.
- B. The Council acknowledges that the application as approved is appropriate on its merits and that the Applicant has provided a significant material public benefit in the form of a Voluntary Planning Agreement which provides for the following:
- i. Construction, embellishment and dedication, at no cost to Council of a public park having an area of 8000 m2 within the development site;
  - ii. Construction, embellishment, and dedication, at no cost to the Council of a linear park having an area of 2703 m2;
  - iii. Construction of public domain embellishment and dedication for the use of a public road and at no cost to the Council that part of the site comprising roads identified on the approved plans;
  - iv. Provision of transport infrastructure in the form of the design and construction works inclusive of traffic lights and any other necessary traffic control devices and signals so as to upgrade the intersection of Banks Avenue and Heffron Road and the intersection of Bunnerong Road, Heffron Road and Maroubra Road;
  - v. Provision of \$10.5m towards the cost of providing transport infrastructure in the form of upgrade the intersection of Page Street and Wentworth Avenue.

**Agreement**

- 1 The parties have reached an agreement under s34(3) of the *Land and Environment Court Act 1979* as to the terms of a decision in the proceedings that would be acceptable to the parties (being a decision that the Court could have made in the proper exercise of its functions).
- 2 The terms of the decision are as follows:
  - a. The Applicant is granted leave to rely upon the amended plans lodged with the Council in April and May 2015 as listed in Condition 1 of the conditions which comprise Annexure 'A' to this Agreement.
  - b. Pursuant to s.97B of the Environmental Planning and Assessment Act 1979, the Applicant to pay the Respondent's costs as agreed or assessed.

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- c. The Appeal is upheld.
- d. Development Application 10730 of 2014 for a Stage 1 concept proposal for:
- (i). subdivision into seven lots, known as Urban Blocks;
  - (ii). subdivision of lots for open space being a Central Park (Open Space lot 1) and Linear Park (Open Space lot 2);
  - (iii). subdivision into lots for public roads being Road lot 1 (East West Boulevard), Road lot 2 (North South Street 2), Road lot 3 (Civic Boulevard), Road lot 4, Road lot 5, (North South Street 1) and Local Street Road lot 6;
  - (iv). staging of the development in order of sequence being Stage 1 subject of DA 14/159, lodged by Karimbla Construction Services (NSW) Pty Ltd on 15 July 2014 for the kerb-to-kerb construction of East-West Boulevard and the realignment of the existing stormwater channel, Stage 2A(2) development of Urban Block 5W, Stage 2A(3) development on Urban Block 5C and construction of Central Park, Stage 2A(3) development of Urban Block 5 East, Stage 2B development of Urban Block 4 and Urban Block 5E, Stage 2C development of Urban Block 3, Stage 2D development of Urban Block 2 and Stage 2E development of Urban Block 1 and Open Space lot 2 "Linear Park";
  - (v). an indicative maximum of 2223 residential apartments, up to 5000 sq m of retail space and four child care centres;
  - (vi). building envelopes showing building dimensions, setbacks from streets and above podiums, building separation, articulation zone for balconies and heights on each Urban Block;
  - (vii). maximum Gross Floor Area (GFA) and Floor Space Ratio (FSR) for the proposed lots and Urban Blocks as shown in **Table 4 in Condition 12** of the development consent;

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- (viii). building heights (as defined in BBLEP 2013) as shown in **Table 5** in **Condition 15** of the development consent;
- (ix). residential unit mix in accordance with **Table 8** in **Condition 34** of the development consent ;
- (x). residential unit sizes in accordance with **Table 7** in **Condition 33** of the development consent ;
- (xi). car parking provided in above ground and basement car parking facilities, in accordance with the rates in **Table 6** in **Condition 29** of the development consent ;
- (xii). public open space being "Central Park" comprising 8000 sq m and Open Space Lot 2 "Linear Park" comprising 2703 sq m;
- (xiii). on site stormwater detention system and water sensitive urban design (WSUD) principles.

is approved in accordance with conditions at **Annexure A** of this agreement.

- 3 Pursuant to sections 34(3)(a) and (b) of the *Land and Environment Court Act 1979* (NSW), the parties request that the Court dispose of these proceedings in accordance with the terms of the decision set out in paragraphs 2 and 3 above.

**SIGNATURE**

Signature of legal representative

Capacity

Date of signature

Solicitor for the **Applicant**

7 August 2015

**SIGNATURE**

Signature of legal representative

Capacity

Date of signature

Solicitor for the **Respondent**

7 August 2015

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**ANNEXURE A SCHEDULE OF CONDITIONS CASE 10730 of 2014  
130-150 BUNNERONG RAD, PAGEWOOD**

Section 80(3) and 83 of the Environmental Planning and Assessment Act, 1979

**GENERAL CONDITIONS**

- 1 The development is to be in accordance with the drawings and documents in Table 1 endorsed with Council's stamp, except where amended by other conditions of this consent. Reference documentation is also listed.

**Table 1**

Drawing No.	Author	Dated
Dwg No. A001 - Cover Sheet/Schedule Dwg No. A006 - Building Envelope Detail Dwg No. A007 - Building Separation Plan/SEPP 65 Dwg No. A009 - Open Space and Public Domain Plan Dwg No. A014 - Subdivision Concept Plan Dwg No. A015 - Setback Hierarchy	PTW Architects	29 April 2015
Dwg No. A002 - Site Analysis Dwg No. A004 - Staging Plan Dwg No. A008 - Ground Floor Plan - Use Dwg No. A010 - Indicative Apartment Layout on Master Plan Dwg No. A011 - Existing Tree Plan Dwg No. A012 - Typical Road Plan - Accessibility & Parking Dwg No. A013 - Road Hierarchy Dwg No. A100 - Site Elevations Dwg No. A101 - Site Elevations Dwg No. A102 - Site Sections Dwg No. A104 - Sun Shadow Diagram Dwg No. A200 - Block Elevations- UB1 Dwg No. A201 - Block Elevations- UB2 Dwg No. A202 - Block Elevations- UB3 Dwg No. A203 - Block Elevations- UB4 Dwg No. A205 - Block Elevations- UB5W Dwg No. A206 - Block Elevations- UB5E Dwg No. A402 - 3D Views	PTW Architects	14 April 2015





Drawing No.	Author	Dated
Dwg No. A204 – Block Elevations- UB5C	PTW Architects	3 August 2015
Dwg No. A003 – Master Plan	PTW Architects	28 April 2015
Dwg No. A005 – Building Height Plan	PTW Architects	21 April 2015
Dwg No. A016 – Indicative UB5W Apartment Sleeve Layout		
Dwg No. A300 – Sections- Streetscape 1 & Building Articulation		
Dwg No. A301 – Sections- Streetscape 2 & Building Articulation		
Dwg No. A302 – Sections- Streetscape 3 & Building Articulation		
Dwg No. A303 – Sections- Streetscape 4 & Building Articulation		
Dwg No. A304 – Sections- Streetscape 5 & Building Articulation		
Dwg No. A305 – Sections- Streetscape 6 & Building Articulation		
Dwg No. A306 – Sections- Streetscape 7 & Building Articulation		
Dwg No. A307 – Sections- Streetscape 8 & Building Articulation		
Dwg No. A400 – Tower Podium Articulation Examples and Sample Applications	PTW Architects	5 May 2015
Dwg No. A401 – Typical Apartment Layout		
Public Domain Strategy Issue 4 May 2015	Arcadia Landscape Architecture	May 2015
Reference Document(s)	Author	Dated
Traffic Impact Assessment / Modelling Section 34 Conference Report	ARUP	5 May 2015
Proposed Residential Redevelopment & Requirements of SEPP 55- CES Ref: CES130805-MG AA	Consulting Earth Sciences	10 April 2014
Civil Stormwater Concept Report	AT&L	14 July 2014
Solar Access Assessment	SLR Consulting Australia Pty	6 March 2015

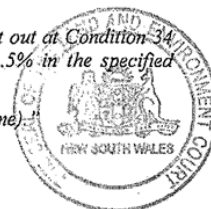


Drawing No.	Author	Dated
	Ltd	
Market Assessment of Apartment Mix at BATA Site, Pagewood	Hill PDA	July 2014
Acid Sulfate Soils	Consulting Earth Sciences	8 April 2014
Aeronautical Impact Assessment Revised Final Report v5.0	The Ambidji Group Pty Ltd	16 July 2014
Design Verification Statement (SEPP 65)	LFA (Pacific) Pty Ltd	18 July 2014

- 2 This concept approval does not grant consent for any demolition, remediation, excavation or building works. This concept approval is limited to approval for the massing, modulation, overall siting and setbacks, maximum height of buildings, maximum gross floor area, uses, maximum floor space ratio, public domain provisions, unit mix, minimum unit sizes, indicative unit numbers and minimum car parking provisions.
- 3 Section 94 Contributions are required to be paid in accordance with the Council's Section 94 Contributions Plan current as at the time of lodgement of future development applications for building works, or as stated in the Plan.
- 4 Karimbla Properties (No 39) Pty Limited (Karimbla) must enter into a Planning Agreement with the Council, being an agreement made in accordance with the provisions of section 93F of the *Environmental Planning and Assessment Act 1979*, and by way of the said Planning Agreement, Karimbla must provide the following public works and dedications at no cost to the Council and at the time required by Condition 11, without any off set against the aforementioned section 94 contributions:
  - (a) embellish and dedicate at no cost to the Council of 8000 sq m of land on the site for the purpose of a public park / public recreational space being land of land identified on the approved plans as "Central Park.
  - (b) construct and dedicate for the use as a public road and at no cost to the Council that part of the site identified on the approved plans as:
    - (i) "East West Boulevard" proposed Road Lot 1.
    - (ii) Local Street Road, proposed Road Lot 6;
    - (iii) Road, proposed Road Lot 4;
    - (iv) Civic Avenue, Road proposed Road Lot 3;
    - (v) North South Street 1, proposed Lot 5;
    - (vi) North South Street 2, proposed Lot 2.
  - (c) undertake at no cost to the Council the design and construction of works inclusive of traffic lights and any other necessary traffic control devices and signals so as to upgrade the intersection of:
    - (i) Banks Avenue and Heffron Road, including relocation of the current pedestrian crossing;
    - (ii) Bunnerong Road, Heffron Road and Maroubra Road;
    - (iii) Banks Avenue/East West Boulevard; and East West Boulevard and Bunnerong Road (traffic lights not required for these intersections).



- (d) Make a monetary contribution to Council to upgrade the intersection of Page Street and Wentworth Avenue.
- 5 This consent must be read in conjunction with the aforementioned Planning Agreement entered into by Karimbla and Council.
- 6 This Consent relates to land in Lot 2 DP 1187426, as such, building works must not encroach on to adjoining lands or other public places apart from approvals granted for the following works beyond the site boundary as outlined condition 4(c) above.
- 7 Separate Stage 2 and future development consent shall be sought for demolition of any structures and any civil and built development. Remediation of the site will be Category 2 under SEPP 55, and development consent is not required, but remediation will need to be completed prior to the for any building in the relevant Stage.
- 8 All development applications relating to construction of apartment buildings shall be subject to a further design review process by Council. The applicant shall meet all costs involved in the design review of subsequent development applications, through a design competition process as outlined in **Appendix A**. *ACTUALLY APPENDIX 1*
- 9 **Restrictive covenant**
- (a) Within one month of the date of this consent, and prior to the lodgement of the first development application for Stage 2 of the site for buildings (excluding the DA 14/159 for construction of East-West Boulevard and realignment of Sydney Water culvert), and prior to the lodgement of any section 96 application to modify this consent, whichever occurs first, a restrictive covenant is to be registered on title that burdens the development site land and is enforceable by Council (Council to be the prescribed authority imposing the covenant) in accordance with section 88E of the Conveyancing Act 1919.
- (b) The terms of the covenant shall be as follows:
- "without limiting any rights available under the Environmental Planning and Assessment Act 1979, any future development on the land must not be undertaken, without the approval of the Council, that would result in:*
- (i) *an exceedance in the GFA and FSR for any building on the land from the maximum allowable density as set out at Condition 12 Table 4 "GFA and FSR", other than for a tolerance for construction variations to a maximum of*
    - *1000 square metres GFA/corresponding FSR per Urban Block for Urban Blocks UB5 West and UB5 Central,*
    - *500 square metres GFA/corresponding FSR per Urban Block for Urban Block 3,*
    - *200 square metres GFA/corresponding FSR per Urban Block for Urban Blocks 5 East, 4, 2 and 1,*
  - (ii) *an exceedance in the height for any building on the land from the maximum allowable building heights as set out at Condition 15 Table 5 "Building Height, other than tolerance for construction variations to a maximum of 2 metres for all Urban Blocks,*
  - (iii) *a car parking rate that is less than the minimum allowable parking rates as set out at Condition 29 Table 6 "Car Parking",*
  - (iv) *units sizes smaller than the minimum allowable apartment sizes as set out at Condition 33 Table 7 "Unit Sizes",*
  - (v) *unit mix that is different from the allowable unit mix as set out at Condition 34 Table 8 "Unit Mix", other than for a tolerance of +/- 1.5% in the specified proportion of unit size,*
- in the development consent DA2014/96 (as amended from time to time)."*



- (c) Future Stage 2 development applications will also have a covenant in the above terms placed on any future development consent for those applications.
- (d) The purpose of this covenant is to ensure that all future owners of the land, who might not otherwise be aware, are on notice that Council has already given concessions resulting in the development being in excess of the relevant controls relating to GFA, FSR, building height, unit sizes and there has been agreement on unit mix.
- (e) The covenant is to run with the land. The covenant is to be placed on the title at no cost to the Council.
- (f) This restriction shall cease to exist and the Council will consent to the removal of this restriction from the title of each respective urban block following the issue of the final occupation certificate for the subject urban block and the covenant is not required to be transferred onto lots within any future strata plans.

**Note:** Condition 9 does not permit the variance of GFA, FSR from the maximum stated in Table 4; or variance from the maximum Building Height from the maximum stated in Table 5; or variance for Unit Mix as stated in Table 8. Any variation within the terms of the covenant must be justified (via a clause 4.6 variation) and agreed to by the consent authority. This condition only varies the wording of the covenant condition to allow for future variations due to construction requirements, within the terms of the covenant. All variations will still need to be assessed on merit. Council will not unreasonably withhold agreement to modify the covenant for more substantive changes following merit based assessment.

#### **STAGING AND TIMING OF WORKS**

- 10 The staging of the subsequent development applications for subdivision, buildings and associated works shall be in the numeric sequence shown in the Staging Plan No.A004 dated 14 April 2015 and in accordance with Table 2. Notwithstanding, there is nothing prohibiting the Development Applications from being combined across adjoining Urban Blocks or the order of lodgement altered where adequate access and infrastructure (refer to Table 2) can be provided for that urban block or if the Developer intends to bring forward the delivery of public infrastructure. In this regard, the upgrade of Heffron Road, Maroubra Road and Bunnerong Road intersection; the signalised upgrade of intersection Banks Avenue and Heffron Road intersection; Banks Avenue/East West Boulevard intersection; and East West Boulevard and Bunnerong Road intersection; and the payment of a monetary contribution to Council for the upgrade of Page Street and Wentworth Avenue, as required by the Planning Agreement must always occur prior to the occupation certificate for the first residential Stage 2 Development Application.

**Table 2**

Work	Stage	Requirements for works/Urban Blocks	Timing of Construction	Timing of Dedication to Council
Subdivision and works including but not limited to the provision of the stormwater infrastructure and development of the internal road network excluding the private access ways for each Urban Blocks, including the creation of any easements	2(A)	Separate DA for land subdivision to be lodged concurrently with the application for the development of UBSW.	Subdivision certificates to be obtained on completion of subdivision works relevant to each block.	Dedication of land to Council upon completion of works related to each Urban Block to Council's satisfaction prior to the release of the relevant Occupation Certificate.



Civil works and servicing for the development on each Urban Block	2A(2) 2A(3) 2A(4) 2B 2C 2D 2E	To be shown in the DA for each block.	Completed prior to occupation certificate for the Urban Block as relevant	N/A, except if covenants required for stormwater reasons
North-south access way and pedestrian links for UB5W	2A(2)	With DA for buildings on UB5W	Prior to any Occupation Certificate for final building in UB5W	N/A
North - south pedestrian link and access way to UB5C	2A(3)	With DA for buildings on UB5c	Prior to any OC for final building in UB 5C	N/A
East west pedestrian link and access way for UB 4	2B	With DA for buildings on UB4	Prior to any OC for final building in UB4	N/A
East west pedestrian link and access way for UB3	2C	With DA for buildings on UB3	Prior to any OC for final building in UB3	N/A

- 11 The staging of the provision of public roads, open space, intersection upgrades referred to in this consent and works referred in the Planning Agreement between Karimbla and Council dated 7 August 2015 shall be in accordance with Table 3. Council in applying the provisions of the Table will make allowances for any delays where it is demonstrated that delays are not caused by the Developer, such as delays by Government Agencies (i.e. RMS for traffic signals) so that occupation is not upheld for matters outside the Developers control..

**Table 3**

Work	Stage	Requirements for works/Urban Blocks	Timing of Completion	Timing of dedication
Construction of East-West Boulevard (Lot 1) and Sydney Water infrastructure relocation; including as conditions intersection works for Banks Avenue and Bunnerong Road for connections to East West Boulevard.	2A(1)	DA14/159 approved via section 34 Agreement 7 August 2015	Prior to any OC for UB5C for construction of East-West Boulevard (Lot 1) and Sydney Water infrastructure relocation; including as conditions intersection works for Banks Avenue and Bunnerong Road for connections to East West Boulevard.	Prior to OC of final building for UB5C.
Local Street Road Lot 6	2E	With DA for buildings on UB1 or separate DA	Prior to OC for UB1	Prior to OC of final building for UB1

		for remainder of roads excluding those in DA14/159.		
Local Street Road Lot 5 North South Street 1	2D	With DA for buildings on UB2 or separate DA for remainder of roads excluding those in DA14/159.	Prior to OC for UB2	Prior to OC of final building for UB2
Local Street Road Lot 4 North South Street 1	2A(2)	With DA for UB5W or separate DA for remainder of roads excluding those in DA14/159.	Prior to OC for UB5W	Prior to OC of final building for UB5C
Local Street Road Lot 2 North South Street 2	2A(3)	With DA for UB5C or separate DA for remainder of roads excluding those in DA14/159.	Prior to OC for UB5W	Prior to OC of final building for UB5C
Local Street Road Lot 3 Civic Avenue	2A(3)	With DA for UB5C or separate DA for remainder of roads excluding those in DA14/159.	Prior to OC for UB5W	Prior to OC of final building for UB5C
Central Park (8,000 sq metres)	Stage 2A(2) (design) 2A(3) (delivery)	With DA for buildings on UB5W.	Prior to any OC for UB5C	Prior to any OC of final building for UB5C
Open Space Lot 2	Stage 2E	With DA for buildings on UB1.	Prior to any OC of UB1	Prior to any OC of final building for UB1
Upgrade of Heffron Road, Maroubra Road and Bunnerong Road intersection	2A(2)	To be commenced with the lodgement of DA for buildings on UB5W	Completed prior to any OC for UB5W	N/A
Signalised upgrade of intersection Banks Avenue and Heffron Road	2A(2)	To be commenced with the lodgement of DA for buildings on UB5W	Completed prior to any OC for UB5W	N/A

**GFA AND FSR**

- 12 Future development must be not inconsistent with the maximum GFA and FSR for each Urban Block and Proposed Lot as shown in Table 4:



Table 4

2013 LEP Zone	Proposed Lot <sup>a</sup>	Urban Block <sup>b</sup>	Site Area sq m <sup>c</sup>	GFA sq m <sup>d</sup>	FSR <sup>e</sup>	Indicative Unit Nos.
B4	1	UB5 West	13,507	51,712	3.83	517
B4	2	UB5 Central	13,095	45,306	3.84	453
				5,000 <sup>f</sup>		
B4	3	UB5 East	9,011	22,412	2.49	224
B4	part lot 4	part UB4	826	18,225	2.30	182
R3	part lot 4	part UB4	7,089			
B4	part lot 5	part UB3	999	37,011	3.92	370
R3	part lot 5	part UB3	8,435			
R3	6	UB2	9,021	28,603	3.17	286
R3	7	UB1	13,302	19,018	1.43	190
<b>Sub Total</b>			<b>75285</b>	<b>227,287</b>		<b>2223</b>
					N/A	
B4	part road lot 3	part Civic Avenue	1361			
R3	part Road lot 3	part Civic Avenue	1096			
R3	road lot 4		1359			
R3	road lot 2		1224			
R3	road lot 1	East West Boulevard	8778			
R3	road lot 5		2023			
R3	road lot 6		1596			
R3	Open Space lot 2	Linear Park	2703			
R3	Central Park	Central Park	8000			
<b>sub total</b>			<b>28140</b>			
<b>TOTAL</b>			<b>103,425</b>	<b>227,287</b>	N/A	<b>2223</b>

## Notes

- Proposed lots shown on Drawing No. A014 dated 29/4/15
- Urban Blocks shown on Drawing No. A004 dated 29/4/15
- Site area shown on Plan of Subdivision of Lot 2 DP1187426 dated 28/4/15
- GFA is Residential and Child Care Centres unless as noted, taken from Drawing No. A001 dated 29/4/15
- FSR calculated from Table shown on Drawing No. A001 dated 29/4/15 and Drawing No. A014 dated 29/4/15.
- Maximum 5000 sq m retail space

- Where there is a difference between the maximum FSR specified in Table 4 and the approved building envelope for that Urban Block, the FSR shall be the lesser of the possible FSR within the envelope or that shown in Table 4.
- Where there is a difference between the GFA possible within the building envelope and the GFA nominated for the Urban Block in Table 4, the GFA shall be the lesser of that shown in Table 4 and that possible within the building envelope for the Urban Block.

**BUILDING ENVELOPES AND HEIGHTS**

15

- (a) The maximum approved building heights as depicted on DWG No.A005 Building Heights Plan prepared by PTW dated 14 April 2015, as shown in Table 5.

**Table 5**

<b>Block No.</b>	<b>Tower No.</b>	<b>Maximum Podium Height</b>	<b>Maximum Building Height</b>	<b>Maximum Plant Room Height</b>
<b>Urban Block 1</b>	A1,A2,A3,A4,A5	N/A	7.6m (RL29.6) plus Attic <sup>a</sup>	N/A
	B1, C1	N/A	13.8m (RL35.8)	16.4m (RL38.4)
	B2, C2	N/A	20.0m (RL42.0)	22.6m (RL44.6)
<b>Urban Block 2</b>	A1, A2	10.7m (RL32.7)	26.2m (RL48.2)	28.8m (RL50.8)
	B2, C2	13.8m (RL35.8)	35.5m (RL57.5)	38.1m (RL60.1)
<b>Urban Block 3</b>	A1, A2	13.8m (RL35.8)	35.5m (RL57.5)	38.1m (RL60.1)
	B1, B2	13.8m (RL35.8)	44.8m (RL66.8)	47.4m (RL69.4)
	A3, A4	16.9m (RL38.9)	51.0m (RL73.0)	53.6m (RL75.6)
<b>Urban Block 4</b>	A1	16.9m (RL38.9)	20.0m (RL42.0)	22.6m (RL44.6)
	A2	16.9m (RL38.9)	26.2m (RL48.2)	28.8m (RL50.8)
<b>Urban Block 5W</b>	A1, A2, A4,A5	16.9m (RL38.9)	51.0m (RL73.0)	53.6m (RL75.6)
	A3, A6	16.9m (RL38.9)	63.4m (RL85.4)	66.0m (RL88.0)
<b>Urban Block 5C</b>	B1, B2b	18.8m (RL40.8)	40.5m (RL62.5)	43.1m (RL65.1)
	B4, B5	18.8m (RL40.8)	52.9m (RL74.9)	55.5m (RL77.5)
	B3, B6	18.8m (RL40.8)	65.3m (RL87.3)	67.9m (RL89.9)
<b>Urban Block 5E</b>	B2, B3	16.9m (RL38.9)	20.0m (RL42.0)	22.6m (RL44.6)
	B1	10.7m (RL32.7)	26.2m (RL48.2)	28.8m (RL50.8)
	B4	10.7m (RL32.7)	51.0m (RL73.0)	53.6m (RL75.6)

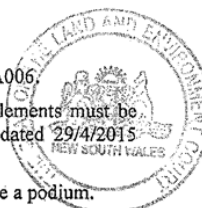
Note a: Attic is as defined in Botany Bay LEP 2013

- 16 The following applies to plant rooms for Stage 2 and future development:
- All plant rooms are to be no more than 3 metres in height beyond the habitable building height specified in Condition 15 (Table 5) above.
  - All plant rooms shall be integrated into the roof form of the building and suitably architecturally screened.
  - No habitable areas shall be permitted above the maximum building heights shown in Condition No. 14 (Table 5) above.
- 17 The finished floor level of Ground floor apartments is to be no greater than 1 metre above the ground level existing, as shown on the Survey Plan No. 100936 Issue B prepared by Denny Linker & Co Consulting Surveyors dated 16 December 2010.
- 18 The separation distances shall be provided in accordance with DWG No.A006 Building Envelope Detail prepared by PTW dated 29 April 2015 and DWG No.A007 Building Separation Plan prepared by PTW dated 29 April 2015.





- 19 The maximum height of the podiums must be in accordance with Drawing No.A005 dated 29/4/2015 and meet the following heights for each Urban Block as specified below:
- (a) Urban Block 1 shall have no podiums;
  - (b) Urban Block 2- 3 storey podium for 8 storey towers and 4 storey podium for 11 storey component;
  - (c) Urban Block 3- no more than 4 storey podium for 11 storey tower and a 5 storey podium for the 14 and 16 storey tower components;
  - (d) Urban Block 5 East- 5 storey podium adjoining Bunnerong Road for 6 storey tower component, 3 storey podium under 8 storey and 16 storey component fronting the private access ways and a minimum floor to floor height of 3.6 metres on the ground floor;
  - (e) Urban Block 4 - 5 storey podium adjoining Bunnerong Road for 6 and 8 storey tower components.
  - (f) Urban Blocks 5 West and 5 Central – 5 storey podium for all tower components.
- 20 Floor to floor heights to be 6 metres for retail uses, minimum 3.6 metres for commercial uses and 3.1 metres for residential uses (other than attics which can be reduced to 2.4 metres and top floors which may be up to 3.5m).
- 21 Street wall heights shall comply with Drawing No.A005 dated 29/4/2015 and be a maximum for each Urban Block as follows:
- (a) Civic Square – 5 storeys to the east and south;
  - (b) Heffron Road – 2 storeys plus attic setback;
  - (c) Banks Avenue – 2 storeys plus attic for UB1, 3-4 storeys for UB2, 4-5 for UB3 and UB5W with 5 storeys;
  - (d) Bunnerong Road – 5 storeys;
  - (e) Westfield Drive – 5 storeys for UB5C and UB5W and UB5E 3 storeys; and
  - (f) Any form above the street wall height is to be setback as per Drawing No. A006.
- 22 All building elements including balconies, blades, louvers and screening elements must be contained within the building envelopes identified in Drawing No.A006 dated 29/4/2015 unless permitted by conditions below.
- 23 A minimum 4 metre setback shall be provided for all tower components above a podium.
- 24 A maximum protrusion of 500mm of balconies, blades, louvers and screening elements may protrude from the building envelope for the towers shown in Drawing No.A006 dated 29 April 2015. This is permitted for a maximum of 50% of each façade. This should be balanced by facade elements that setback from the envelope line as well, to ensure that the façade is not completely flush with building envelope and that there is substantial articulation.
- 25 A maximum protrusion of 500mm of balconies, blades, louvers and screening elements may protrude from the building envelope for the podiums shown in Drawing No.A007 dated 29/4/2015. This is permitted for a maximum of 20% of each façade. This should be balanced by facade elements that setback from the envelope line as well, to ensure that the façade is not completely flush with building envelope and that there is substantial articulation.
- 26 Podium and building setback shall comply with DWG No.A015 Setback Hierarchy Plan prepared by PTW dated 29 April 2015
- (a) Urban Block 1- minimum 12 metres to Heffron Road and 6-12 metres to Banks Avenue;
  - (b) Urban Blocks 2- minimum 6 metres (Banks Avenue)
  - (c) Urban Block 3 – minimum 6 metres- 12 metres (Banks Avenue)
  - (d) Urban Block 5 West - minimum 6 metres- 12 metres (Banks Avenue)



- (e) Urban Block 4- minimum 6 metres- 12 metres (Bunnerong Road)
  - (f) Urban Block 5 East - minimum 8 metres (Bunnerong Road)
  - (g) Urban Blocks 5 West, 5 Central and 5 East - minimum 12 metres (Westfield Drive).
- 27 The corridor lengths within residential apartments shall not be as shown on Drawing A010 dated 29 April 2015, as the corridor lengths are excessive and serve too many units. A maximum number of 10 units are to be serviced by each lift core.
- 28 Every development application for Stage 2 and future stage buildings must provide the following:
- (a) Precise design details of the facades including a detailed materials schedule and sample board that clearly identifies all external finishes and colours and glazing is required;
  - (b) Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the Building Code of Australia and Council's Access Policy;
  - (c) All ground floor apartments are to have individual entries on all frontages, to provide activation at the street level (except for the frontages to UB4 and UB5E to Bunnerong Road); and
  - (d) The design of future development applications should incorporate full environmentally sustainable principles including: capture and re-use of storm water, natural cross ventilation, natural sun light, solar hot water and passive solar control in accordance with Part 9D.7 Botany Bay DCP 2013.

#### CAR PARKING

- 29 The approved car parking rates for residential uses shall be in accordance with Table 6:

Table 6

Use	Minimum number car spaces	Indicative minimum number of car spaces
<b>Residential</b>		
One bedroom	1	445
Two bedroom	1.5	1668
Three bedroom	2	1336
Residential Visitor	1 per 10 units	222
Car Share Spaces	22 including min 10 in basements	22
<b>Total residential</b>		<b>3,693</b>
<b>Other Uses</b>	As per BBDCP 2013	



- 30
- (a) The above ground car parking structures shall only be located on Urban Blocks UB5 East, UB5 West and UB5 Central and shall be sleeved with retail and/or residential development as shown on DWG No.A008 Ground Floor Plan Use prepared by PTW dated 29 April 2015.
  - (b) The elevations to Westfield Drive shall be suitable screened as an integrated element of the building design and must be designed by the respective registered architect for the Urban Block. The screens are to include a variety of materials and colours and be included in the

relevant design competition for the Urban Block/building. The car park screen concepts are to be submitted to Council as part of the relevant staged development applications and will form part of any approval for the Urban Block.

- 31 The basement parking levels within Urban Blocks 1, 2, 3 and 4 shall not protrude above the existing natural ground level by more than 1m.
- 32 In all future Stage 2 and future development applications for buildings, each basement and/or car parking structure shall be designed in accordance Part 3A Car Parking and Part 9D 6.5 of Botany Bay DCP 2013; including but not limited to the provision for 4.6 metre headroom and sufficient turning area for a garbage truck to be able to enter and leave the site in a forward direction.

#### DWELLING SIZES

- 33 The minimum dwelling sizes for the proposed development must comply with the Table 7 below. Unit size is calculated from the inside the enclosing wall of the dwelling but excluding wall thickness, vent, ducts, staircases and lift wells.

Table 7

Unit Type	Area	Size sq m
One bedroom	Internal <sup>a</sup>	65
	External	12
Two bedroom	Internal <sup>a</sup>	85
	External	12
Three bedroom	Internal <sup>a</sup>	50% of units per urban block 124
		50% of units per urban block 110
	External	24 for 124 sq m units
		15 for 110 sq m units

Note: a Internal area means the area inside the enclosing walls of a dwelling but excludes wall thickness, vents, ducts, staircases and lift wells.

#### UNIT MIX

- 34 The mix of units provided within each Urban Block shall comply with Table 8 below. No studio apartments are permitted. The development application for each individual future stage must comply with this mix.

Table 8

Unit Size <sup>a</sup>	Proportion	Indicative Maximum Number of Units
Studios	N/A	0
One bedroom	Maximum 20%	445
Two Bedroom	50%	1112
Three + bedroom	Minimum 30%	666
<b>TOTAL</b>		<b>2223</b>

Note a: Unit size is as defined in Table 7

- 35 The development in each Urban Block must comply with the following minimum number of adaptable housing units per building and shall be designed and constructed to comply with Adaptable Housing Class A:
- (a) 0 – 9 units – Nil;
  - (b) 0-30 units – 1 adaptable housing;
  - (c) 31-50 units – 2 adaptable housing;
  - (d) 51 plus – 2 units, plus an additional 1 unit for each 30 units.

#### **SOLAR ACCESS AND BUILDING FORM**

- 36 As generally referenced in Table 1 within the Solar Access Assessment prepared by SLR Consulting Australia Pty Ltd dated 6 March 2015, Stage 2 and future development applications must demonstrate that the following solar access requirements are achieved as a minimum:
- (a) 70% of the living rooms and private open space of apartments within Urban Blocks UB1, UB2 and UB4 shall achieve a minimum 3 hours of direct solar access between 9am and 3pm in mid-winter;
  - (b) 70% of the living rooms and private open space apartments within Urban Blocks UB3, UB5 East, UB5 West and UB5 Central shall achieve a minimum 2 hours of direct solar access between 9am and 3pm in mid-winter; and
  - (c) All podium courtyard communal open space shall receive a minimum of 2 hours of direct solar access between 9am and 3pm in mid-winter to 30% of the area of the courtyard. *Note: Open space on the roof is not counted in this calculation.*
- 37 Building depths are to be a maximum of 18 metres glass line to glass line.
- 38 A minimum of one lift core shall be provided to every residential floor that services 10 units. Where the corridor is designed in an 'L' shape or provides access to more than 10 units the corridor must comply with the amenity requirements under SEPP 65 Residential Flat Design Code as in force at 9 June 2015.

#### **PUBLIC DOMAIN**

- 39 The active street frontage to Civic Square is to occupy a minimum of 80% of the ground floor building frontage.
- 40 The Civic Retail Square identified in Urban Block UB5 Central shall have a minimum area of 1,000sq metres and the podium shall not extend into the Civic Retail Square open space.
- 41 For the road network with the exception of the private access ways as shown on DWG No.A012 Typical Road Plan prepared by PTW dated 29 April 2015 The applicant must, at no cost or expense to Council:
- (a) Embellish the road network with landscaping, seating, paving, undergrounding of power cables and suitable street lighting to a high decorative standard to the street boundaries of the site so to provide safety and illumination for residents of the development, with such street lighting meeting the relevant electricity authority requirements; and
  - (b) dedicate the road network.
- 42 The public park shown as **Central Park** as shown on DWG No.A009 Open Space and Public Domain Plan prepared by PTW dated 29 April 2015 shall be:
- (a) a minimum of 8,000sq metres;
  - (b) remediated in accordance with the recommendations of a Remedial Action Plan, prior to dedication to Council; and



- (c) embellished and dedicated to Council free of cost as part of the Stage 2 Development Application as per Condition 9.
- 43 A detailed landscape plan for the embellishment of **Central Park** is to be provided to Council for approval with the DA for Urban Block 5 West, Stage 2A2 and shall include:
- (a) Detail of the playground area (dimensions, amount of play equipment, fencing, shade etc). The playground design, location and dimensions needs to reflect and comment on the projected demographics of the development. Incorporate natural elements and consider a variety of surface finishes (mulch, sand, rubber).
  - (b) Other active recreational elements such as outdoor ping pong or outdoor fitness. This is the most visible and active park. The plans must show the dimensions for these spaces and treatment.
  - (c) Enhanced pedestrian permeability with shared pathways to enable sufficient space for all abilities as well as cyclists and joggers, indicative layout and widths.
  - (d) Relevant amenity area lighting to a suitable P rating under the Australian Standard and indicative layout. Include a hierarchy of lighting levels to enhance security, access and legibility.
  - (e) Furniture such as seating, picnic settings, bins, water stations, bubbler, cycle racks, shade structures, arbors and decorative vertical elements their locations and dimensions.
  - (f) Interesting use of materials referencing past uses and incorporate surrounding context.
  - (g) Demonstrate a design that considers both shopper and resident socialisation and well as special events such as food festivals, markets, concerts, gatherings etc.
  - (h) Incorporate WSUD and consider the use of water as an integral component in the landscape (water elements etc).
  - (i) Demonstrate an integrated public art proposal to create an identity, reflect the local emerging identity, to recognise the past and to enrich the public domain and landscape fabric. This could include the monumental and temporal eg free standing artworks (sculpture etc), vertical elements eg arbors and hard landscape elements, lighting features, facades and walls, furniture. This may incorporate the use of colour.
  - (j) Way finding/signage proposal.
  - (k) Public toilets to be incorporated into the retail component of UB5C and Central Park as shown in public domain strategy prepared by Arcadia dated 1 May 2015.
- 44 The **Open Space Lot 2** adjoining UB1 as specified on DWG No.A009 Open Space and Public Domain Plan prepared by PTW dated 29 April 2015 shall be:
- (a) a minimum of 2,703 sq m;
  - (b) remediated in accordance with the recommendation of a Remedial Action Plan prior to dedication;
  - (c) embellished in accordance with concept plan prepared by Arcadia dated 1 May 2015. A detailed landscape plan for its embellishment is to be provided to Council for approval with the DA for Stage 7 for development of UB1;
  - (d) dedicated to Council free of cost as per Condition 9.
- 45 The landscape plan for **Open Space Lot 2** plan shall include:
- (a) Suggestions for a community garden (to be maintained in the future by Council)
  - (b) Pedestrian permeability and furniture
  - (c) Opportunities for urban habitat and a more natural space
  - (d) Incorporate WSUD in a more natural format

- (e) Enhanced pedestrian permeability with shared pathways to enable sufficient space for all abilities as well as cyclists and joggers, indicative layout and widths.
  - (f) Linkages within and external to the site, interface treatments
  - (g) Natural play areas
- 46 In addition to the specific requirements in Conditions 42 and 44, all proposed future open space areas are to include the following:
- (a) Analyse the pattern of sun and shade created by buildings, use to influence park design
  - (b) Ensure visual surveillance from streets and buildings
  - (c) Provide for a variety of plant species
  - (d) Provide lawn and shaded seating areas
  - (e) Take advantage of deep soil areas to include large scale, canopy trees to ameliorate buildings, for shade, heat reduction and wind turbulence reduction
  - (f) Use specimen trees to mark focal points, entries or other features of the open space
  - (g) Incorporate a mixture of paving treatments and textures and in-situ concrete and/or stone walling
  - (h) Consider terracing to enhance vertical height in the landscape
  - (i) Provide for consistency and continuity of materials
  - (j) Provide photo montages depicting the scale of the park and its elements and landscaping in relation to pedestrian and open space users and the context (roads, buildings etc)
  - (k) Provide a sample board of materials/pallettes.
- 47 All basements, piercing and above ground structures are not to impact on the existing root zones and canopies of trees to be retained. A detailed arborists report documenting trees to be retained and removed and indicating the above requirement is to be submitted with each development application.
- 48 A Right of Way shall be provided for public access via the east-west through site links identified between UB4 and UB5E and UB3 and UB5W providing pedestrian access from Bunnerong Road through to Banks Avenue. The Right of Way shall be provided as part of Stage 2 which includes this subdivision of the Urban Blocks and civil works.
- 49 A Right of Way for public access via the north-south through site links identified between UB5E and UB5C and UB5W providing pedestrian access from Westfield Drive through to Civic Avenue. The Right of Way shall be provided as part of Stage 2 which includes this subdivision of the Urban Blocks and civil works.
- 50 The public domain and Council footpath area along Banks Avenue, Heffron Road and Bunnerong Road for the frontage of the site shall be upgraded with new paving, landscaping, street lighting to a high decorative standard to the street boundaries, seating, installed by the applicant and at the applicant's expense. All improvements shall be in accordance with Council's Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate for each stage which has a corresponding street frontage.
- 51
- (a) Any existing above ground electricity and telecommunication cables in Banks Avenue, Heffron Road and Bunnerong Road adjoining the site to be located below ground, at the

- applicant's expense, by underground cables, together with the provision of appropriate drainage (if any), kerb and gutter, footway, bicycle paths, landscaping, traffic signs, to the relevant Australian Standards and Codes of Practice.
- (b) The Ausgrid lighting poles along Banks St, Heffron Road and Bunnerong Road that are adjacent to the development, will need to be decommissioned and new lighting poles shall be constructed satisfying V3 lighting requirements for Banks Ave and Heffron Road and V2 lighting requirements for Bunnerong Road and any other requirements as specified by Council, RMS and any other service provider.
  - (c) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
  - (d) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council.
  - (e) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
- 52 In accordance with *Botany Bay Development Control Plan 2013* the concept approval and all subsequent stages shall comply with the following:
- (a) All road construction and widening shall be carried out in accordance with the AUS-SPEC's standards (contact Council's Engineering Services if further information required);
  - (b) All footpaths are to be provided with kerb ramps at intersections, to facilitate access for the less mobile and disabled;
  - (c) All street furniture including, bins, bollards, seating and drinking fountains, are to be coordinated throughout the Precinct and to Council's City identity specification;
  - (d) Street furniture should be located in a one-metre zone along the kerb line, that is, out of the main line of pedestrian traffic;
  - (e) Street name signs as per Council's Graphics Standard Manual are to be located at all street intersections;
  - (f) Detailed plans for the traffic control signage and line markings should be submitted to Council for approval. All traffic signage and line marking must conform to the Australian Road Rule 1999 and the NSW Road Transport (Safety and Traffic Management) Regulation 1999;
  - (g) Street lighting is to be coordinated and standardised throughout the precinct, with appropriate pedestrian lighting provided on the pedestrian and cycle routes (contact Council's Engineering Services if further information is required);
  - (h) Street lighting should be evenly spaced and meet the relevant requirements of AS/NZS1158 – Public Lighting Code; and
  - (i) All existing and new aboveground power lines and cables are required to be located below ground.
- 53 The Street Landscape Principles and Plans to be submitted as part of Stage 2 shall be in accordance with the Public Domain Strategy prepared by Arcadia dated 1 May 2015.
- 54 A detailed schedule of finishes and materials demonstrating an overall high quality architectural concept must be submitted as part of each Stage 2 and future development application. Each building shall have a different character and identity and variations in architectural style is encouraged on larger urban blocks with multiple buildings. Rendered façades are not to dominate the façade of any building and large expanses of a single material are not acceptable. Facades are to include a predominance of high quality materials such as prefinished panels, zinc or other metallic cladding, stone cladding (not stone tiles), face brick.



55 Prior to the issue of the relevant Construction Certificate for each stage, the DWG No.A009 Open Space and Public Domain Plan prepared by PTW dated 29 April 2015, shall be the subject of detailed landscape construction documentation (plans, details and specifications) to be submitted to and approved by Council with each subsequent development application. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, and in accordance with Council's Landscape DCP. The detailed (construction level) plan shall include, but not be limited to the following in accordance with the concept Public Domain Strategy prepared by Arcadia dated 1 May 2015:

- (a) The clear delineation of all public domain areas as follows :
  - (i) Public Central Park of 8,000sqm;
  - (ii) Public Park at Heffron Road;
  - (iii) The through site north-south pedestrian links through to Westfield Drive;
  - (iv) The through site east-west pedestrian links from banks Avenue to Bunnerong Road.
- (b) A site plan showing building envelopes, outline of the basement car parks, areas to be paved and areas to be landscaped.
- (c) A planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas
- (d) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
- (e) Specifications for soil and mulch finishes, root barriers, retaining wall construction and finishes, irrigation, edging and so on.
- (f) For areas of paving provide a schedule of finishes – materials, edge treatments and sectional construction details. Permeable paving materials to be used and/or pavements graded to garden beds
- (g) Proposed fencing details, pergolas and the like – elevations, materials, finished and scaled dimensions.
- (h) Water feature construction details, scaled dimensions, finishes and elevations.
- (i) Sectional details for planter boxes over basement carpark- drainage, waterproofing, irrigation, planting substrate and so on. Planter boxes shall be of adequate dimensions (area and depth – min. 900mm) for growing medium – large trees.
- (j) Details of other landscape elements such as seating and furniture, pedestrian lighting, sculpture and water features. Provide sectional construction details and elevations where required.
- (k) Show the location of underground stormwater/rainwater tanks, electrical kiosks and fire booster valves. Rainwater tanks not to be visible from streets or if underground, not to be located under landscape areas, other infiltration tanks. Fire booster valves and electrical kiosks to be incorporated into the building structure.
- (l) In communal open spaces provide lawn as well as planted areas, trees for shade and adequate seating.
- (m) Trees to be used extensively – in private courtyards, communal open spaces and setbacks. Trees must be of an appropriate scale to complement and scale with the buildings. Deep soil zones must include taller trees. Trees to be predominately native, evergreen species using selected deciduous (in limited locations) or open canopy evergreens for solar penetration
- (n) A play area of adequate fitout and dimensions suited to the projected residential community, fitness area and BBQ area of adequate dimension and suitable location to promote usability and functionality and sited for good access and surveillance.





- (o) Medium canopy trees are required in all setbacks for boundary screening and streetscape amenity.
  - (p) A 12 metre clear landscape setback to Heffron Road that will permit tree planting and is unimpeded by private patios or terraced landscaping. The setback is to be level with the street footpath.
- 56 This Stage 1 consent does not permit the removal of any trees on site or within the public domain surrounding the site. Any tree removal will be assessed as part of each subsequent development application and suitable replacement planting to Council satisfaction provided as compensation for any tree removal.

#### ENVIRONMENTAL DESIGN

- 57 Each development application for buildings must include and be designed in accordance with a Wind Assessment Report, addressing the maximum criteria specified in Section 9D 6.3 of Botany Bay DCP 2013.
- 58 Each development application for buildings must include and be designed in accordance with a Reflectivity Report, addressing the controls specified in Section 9D 6.4. of Botany Bay DCP 2013.
- 59 The Stage 2 and future development applications shall include a report addressing:
- (a) AS2021-2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction; and
  - (b) Part 9D 6,9 of Botany Bay DCP 2013 with regards to the noise intrusion criteria in Table 13 (as shown applicable to each Urban Block) as well as noise from Westfields Eastgardens loading docks, from the sea port at Port Botany and Sydney Kingsford Smith airport and road noise from the classified road network that surrounds the site.
  - (c) The reports must be prepared by a suitably qualified practicing professional Acoustical Consultant. A report must be prepared and submitted with each development application and the building plans endorsed with the required acoustical measures.
- 60 Any new electrical substation/s and fire hydrants required to be provided, shall be identified in the future Stage 2 and subsequent development applications. These are to be integrated into the building/s and suitably screened. They must not be positioned in the street setback unless using existing facilities which must be screened. The location and treatment of these utilities shall be shown on the detailed landscape plan for each development stage.

#### ENGINEERING MATTERS

- 61
- (a) Every future stage 2 and later development application is to provide a report prepared by a qualified Geotechnical Engineer that models the consequences of the basement construction of the development will have on groundwater flow, flooding of the locality, building stability including buildings nearby to the development site and groundwater levels.
  - (b) If this modelling and investigation give rise to adverse consequences to any or all the nominated issues, the onus is upon the applicant to respond to and address the consequences in a manner that negates adverse impact on the neighbourhood. Such measure are to be detailed in the development applications.
- 62 East-West Boulevard between the BATA Heavy Vehicle access point and the Banks Avenue intersection shall have a (3) tonne and over load limit restriction signage. The heavy vehicle restriction excluded construction vehicles and garbage trucks associated with the subject site
- (a) East-West Boulevard shall be dedicated to Council, at no cost or expense to Council, prior to the issue of any Occupation Certificate for the final building on Urban Block 5C.
  - (b) The first Stage 2 DA, being the DA for Urban Block 5C shall include the details of the public domain works for East West Boulevard. This shall include details to embellish the

road reserve and the central median with landscaping, tree planting, seating, paving, cycle paths, undergrounding of power cables, and suitable street lighting.

- (c) Every future Stage 2 and later development application shall include an Acid Sulfate Soil Management Plan including an assessment of the likely effects of building in acid sulfate soils and how these will be mitigated.
  - (d) In addition, monitoring plans detailing the timing and methods of acid sulfate soil monitoring during excavation (including, but not limited to monitoring of pH of soil and water) and trigger or action values shall be submitted to Council with each DA.
  - (e) Upon completion of the management of acid sulfate soils and potential acid sulfate soils, a validation report shall be submitted to Council detailing the volume of potential acid sulfate soils encountered, management strategies used, results of testing indicating the presence of potential acid sulfate soils and testing results indicating that neutralisation of potential acid sulfate soils was achieved.
- 63 The proposed traffic movements and parking arrangements within and adjoining the development shall conform with Australian Standard AS2890-1, Australian Road Rules; and the NSW Road Transport (Safety and Traffic Management) Regulation (and any other relevant legislation) unless otherwise stipulated by another condition of this Consent.
- 64 All services (Utility, Council, etc) within the site's frontage to Heffron Road, Banks Avenue and Bunnerong Road (including footpath) shall be relocated/ adjusted to match the proposed/existing levels alignment, at the applicant's full costs.
- 65 The following DCP Requirements shall be implemented in the detail design phase of the Stage 2 and each future stage of development. These sections will need to be submitted to and approved by Council:
- (a) The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code, Sydney Water regulations and the BCA. All drawings shall correspond with the approved architectural plans.)
  - (b) The plans shall incorporate but not be limited to the following:
    - (i) The recommendations made under Section 3.2 of the Civil Development Application Report by AT&L dated July 2014,
    - (ii) Minimum On-site Detention System (OSD) for each development shall be as follows unless otherwise agreed under future Stage 2 Development Applications:
      - (1) Urban Block 1, minimum OSD is 616m<sup>3</sup>,
      - (2) Urban Block 2, minimum OSD is 228m<sup>3</sup>,
      - (3) Urban Block 3, minimum OSD is 379m<sup>3</sup>,
      - (4) Urban Block 4, minimum OSD is 324m<sup>3</sup>,
      - (5) Urban Block 5East, minimum OSD is 506m<sup>3</sup>,
      - (6) Urban Block 5West, minimum OSD is 512m<sup>3</sup>, and
      - (7) Urban Block 5Central, minimum OSD is 404m<sup>3</sup>,
    - (iii) Maximum permissible discharge for each development shall be as follows unless otherwise agreed under future Stage 2 Development Applications:
      - (1) Urban Block 1, maximum permissible discharge is 165L/s,
      - (2) Urban Block 2, maximum permissible discharge is 62L/s,
      - (3) Urban Block 3, maximum permissible discharge is 100L/s,



- (4) Urban Block 4, maximum permissible discharge is 85L/s,
  - (5) Urban Block 5East, maximum permissible discharge is 135L/s,
  - (6) Urban Block 5West, maximum permissible discharge is 138L/s, and
  - (7) Urban Block 5Central, maximum permissible discharge is 110L/s,
- (c) For each development, the On-Site Detention System (OSD) discharge outlet shall be connected to the new stormwater pit and pipe system on the new roads adjacent to each building,
- (d) For each development, if underground car parking is proposed and is affected by the water table, no pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
- (e) For each development, if underground car parking is proposed and is tanked, the pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- (f) For each development, if underground car parking is proposed, the pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system,
- (g) For each development, if underground car parking is proposed, all site specific environmental concerns will have to be addressed,
- (h) For each development, all stormwater runoff from each development shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Council drainage system. As such, details of the pollution control device shall be shown on the stormwater management plans,
- (i) For each development, the rainwater tank(s) shall be constructed in a way enabling the overflow from the Rainwater tanks to drain to the on-site detention system,
- (j) For each development, the rainwater tank size shall be designed based on a supply/demand management approach. In addition, please note that in order to contribute to environmental sustainability and apply Water Sensitive Urban Design (WSUD) principles, consideration can be given to offset the storage requirements of the OSD system provided that the rainwater tank for reuse and all downpipes are connected to the rainwater tank. The volume to be offset from the OSD system is equivalent to 50% of the size of the rainwater tanks,
- (k) For each development, the water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site, and
- (l) For each development, a WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Council's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" that was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011.
- 66 The following requirements shall be implemented in the detail design phase of the development for Stage 2 and future stages. These sections will need to be submitted to and approved by Council:
- (a) Detail pavement design for the construction of East West Boulevard, North South Street 1, North South Street 2, Local Street and Civic Avenue,
  - (b) Detail verges design including kerb & gutter, footpath and any swale / rain garden treatment for East West Boulevard, North South Street 1, North South Street 2, Local Street and Civic Avenue. The footpath and kerb & gutter shall be designed in accordance with Council's Infrastructure Specifications,



- (c) All footpaths and kerb ramps adjacent to the development on Bunnerong Road, Heffron Road, Banks Ave within the subject site as it fronts Westfield Drive shall be reconstructed to Council's current infrastructure specifications,
  - (d) Decommission all redundant driveway laybacks and reconstruct as kerb & gutter,
  - (e) At the intersection of East West Boulevard and Banks Ave, design the road pavement to withstand the expected construction truck movements for this development. Extend the new pavement design full width 25m in each direction,
  - (f) Detail Stormwater Management design for the proposed new roads and central park incorporating provisions made in the Civil development Application Report by AT&L, Sydney Water Case No. 124768 and the provisions made under section 5.1.5.6 of the Statement of Environmental Effects by Urbis, dated July 2014,
  - (g) New lighting poles shall be constructed along East West Boulevard, North South Street 1, North South Street 2, Local Street and Civic Avenue. The lighting requirement is P3 for all streets within the development with the exception of the following locations:
    - (i) Shared path on Civic Ave shall be P2,
    - (ii) Intersection of East West Boulevard and Bunnerong Road shall be V2, and
    - (iii) Intersection of East West Boulevard and Banks Ave shall be V2.
  - (h) As part of this development, the Ausgrid Power poles along Bunnerong Road, Heffron Road and Banks Ave, will need to be decommissioned and all above ground utilities shall be placed underground. New lighting poles shall be constructed along Bunnerong Road, Heffron Road and Banks Ave as per Ausgrid, RMS, Council and any other affected service provider,
  - (i) The lighting requirements for Bunnerong Road shall be V2 and Heffron Road and Banks Ave shall a lighting level of V3, and
  - (j) All roads where public access is not restricted shall be designed as public roads.
  - (k) All works on RMS roads shall be carried in consultation and with approval of RMS.
- 67 Any existing easement(s), right of carriageway(s), right of footway(s) and lease(s) burdening the property, need to be addressed during the detail development application. Construction on or over any easement(s), right of carriageway(s), right of footway(s) and lease(s) without written approval/agreement of the beneficiary is strictly prohibited. The extinguishing of any easement(s), right of carriageway(s), right of footway(s) and lease(s) must be done with the written approval/ agreement of the beneficiary and detailed within the relevant stages of development as specified within this consent. Prior to the issue of any Occupation Certificate for the relevant stages of development as specified within this consent, any proposed new easements shall be created in consultation with Council and the beneficiary.

#### SITE REMEDIATION

- 68 On the basis that remediation is Category 2, and is work that does not need development consent:
- (a) Prior to the construction certificate for the relevant development for each Urban Block and including the public parks, a Site Audit Statement (Part B) is to be submitted that states that the land has been remediated in accordance with the remedial action plan (RAP) and suitable for the proposed residential and public park use. This shall also assess the site suitability for the more sensitive exposure setting of (NEPM 1999) HIL-E Parks, recreational open space and playing fields for the public park areas that are to be dedicated to council.
  - (b) Remediation shall be completed by a suitably qualified and experienced environmental consultant in accordance with:
    - (i) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';



- (ii) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
  - (iii) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.
- (c) Any change to the status of the remediation will require the submission of a separate DA and RAP to Council in accordance with SEPP 55.
- 69 Future development stages will be integrated development and will require referral to relevant authorities and conditions will be imposed on subsequent development stages.
- 70 During construction, no construction vehicles are to use to use Westfield Drive to enter or exit the site, unless there is agreement by the owner of the road, Terrace Towers P/L. There shall be no access to Westfield Drive during the operation of the development including no access from the internal road network or residential parking facilities; other than access for commercial vehicles to access the loading facilities for the retail component in Urban Block 5C.
- 71 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 14(96) dated as 7 August 2015 and that any alteration, variation, or extension to the use, for which approval has been given would require further approval from Council.





## Planning & Environment

### Gateway Determination

**Planning Proposal (Department Ref: PP\_2017\_BSIDE\_007\_00):** to rezone and amend the planning controls for land at 128 and 130-150 Bunnerong Road, Pagewood

I, the Executive Director, Regions, at the Department of Planning and Environment, as delegate of the Greater Sydney Commission have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Botany Bay Local Environmental Plan (LEP) 2013 to rezone and amend the planning controls for land at 128 and 130-150 Bunnerong Road, Pagewood should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:
  - (a) demonstrate consistency with the Draft Greater Sydney Region Plan and the Draft Revised Eastern City District Plan;
  - (b) amend the explanation of provisions to include the requirement of a minimum of 5,000 square metres of commercial floor space as an additional permitted use;
  - (c) update the number of jobs to reflect the provision for an additional 5,000 square metres of commercial floor space; and
  - (d) investigate and discuss with the proponent suitable affordable housing outcomes for the site.

Outcomes of these discussion are to be reported to the Sydney Region East team by 28 February 2018.

2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
3. Consultation is required with the following public authorities under section 56(2)(d) of the Act:
  - Transport for NSW;
  - Roads and Maritime Services;
  - NSW Ports;
  - Sydney Airport Authority;

PP\_2017\_BSIDE\_007\_00



## Planning & Environment

- Civil Aviation Safety Authority;
- Department of Education;
- Environment Protection Authority; and
- Office of Environment and Heritage.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 12<sup>th</sup> day of December 2017.

A handwritten signature in black ink, appearing to read 'Stephen Murray'.

Stephen Murray  
Executive Director, Regions  
Planning Services  
Department of Planning and Environment

Delegate of the Greater Sydney Commission

PP\_2017\_BSIDE\_007\_00



# MERITON EASTGARDENS

## VPA Uplift Assessment



Prepared for Bayside Council

July 2018



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Figure 1: Subject Site

## Quality Assurance

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### Quality Control

This document is for discussion purposes only unless signed and dated by a Principal of HillPDA.

### Reviewer

Signature

Dated

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# INTRODUCTION



## 1.0 INTRODUCTION

A Concept Plan and Urban Design Report illustrating the type of development facilitated by the Planning Proposal was prepared by Hassell. The design has been informed by, and provides for the extension of, the approved Stage 1 Master Plan for Lot 2.

According to the Planning Proposal the concept plan includes 2,068 new dwellings (representing a net additional 1,098 dwellings given the planning proposal spans part of Lot 2 which already has development consent in place for 2,223 dwellings). The planned dwellings are expected to comprise a mix of unit types including one, two and three bedroom units. Allowance has been made for complementary non-residential uses including approximately 1,000sqm retail floor space, a 100-place child care centre and up to 4,060sqm community facilities.

A total GFA of 210,837sqm is proposed across the site, which equates to an overall FSR of 2.35:1

A network of strategically located and connected open spaces with a combined area of approximately 26,085sqm will be integrated into the development. This includes a large green link (Wedge Park) between Jellicoe Park to the north and the previously approved "Central Park" adjacent to Meriton Boulevard, and a linear park along the entire northern edge of the site.

The intended outcome of the planning proposal was to amend the BBLEP 2013 as follows:

- Rezone the subject site from part IN1 General Industrial and part R3 Medium Density Residential to R4 High Density Residential;
- Amend the maximum FSR development standard to 2.35:1; and
- Amend the maximum height of buildings development standard to part 28m and part 65m.

In September 2017 the Sydney Central Planning Panel supported the planning proposal to Gateway subject to a number of conditions including:

- Satisfactory arrangements with Council for the provision of appropriate community facilities, open space and social infrastructure; and
- Five percent (5%) affordable housing to be integrated into the development without a bonus as contained in the current planning proposal. Affordable housing to be handed to a Council nominated community housing provider.

The planning proposal includes the rezoning of Lot 1 (currently IN1 Land) and additional dwellings on that part of Lot 2 immediately to the west of Lot 1 (see figure below).

As stated above Urbis describes the proposal as 2,068 new dwellings (representing a net additional 1,098 dwellings given the planning proposal spans part of Lot 2 which already has development consent in place for 2,223 dwellings). There was some confusion in the documentation with dwelling numbers but we calculate the net increase in apartments to be 1,589 as shown in the table below.

Figure 1: Subject Site



Source: The Planning Proposal prepared by Urbis, Page ii

	130-150 Bunnerong Road (Lot 2)	128 Bunnerong Road (Lot 1)	TOTAL
Site Area (sqm)	28,694	60,876	89,570
Approved Residential FSR	1.66	0	
Approved Residential Floor Space (sqm)	47,632	0	47,632
No. of Apartments (at 100sqm each)	476	0	476
Proposed FSR			2.35
Proposed Floor Space (sqm)			210,490
Less Approved Floor Space			47,632
Less Increase in Commercial Floor Space			4,000
Net Increase in Residential Floor Space			158,857
Net Increase in Apartments			1,589
Apartments already approved			2,223
Total Apartments when fully complete			3,812

Since then it has been agreed between the parties that any affordable housing apartments would be provided over and above the FSR 2.35.



# MARKET RESEARCH

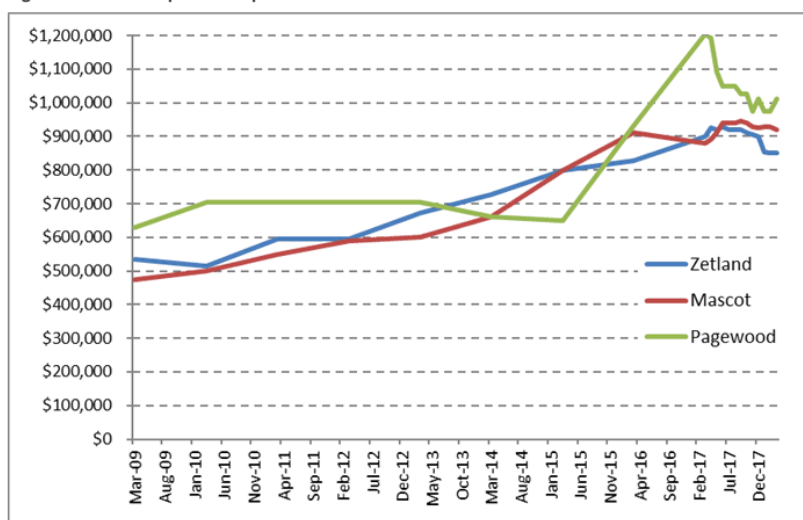
## 2.0 MARKET RESEARCH

High-level market research was undertaken for new residential apartments and development site sales.

### 2.1 Current Residential Market

The residential market peaked in 2017 after a 3 year long upturn. The median price of apartments in Zetland, Mascot and Pagewood increased 24%, 33% and 80% respectively. From March 2017 to March 2018 the median price has fallen 6% in Zetland and 16% in Pagewood.

Figure 2: Median apartment price



Source: RPData, HillPDA

The upturn from 2014 to 2017 was due several factors – the main ones being:

- NSW economy performing well during the post resources boom;
- Low sustained interest rates and easy financing;
- Strong pent-up demand due to low levels of construction in the preceding 10 year period; and
- Strong interest from overseas investors – particularly from China

The recent downturn has been a correction to the overheated market. Also it has resulted from a large supply of housing which has satisfied pent-up demand and a tightening of borrowing. Interest rates remain low but low wages growth is also dampening enthusiasm.

Apartment prices have remained steady or even fallen a little in the order of 5% or so. More importantly developers are saying that the number of pre-sales has fallen quite dramatically. Auction clearance rates

## 2.2 New Apartments

### 2.2.1 Pagewood Green

The most direct comparable sales evidence is off-the-plan sales by Meriton on the BATA site itself. These apartments are being marketed as Pagewood Green apartments at time of reporting with discounts that cover the cost of stamp duty. Some example apartments include the following:

1 bed, 1 bath and 1 car apartment, west facing with city view + golf course view. 65sqm internal for \$890,000 less say 4% for stamp duty discount = \$13,144/sqm.

#### 1 BEDROOM

APARTMENTS  
608, 708, 808, 908, 1008, 1108

INTERNAL AREA  
65m<sup>2</sup>

BALCONY AREA  
11m<sup>2</sup>

TOTAL AREA  
76m<sup>2</sup> + carpace



BUILDING A



#### 1 BED + STUDY

APARTMENTS  
617, 717, 817, 917, 1017, 1117, 1217, 1317, 1417, 1517

INTERNAL AREA  
66m<sup>2</sup>

BALCONY AREA  
12m<sup>2</sup>

TOTAL AREA  
78m<sup>2</sup> + carpace



BUILDING B



1 + study apartment with 1 bath and 1 car, east facing on the 12<sup>th</sup> floor in a 15 storey tower. 66sqm internal space for \$940K less say 4% for stamp duty discount = \$13,672/sqm.



2 bed apartment with 2 bath and one car east facing on Level 7. 85sqm internal area for \$1.14m less say 4% for stamp duty = \$12,875/sqm

### 2 BEDROOM

#### APARTMENTS

641, 741, 841, 941, 1041, 1141, 1241, 1341, 1441, 1541

#### INTERNAL AREA

85m<sup>2</sup>

#### BALCONY AREA

11m<sup>2</sup>

#### TOTAL AREA

96m<sup>2</sup> + carpace



#### BUILDING D



### 3 BEDROOM

#### APARTMENTS

616, 716, 816, 916, 1016, 1116, 1216, 1316, 1416, 1516

#### INTERNAL AREA

111m<sup>2</sup>

#### BALCONY AREA

13m<sup>2</sup>

#### TOTAL AREA

124m<sup>2</sup> + carpace



#### BUILDING B



3 bed, 2 bath, 2 car north east facing apartment on Level 6. 111sqm internal for \$ 1,395K less say 4.5% stamp duty = \$12,000/sqm

Apartment prices generally increase around \$10,000 per level or say \$15/sqm. In summary apartment prices range from \$12,000 per square metre to \$13,700/sqm.

### 2.2.2 Vida apartments

Meriton are also selling apartments in Mascot. The Vida apartments on Gardeners Road have a 1-bedroom south facing apartment on the first floor for \$644,000. Internal area is 59sqm and no car space. Less stamp duty the sale price calculates to \$10,533. A one-bedroom plus study east facing apartment on the first floor with a car space is \$818,000. Internal area is 57sqm. Less stamp duty this calculates to \$13,777/sqm. On Level 2 a 2-bedroom apartment southeast corner with an internal area of 91sqm and car space is \$995,000. The price jumps to \$1.037m due to distant views and then increases a further \$10,000 for each level above up to Level 7 (\$1.088M). Prices in the Vida for apartments with car spaces are therefore in the \$11,000 to \$12,500 range – around 5% to 10% less than Pagewood Green.

### 2.2.3 Esprit by Bridgehill

The Esprit building by Bridgehill apartments in Mascot have similar prices per square metre. This building is within a couple of hundred metres from Mascot station. At the time of reporting there was a 1-bedroom plus study apartment for sale on Level 6 with 2 bathrooms and 1 car. The study could be converted into a second bedroom. Price is \$950,000 which equates to \$12,667/sqm. A similar but smaller unit on Level 12 with 66sqm is \$850,000 which equates to \$12,879/sqm.



#### 2.2.4 East Square

At 280 Coward Street Mascot near the station apartments are selling off-the-plan. 75sqm 1-bedroom with 1 bath and 1 car are selling from \$790,000 (\$10,600/sqm) to \$960,000 (\$12,800/sqm), 100sqm 2-bedroom with 2 car spaces from \$1.04m (\$10,400/sqm) to \$1.36m (\$13,600/sqm) and 126sqm 3-bedroom for \$1.6m (\$12,700/sqm).

#### 2.2.5 Taylors Walk

Fraser's are selling apartments on Wilson Street Botany. The location is considered inferior to Eastgardens being two and half kilometres from Westfield Eastgardens and more than 4km from a train station. Starting prices are \$670,000 for a 53sqm 1-bedroom apartment with one 1 car (\$12,640/sqm), \$950,000 for a 91sqm 2-bed, 2-bath, 2-car (\$10,440/sqm) and \$1.225m for 119sqm 3-bedroom (\$10,300/sqm).

### 2.3 Development Site Sales

Recent development site sales in the locality include the following:

- 130-150 Bunnerong Road, Eastgardens: 16.8 hectares bought by Meriton from BATA in May 2014 for \$142m (\$8.45m per hectare). Proposed yield at that time was 2,200 apartments equating to \$64,545 per apartment.
- 54 Marine Parade, Maroubra sold for \$6.5m in December 2014. Proposed development is for 11 apartments and 7 town houses equating to \$361,000 per dwelling.
- 158-162 Barker Street Randwick is a 5.6ha site sold for \$290m (\$57.3m/hectare) in July 2015. Yield is 800 apartments equating to \$362,500/apartment.
- 84-92 Epsom Road, Zetland was a 1.033ha site bought in March 2014 for \$47.5m for a yield of 215 apartments (\$221,000/unit).
- 219-231 Botany Road, Waterloo sold in July 2017 – half a hectare for \$40m. The site was sold with a stage 1 development consent for 134 apartments. This equates to \$298,500 per apartment.
- 1037-1047 Bourke Street, Waterloo (3,591sqm) sold in November 2016 for \$30m. Earlier approval for 87 apartments equating to \$344,000 per apartment.
- 671 Gardeners Road Mascot sold in February 2017 for \$67m with approval for 242 apartments. Site area is 0.7 hectares equating to \$9,336/sqm and \$277,000 per apartment
- 563 Gardeners Road Mascot sold in December 2016 for \$7m with approval for 25 apartments equating to \$280,000 per apartment.

For a single stage development we would expect site costs per apartment to be currently around \$250,000 to \$275,000 without development consent to around \$300,000 with development consent. The price paid by Meriton for the site - \$142m at 130-150 Bunnerong Road and \$90m at 128 Bunnerong Road in 2015 for a total combined yield of just over 3,300 apartments (around \$70,000/apartment) is a reflection of some planning risk, the long time frame to fully develop the site (over 10 years) and additional site costs including demolition and clearing, roads, drainage, services, etc.



# FEASIBILITY TESTING



## 3.0 FEASIBILITY TESTING

The software used by HillPDA was Estate Master Development Feasibility which was first developed by HillPDA. This software is an industry benchmark used by developers, financiers and property valuers alike. The analysis follows the approach of a hypothetical development feasibility adopting an acquisition land value and all the costs associated with the nominated hypothetical development including:

- site acquisition (plus stamp duty and other costs);
- professional fees (design and management);
- demolition and construction;
- property holding costs and statutory fees;
- finance charges and interest on debt;
- marketing and selling costs; and
- sales revenue.

The hypothetical development cash flow is calculated and discounted to a present value. Such an approach is commonly applied by developers and funders to determine if a project is viable to proceed or whether an alternative land purchase price is required.

The method tests whether financial hurdle rates are likely to be achieved given a fixed land price. It further calculates the residual land value (or RLV) which is the maximum price that a developer could pay for the land whilst achieving the required hurdle rates (profit margin and internal rate of return) given the level of project risk.

### 3.1 Methodology

Due to the long project life we prepared two discounted cash flow models. The first model assumes acquisition of a site to erect a single building or buildings comprising 120 apartments. The purpose of this model is to test or confirm the residual land value of an apartment or square metre of floor area given reasonable hurdle rates. For the purpose of the assessment we have assumed an appropriate zoning but sale of site without development consent. The hurdle rates adopted are 20% target development margin (profit over total project cost) and 18% project internal rate of return (IRR).

The second DCF model simulates the sale of development sites throughout the life of the whole project and discounts the sale values to a present value at an appropriate discount rate that reflects the land holding period. A land holding discount rate is generally a lower rate to reflect a more passive investment or land banking role. In this case 6% was adopted.

### 3.2 Cost Assumptions

#### 3.2.1 Project timing

It is assumed that a parcel of serviced land is acquired for a single stage development of 120 apartments. It is assumed that development is compliant but development consent is required.

- Land deposit in Month 0
- Settlement in Month 3
- Design and approvals spanning 9 months from Month 3
- Construction commencing month 12 and spanning 18 months



- 60% of apartments are sold off-the-plan commencing in Month 6
- The balance are sold within 4 months following building completion

#### **3.2.2 Land Acquisition**

- Land was assumed at \$31.8m or \$265,000 per apartment
- Valuation and due diligence was assumed at 0.4% of land cost

#### **3.2.3 Professional fees and application fees**

- Professional fees in planning and design before construction = 4% of construction cost
- Fees during construction including project management = 4% of construction
- Application fees (DA, CC and LSL) = 1% of construction cost

#### **3.2.4 Construction**

- Construction per apartment is \$376,500 comprising 103sqm (GBA) by \$2,900/sqm plus 1.2 car spaces by \$45,000 per car space (includes visitor spaces) plus \$17,000 for a balcony and \$7,500 for site costs, external works and services.
- A further 5% contingency was added

#### **3.2.5 Other Costs**

- Section 94 was included at \$20,000 per apartment paid at CC (sourced from Council)
- Marketing and advertising was included at 1% of gross sales and incurred during the pre-selling period
- Land holding costs were assumed at \$220,000 per annum

### **3.3 Revenue Assumptions**

- Apartments were priced at \$12,600/sqm (\$1.07m for an 85sqm apartment) inclusive of GST
- 60% of the apartments are assumed to be pre-sold and the balance to be sold within 4 months following building completion
- GST cost being one eleventh of the gross sale price (under general tax rule) is assumed to be paid at settlement
- Other costs at settlement include 2.2% sales commission and 0.3% for legals and disbursements.

### **3.4 Finance**

- \$23m equity (equivalent to 25% of total project cost) is contributed and drawdown first.
- Thereafter debt is drawdown as required and interest at 6.5% per annum is charged monthly in arrears (nominal) and capitalised.
- Finance establishment costs are assumed at 1% of construction cost.



### 3.5 Performance Indicators

For the purpose of the feasibility modelling a target IRR of 18% and target development margin of 20% were adopted. This reflects some level of planning risk (assuming sale of the site without DA) as well as market risk and procurement risk.

The feasibility outputs are provided in Appendix A. Based on an assumed land cost of \$31.8m (\$265,000 per apartment) the main key performance indicators (as shown on the summary sheet) are as follows:

- Development profit = \$21m (\$175k per apartment) which is considered good;
- Development margin = 21.6% of total project cost which is sound;
- Project internal rate of return (IRR) = 17.9% which is marginal;
- IRR on the equity cash flow = 25.8% which is sound; and
- Residual land value (RLV) of around \$265k to \$270k per apartment. The RLV is the maximum price that a developer could pay for the land to achieve the required hurdle rate. In the case of the target IRR of 18% the developer can pay \$260k for the land. To achieve a 20% margin the developer can pay \$270k for the land.

The land price of \$265,000 per apartment is consistent with the development site sales in this area. This is the rate that was adopted in the following section.



# THE VALUE UPLIFT MODEL



## 4.0 THE VALUE UPLIFT MODEL

The value uplift model is a simple discounted cash flow (DCF) model that calculates the present value of the increase in number of apartments. The assessment is a little vexed because of a number of uncertainties – the main one being the likely timing of approvals and construction of the 1,589 marginal apartments. The other significant level of uncertainty is contamination and what level of remediation may be required.

### 4.1 The Calculated Amount of Value Uplift

Assuming a construction rate of 200 apartments per annum then we estimate the value uplift to be around \$73m. This is shown in the DCF model below

Calculation of the Planning Proposal Value Uplift (\$m)

End Fin Year	Year	Units	Cumul. Units	Marginal Units	A.H Units	Marginal Cost	Marginal Revenue	Net Cash Flow	Affordable Housing	Net Increase	Discounted Net Benefit
2018	0	0	0	0		-	-	-101.7		-101.7	-101.7
2019	1	487	487	0	0	-	-	-	-	-	-
2020	2	368	855	0	0	-	-	-	-	-	-
2021	3	160	1,015	0	0	-	-	-	-	-	-
2022	4	160	1,175	0	0	-	-	-	-	-	-
2023	5	200	1,375	0	0	-	-	-	-	-	-
2024	6	200	1,575	0	0	-6.8	-	-6.8	-	-6.8	-4.8
2025	7	200	1,775	0	0	-14.4	-	-14.4	-	-14.4	-9.6
2026	8	200	1,975	0	0	-7.6	42.4	34.8	-	34.8	21.8
2027	9	200	2,175	0	0	-	55.7	55.7	-	55.7	32.9
2028	10	208	2,383	160	8	-	55.7	55.7	-6.7	49.0	27.4
2029	11	210	2,593	210	10	-	55.7	55.7	-8.8	46.9	24.7
2030	12	210	2,803	210	10	-	55.7	55.7	-8.8	46.9	23.3
2031	13	210	3,013	210	10	-	55.7	55.7	-8.8	46.9	22.0
2032	14	210	3,223	210	10	-	55.7	55.7	-8.8	46.9	20.7
2033	15	210	3,433	210	10	-	55.7	55.7	-8.8	46.9	19.6
2034	16	210	3,643	210	10	-	10.1	10.1	-8.8	1.3	0.5
2035	17	210	3,853	210	10	-	-	-	-8.8	-8.8	-3.2
2036	18	38	3,891	38	1	-	-	-	-1.2	-1.2	-0.4
<b>TOTAL</b>		<b>3,891</b>		<b>1,668</b>	<b>79</b>	<b>-28.8</b>	<b>442.0</b>	<b>311.5</b>	<b>-69.1</b>	<b>242.4</b>	<b>73.2</b>

Assumptions in the model are as follows:

- 3,812 total apartments of which the marginal increase from the planning proposal is 1,589 plus 79 affordable apartments;
- The first stage of development (Block 5W Allium) is completed in 2018-19 financial year;
- The next 2 stages (Block 4 and 5E) are completed in 2019-20 financial year (Source: CordellsConnect);
- In the following two years construction is slowed to a rate of 160 per annum;
- Thereafter apartments are constructed at a rate of 200 per annum;
- Land value per apartment is assumed at \$265,000 and the benefit is shown 2 years before completion of the apartments similar to a de-facto land sale of pad sites;





- Acquisition price for the site is the historic price escalated at 5% per annum over the past 2.5 years (see section on land price below);
- Marginal costs refer to demolition and contamination plus open space and land development costs (roads, services, etc) sourced from Meriton;
- A real discount rate of 6.0% was applied – costs and revenues were not escalated.

A more summarised calculation is shown in the table below

#### Summary of the Value Uplift (\$m)

	(\$m)	\$/marginal Unit	\$/marginal unit (excluding A.H.)
Value of Apartment Sites	442.0	265,000	278,175
Present Value of Apartment Sites	225.5	135,179	141,899
Less PV of the Affordable Housing Gifted	-31.4	-18,838	-19,774
Less PV of Land Development Costs	-19.1	-11,476	-12,046
Less Opportunity Cost of IN1 Land	-101.7	-60,956	-63,987
Value Uplift	73.2	43,909	46,092
50% Share	36.6	21,954	23,046

The present value of the value uplift per marginal apartment (excluding affordable apartments) is calculated at \$46,000 measured in 2018 dollars.

## 4.2 Land Price

In measuring the value uplift from a planning proposal the base case should be the value of the property under the current zone in perpetuity. The acquisition price of \$90m in 2015 was adopted in the model. In some cases a developer may pay a high premium in expectation of rezoning. We checked if this was the case from comparable industrial land sales all zoned IN1. Three sales confirmed the price being:

- 38 McPherson Street, Banksmeadow was sold in May 2017 for \$12.257m (8,250sqm = \$1,486/sqm) for a clean site;
- 3 Anderson Street, Banksmeadow was sold in April 2016 for \$19.8m (2.03ha = \$975/sqm);
- 13 Baker Street, Banksmeadow sold in November 2016 for \$16m (9,371sqm = \$1,707/sqm).

The rate of \$1,478/sqm that Meriton paid is not out of line with the above comparable sales although we would expect the rate to be a little lower owing to the size of the land at 6.1ha. For the purpose of this assessment we have adopted the historic acquisition price of \$90m in 2015 and escalated it at 5% over the past 2.5 years.

## 4.3 Value Capture

In most cases that we are aware of, the target is for Councils to capture 50% of the value uplift resulting from a planning proposal. In this case 50% of \$73.2m is \$36.6m (\$23,000/apartment).

The timing of payment is important. The value uplift is a present value figure – that is 2018. If the payment is fixed in amount but not delivered many years later then Council will lose the benefit of escalations in value over time. One method to mitigate this risk is to escalate the payment every year – say 4% or CPI whichever is higher.



#### 4.4 Other Considerations

In lieu of direct monetary payments and affordable housing Meriton may seek to contribute public benefits in kind which could be a combination of measures such as:

- Public open spaces, embellishment, artwork, etc;
- Contributions to public transport infrastructure and services;
- Human services infrastructure, etc.

Please note that the timing of these benefits is important as delays would undermine the benefits in net present value terms.

Also note that not all works would be viewed as a public or planning benefit under a VPA. Some external works and infrastructure may be required as mitigation works due to the impacts of the development itself and hence should be considered as conditions of consent.

Section 94 is a development cost that should not be construed as a benefit under a VPA. Also some works in kind may be viewed as an offset (rebate) to Section 94 rather than a VPA payment.

Finally we draw your attention to the recent draft Practice Note from the Planning Minister (November 2016) that states "Planning authorities should ensure that proper investigation and consideration of development feasibility and capacity to pay is carried out, preferably on an open book basis, if raised as an issue with the developer". Further the VPA needs "to provide a public benefit that has a clear link to the development and should not be wholly unrelated".

#### 4.5 Timing of Affordable Housing

As per your instruction we have considered the delivery of 50 affordable housing apartments in Stage 1 as shown in the table below.

**Calculation of the Value Uplift with some Affordable Housing delivered in Stage 1**

End Fin Year	Year	Units	Cumul. Units	Marginal Units	A.H Units	Marginal Cost	Marginal Revenue	Net Cash Flow	Affordable Housing	Net Increase	Discounted Net Benefit
2018	0	0	0	0		-	-	-101.7		-101.7	-101.7
2019	1	487	487	0	0	-	-	-	-	-	-
2020	2	368	855	0	50	-	-	-	-43.8	-43.8	-38.9
2021	3	160	1,015	0	0	-	-	-	-	-	-
2022	4	160	1,175	0	0	-	-	-	-	-	-
2023	5	200	1,375	0	0	-	-	-	-	-	-
2024	6	200	1,575	0	0	-6.8	-	-6.8	-	-6.8	-4.8
2025	7	200	1,775	0	0	-14.4	-	-14.4	-	-14.4	-9.6
2026	8	200	1,975	0	0	-7.6	40.3	32.6	-	32.6	20.5
2027	9	200	2,175	0	0	-	53.0	53.0	-	53.0	31.4
2028	10	200	2,375	152	0	-	53.0	53.0	-	53.0	29.6
2029	11	200	2,575	200	0	-	53.0	53.0	-	53.0	27.9
2030	12	200	2,775	200	0	-	53.0	53.0	-	53.0	26.3
2031	13	200	2,975	200	0	-	53.0	53.0	-	53.0	24.8
2032	14	200	3,175	200	0	-	53.0	53.0	-	53.0	23.4
2033	15	200	3,375	200	0	-	53.0	53.0	-	53.0	22.1
2034	16	200	3,575	200	0	-	23.1	23.1	-	23.1	9.1
2035	17	200	3,775	200	0	-	-	-	-	-	-

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■ C18190 Meriton Eastgardens VPA Uplift Assessment



2036	18	87	3,862	87	0	-	-	-	-	-	-
TOTAL		3,862		1,639	50	-28.8	434.3	303.9	-43.8	260.1	60.2

In the above example 50 apartments are delivered in 2020. By advancing the affordable housing the cost to Meriton in present value terms has increased. This results in a lower residual value uplift of \$60.2m in present value terms – some \$13m less than delivering 79 affordable housing apartments at the back end.

**Under this scenario the present value of the value uplift per marginal apartment (excluding affordable apartments) is calculated at \$38,000 measured in 2018 dollars.**



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# APPENDICES





## APPENDIX A: FEASIBILITY SUMMARY



1 August 2018

Ms Meredith Wallace  
General Manager  
Bayside Council  
444-446 Princes Highway  
ROCKDALE NSW 2216

Dear Ms Wallace,

DRAFT OFFER TO ENTER INTO A VOLUNTARY PLANNING AGREEMENT – PAGEWOOD GREEN (PART II)  
128 & PART 130 BUNNERONG ROAD, PAGEWOOD

Please refer to the attached draft Public Benefit Offer for Council's consideration to support our endorsed Planning proposal for our Pagewood Green (Part II) development.

The public benefit value created by this proposal is consistent with the independent land value uplift assessment by HillPDA and goes well beyond the requirements of the Gateway Approval from December 2017. It will deliver the expected public benefit value at the start of the process instead of a drawn out and protracted benefit. This will allow the Council to fund critical public infrastructure liabilities for the broader community that would not otherwise be achievable in the short to mid-term, including the upgrade to the Botany Aquatic Centre.

The value of the Monetary Contribution (\$23.9M) has been made at 50% of the land value uplift based on a \$250,000 land value per unit which is slightly less, but more appropriate under the current declining market conditions, then the \$265,000 suggested in the HillPDA Report. This approach is reasonable and achieves Council's underlying expectations around value capture.

The Affordable Housing Units will also be delivered upfront and will allow Council to provide critical affordable housing for key-workers who serve the local community but may not otherwise be able to afford to live in the local area. The current value of these units could be as much as \$50M+ and in addition to the local housing benefits, will also create an unencumbered income stream for the Council.

A Local Contribution of \$20,000 per unit is proposed in lieu of s7.11 Contributions which is necessary to facilitate the early Monetary Contribution. The land value uplift outlined under the HillPDA report is achieved by maintaining the current \$20,000 cap over the life of the development. If the s7.11 were to be uncapped in the future (given the recent amendments to Council's s7.11 Plan), there would be a substantial reduction to the "uplift value" and respective Monetary Contribution. As we are delivering the Monetary Contribution upfront, it is necessary to ensure the cap is retained. It is estimated that the Local Contribution would be in the order of \$30M after a credit is applied for the public open space on the site which will be dedicated to Council.

Overall, the value of the contribution under the VPA is almost \$75M (AHU's, Monetary Contribution) plus approximately \$30M in the Local Contributions. This is in addition to the broader Pagewood Green development benefits including:

- Almost 3ha of high quality public open space in total across both stages,
- Funding of major intersection upgrades at Bunnerong, Banks and Wentworth that were already failing before this development;

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- Major open space upgrades at Jellicoe and Mutch Parks under the existing VPA;
- Delivery of substantial housing supply that will help Council meet its short-term and medium-term housing targets;
- The provision of a new retail precinct that will activate the development and service the broader area; and
- Over \$32M in s.7.11 contributions under Part I of the project.

Meriton is in a strong position to not only offer these terms, but to guarantee the delivery of the public benefits at the start of the project to cover the benefit of the entire project. We are also in a position to continue building despite market conditions which gives Council certainty over the delivery of these substantial benefits.

Meriton sees the value in presenting this offer for consideration as we have a long association with the local area and are willing to make a substantial financial contribution outside of any policy requirements that will address a critical public infrastructure need. However, under the current and slowing market conditions, we need a quick resolution otherwise we may need to reconsider this position.

We trust under the circumstances that Council will be able to expedite its agreement and we look forward to delivering this project as soon as possible.

Yours faithfully  
MERITON GROUP



Matthew Lennartz  
Executive Manager – Planning and Government

## DRAFT

### **DRAFT OFFER TO ENTER INTO A VOLUNTARY PLANNING AGREEMENT – PAGWOOD GREEN (PART II) 128 & PART 130 BUNNERONG ROAD, PAGWOOD**

Subject to ongoing discussions with Council staff, Meriton is pleased to make this draft offer to enter into a Voluntary Planning Agreement (VPA) in respect of the current Planning Proposal for Part II of our Pagewood Green Development.

In issuing this offer we acknowledge that there is no mandate on Meriton to enter into a VPA with the Council and there are no local or state policies or other requirements obliging Meriton to offer anything beyond the Affordable Housing. Notwithstanding, we are committed to this area and recognise the broader public benefits that a VPA can deliver and Councils expectations for value capture. We have worked with Council staff and independent valuation consultants to come to an offer which we believe is fair and reasonable and that will be acceptable to the Council so we can proceed with the tight timeline set by the Gateway Approval (December).

The key principles, timeframes, security arrangements and other key provisions of the offer are outlined below for Council to consider and prepare the draft VPA documentation. We look forward to the Council's support of this offer so we can proceed with this major urban regeneration project.

#### **Parties:**

- Karimbla Properties (No. 39) Pty Ltd (**Developer**)
- Meriton Properties Pty Ltd (**Guarantor**)
- Bayside Council (**Council**)

**Land:** 128 & Part 130 Bunnerong Road, Pagewood being Lot 1 and Part Lot 2 DP1187426 (subject to future subdivisions)

**LEP Amendment:** means the proposed amendment to the Botany LEP to rezone the Land to R4 High Density Residential (with provisions for retail, seniors living and hotel uses to be permissible with consent) and achieve a minimum FSR of 2.35:1 (excluding any the affordable housing) and heights up to at least 91mAH (or higher if supported by a controlled activity approval from relevant authorities).

**Development:** means the future construction of a mixed use / residential development with associated roads and open space across a range of stages on the Land subject to and in accordance with the LEP Amendment (Commonly referred to as Pagewood Green (Part II)).

#### **Principles:**

The offer is contingent on all of the following principles being achieved:

- Gazettal of the LEP Amendment to rezone the Land to R4 High Density Residential (with provisions for retail, seniors living and hotel uses to be permissible with consent) and achieve a minimum FSR of 2.35:1 (excluding any the affordable housing provision) and heights up to at least 91mAH (or higher if supported by a controlled activity approval from relevant authorities).
- Approval of a Stage 1 Masterplan DA covering the Land that achieves the maximum permitted height and density of the LEP Amendment generally in accordance with the plan in Appendix A.
- Approval of the Stage 1 Masterplan DA must not include any conditions that exceed the provisions of SEPP65/ADG (that may change from time to time).
- Approval of the Stage 1 Masterplan DA must adopt the minimum residential parking rates in our Planning Proposal (i.e. 0.5spaces per ST/1B; 1spaces per 2B; 1.5spaces per 3+B and 1 visitor space per 10 dwellings). The rates as proposed are necessary given the long-term nature of the mixed-use

## DRAFT

project with on-site services/facilities and established government policy focused on alternative transport solutions, less car dependency and major public transport systems servicing SE Sydney in the future. The proposed rates are minimums and it is possible that Meriton could propose more in the future. These rates are supported in our Traffic Report which has been lodged since May 2017.

- Approval of the Stage 1 Masterplan without any requirements for design competitions for the Development. (Note – there will be a separate design excellence strategy outlined in the revised PP to ensure the use of various tier 1 architects throughout the development)
- Recognition of Meriton's contribution to the area by the naming of future public elements of the Development after Meriton (roads, open space etc).

Subject to the above principles, the Developer agrees to provide the following public benefits:

- Dedication of Affordable Housing Units (AHU's) to Bayside Council with a total of 100 bedrooms located within Part 1 of our Pagewood Green development (subject of DA14/96). The AHU's will be identified at Meriton's discretion and with a preference for a higher proportion of 3-bedroom units. The units are to be used in-perpetuity for the purpose of providing affordable / key-worker housing for the local area and be managed by a registered Community Housing Provider. The units will be finished to a standard Meriton specification.
- A single Monetary Contribution of \$23,900,000 (excl GST) that will be utilised by the Council to fund works or acquisitions inclusive of but not limited to the upgrade to Botany Aquatic Centre, Hensley Athletic Field and to other local public facilities that would benefit future residents of the Development in agreement with the Developer.
- A Local Contribution payment of \$20,000 per residential dwelling/apartment (or Independent Living Unit – ILU) in the Development that Council can utilise to fund planned works under its s7.11 Contributions Plan.
- Dedication of approximately 20,000m<sup>2</sup> (2ha) of Public Open Space throughout the Development as generally indicated on the plan in Appendix A.
- Dedication of all nominated Public Roads as generally indicated on the plan in Appendix A.

### Timing:

- AHU's – Prior to any Construction Certificate for residential GFA under the Development
- Monetary Contribution – Prior to any Construction Certificate for residential GFA under the Development
- Local Contribution – Prior to any Construction Certificate for each Building within the Development (subject to CPI adjustments between the date of the relevant Development Consent and issue of the respective Construction Certificate).
- Public Open Space – Prior to any Occupation Certificate in the final building/stage of the Development (may occur earlier subject to development phasing and in agreement with Council)
- Public Roads – Prior to any Occupation Certificate in the final building/stage of the Development (may occur earlier subject to development phasing and in agreement with Council)

The timing for obligations will not commence until the first Construction Certificate for residential GFA in the Development which, subject to approvals, we estimate to occur within 2020.

### Application of Section 7.11 Contributions

The application of s7.11 of the Environmental Planning and Assessment Act (EPAA) is excluded for the Development and the following provisions are proposed:

## DRAFT

- A Local Contribution of \$20,000 is payable on any residential apartment/dwelling within the development (including any ILU subject to the Seniors Living SEPP). As per Council's current s7.11 Plan, no contribution is payable on the non-residential items.
- The Local Contribution will not apply to any AHU's and if dedicated from a part of the existing development (under DA14/96) where they have already been paid, a credit should be applied to the Local Contributions in accordance with the s7.11 Contributions levied under the respective Development Consent.
- The full amount of the embellishment of the Public Open Space is to be credited from the Local Contribution. The amount, timing and method for the credit is to be agreed between the parties using an independent QS (and considering the public open space already approved on the Land under DA14/96) once the Stage 1 DA and associated Landscape Masterplan is approved under the Stage 1 Masterplan DA. The value of the Public Open Space will be deducted proportionally through each stage of the Development.

### Security:

- Meriton Properties Pty Ltd (parent Company of the Meriton Group) will enter into the Agreement as a Guarantor to guarantee all obligations in accordance with the VPA as opposed to provision of other forms of security (e.g. Bank Guarantee or Insurance Bond).
- Registration of the VPA on the respective titles of the Land excluding any lots created under a strata subdivision (excluding common property)
- No caveats will be permitted to be registered on the Land except after execution and before and registration of the VPA on the Land; or
- The Developer acknowledges that conditions of development consent on future Development Applications may be applied that will align with the obligations of the VPA and provide additional security for the delivery of the obligations.

### Amendments:

A clause shall be included that allows both parties to agree to amendments to the VPA in writing that do not affect the ultimate obligations delivered. This will avoid protracted process for agreed amendments that may address timing etc, but not the ultimate obligations of the VPA.

### Future Development Potential:

Meriton would like the Council to consider the inclusion of a clause that will allow for rates for a Monetary Contribution and AHU's to be established should the future FSR over the Land be increased by more than 10% given the timeframe for delivery of this project. This can be defined and included on the same principles and values once the final VPA position is agreed.

We trust these terms are considered reasonable and acceptable under the circumstances and we look forward to Council's endorsement of the offer so we can proceed with d





## Council Meeting

8/08/2018

Item No	8.2
Subject	<b>Draft Planning Proposal: 8 Princess Street, Brighton Le Sands</b>
Report by	Michael McCabe, Director City Futures
File	F18/395

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## Summary

Council has received a draft Planning Proposal in relation to land at 8 Princess Street, Brighton-Le-Sands (subject site). The current SP3 Tourist zoning for the site was informed by a major development application under the former Part 3A of the EP&A Act to expand the adjoining Novotel hotel.

The expansion of the existing Novotel did not proceed, and the site was subsequently developed for the purposes of a 9-storey shop top housing development in accordance with the permissible land uses in the SP3 Tourist zone. The existing development on the site has three vacant commercial tenancies at ground floor.

The vacant tenancies have resulted in an inactive streetscape and the Planning Proposal seeks to rezone the site to B4 mixed use enabling residential development on the ground floor, providing opportunities for casual surveillance and activation of the streetscape whilst implementing a zoning consistent with the primary function of the Brighton-Le-Sands local centre.

The draft Planning Proposal seeks to rezone the land from SP3 Tourist to B4 Mixed Use.

On 26 June 2018, the Bayside Planning Panel considered the draft Planning Proposal and recommended to Council that it be forwarded to the Department of Planning and Environment for a Gateway determination.

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## Officer Recommendation

That Council endorse the following actions:

- 1 That Council consider the recommendation of the Bayside Planning Panel from 26 June 2018 to forward the draft Planning Proposal for land known as 8 Princess Street, Brighton-Le-Sands to the Department of Planning and Environment for a Gateway determination.
  - 2 That pursuant to section 3.34 of the *Environmental Planning & Assessment Act 1979* (EP&A Act) the draft Planning Proposal be submitted to the Department of Planning & Environment (DPE) for a Gateway determination.
  - 3 That should a Gateway determination be issued, a further report be presented to Council following the public exhibition period to demonstrate compliance with the Gateway determination and to provide details of any submissions received throughout that process.
-



## Background

**Applicant:** Lumex Property Group.

**Site Description:** Lots subject to the draft Planning Proposal are shown in **Table 1**, below:

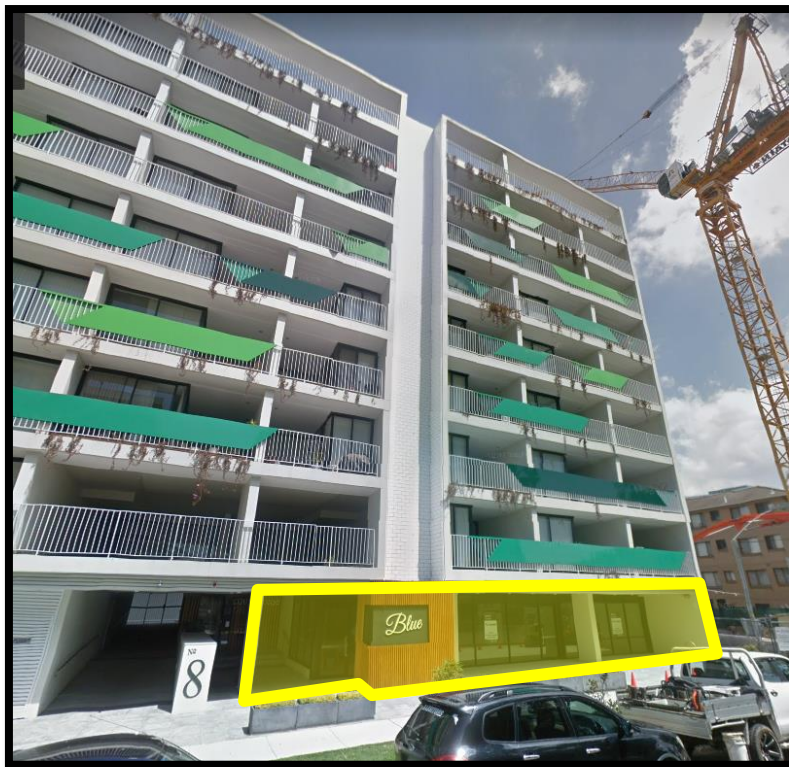
**Table 1:** Lots subject to draft Planning Proposal

Lot	SP	Address	Current Zoning
4	92060	8 Princess Street, Brighton-Le-Sands	SP3 Tourist
5	92060	8 Princess Street, Brighton-Le-Sands	SP3 Tourist
70	92060	8 Princess Street, Brighton-Le-Sands	SP3 Tourist

The subject site has a total area of approximately 1505 m<sup>2</sup> and is bounded by Princess Street to the north; and a service laneway to the south; residential development to the west and by a hotel development (Novotel) to the east. The site currently contains a 9-storey shop top housing development (refer to aerial photograph at **Figure 1**, and google street view image at **Figure 2**).



**Figure 1** – Aerial photograph  
(Source: [www.maps.six.nsw.gov.au](http://www.maps.six.nsw.gov.au))



**Figure 2:** Subject site with ground floor commercial tenancies outlined in yellow  
(Source: [www.google/maps](http://www.google/maps) - Street view - image capture October 2017)

Site Context:

The site is located on the southern side of Princess Street and forms part of the Brighton-Le-Sands local centre. A context map for the site is provided in **Figure 3**, below:

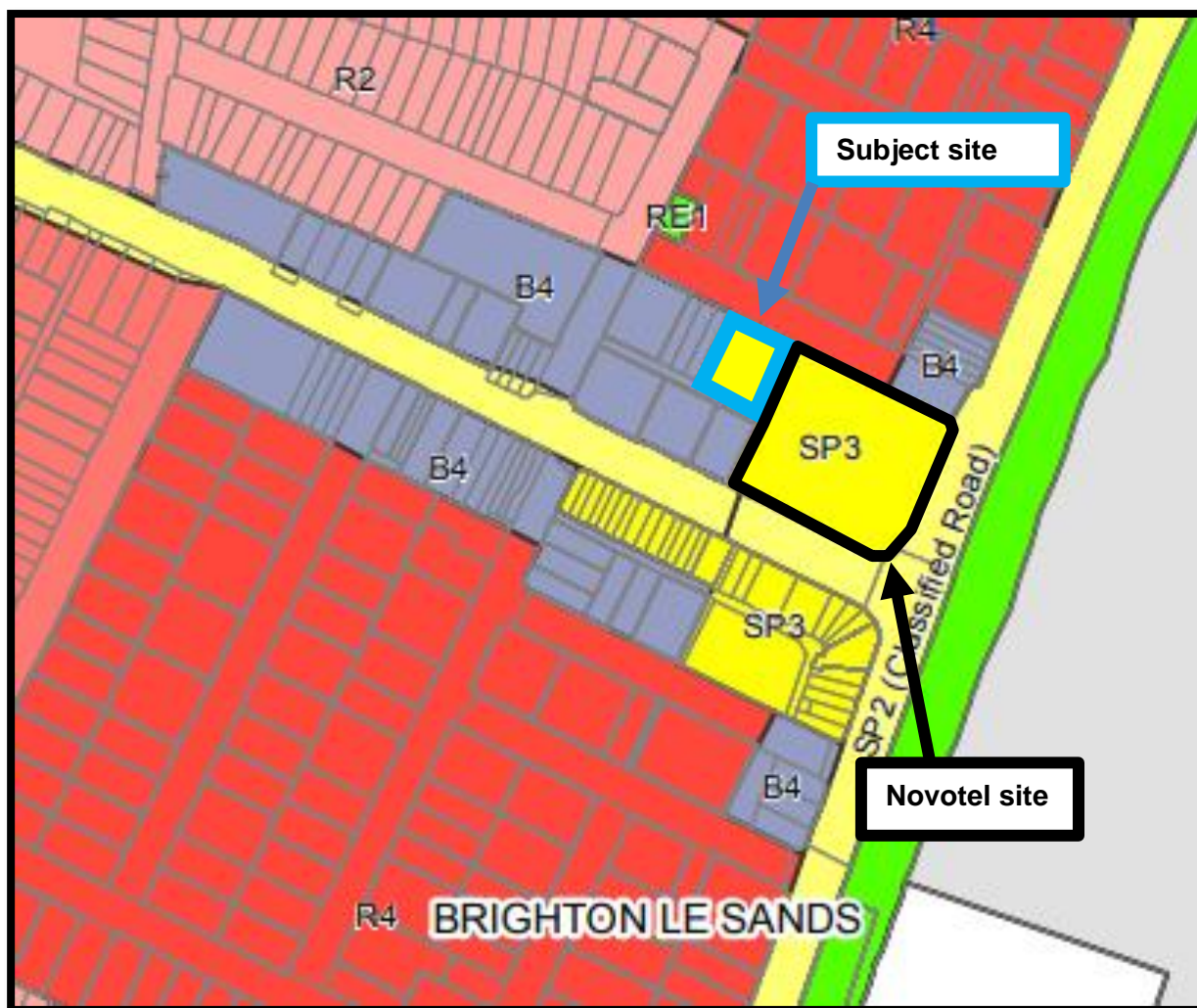




**Figure 3:** Site context map  
(Source: Land & Property Information [www.maps.six.nsw.gov.au](http://www.maps.six.nsw.gov.au))

Surrounding Land Use Zones:

Land use zones surrounding the site comprise SP3 Tourist zoned land to the east; B4 Mixed Use zoned land to the south and west, and R4 High Density Residential zoned land to the north (Refer to **Figure 4**, overleaf).



**Figure 4** – Rockdale LEP 2011 Land Zoning Map LZN\_004 (Subject site – SP3 - Tourist)  
(Source: [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au))

### Planning History

A major development application (MP08\_0239 – Tourism (Hotel) Development) under the former Part 3A of the *Environmental Planning Assessment Act 1979* (EP&A Act) was lodged with the then Department of Planning for refurbishment works and hotel extension to the Novotel Hotel (Novotel site), and included the subject site as part of the major application. A concept plan for the site was authorised by the then Minister for Planning, however, the proposed hotel expansion did not proceed and the Part 3A declaration for the project revoked.

As part of the major application consultation and assessment process; and in the preparation of the Rockdale LEP 2011, the site was rezoned from Residential 2(c) to SP3 Tourist so as to be consistent with the concept plan.

The subject site has since been redeveloped for the purposes of a 9-storey shop top housing development under DA2012/325 and includes the 3 non-residential tenancies at ground floor.

Despite extensive marketing campaigns conducted over a period of several years, the owner was unable to lease the commercial tenancies for a variety of reasons, as detailed in the

supporting Sales and Marketing Overview Letter (refer **Attachment 2**) and Shop Tenancy Assessment (refer **Attachment 3**) submitted with the Planning Proposal.

### **Bayside Planning Panel Recommendation**

At its meeting of 26 June 2018, the Bayside Planning Panel made the following recommendation to Council in respect of the Planning Proposal:

- 1 *That pursuant to section 3.34 of the Environmental Planning & Assessment Act 1979 (EP&A Act) the draft Planning Proposal for land known as 8 Princess Street, Brighton-Le-Sands be submitted to the Department of Planning & Environment (DPE) for a Gateway determination; and*
- 2 *That should a Gateway determination be issued, a further report be presented to Council following the public exhibition period to demonstrate compliance with the Gateway determination and to provide details of any submissions received throughout that process.*

## DRAFT PLANNING PROPOSAL ASSESSMENT

### Summary of Draft Planning Proposal

The draft Planning Proposal seeks to:

- 1 Rezone the land from SP3 Tourist to B4 Mixed Use.

The intended outcome of the draft Planning Proposal is to enable three inactive commercial tenancies located at the ground floor of an existing shop top housing development to be used for the purposes residential dwellings.

The proposed zoning will allow for residential uses at ground floor and provide a land use zone compatible with the Brighton-Le-Sands local centre.

A copy of the draft Planning Proposal is included at **Attachment 1**.

### Assessment of Draft Provisions

#### Proposed Zoning

The proposed B4 Mixed Use zoning permits residential flat buildings with consent and will enable the conversion of the ground floor tenancies to residential. The proposed B4 Mixed use zoning will be consistent with the functioning of the existing local centre and form a logical extension to the existing B4 Mixed use zone.

#### Urban Context and Evaluation

The Planning Proposal indicates that the retail tenancies at ground floor are not able to be leased despite several leasing campaigns as summarised in the supporting Sales and Marketing Overview Letter (refer **Attachment 2**). As identified in the submitted Shop Tenancy Assessment prepared by Essential Economics (refer **Attachment 3**), the site has relatively poor overall locational attributes, in summary:

- i) Competition from existing food-based retailing;
- ii) Minimal levels of pedestrian traffic and no direct sight lines to highly trafficked areas;
- iii) Visibility to passing traffic given the low levels of vehicle traffic in Princess Street;
- iv) There are no other significant attractors to the subject site; and
- v) The site is located a block north of Bay Street and derives no benefit from the activity levels and visitation generated from the Brighton-Le-Sands activity centre.

Council's Urban Designer reviewed the Planning Proposal and supporting Design Report (refer **Attachment 4**) and provided the following comment:

- *The Eastern City District Plan, Planning Priority E6 – Creating and renewing Great Places and Local Centres* refers to streets as places that function in response to street typology and local conditions. The vacant tenancies at ground floor are not desirable for the



performance or the safety of the local street, and do not contribute to the vitality or life of the street. Without any activation or passive surveillance at ground floor an inactive frontage has arisen from the above listed contributing factors, generating concerns around how the development is responding to *Crime Prevention Through Environmental Design* (CPTED) principles.

- The rezoning of the site to allow for ground floor residential tenancies will provide the passive surveillance required. The public and private interface will also allow for casual interaction and contribute to the vitality and life of the street.
- To improve the existing urban condition the Planning Proposal for 8 Princess Street, Brighton-Le-Sands, to be rezoned from SP3 Tourist to B4 Mixed Use, is supported on the grounds of addressing *Planning Priority E6* of the *Eastern City District Plan*, *CPTED* principles and universal urban design principles in relation to street activation.

## Justification

### Environmental Planning & Assessment Act 1979 (EP&A Act)

The NSW Department of Planning & Environment's *A Guide to Preparing Planning Proposals* - issued under s3.33 (3) of the EP&A Act - provides guidance and information on the process for preparing Planning Proposals. The assessment of the submitted Planning Proposal by Council staff has been undertaken in accordance with the latest version of this *Guide* (dated August 2016).

### Section 9.1 Ministerial Directions (formerly known as 'section 117 directions')

Section 9.1 Ministerial directions (s9.1 directions) set out what a RPA must do if a s9.1 direction applies to a Planning Proposal, and provides details on how inconsistencies with the terms of a direction *may* be justified.

An assessment of the Planning Proposal against the applicable s9.1 directions is provided in **Table 2** below:

**Table 2:** Planning Proposal consistency with s9.1 directions.

Direction	Planning Proposal consistency with terms of direction	Consistent: Yes/ No (If No, is the inconsistency adequately justified?)
<b>1.1 Business and Industrial Zones</b>	<p><b>What a RPA must do:</b> A RPA must ensure that a Planning Proposal:</p> <ul style="list-style-type: none"> <li>(a) Give effect to the objectives of this direction, (i.e. encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified centres),</li> <li>(b) Retain the areas and locations of existing business and industrial zones,</li> <li>(c) Not reduce the total potential floor space area for employment uses and related public services in business zones,</li> <li>(d) Not reduce the total potential floor space area for</li> </ul>	YES

Direction	Planning Proposal consistency with terms of direction	Consistent: Yes/ No (If No, is the inconsistency adequately justified?)
	<p>industrial uses in industrial zones, and (e) n/ a.</p> <p><u>Comment:</u> The Planning Proposal provides additional B4 mixed use zoned land in close proximity to an existing business zone, supporting the viability of the Brighton-Le-Sands local centre.</p>	
<b>2.3 Heritage Conservation</b>	<p><b>What a RPA must do:</b> A RPA must ensure that a Planning Proposal contains provisions that facilitate the conservation of heritage items, places, building works or precincts of environmental heritage significance to an area.</p> <p><u>Comment:</u> The site is not within a conservation area, does not contain a heritage item and is not in the vicinity of a heritage item.</p> <p>No inconsistencies with the terms of the direction were identified.</p>	YES
<b>3.3 Home Occupations</b>	<p><b>What a RPA must do:</b> A Planning Proposal must permit home occupations to be carried out in dwelling houses without the need for development consent.</p> <p><u>Comment:</u> The B4 Mixed Use zone in the Rockdale LEP 2011 includes home occupations as development that may be carried out in dwelling houses without the need for development consent.</p> <p>No inconsistencies with the terms of the direction were identified.</p>	YES
<b>3.4 Integrating Land Use and Transport</b>	<p><b>What a RPA must do:</b> A Planning Proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001)</i> (guidelines).</p> <p><u>Comment:</u> The Planning Proposal is considered consistent with the guidelines as the Planning Proposal enables residential development in close proximity to frequent public transport and a mix of uses including shops and services.</p> <p>No inconsistencies with the terms of the direction were identified.</p>	YES
<b>3.5 Development Near Licensed Aerodromes</b>	<p>No alteration to controls in relation to building height are proposed and the site is not affected by the Australian Noise Exposure Forecast. Therefore, no inconsistencies with the terms of the direction were identified.</p>	YES
<b>4.1 Acid Sulfate Soils</b>	<p><b>What a RPA must do:</b> The direction requires that a RPA must consider an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.</p> <p><u>Comment:</u> The Rockdale LEP 2011 Acid Sulfate Soils Map identifies the site as having Class 4 acid sulfate soils.</p>	NO - Inconsistency justified.

Direction	Planning Proposal consistency with terms of direction	Consistent: Yes/ No (If No, is the inconsistency adequately justified?)
	<p><b>Consistency</b>  <i>A Planning Proposal may be inconsistent with the terms of the direction if the inconsistency is justified by a study prepared in support of the Planning Proposal.</i></p> <p><u>Comment:</u>            Clause 6.1 of the Rockdale LEP 2011 requires an acid sulfate soils management plan at DA stage, before carrying out any development on the land. The inconsistency with this direction is therefore considered minor and justifiable.</p>	
<b>5.10 Implementation of Regional Plans</b>	<p><b>What a RPA must do:</b>            Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.</p> <p><u>Comment:</u>  <i>A Metropolis of Three Cities</i> is the Region Plan that applies to the five districts that make up the Greater Sydney Region.</p> <p>The Planning Proposal is consistent with the following objectives in the Region Plan:</p> <ul style="list-style-type: none"> <li>Objective 10: Greater housing supply The Planning Proposal increases the supply of housing.</li> <li>Objective 14: integrated land use and transport creates walkable and 30-minute cities. The Planning Proposal increases housing within a walkable catchment of Brighton-Le-Sands local centre and transport links that support this objective.</li> </ul>	<b>YES</b>
<b>7.1 Implementation of A Plan for Growing Sydney</b>	<p><b>What a RPA must do:</b>            A RPA must ensure that a Planning Proposal is consistent with A Plan for Growing Sydney.</p> <p><u>Comment:</u>            The draft Planning Proposal is consistent with the following directions and priorities contained in <i>A Plan for Growing Sydney</i>:</p> <ul style="list-style-type: none"> <li>Direction 2.1: Accelerate housing supply across Sydney. The delivery of new housing must be accelerated to meet the need for a bigger population and to satisfy a growing demand of different types of housing.</li> <li>Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs. New urban renewal locations will be selected in or near centres on the public transport network. Locating new housing here will make it easier for people to get to jobs and services and take pressure off congested roads.</li> <li>Direction 2.3: Improve housing choice to suit different needs and lifestyles.</li> <li>Direction 3.1: Revitalise existing suburbs. Provision of new housing within Sydney's established suburbs bring real</li> </ul>	<b>YES</b>

Direction	Planning Proposal consistency with terms of direction	Consistent: Yes/ No (If No, is the inconsistency adequately justified?)
	<p>benefits to communities and make good social and economic sense. Directing new housing to the existing urban areas will reduce the impact of development on the environment and protect productive rural land on the urban fringe.</p> <p>No inconsistencies with the terms of the direction were identified.</p>	

- **State Environmental Planning Policies (SEPPs)**

An assessment of the Planning Proposal against the relevant SEPPs is provided in **Table 3**, below.

**Table 3:** Relevant SEPPs

Name of SEPP	Compliance of Planning Proposal with SEPP	Complies Y/ N
SEPP No 65—Design Quality of Residential Apartment Development (SEPP 65)	The Planning Proposal was referred to Council's Urban Designer, who raised no objection to the proposal in terms of its consistency with SEPP 65, noting that any future DA, should the Planning Proposal be supported, would be required to comply with SEPP 65 and accompanying Apartment Design Guide.	YES

There are no other SEPPs applicable to the Planning Proposal.

- **Sydney Regional Environmental Plans (SREPs)**

There are no SREPs applicable to the Planning Proposal.

- **Strategic Planning Framework**

Regional, sub-regional and district plans and strategies include outcomes and specific actions for a range of different matters including housing and employment targets, and identify regionally important natural resources, transport networks and social infrastructure.

An assessment of the Planning Proposals consistency with the strategic planning framework is provided in **Table 4**, below.

**Table 4:** Strategic Planning Framework

Name of Strategic Plan	Directions, priorities, objectives and actions	Planning consistency Proposal with Strategic Plan	Consistency Y/ N
<b>Regional Plans</b>			
Greater Sydney Region Plan	Objective 10 – Greater housing supply, which encourages the supply of housing in the right locations with access to shops, services and public transport.	Comment: The draft Planning Proposal is consistent with objective 10 as additional housing supply is facilitated within walking distance of shops,	YES



Name of Strategic Plan	Directions, priorities, objectives and actions	Planning consistency with Strategic Plan	Proposal with	Consistency Y/ N
	<p>Objective 14 – A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities.  <i>“One of the principal elements in achieving the productivity outcomes is:</i></p> <p><i>Co-locate activities in metropolitan, strategic and local centres and attract housing in and around centres to create walkable, cycle-friendly neighbourhoods.”</i></p>	<p>services and public transport.</p> <p><u>Comment:</u>  The Planning Proposal is located in the Brighton-Le-Sands local centre and potentiates additional housing within walking distance of shops and public transport links that support the objective.</p>		
<b>District Plans</b>				
Eastern City District Plan (ECDP)	<ul style="list-style-type: none"> <li>Planning Priority E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport.</li> <li>Planning Priority E6: Creating and renewing great places and local centres. The Planning Priority establishes 'Principles for local centres' and states that:  <i>“additional residential development within a five-minute walk of a centre focused on local transport, .... will help to create walkable local centres.”</i></li> </ul>	<p><u>Comment:</u>  The Planning Proposal supports the role of the Brighton-Le-Sands local centre by increasing housing provision within walking distance of services and public transport.</p> <p><u>Comment:</u>  Brighton-Le-Sands is identified as a local centre in the ECDP (refer to the extract from the ECDP at <b>Figure 5</b>, below).  The Planning Proposal is consistent with the 'Principles for local centres' (p49 of the ECDP) through the increased provision of residential development in, or within walkable distance of, the centre.</p>		<b>YES</b>

Name of Strategic Plan	Directions, priorities, objectives and actions	Planning consistency Strategic Plan	Proposal with	Consistency Y/ N
<p>— District Boundary      ● 400m walking catchment      - - - Light Rail</p> <p>○ Metropolitan Centre      ● 800m walking catchment</p> <p>● Strategic Centre      ● Waterways</p> <p>● Local Centre      — Railway</p> <p>The map illustrates the approximate five-minute walking catchment around local centres serviced by local transport and the approximate 10-minute walking catchment around a centre focused on a mass transit stop. Actual walking catchments of 5-10 minutes will depend on local connections and conditions and should be determined using a place-based approach within which housing, retail and commercial growth opportunities need to be balanced and planned for by councils.</p> <p><b>Figure 5: Eastern City District – centres</b> (Source: Eastern City District Plan)</p>				
<b>Local plans</b>				
Rockdale Community Strategic Plan (adopted 15 June 2011)	<p><u>Villages and Local Centres</u></p> <p><i>Redevelopment within these centres is encouraged as a means of increasing residential densities in close proximity to public transport and services. Redevelopment proposals would need to recognise the desired local character of the centre.</i></p> <p><u>Rockdale Tomorrow:</u></p> <p><i>Future growth is likely to occur in the centres of Rockdale, Wolli Creek, <b>Brighton Le Sands</b>, Bexley and Bexley North, which have the most significant opportunities for redevelopment through the presence of larger sites which are more readily able to be developed.</i></p>	<p><u>Comment:</u></p> <p>The Planning Proposal is generally consistent with the Plan to increase residential densities in close proximity to public transport.</p>		<b>YES</b>

## Other Considerations

### Car Parking:

The Rockdale Development Control Plan 2011 (Rockdale DCP) requires car parking at the rate of 1 space per 1 and 2 bed apartments. The indicative floor plan submitted with the Planning Proposal indicates that the ground floor of the development could potentially accommodate one, 1 bedroom apartment and one, 2 bedroom apartment, which equates to a car parking requirement of 2 spaces.

The existing approved retail ground floor component has a GFA of 160m<sup>2</sup>. The Rockdale DCP requires car parking at the rate of 1 space per 40m<sup>2</sup> GFA, equating to a car parking requirement of 4 spaces.

Accordingly, the Planning Proposal is acceptable in terms of car parking provision given the resultant decrease in car parking required.

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## Conclusion

The Planning Proposal is for a change of use to B4 Mixed Use to accommodate residential use on the ground floor of the existing, recently constructed building. The proposed B4 Mixed Use zone is already applicable to properties immediately to the north and west in the Brighton Le-Sands local centre. No other changes to the planning controls are sought.

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## Financial Implications

Not applicable	<input checked="" type="checkbox"/>
Included in existing approved budget	<input type="checkbox"/>
Additional funds required	<input type="checkbox"/>

---

## Community Engagement

Should the Planning Proposal proceed through Gateway, community consultation will be undertaken in accordance with Section 3.34(2)(c) of the *Environmental Planning & Assessment Act 1979*. The specific requirements for community consultation will be listed in the Gateway determination, including any government agencies that are to be consulted.

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## Attachments

- 1 Draft Planning Proposal
- 2 Sales & Marketing Overview Letter
- 3 Shop Tenancy Assessment
- 4 Urban Design Report [↓↓↓↓](#)

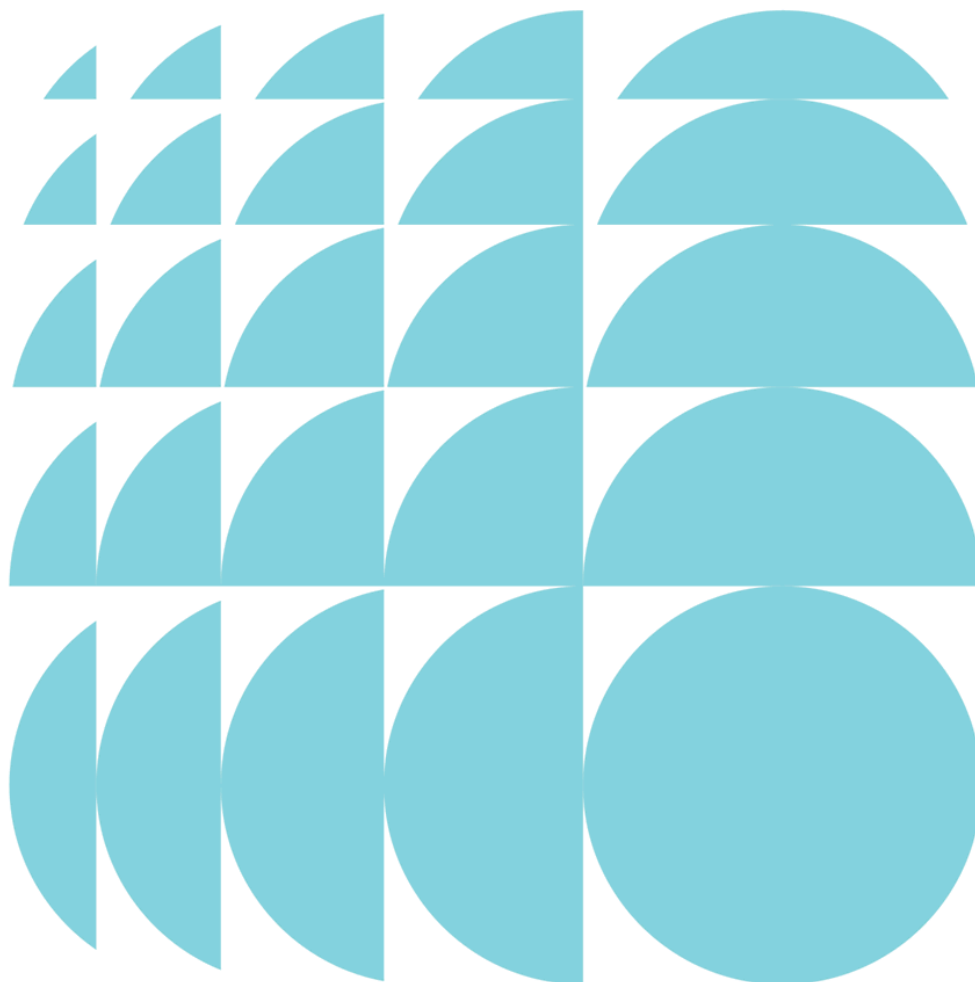
# ETHOS URBAN

## Planning Proposal

8 Princess Street, Brighton-Le-Sands  
Rezoning from SP3 Tourist to B4 Mixed Use

Submitted to Bayside Council  
On behalf of Lumex Property Group Pty Ltd

09 April 2018 | 17060



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**CONTACT**

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26/03/2018

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### A. Indicative Architectural Drawings

SJB

### B. Sales and Marketing Overview Letter

Colliers

### C. Traffic Impact Assessment

GTA

### D. Retail Tenancy Economic Assessment

Essential Economics

## 1.0 Introduction

This Planning Proposal explains the intended effect of, and justification for, the proposed amendment to the *Rockdale Local Environmental Plan 2011* ('Rockdale LEP 2011'). It has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment guidelines, including 'A Guide to Preparing Local Environment Plans' and 'A Guide to Preparing Planning Proposals'.

### 1.1 The Site

The site to which this planning proposal relates is located at 8 Princess Street, Brighton-Le-Sands and is legally described as SP92060. The subject strata units located on the ground floor are Lot 70, Lot 4 and Lot 5 within SP92060. **Figure 1** illustrates the subject site.



The Site

**Figure 1 Site Location**

Source: Nearmap

### 1.2 Background

In 1988, development consent (DA175/87) was granted by Council for the construction of a 15-storey hotel – the Novotel Hotel Brighton Le Sands – at the Grand Parade, Brighton Le Sands. Thakral Holdings Limited is the current owner of the Novotel Hotel.

Recently in 2007, Thakral Holdings Limited purchased the vacant site (8-14 Princess Street, Brighton Le Sands) to the immediate west adjoining the Novotel.

Between early 2008 and early 2011, a series of meetings were held at Rockdale City Council to discuss a possible extension of the existing Novotel hotel onto the subject site. During this time, discussions were also held with the Department of Planning & Infrastructure (the Department) and Council regarding the proposed lodgement of a Part 3A Concept Plan for the refurbishment of the existing hotel and its extension onto the subject site. In January 2009, the proposed hotel expansion project was declared to be a project to which Part 3A of the EP&A Act applies, and the then Minister for Planning authorised the preparation of a Concept Plan.

As part of the comprehensive LEP process, the site was re-zoned from Residential 2(c) under the preceding Rockdale LEP 2000 to SP3 Tourist under the Rockdale LEP 2011, which would appear to be in response to the declaration of the Part 3A Concept Plan.



In June 2011, Thakral advised the Council that a hotel expansion onto the subject site would not be pursued for a range of commercial and strategic reasons outside the control of Thakral Holdings. Accordingly, Thakral Holdings pursued a 'shop top housing' development of the site and lodged a Development Application on 20 April 2012. During the course of the DA assessment, the current landowner, Lumex Property Group acquired the site.

The existing development at the site, being a shop top housing building, was approved by (the former) Rockdale City Council on 12 December 2012 as part of DA-2012/325. A shop top housing building was proposed under DA-2012/325 as a result of the prohibition of residential flat buildings within the SP3 Tourist zone which applies to the site.

DA-2012/325 provided consent for the construction and use of a 9-storey mixed-use development comprising three (3) non-residential tenancies, 67 residential units and basement parking for 71 vehicles. The building was completed and occupied in September 2015.

### 1.3 Description of the Planning Proposal

This planning proposal seeks to amend the zoning of land at 8 Princess Street, Brighton-Le-Sands (legally known as SP 92060) from SP3 Tourist to B4 Mixed Use in the Land Zoning Map of the Rockdale LEP 2011.

No amendment to the existing building height or floor space ratio development standards is proposed.

### 1.4 Rationale for the Proposal

The rationale for this planning proposal is that the site is currently being underutilised and is not contributing to the amenity of Brighton-Le-Sands. The landowner has actively marketed the three ground level tenancies for either leasing or sale through a national specialist commercial real estate agent, Cushman and Wakefield and thereafter engaging Colliers and LJ Hooker to extend the campaign. During the past 2.5 years since its completion, no reasonable offers were received for the purchase or leasing of the space. A letter providing an overview of the sales and marketing campaign is provided at **Appendix B**.

Shortly after construction of the exiting building in September 2015, the non-residential tenancies were advertised for lease or sale through a comprehensive marketing campaign involving:

- online listings on Real Commercial;
- listings within the Sydney Morning Herald and the St George and Sutherland Shire Leader newspapers;
- notifications of an e-flyer within a national database for commercial real estate agents; and
- onsite sign boards.

The three tenancies are subdivided into separate titles, each with a regular and highly usable shape. The tenancies were marketed as 'empty shells' (i.e. no fit out), allowing for flexibility in their final use. Furthermore, the design of each tenancy was maximised for retail exposure, with floor to ceiling glazing towards Princess Street. Building upgrades were also completed for a 1,000 Litre Grease arrestor and mechanical exhaust, allowing for reduced fit out costs for food and beverage operators utilising the spaces.

Despite the above and an asking rent reduction, interest in the tenancies was still limited, as outlined in the letter provided at **Appendix B**. Colliers note the following key factors contributing to the lack of commercial interest:

- a lack of foot traffic along Princess Street;
- reduced critical mass of other retail operations immediately surrounding the site;
- potential conflict of non-residential and residential uses, particularly in regard to noise and hours of operation; and
- a shortage of customer parking (particularly on weekends) in the surrounding street network.

Given the long term vacancy status of the site, Essential Economics were engaged to undertake an independent market appraisal of the ground floor retail/commercial space to determine its future financial viability (attached in **Appendix D**). The report finds that the subject site has below-average attributes for the operation of successful ground-floor retailing based on 12 commonly applied locational assessment criteria. The assessment result also confirms that the poor locational attributes of the site is one of the key reasons for a lack of interest.



In light of the above, this planning proposal is necessary to facilitate the conversion of the non-residential tenancies to residential apartments. All reasonable efforts have been exhausted to secure the occupation of these tenancies for commercial purposes, therefore it is considered necessary to allow for an alternative use which is in demand and will allow for the ground level to contribute to the streetscape and activity in the locality.

It is noted that the conversion of the ground floor commercial tenancies to residential apartments will be subject to a subsequent Development Application.

## 2.0 Objectives or Intended Outcomes

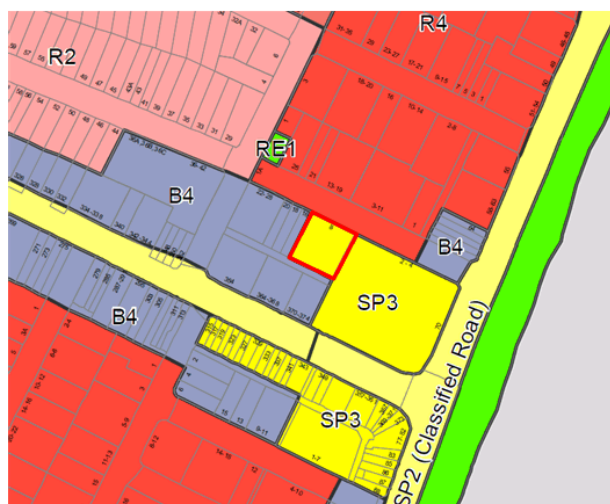
The key objective and intended outcome of the planning proposal is to amend the *Rockdale LEP 2011* to enable the infill redevelopment of three vacant non-residential tenancies at the subject site. The infill of these three non-residential tenancies will allow for the delivery of two residential apartments.

The broader objectives of this planning proposal are to:

- Amend the zoning of the land from SP3 Tourist to B4 Mixed Use to in order to permit residential uses on the ground floor;
- Enhance the degree to which the existing building integrates with the immediate surrounds, which predominantly consists of residential uses;
- Provide a comparatively enhanced level of street front activation and urban design outcome through the occupation of the lower levels of the building; and
- Establish additional opportunities for housing within the Brighton-Le-Sands centre, in turn offering residents the opportunity to live within immediate access to key services, amenities, and infrastructure within walking distance.

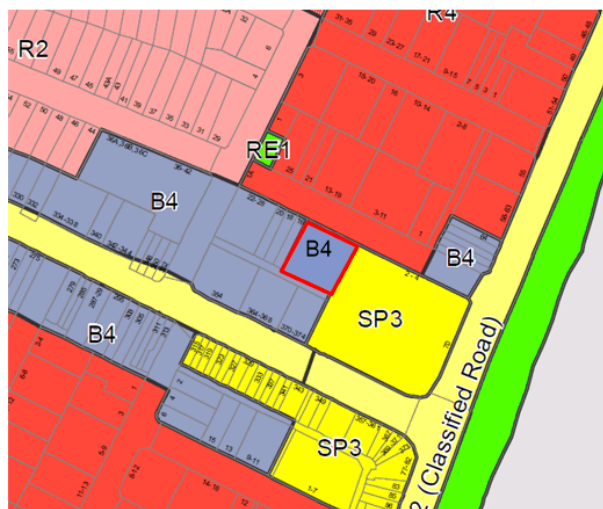
## 3.0 Explanation of Changes

The proposed outcome, as outlined at **Section 2.0**, will be achieved by amending Sheet LZN\_004 Land Zoning Map of Rockdale LEP 2011 as follows:



**Figure 2 Existing Zoning Map**

Source: Rockdale LEP 2011



**Figure 3 Proposed Zoning Map**

Source: Ethos Urban

## 4.0 Justification

### 4.1 Need for the planning proposal

#### 4.1.1 Is the planning proposal a result of any strategic study or report?

This planning proposal is not in direct response to any strategic study or report, but more broadly implements the goals and aspirations of the adopted metropolitan and district strategic plans. The relationship of the proposal with the relevant strategic planning documents is addressed in Section 4.2 below.

The need for the planning proposal has mainly arisen from a lack of interest in the non-residential tenancies and the long-term vacancies (2.5 years), given a number of constraints. As such, it is more appropriate to rezone the site to B4 Mixed Use to allow for residential flat buildings given the prolonged vacancy of the ground floor commercial tenancies.

The future provision of residential uses on the ground level in lieu of the non-residential tenancies will also result in an improvement to the contribution of the building in the streetscape, particularly given the vacant nature of the current tenancies. Currently, the vacant tenancies present a blank response to the street, being empty shells with no visual interest or activity provided. The future envisaged residential apartments will enable a level of activation to the ground level and will ensure that the presentation of the building is purposeful rather than vacant tenancies.

#### 4.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the most appropriate means of achieving the objectives and intended outcomes outlined at Section 2.0. Currently, the zoning of the site does not permit residential flat buildings, meaning that ground level tenancies within the existing building are required to be utilised for non-residential uses. As such, there is a clear need for an amendment to the current permissible uses on the site to permit the conversion of the ground level non-residential tenancies to residential apartments.

The planning proposal will amend the zoning of the site from SP3 Tourist zone to a B4 Mixed Use zoning in order to permit 'residential flat buildings' on the site. The proposed rezoning will respond to the underlying commercial zone of the Brighton-Le-Sands Town Centre and will be commensurate with uses foreshadowed in the zone.

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An alternative to the amendment sought with the planning proposal would be to amend Schedule 1 'Additional permitted uses' to insert "residential flat buildings" as a permissible use on the land without amending the existing SP3 Tourist zone. This alternative would not provide a desirable outcome for the site as it will create an unnecessary provision in the LEP and is not reflective of the underlying objective of the SP3 zone which is to promote tourist related uses. It is noted that given the recent re-development of the site, it is considered that the SP3 Tourist zoning of the site is effectively redundant.

Overall, the amendment to the zoning of the site pursuant to the Rockdale LEP 2011 is the most efficient and time effective approach to meet the intended outcomes of the planning proposal.

## 4.2 Relationship to Strategic Planning Framework

### 4.2.1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

The planning proposal is consistent with the objectives and actions of the relevant regional, sub-regional or district strategic plans as set out below.

#### A Plan for Growing Sydney

The proposed amendment to the Rockdale LEP 2011 is consistent with the goals outlined under *A Plan for Growing Sydney* as discussed in **Table 1** below.

**Table 1** Table Caption Proposal's consistency with the goals of A Plan for Growing Sydney

Goal	Comment
GOAL 1: A competitive economy with world-class services and transport	The planning proposal will not affect the achievement of a competitive economy with world-class services and transport. The subject tenancies have been marketed for over 2.5 years for leasing or sale without any success. As such, it is evident that the commercial/retail tenancies do not contribute to a competitive economy in their current form. These tenancies are expected to contribute to the economy when converted to residential apartments.
GOAL 2: A city of housing choice, with homes that meet our needs and lifestyles	The proposed amendment of the Rockdale LEP 2011 will facilitate additional housing within the locality.
GOAL 3: A great place to live with communities that are strong, healthy and well connected	The planning proposal will facilitate the improvement of the current building, allowing for the replacement of vacant non-residential tenancies with residential apartments. These new apartments will enhance the streetscape and increase community members, offering opportunities for a strengthened sense of community.
GOAL 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources	The proposal will facilitate the conversion of vacant non-residential tenancies to residential apartments, ensuring that the land is utilised to its full potential and housing is consolidated in a location with close proximity to existing services, facilities and infrastructure.

#### Greater Sydney Region Plan - Vision to 2056

The Greater Sydney Commission (GSC) has published a finalised new Greater Sydney Region Plan titled *Our Greater Sydney 2056 A metropolis of three cities*, aligns the metropolitan plan for the Greater Sydney with the more targeted district plans. The planning proposal is consistent with the Directions of *Our Greater Sydney 2056* as set out in **Table 2** below.

**Table 2** Table Caption Proposal's consistency with Our Greater Sydney 2056

Priority	Comment
A city for people Celebrating diversity and putting people at the heart of planning	The planning proposal will accommodate the growing population of Sydney and contribute to a healthy resilient community.
Housing the city Giving people housing choices	The additional residential apartments facilitated through the planning proposal will accommodate new residents, contributing to the housing target of the Eastern City.

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Priority	Comment
A city of great places Designing places for people	The planning proposal will increase capacity for residential development and will improve viability and sustainability of the place, while enhancing the street interface.
A well-connected city Developing a more accessible and walkable city	The site is located in an identified local centre with close proximity to Kogarah Health and Education Precinct and Bayside West Precincts urban renewal area. The proposal will allow for additional housing in a well located area to support the local centre and contribute to a more accessible and walkable city.

### Eastern City District Plan

The proposed amendment to the Rockdale LEP 2011 is consistent with the priorities and actions for the eastern city outlined within the adopted Eastern City District Plan. The proposal's consistency with the relevant priorities is set out in **Table 3** below.

**Table 3 Proposal's consistency with the relevant priorities and actions of the Eastern City District Plan**

Priority	Comment
Planning Priority E5: Providing housing supply, choice and affordability with access to jobs and services	The planning proposal will allow for future residential apartments in an accessible location with access to jobs and services. These apartments will contribute to housing target, choice and diversity in the locality.
Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage	The additional residential apartments facilitated through the planning proposal will provide a unique housing proposition, being courtyard apartments accessed directly from the street in a local centre. These apartments will provide diversity to the building and more broadly contributing to greater choice in the housing market.
Planning Priority E10: Delivering integrated land use and transport planning and a 30-minute city	The planning proposal will support the principle of integrating land use and transport by facilitating the provision of residential apartments in close proximity to existing facilities and services, allowing residents to live within 30 minutes of existing infrastructure, facilities, services and employment.

### 4.2.2 Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

The planning proposal is consistent with the Rockdale City Community Strategic Plan. The Community Strategic Plan sets out the vision for the local area until 2025, establishing four key outcomes. **Table 4** sets out the consistency of the proposal with these outcomes and the relevant objective.

**Table 4 Proposal's consistency with the outcomes of the Rockdale City Community Strategic Plan**

Outcome	Comment
Outcome 1 – Rockdale is a welcoming and creative City with active, healthy and safe communities	The planning proposal will contribute to this outcome by facilitating residential apartments which will allow people to live in the Brighton-Le-Sands centre. The integration of new housing in this centre will allow people to live a healthy and active lifestyle.
Outcome 2 – Rockdale is a City with a high quality natural and built environment and valued heritage in liveable neighbourhoods. A City that is easy to get around and has good links and connections to other parts of Sydney and beyond.	The proposal will facilitate improvements to the existing building, being the enhancement and activation of the ground floor plate. This will ultimately contribute to the quality of the built environment.
Objective 2.2 Our City has a well managed and sustainable built environment, quality and diverse development with effective housing choice	The planning proposal will facilitate the conversion of non-residential tenancies into residential apartments, contributing to greater housing choice in the locality.
Outcome 3 – Rockdale is a City with a thriving economy that provides jobs for local people and opportunities for lifelong learning	The planning proposal seeks to permit the use of vacant non-residential tenancies for use as residential apartments. Ultimately, this will allow for a greater population in the locality, in turn enhancing the local economy.
Outcome 4 – Rockdale is a City with engaged communities, effective leadership and access to decision making.	The planning proposal will not affect the ability for effective leadership and access to decision making.

#### 4.2.3 Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

The consistency of the planning proposal to applicable SEPPs is discussed in **Table 5** below.

**Table 5** Table Caption Consistency with SEPPs

No.	Title	Consistency with planning proposal
1	Development Standards	Not applicable as per Clause 1.9 of the Rockdale LEP 2011.
14	Coastal Wetlands	Not applicable
19	Bushland in Urban Areas	Not applicable
21	Caravan Parks	Not applicable
26	Littoral Rainforests	Not applicable
30	Intensive Aquaculture	Not applicable
33	Hazardous and Offensive Development	Not applicable
36	Manufactured Home Estates	Not applicable
44	Koala Habitat Protection	Not applicable
47	Moore Park Showground	Not applicable
50	Canal Estate Development	Not applicable
52	Farm Dams and Other Works in Land and Water Management Plan Areas	Not applicable
55	Remediation of Land	The site was deemed suitable for residential uses under DA-2012/325. The findings of this original assessment are considered to remain valid.
62	Sustainable Aquaculture	Not applicable
64	Advertising and Signage	Not applicable
65	Design Quality of Residential Apartment Development	Consistency with the principles of SEPP 65 and accompanying Apartment Design Guide will be further demonstrated in a future development application for the change of use. A high level overview of the proposals consistency with these matters and residential amenity more generally is set out in <b>Section 4.3.2</b> below.
70	Affordable Housing (Revised Schemes)	Not applicable
71	Coastal Protection	Not applicable
-	(Affordable Rental Housing) 2009	Not applicable
-	(Building Sustainability Index: BASIX) 2004	Detailed compliance with SEPP (BASIX) will be demonstrated in a future separate development application for the change of use facilitated by this planning proposal.
-	(Exempt and Complying Development Codes) 2008	SEPP (Exempt and Complying Development Codes) 2008 may apply to the future development, however is not relevant to this planning proposal.
-	(Housing for Seniors or People with a Disability) 2004	Not applicable
-	(Infrastructure) 2007	Not applicable
-	(Kosciuszko National Park Alpine Resorts) 2007	Not applicable
-	(Kurnell Peninsula) 1989	Not applicable
-	(Mining, Petroleum Production and Extractive Industries) 2007	Not applicable
-	(Miscellaneous Consent Provisions) 2007	Not applicable
-	(Penrith Lakes Scheme) 1989	Not applicable
-	(Rural Lands) 2008	Not applicable
-	(State and Regional Development) 2011	Not applicable



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No.	Title	Consistency with planning proposal
-	(State Significant Precincts) 2005	Not applicable
-	(Sydney Drinking Water Catchment) 2011	Not applicable
-	(Sydney Region Growth Centres) 2006	Not applicable
-	(Three Ports) 2013	Not applicable
-	(Urban Renewal) 2010	Not applicable
-	(Western Sydney Employment Area) 2009	Not applicable
-	(Western Sydney Parklands) 2009	Not applicable

#### 4.2.4 Is the planning proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?

The consistency of the planning proposal to the relevant Ministerial Directions for Local Environmental Plans under Section 9.1 of the *Environmental Planning and Assessment Act 1979* is discussed in **Table 6** below.

**Table 6 Consistency with applicable Ministerial Directions**

No.	Title	Consistency with planning proposal
<b>1. Employment and Resources</b>		
1.1	Business and Industrial Zones	The planning proposal seeks to amend the zoning of the site from SP3 Tourist zone to B4 Mixed use under the Rockdale LEP 2011. This amendment will permit residential flat buildings on the site and will encourage greater variety and choice of housing types close to facilities and services.
1.2	Rural Zones	Not applicable
1.3	Mining, Petroleum Production & Extractive Industries	Not applicable
1.4	Oyster Aquaculture	Not applicable
1.5	Rural Lands	Not applicable
<b>2. Environment and Heritage</b>		
2.1	Environmental Protection Zones	Not applicable
2.2	Coastal Protection	Not applicable
2.3	Heritage Conservation	Not applicable
2.4	Recreation Vehicle Areas	Not applicable
<b>3. Housing, Infrastructure and Urban Development</b>		
3.1	Residential Zones	The planning proposal seeks to amend the zoning of the site from SP3 Tourist zone to B4 Mixed use under the Rockdale LEP 2011. This amendment will permit residential flat buildings on the site and will encourage greater variety and choice of housing types close to facilities and services.
3.2	Caravan Parks and Manufactured Home Estates	Not applicable
3.3	Home Occupations	Not applicable
3.4	Integrating land use and Transport	The planning proposal will support the principle of integrating land use and transport by facilitating the provision of residential apartments in close proximity to existing facilities and services.
3.5	Development near Licensed Aerodromes	Not applicable
3.6	Shooting ranges	Not applicable
<b>4. Hazard and Risk</b>		
4.1	Acid Sulfate Soils	Not applicable
4.2	Mine Subsidence and Unstable Land	Not applicable
4.3	Flood Prone Land	Not applicable

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No.	Title	Consistency with planning proposal
4.4	Planning for Bushfire Protection	Not applicable
<b>5. Regional Planning</b>		
5.1	Implementation of Regional Strategies	The planning proposal is of minor significance in terms of regional planning and is consistent with the objectives of the adopted Greater Sydney Region Plan and Sydney Eastern District Plan.
5.2	Sydney Drinking Water Catchments	Not applicable
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
5.5	Development on the vicinity of Ellalong	(Revoked)
5.6	Sydney to Canberra Corridor	(Revoked)
5.7	Central Coast	(Revoked)
5.8	Second Sydney Airport: Badgerys Creek	Not applicable
5.9	North West Rail Link Corridor Strategy	Not applicable
<b>6. Local Plan Making</b>		
6.1	Approval and Referral Requirements	The planning proposal does not relate to matters which are likely to require the referral or approval from a public authority.
6.2	Reserving land for Public Purposes	Not applicable
6.3	Site Specific Provisions	The planning proposal seeks to amend the site zoning on the zoning map and will not involve amendments to any site-specific clause. Further, no amendments are proposed to the existing development standards for the site.
<b>7. Metropolitan Planning</b>		
7.1	Implementation of A Plan for Growing Sydney	The planning proposal is of minor significance in terms of metropolitan planning and supports the goals of A Metropolis of Three Cities.
7.2	Implementation of Greater Macarthur Land Release Investigation	Not applicable
7.3	Parramatta Road Corridor Urban Transformation Strategy	Not applicable
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable

#### 4.3 Environmental, social and economic impact

##### 4.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The planning proposal will not result in any impact on critical habitat or threatened species, populations or ecological communities, or their habitats, given the site's urban location.

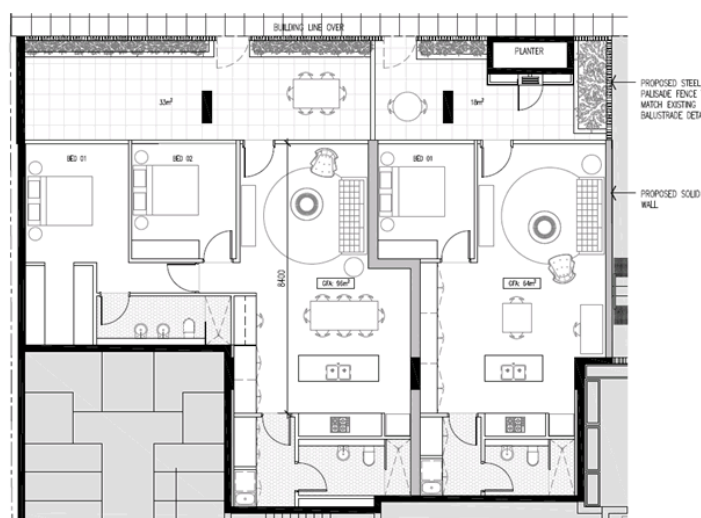
#### 4.3.2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

It is not anticipated that there will be any significant environmental effects as a result of the planning proposal. Potential environmental effects requiring further consideration are addressed below.

##### Residential Amenity

The planning proposal will facilitate the future conversion of three commercial tenancies to potentially two residential apartments subject to a separate Development Application. The residential amenity of these apartments in accordance with SEPP 65 and the Apartment Design Guide has been considered.

**Figure 2** illustrates the potential layout of two apartments prepared by SJB Architects. The configuration will allow for 1 x one bedroom unit and 1 x two bedroom unit. The indicative layout demonstrates that each unit will achieve natural light and will be afforded a functional floor layout with direct access to a private courtyard.



**Figure 4 Anticipated Apartment Layout**

Source: SJB Architects

SJB has designed the anticipated layouts in reference to the nine principles of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* (SEPP 65) and the accompanying Apartment Design Guide ('the ADG'). **Table 7** outlines the consistency of the proposal with the design criteria of the ADG.

**Table 7 Assessment of the proposal's consistency with the objective of the ADG**

Design Criteria	Proposal
Part 3 Siting the Development	
3D Communal and Public Open Space	
<i>Objective</i> An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	✓
<i>Design Criteria</i> Communal open space has a minimum area equal to 25% of the site	✓
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	✓ (Refer to Shadow Diagrams at Attachment A)



8 Princess Street, Brighton-Le-Sands | Planning Proposal | 09 April 2018

Design Criteria		Proposal
3E Deep Soil Zones		
<u>Objective</u> Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.		✓
<u>Design Criteria</u> Deep soil zones are to meet the following minimum requirements:		✓
Site Area	Min. Dimensions	Deep Soil Zone*
Less than 650m <sup>2</sup>	-	7%
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m	
Greater than 1,500m <sup>2</sup>	6m	
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	
* % of site area		
3F Visual Privacy		
<u>Objective</u> Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.		✓
<u>Design Criteria</u> Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:		✓
Building Height	Habitable Rooms & Balconies	Non-habitable Rooms
Up to 12m (4 storeys)	6m	3m
Up to 25m (5-8 storeys)	9m	4.5m
Over 25m (9+ storeys)	12m	6m
3K Bicycle and Car Parking		
<u>Objective</u> Car Parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas		✓
<u>Design Criteria</u> For development in the following locations: on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre  The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.  The car parking needs for a development must be provided off street.		✓
Part 4 Designing the Buildings		
4A Solar and Daylight access		
<u>Objective</u> To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space		✓
<u>Design Criteria</u>		✓ (76% overall)

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**3F Visual Privacy**

Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.

A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.

✓

**4B Natural Ventilation**Objective

The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents

✓

Design Criteria

At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.

✓  
(76%)

Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.

N/A

**4C Ceiling Height**Objective

Ceiling height achieves sufficient natural ventilation and daylight access

✓

Design Criteria

Measured from finished floor level to finished ceiling level, minimum ceiling heights are:

✓

Habitable rooms	2.7m
Non-habitable	2.4m
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope

These minimums do not preclude higher ceilings if desired.

**4D Apartment Size and Layout**Objective

The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity

✓

Design Criteria

Apartments are required to have the following minimum internal areas:

✓

Apartment Type	Minimum internal area
Studio	35m <sup>2</sup>
1 bedroom	50m <sup>2</sup>
2 bedroom	70m <sup>2</sup>
3 bedroom	90m <sup>2</sup>

The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.

Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.

✓

Objective

Environmental performance of the apartment is maximised

✓

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**4C Ceiling Height**

<i>Design Criteria</i> Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Further discussion provided below.
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Further discussion provided below.
<i>Objective</i> Apartment layouts are designed to accommodate a variety of household activities and needs	✓
<i>Design Criteria</i> Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	✓
Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	✓
Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments	✓
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	✓

**4E Private Open Space and Balconies**

<u>Objectives</u> Apartments provide appropriately sized private open space and balconies to enhance residential amenity	✓															
<u>Design Criteria</u> All apartments are required to have primary balconies as follows:	✓															
<table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Internal area</th></tr><tr><td>Studio apartment</td><td>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bedroom apartment</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bedroom apartment</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bedroom apartment</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table>	Dwelling Type	Minimum Area	Minimum Internal area	Studio apartment	4m <sup>2</sup>	-	1 bedroom apartment	8m <sup>2</sup>	2m	2 bedroom apartment	10m <sup>2</sup>	2m	3+ bedroom apartment	12m <sup>2</sup>	2.4m	
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2 bedroom apartment	10m <sup>2</sup>	2m														
3+ bedroom apartment	12m <sup>2</sup>	2.4m														
The minimum balcony depth to be counted as contributing to the balcony area is 1m.																
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	✓															

**4F Common Circulation and Spaces**

<i>Objective</i> Common circulation spaces achieve good amenity and properly service the number of apartments	N/A
<i>Design Criteria</i> The maximum number of apartments off a circulation core on a single level is eight.	N/A
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A

**4G Storage**

<i>Objective</i> Adequate, well designed storage is provided in each apartment	✓										
<i>Design Criteria</i> In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	✓										
<table border="1"> <thead> <tr> <th>Dwelling Type</th><th>Minimum Area</th></tr> </thead> <tbody> <tr> <td>Studio apartment</td><td>4m<sup>2</sup></td></tr> <tr> <td>1 bedroom apartment</td><td>6m<sup>2</sup></td></tr> <tr> <td>2 bedroom apartment</td><td>8m<sup>2</sup></td></tr> <tr> <td>3+ bedroom apartment</td><td>10m<sup>2</sup></td></tr> </tbody> </table>	Dwelling Type	Minimum Area	Studio apartment	4m <sup>2</sup>	1 bedroom apartment	6m <sup>2</sup>	2 bedroom apartment	8m <sup>2</sup>	3+ bedroom apartment	10m <sup>2</sup>	
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1 bedroom apartment	6m <sup>2</sup>										
2 bedroom apartment	8m <sup>2</sup>										
3+ bedroom apartment	10m <sup>2</sup>										
At least 50% of the required storage is to be located within the apartment.											

### Apartment Depth

The two future residential apartments would be provided with a combined habitable living, dining and kitchen depth of 8.4m, marginally exceeding the 8m maximum depth recommended under Objective 4D-2 of the ADG.

Notwithstanding this minor variation, the future room depth is acceptable given the subject apartments will overall achieve a suitable level of residential amenity. The exceedance of 0.4m over the recommended depth is marginal and compliance would not result in a significant level of added amenity.

The internal area of each apartment has been designed to exceed minimum requirements, ensuring that a satisfactory degree of solar access and ventilation is achieved. Both apartments will also have access to a large private outdoor space which will promote surveillance of the street given its location on the ground plane.

It is also noted that the primary habitable areas within each apartment, including the living, dining and bedroom areas, have been located closest to the external face of the building to ensure a high level of solar access and daylight.

### Traffic and Parking

A Traffic and Parking Assessment has been prepared by GTA Consultants ('GTA') and is provided at **Appendix C**.

With respect to the supply of car parking, GTA has determined that:

*'...the proposed development changes [facilitated by this Planning Proposal] will not affect the overall parking provision of the approved DA when assessed against [Rockdale Development Control Plan] 2011 requirements'.*

The Rockdale DCP 2011 stipulates that one parking space per one or two-bedroom apartment is required within a residential flat building. As the five (5) retail parking spaces approved under DA-2012/325 will no longer be required for retail use, these would be proposed to be converted for residential uses. Overall, no additional parking will be provided to the site. The planning proposal will also remain consistent with the current arrangements for visitor parking.

Furthermore, GTA has determined that any impact on the surrounding road network as a result of this planning proposal would be negligible. Within the *Guide to Traffic Generating Developments*, the Roads and Maritime Service recognises that residential apartments generate less traffic than retail premises, therefore the traffic generation of the site would likely decrease.

#### 4.3.3 How has the planning proposal adequately addressed any social and economic effects?

The proposed development will result in positive social and economic effects for the local area through the generation of local employment opportunities during construction and post-construction and through provision of additional housing stock.

The site currently accommodates three commercial tenancies on the ground level which have remained vacant since the completion of the development in September 2015. These ground floor retail/commercial tenancies have failed to attract market interest. In particular, Cushman and Wakefield, Colliers International and LJ Hooker Commercial are well-regarded and capable commercial agencies who have been unable to lease the tenancies over a period of 2.5 years, even after a reduced asking rent in response to the lack of interest.

In order to achieve a positive and sustainable outcome and in response to an unsuccessful market campaign, the landowner engaged Essential Economics to undertake an independent market appraisal of the ground floor retail/commercial space to assess the viability and likelihood of securing long term sustainable tenancies (refer to **Appendix D**).

The report finds that despite the design of the ground floor space is suitable to a range of potential tenants, the poor locational attributes of the site is the key reason for a lack of tenant interest based on the feedback. It analysed the site's location context, local provision of retail shops and services, local population and demographic characteristics, and its leasing program history. Essential Economics concludes that the subject site has *below-average attributes* for the operation of successful ground-floor retailing, which is confirmed by the following indications of the assessment result:

- A low desirability for potential tenants

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- *Poor locational attributes which may undermine the long-term trading success of any tenants which are attracted to the site*
- *A high 'vacancy risk' for the shop tenancies.*

In particular, the subject site has very low ratings of 1.9 out of 5 to a set of 12 criteria commonly applied in locational advice for factors including:

- *Competition (extensive competition already exists for food-based retailing on Bay Street)*
- *Pedestrian Traffic (the subject site has minimal levels of pedestrian traffic and no direct sight lines to highly trafficked areas)*
- *Visibility to Passing Traffic (low levels of vehicle traffic in Princess Street and complex access arrangements from The Grand Parade)*
- *Adjacencies (the adjacent Novotel provides very limited activity to the subject site, no other significant attractors are in the immediate vicinity with the exception of Coles which has no interface or sight line to the Blue Apartments)*
- *Critical mass/destinational appeal (the subject site is located a block north of Bay Street and derives no benefit from the activity levels and visitation generated from the Brighton-Le-Sands activity centre).*

The conclusion is further supported by the demographics data of the suburb which is characterised by a slightly older than average population, with a high percentage of lone person households and below average medium individual income. Following the two and half years vacancy, it is evident that the long term financial viability of the ground floor retail/commercial tenancies is highly at risk

The planning proposal responds to the undesirable traits of the site with respect to facilitating commercial ground floor uses and will facilitate the conversion of these tenancies into residential apartments.

#### **4.4 State and Commonwealth interests**

##### **4.4.1 Is there adequate public infrastructure for the planning proposal?**

The proposal is intended to facilitate the delivery of two additional residential apartments within the existing building. This minimal increase in residential density is not expected to result in any significant strain on existing infrastructure such as local roads, public transport schools or the existing mixed use centre of Brighton-Le-Sands.

Any potential required amplification/upgrade of existing services will be further investigated in the separate planning application for the construction and use of the residential apartments.

##### **4.4.2 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Consultation has not yet occurred with any State and Commonwealth public authorities given the stage of the planning proposal. Any feedback provided with the Gateway determination will be taken into consideration and addressed in the final planning proposal.

## **5.0 Community Consultation**

Community consultation will be undertaken in accordance with section 57 of the EP&A Act. This planning proposal will be publicly exhibited for at least 28 days following the LEP Gateway determination. It is expected that all exhibition material will be available on Council's website. Public notice of the public exhibition is expected to be given in local papers and on Council's website.

All submissions received during the exhibition period will be considered in the finalisation of the planning proposal.

8 Princess Street, Brighton-Le-Sands | Planning Proposal | 09 April 2018

## 6.0 Project Timeline

**Table 8** Table Caption Approximate project timeline

Task	Timing
Date of Gateway determination	August 2018
Anticipated timeframe for the completion of required technical information	September 2018
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	November 2018
Commencement and completion dates for public exhibition period	September – October 2018
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	November 2018 – January 2019
Timeframe for the consideration of a PP following exhibition	November 2018 – January 2019
Consideration of PP by Council (Council Meeting)	February 2019
Date of submission to the department to finalise the LEP	February 2019
Anticipated date RPA will make the plan (if delegated) or Anticipated date RPA will forward to the department for notification	March 2019
Anticipated publication date	March 2019

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16 May 2017

Mau Huynh  
Director  
Lumex Property Group Pty Ltd  
PO BOX 20  
Homebush West NSW 2140

Dear Mau Huynh,

We write to you regarding the sales and leasing campaign we conducted for the three retail tenancies at 8 Princess Street, Brighton-Le-Sands. We have been engaged by Lumex to assist in the sale or lease of the three tenancies for a period of 6 months, and have received minimal interest in the properties and recommended that the campaign be suspended. A brief summary of the campaign and an overview of the enquiries received is provided below.

As is standard practice for sales and leasing campaigns, a suite of mediums were adopted to market the tenancies. These mediums included:

- Online advertising (Real commercial, Commercial Real estate listing, company websites)
- Advertising in print media (the St George and Sutherland Shire Leader and the Sydney Morning Herald)
- E-flyer distribution
- Signboard at the site

In addition to the promotion of the tenancies through these mediums, I utilised the existing database available at Cushman and Wakefield and Colliers to distribute information regarding the tenancies. Through this database, a total of 6234 individuals were contacted by private email.

As a result of this campaign, sum 90 enquiries were received. These enquiries related to a number of potential uses, including offices, massage businesses and gymnasiums. These uses were not considered appropriate or desirable on the site for a number of reasons, including the lack of activation they would deliver and as such, these uses were discounted and the discussions with the respective tenants were not progressed to formal offers.

Overall, the sales and leasing campaign was conducted for a period of 6 months as set out above, limited interest was received in the tenancies and no suitable formal offers were provided. In light of the length of time dedicated to the campaign, and the lack of interest resulting from our efforts, it was my recommendation that the active campaign be ceased.

In my opinion, the tenancies are not located in a desirable position for non-residential uses which we believe are ordinarily suitable for such a site, such as a café or retail premise. The tenancies are removed from the core retail/commercial strip of Bay Street and Grand Parade, resulting in substantially less foot traffic which is unattractive to potential tenants. Furthermore, the context of the tenancies on Princess Street is largely residential, with limited attraction for non-residential uses due to concerns about noise impacts and potential complaints limiting or affecting operations.

I trust the above information is sufficient to demonstrate the campaign undertaken and lack of interest shown in the sale and lease of the tenancies.

Regards,

  
**Peter Seeto**  
Director  
Sales and Investments – Retail  
Phone 0400 222 666

Land Economists, Property & Hotel Consultants, Valuers, Property Managers, Real Estate Agents, Auctioneers  
Colliers International (NSW) Pty Limited | ABN 65 001 401 681







ESSENTIAL ECONOMICS

## **6-14 Princess St, Brighton-Le-Sands Shop Tenancy Assessment**

Prepared for  
Lumex Property Group  
c/o Ethos Urban

by  
Essential Economics Pty Ltd

**April 2018**



**Authorship**

Report stage	Author	Date	Review	Date
Draft report	Sean Stephens Malcolm Spence	23 February 2018	Client	
Final report	Sean Stephens	16 April 2018		

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6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

## INTRODUCTION

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### Background

Lumex Property Group Pty Ltd (Lumex) completed construction of a mixed use building at 6-14 Princess Street in 2015. The property comprises below ground parking, ground floor retail/commercial space and apartments on above ground levels 1-8.

While the apartments have been sold and are fully occupied, the ground floor retail/commercial tenancies have failed to attract market interest. Several real estate agents have been engaged at various times to lease the tenancies, without success.

In view of the difficulty in securing tenants for the ground floor space, Lumex has approached Bayside Council to seek approval to convert the retail/commercial space to a residential use. This conversion will require a change to the planning permit that currently applies to the property.

Council requires evidence to be supplied with a planning proposal. In email correspondence, Council have specified supporting evidence to include:

- *Land use analysis – analysis of existing uses within the centre and the demand (or otherwise) for tourist related uses and subsequently the zoning;*
- *Evidence of tenant interest – documentation showing that the owner has exhausted all reasonable efforts to secure tenants for the shop fronts;*
- *Impact analysis – details on the proposed future uses of the ground floor space and the impact it may have in regards to the surrounding context;*
- *Traffic and parking analysis – this could be coupled with the ‘impact analysis’ and should include a look at whether the proposed future use of the ground floor space will have a significant impact on traffic movement in and out of the site as well as the surrounding area. This should also include information on whether there is sufficient space for parking (depending on the use).*

As additional evidence Ethos Urban, on behalf of Lumex, are seeking an independent market appraisal of the ground floor retail/commercial space to assess the likelihood of securing long term sustainable tenancies. Essential Economics is engaged to undertake this independent appraisal.

6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

## Objectives

The objective of this report is to broadly assess the potential for retail or commercial tenants to occupy the ground floor tenancies at 6-14 Princess St, taking into account:

- General location and retail market characteristics
- Site specific features.

## This Report

This report contains the following chapters:

- 1 **Brighton-Le-Sands** discusses the suburb, its location, provision of retail shops and services, and population and demographic characteristics.
- 2 **Site Analysis** describes the ground floor tenancies at 6-14 Princess Street, key adjacencies, vehicle and pedestrian access, and improvements undertaken by the owner.
- 3 **Leasing History** provides evidence of leasing campaigns and interest in the tenancies.
- 4 **Location Assessment** measures broad retail potential of the site using a scorecard methodology.

6-14 PRINCESS STREET BRIGHTON-LE-SANDS  
SHOP TENANCY ASSESSMENT**EXECUTIVE SUMMARY**

---

- 1 The Blue Apartments (or the 'subject site') were developed in 2015 and are located at 6-14 Princess Street Brighton-Le-Sands approximately 13km south-west of the Sydney CBD. Centred on Bay Street, the Brighton-Le-Sands activity centre is one of three main activity centres located in the City of Bayside. The centre is a well-known dining destination, particularly on weekends. In contrast to other large street-based centres, Brighton-Le-Sands has a relatively low share of shops in non-food categories.
- 2 The population of Brighton-Le-Sands has experienced some moderate growth over the past decade associated with infill residential development opportunities, including at the subject site. The rate of population growth is expected to slow over the next decade.
- 3 Overall retail spending per capita by residents of Brighton-Le-Sands is approximately 3% below the Greater Sydney average, although spending is slightly above average for cafes and restaurants and takeaway food. The demographics of the suburb are slightly older than average, with a high share of lone person households. The median individual income is slightly below average.
- 4 The location of the Blue Apartments is on the southern side of Princess Street, one block north of Bay Street and the high activity areas of the Brighton-Le-Sands centre. Located in the SP3 Tourist Zone, the development of the apartments was required to incorporate ground floor shops. It is understood the application of the SP3 Tourist Zone to the subject site reflects the historical potential for expansion to the adjacent Novotel Brighton Beach. That potential no longer exists.
- 5 Princess Street is primarily residential in nature at this location, with low levels of vehicle and pedestrian traffic. The Novotel Brighton Beach immediately to the east, at best, provides only very limited levels of activity which would benefit tenants at the subject site. Similarly, the nearby Coles and Bay Street shopping strip do not generate activity in Princess Street which would create sales and visitation for potential tenants at the subject site.
- 6 The ground floor shops at the Blue Apartments have been designed in a manner which meets contemporary tenant expectations. This includes commercial grade paving in the outdoor areas, exhaust fans and grease traps installed to accommodate a commercial kitchen, and a flexible layout to maximise attractiveness to possible operators. From a tenancy design perspective only, the shops are suitable to a range of potential users.
- 7 A leasing program for the ground floor shops has been underway since mid-2015, without success. Cushman and Wakefield, Colliers International and LJ Hooker Commercial are well-regarded commercial agencies who have been unable to lease the tenancies over a period of 2.5 years. This is despite reductions in the asking rent, and improvements (exhaust system and grease trap) designed to attract tenants. Feedback from the leasing agents has identified the poor locational attributes of the site as the key reason for a lack of tenant interest.

6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

- 8 Applying a scorecard methodology to a set of 12 criteria commonly applied in locational advice, identifies that the subject site has relatively poor overall locational attributes. In particular, the subject site has very low ratings for factors including:
- Competition (extensive competition already exists for food-based retailing on Bay Street)
  - Pedestrian Traffic (the subject site has minimal levels of pedestrian traffic and no direct sight lines to highly trafficked areas)
  - Visibility to Passing Traffic (low levels of vehicle traffic in Princess Street and complex access arrangements from The Grand Parade)
  - Adjacencies (the adjacent Novotel provides very limited activity to the subject site, no other significant attractors are in the immediate vicinity with the exception of Coles which has no interface or sight line to the Blue Apartments)
  - Critical mass/destinational appeal (the subject site is located a block north of Bay Street and derives no benefit from the activity levels and visitation generated from the Brighton-Le-Sands activity centre).
- 9 Overall, it is our view that the subject site has below-average attributes for the operation of successful ground-floor retailing, which indicates:
- A low desirability for potential tenants
  - Poor locational attributes which may undermine the long-term trading success of any tenants which are attracted to the site
  - A high 'vacancy risk' for the shop tenancies.

# 6-14 PRINCESS STREET BRIGHTON-LE-SANDS SHOP TENANCY ASSESSMENT

## 1 BRIGHTON-LE-SANDS DESCRIPTION AND CONTEXT

This Chapter of the report describes the broad locational context for the subject site at 6-14 Princess Street, Brighton-Le-Sands.

### 1.1 Location and Accessibility

Brighton-Le-Sands is located 13km south-west of the Sydney CBD, on the western shore of Botany Bay within the City of Bayside.

As shown in Map 1.1, the suburb is bordered by: Bestic Street in the north; Botany Bay in the east; President Avenue in the south; and an irregular boundary in the west, including part of Memorial Fields, West Botany Street and Muddy Creek.

**Map 1.1 Brighton-Le-Sands Suburb Outline**



Source: BingMaps with MapInfo

The Grand Parade, runs north-south along the eastern border of the suburb, adjacent to the beach. The Grand Parade is 2 or 3 lanes in either direction through Brighton-Le-Sands, depending on the prevailing parking restrictions. Along with the Princess Highway further west, the Grand Parade is the main north south arterial route connecting the suburb with other parts of Sydney.

6-14 PRINCESS STREET BRIGHTON-LE-SANDS  
SHOP TENANCY ASSESSMENT

Bay Street runs east-west through Brighton-Le-Sands, connecting with Rockdale in the west.

The suburb is not served by rail, although a bus operates to Rockdale Station. Otherwise, State Transit provides a limited bus service linking Brighton-Le-Sands to Sydney CBD and Miranda.

## 1.2 Brighton-Le-Sands Town Centre

The Brighton-Le-Sands town centre is one the three main activity centres located in the City of Bayside (the other being Rockdale and Wolli Creek).

Bay Street and The Grand Parade comprise the main commercial and retail areas of the town centre. Both sides of Bay Street between The Grand Parade and Crawford Road feature ground floor shops facing onto relatively wide footpaths. The southern side of Bay Street mainly comprises two level buildings, while the northern side has a number of multi-storey apartment and commercial buildings.

The western side of The Grand Parade between The Boulevard and Princess Street also has ground floor shop uses.

Novotel Brighton Beach is located on the northern side of The Grand Parade and Bay Street intersection. The 296 room 4.5 star hotel benefits from water views, frontage to The Grand Parade and Brighton-Le-Sands beach, and proximity to Sydney Airport.

The Brighton-Le-Sands town centre is well known as a multi-cultural food destination, particularly for numerous Greek cafes, restaurants and businesses. Accordingly, the retail mix on Bay Street and The Grand Parade has a high share of cafes, restaurants, food and convenience stores.

In contrast, the share of shops in non-food categories (such as apparel, homewares, general merchandise) is well-below that for similar sized street-based activity centres in Sydney.

A small Coles supermarket, located on the corner of Princess Street and Moate Avenue, is the only significant national brand store in the centre.

## 1.3 Population, Demographics and Retail Spending

### *Population Trends and Forecasts*

The population of Brighton-Le-Sands has experienced consistent growth in recent years, increasing from 7,950 residents in 2006 to 9,100 residents in 2017. Over the period to 2031, the population of the suburb is forecast to increase further to approximately 10,350 residents.

A summary of historic and forecast population trends for Brighton-Le-Sands is shown in Table 1.1.



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SHOP TENANCY ASSESSMENT

**Table 1.1 Brighton-Le-Sands Population Trends and Forecasts**

	2006	2011	2017	2021	2026	2031
<b>Population (No.)</b>						
Brighton-Le-Sands	7,800	8,480	9,100	9,600	10,000	10,350
<b>Average Annual Growth (%)</b>						
Brighton-Le-Sands		1.7%	1.2%	1.3%	0.8%	0.7%
<b>Average Annual Growth (No.)</b>						
Brighton-Le-Sands		+140	+100	+130	+80	+70

Source: Essential Economics and published sources

**Retail Spending**

Estimates of per capita retail spending by residents of Brighton-Le-Sands have been prepared with reference to the *MarketInfo* retail spending model. *MarketInfo* is a micro-simulation model which uses data from the ABS Household Expenditure Survey, the ABS Census of Population and Housing, ABS Australian National Accounts, and other relevant sources.

Average per capita retail spending in 2017 for residents of Brighton-Le-Sands is summarised in Table 1.2 and compared with the metropolitan Sydney average. The retail spending data is presented in four major spending category groupings.

- **Food, Liquor and Groceries** – includes spending on fresh food, groceries and take home liquor. This main category is relevant to supermarket based shopping.
- **Food catering** – includes cafes, restaurants and take-away food.
- **Non-Food** - includes apparel, homewares, bulky merchandise and general merchandise
- **Services** – such as hairdressers, beauty salons etc.

**Table 1.2 Per Capita Retail Spending by Brighton-Le-Sands Residents, 2017 (\$2017)**

	Food, Liquor and Groceries	Food Catering	Non Food	Services	Total Retail
<b>Per Capita Spending (\$2017)</b>					
Brighton-Le-Sands	\$5,560	\$2,160	\$5,100	\$510	<b>\$13,330</b>
Greater Sydney Average	\$5,470	\$2,110	\$5,620	\$510	<b>\$13,710</b>
<b>Variation from Greater Sydney Average (%)</b>					
Brighton-Le-Sands	+1.6%	+2.4%	-9.3%	+0.0%	<b>-2.8%</b>

Source: MarketInfo, Essential Economics

Total spending per capita by residents of Brighton-Le-Sands on retail goods and services in 2017 was \$13,330 per capita, or 2.8% lower than the Greater Sydney average of \$13,710.

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However, for food catering spending, which includes cafes, restaurants and takeaway food outlets, per capita spending by residents of Brighton-Le-Sands is +2.4% above the Greater Sydney average. This indicates an above average propensity of residents living in the area to dine out.

### ***Socio-Economic Characteristics***

According to the 2016 ABS Census of Population and Housing, the suburb of Brighton-Le-Sands is characterised by:

- Personal income levels (\$36,850) marginally below the Greater Sydney average (\$37,460)
- An older age profile with a median age of 40.1 years in the suburb relative to the Greater Sydney average of 36.4 years
- A lower than average share of family households, and a higher proportion of lone person households
- An above average share of dwellings rented (45.9%) relative to the Greater Sydney benchmark (35.1%).

**Table 1.3 Brighton-Le-Sands Socio-Economic Characteristics, 2016**

	<b>Brighton-Le-Sands</b>	<b>Greater Sydney</b>
<b><u>Income</u></b>		
Median individual income (annual)	\$36,850	\$37,460
Variation from Greater Sydney median	-1.6%	na
% of persons (15 years or older) earning \$1,000pw or more	35.1%	37.3%
<b><u>Age Structure</u></b>		
Median Age (years)	40.1	36.4
<b><u>Household Composition</u></b>		
<i>Couple family with no children</i>	23.0%	23.8%
<i>Couple family with children</i>	26.3%	37.5%
Couple family - Total	49.4%	61.3%
One parent family	12.5%	11.1%
Other families	1.3%	1.3%
Family Households - Total	63.2%	73.7%
Lone person household	32.2%	21.7%
Group Household	4.6%	4.6%
Average household size	2.3	2.8
<b><u>Tenure Type (Occupied Private Dwellings)</u></b>		
Owned outright	30.8%	30.0%
Owned with a mortgage	22.5%	34.2%
Rented	45.9%	35.1%

Source: 2016 ABS Census of Population and Housing

6-14 PRINCESS STREET BRIGHTON-LE-SANDS  
SHOP TENANCY ASSESSMENT**1.4 Implications for Subject Site**

A review of the locational context for the subject site indicates the suburb of Brighton-Le-Sands which is experiencing moderate rates of population growth, although this is expected to slow over coming years. Overall levels of per capita retail spending are 3% below the Greater Sydney average, with income levels of local residents also marginally below the Greater Sydney average.

The Brighton-Le-Sands town centre, centred on Bay Street, is one the three main activity centres located in the City of Bayside. On weekends, the town centre has high volumes of people visiting the numerous cafes and restaurants, while during the week the centre has much lower levels of activity. A significant range of food-related shops are already located in the Brighton-Le-Sands town centre, indicating any such tenants for the subject site would be operating in a highly competitive environment.

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SHOP TENANCY ASSESSMENT

## 2 SUBJECT SITE ANALYSIS

This Chapter of the report considers the locational context and features of the ground floor tenancies at the subject site of 6-14 Princess Street, Brighton-Le-Sands.

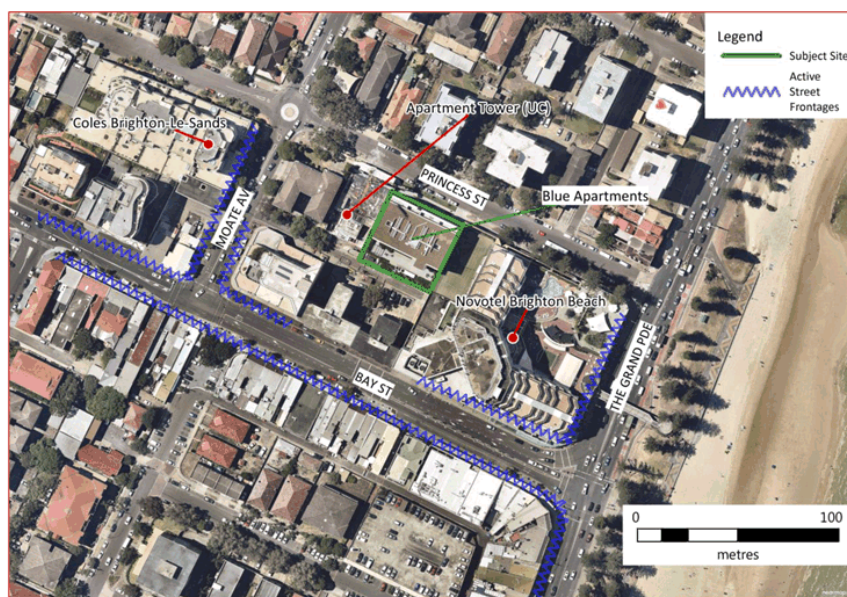
### 2.1 Location

The subject site, called the 'Blue' apartment building, is located on the southern side of Princess Street between The Grand Parade in the east and Moate Avenue in the west. Immediately east is the Novotel Brighton Beach, while to the west is a residential apartment building currently under-construction.

Immediately opposite the site on the northern side of Princess Street are residential uses, primarily apartments.

The subject site is located one block north of the main commercial area in Bay Street.

**Map 2.1 Blue Apartments Location and Site Context**



Source: Essential Economics with Nearmap and MapInfo  
UC – under construction

## 2.2 Site Description

The three tenancies considered in this report are located on the ground floor of the 8-level Blue apartment tower.

Construction of the Blue Apartments was completed in September 2015. The building comprises a total of 67 1-bed, 2-bed and 3-bed apartments. All dwellings have been sold to owner-occupiers or investors.

Below ground parking is provided for residents with an entry point at the eastern end of the building. Pedestrian entry is provided centrally to the site, while the three ground floor tenancies are located at the western end of the site, farthest from the Novotel Brighton Beach.

Parking has been reserved for prospective tenants of the ground floor shops.

## 2.3 Surrounding Land Uses

### Novotel

The Blue Apartments are immediately adjacent to the Novotel Brighton Beach, a 296 room hotel. The hotel serves business travellers and tourists, and offers facilities for meetings and events, including weddings. In 2015, the hotel was sold to new owners and indications from the sale campaign at that time are the facility has relatively strong occupancy levels.

In common with the four and five star hotel market, the Novotel Brighton Beach includes dining and bar facilities which aim to maximise guest spending within the building. Furthermore, although an entrance to the hotel is provided from Princess Street, this provides only limited exposure to the Blue apartment building. An internalised retail mall links the hotel foyer to Bay Street.

Active uses fronting The Grand Parade are located at the ground-level of the Novotel building, including a large restaurant and a number of cafes/takeaway outlets. These businesses have direct sightlines to Botany Bay and the Brighton-Le-Sands beach.

In contrast, the shop tenancies in the Blue Apartment building front what is primarily a quiet residential street.

For this reason, we do not believe that it is reasonable to expect that guests and visitors to the Novotel Brighton Beach can be considered to be a strong and consistent source of sales and patronage to potential shop tenants at the subject site.

### Apartment Tower (Under Construction)

A new apartment block is currently under construction immediately west of the Blue Apartments at 16-20 Princess Street. This development will be comparable in height and scale to the Blue Apartments, although it will not include ground floor shop tenancies.

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The apartment tower at 16-20 Princess Street is located in the R4 High Density Residential Zone which does not require active ground floor shops. In contrast, the immediately adjacent subject site is located within the SP3 Tourist Zone which does encourage ground floor active uses.

This difference in the planning zone applying to each site is inconsistent with the relatively similar locational and development context for both sites.

**Coles Brighton-Le-Sands**

Further to the west at the south-west corner of Princess Street and Moate Street, a Coles supermarket is located on the ground floor of an apartment building. The Coles generates substantial customer traffic, by virtue of it being the only major supermarket in the neighbourhood, although the overall size of the store (2,200m<sup>2</sup>) is well-below the typical size of a full range Coles supermarket (3,000m<sup>2</sup>-plus).

Supermarket shopping is largely based on convenience. A key convenience is the ability to park near the supermarket, shop at the supermarket and other complementary nearby shops (often with a trolley), then take bought items back to the car.

This convenience would not be facilitated by the relative locations of Coles and shops in the Blue apartment building, even if Blue shops could offer complementary goods or services.

Accordingly, it is not reasonable to expect that Coles would be a significant driver of customer traffic to shops on the ground floor of the Blue Apartments.

**Bay Street**

Bay Street is the primary 'spine' of the Brighton-Le-Sands activity centre and is comprised of shops located on both sides of the street extending approximately 400 metres from The Grande Parade in the east to Francis Avenue in the west.

As previously noted, the centre has a higher than average share of food-based tenancies including cafes, restaurants and takeaway stores. In this sense, any similar outlets located at the Blue Apartment building would be operating in a highly competitive environment, with an extensive range of alternative operators located in the nearby, and much higher profile, Bay Street.

As shown in Map 2.1, the subject site has a northern aspect to Princess Street and is effectively one block removed from Bay Street. No mid-block pedestrian through-links are available, and no continuous active frontage links the subject site to the shops in Bay Street. A site visit confirms that the level of pedestrian activity in Princess Street and in front of the subject site is very low, compared with the level of activity and vibrancy in Bay Street.

The Bay Street strip includes numerous food-based tenants including cafes and restaurants. Importantly, despite the relative success of the centre as a dining and entertainment destination, some tenancies in the street are vacant (see Photo 2.1 as an example). This indicates that:

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- The vacant tenancies on Bay Street are likely to be preferred by operators seeking to locate at Brighton-Le-Sands, and
- The current leasing conditions in the area do not support full occupancy in the prime commercial Bay Street strip, let alone the more secondary location of the Blue Apartments in Princess Street.

Despite the relative proximity of the Blue Apartments to the Bay Street centre, the synergies between both locations are limited. That is, the subject site is relatively isolated from the visitation generated by the wider Brighton-Le-Sands activity centre, and thus any tenants at the Blue Apartments site will not benefit from customer traffic generated by traders in Bay Street.

**Photo 2.1 Vacant Shop Tenancies in Bay Street**



## 2.4 Accessibility

### Vehicle Traffic

The Grand Parade carries both northbound and southbound traffic. However, vehicles travelling south are unable to turn right into Princess Street. Cars would need to turn right at Bay Street, right at Moate Avenue then right again into Princess Street.

Cars travelling north on The Grand Parade can turn directly left into Princess Street, although no left turn is permitted between 9pm to 2am on Friday, Saturday and Sunday.

Furthermore, on-street parking, while available, is limited.

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Overall, the quality of vehicle access and the levels of passing vehicle traffic to the ground floor shops at the Blue Apartments could be best described as poor to fair.

**Pedestrian Traffic**

Ample footpath space is located on both sides of Princess Street near the Blue Apartments. Those pedestrians passing the shops located at the subject site would be easily able to see and visit the tenancies.

However, as discussed in Section 2.3, no consistent and regular drivers of pedestrian traffic exist which are able to generate patronage to the shops at the subject site.

As is the case for vehicle traffic, the volume and consistency of pedestrian traffic in front of the Blue Apartments shop tenancies can be best described as poor to fair.

**2.5 Description of Shop Tenancies**

The layout of the three ground floor tenancies in the Blue apartment building are shown in Map 2.2, while Photo 2.2 show the street-frontage of the tenancies.

In relation to the tenancies we note the following aspects:

- **Frontage.** All three shops have generous frontages onto Princess Street, and are set back 3.25m from the building line.
- **Tenancy Size.** The three shop tenancies have a combined floorspace of 166m<sup>2</sup>, comprising of Shop 1, 44m<sup>2</sup>; Shop 2, 73m<sup>2</sup> and Shop 3, 49m<sup>2</sup>. The design of the three tenancies allows for combining adjacent tenancies if required. That is, the shops are configured in such a way that one, two or three tenants could operate from the site subject to tenant demand. This flexibility is 'best practice' from a leasing perspective as it maximises the attractiveness of the tenancies to a wider variety of potential operators.
- **Outdoor Area.** An outdoor seating area is available outside each tenancy, which is particularly useful given the northern aspect of the site and thus consistent access to sunshine. The paving at the front of the shops and extending onto the footpath is commercial grade, and suitable for external seating and high levels of traffic.
- **Fit-out.** Although the tenancies are currently in 'shell' condition (i.e. empty), exhaust fans and a grease trap have been installed to service potential commercial kitchen operators. In effect, the landlord has already undertaken some improvements to the shop tenancies to attract potential food operators.
- **Carparking.** Three basement car spaces have been reserved for potential tenants, with bollards protecting those spaces from casual use by residents and visitors.

In terms of target tenant types, the shops have physical attributes that would accommodate:

- Small restaurant, café, take-away food (cooked on the premises), deli or sandwich shop.

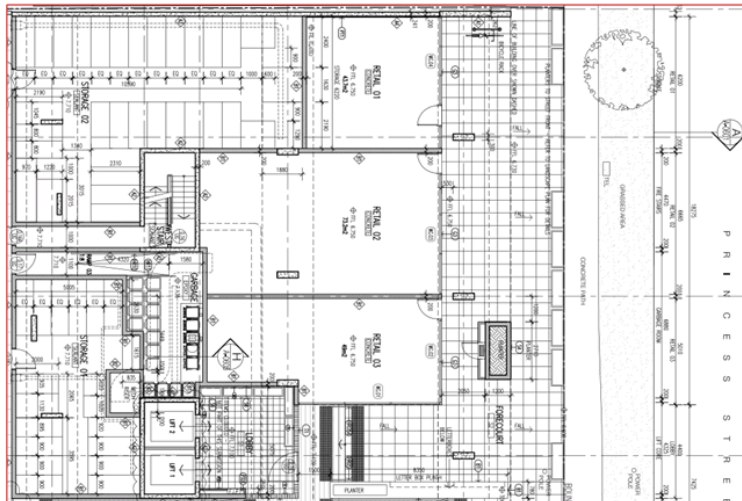


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SHOP TENANCY ASSESSMENT

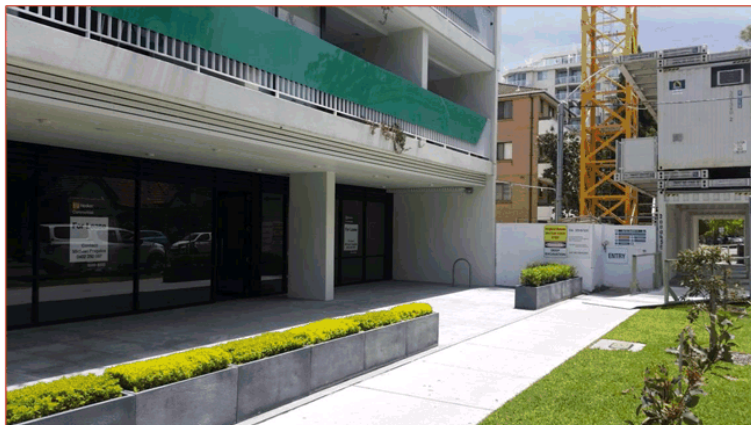
- Small convenience store.
- Small liquor store.
- Non-food retail, such as toys, clothing boutique, hairdresser, beauty salon etc
- Commercial uses, such as real estate agency.

These shop spaces could be suitable for independent specialty traders or small chains. The shops would not attract interest from nationally branded retailers, who generally seek sites with higher exposure.

**Map 2.2 Layout of Blue Apartments Ground Floor Tenancies**



Source: SJB Architects

6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT**Photo 2.2 Blue Apartments Ground Floor Tenancies****2.6 Implications for Subject Site**

In terms of physical attributes only, the existing shop tenancies at the subject site are appropriate for a range of potential tenants, and have attributes and features likely to be attractive to possible operators.

However, that the spaces have not been leased suggests strongly that other factors, principally locational issues, are not conducive to sustaining a viable retail or commercial use at the site.

These locational issues are further discussed in Chapter 4 of this report.

### 3 LEASING CONSIDERATIONS

This Chapter of the report considers the leasing program implemented for the shop tenancies at the subject site.

#### 3.1 Leasing History

On completion of the Blue Apartments building in September 2015, a leasing program was implemented for the shop tenancies. Notwithstanding the leasing program, the shops remain untenanted to this day.

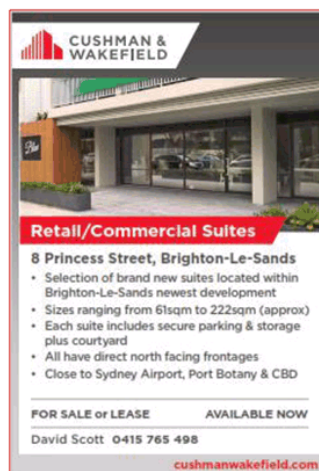
A summary of the leasing program, based on information made available by the client and a review of online real estate data, is as follows:

##### Cushman and Wakefield

The original leasing program was undertaken by Cushman and Wakefield. A global commercial real estate services company, Cushman and Wakefield has a strong commercial real-estate leasing team in Sydney, with a specialisation in small and mid-scale commercial developments.

It is understood that the leasing program undertaken by Cushman and Wakefield in 2015 included advertising in the Sydney Morning Herald and St George Leader and other print media, emails to C&W database, site signage and an online listing.

Given the lack of initial interest from prospective tenants, in early-2016 Cushman and Wakefield was replaced as the leasing agent by Colliers International. I understand that appointing a new agent was a response to the lack of tenant interest, rather than any specific issues with the quality of representation from Cushman and Wakefield.



##### Colliers International

Colliers International is one of the largest Commercial real estate agencies in Australia, with a market share of 16.5% of total commercial real estate transactions in 2016 (Source IBISWorld).

In early-2016 Colliers International implemented a 6-month leasing strategy for the shop tenancies at the subject site, including:

- Website advertising – including Colliers website, Real Commercial etc
- Print media – SMH and St George and Sutherland Leader newspapers

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- Distribution of E-Flyer to prospective tenants
- Email contact with tenant database
- On-site sign boards

A total of 90 enquiries to the Colliers campaign did not result in any suitable candidates to lease the shop tenancies at the subject site.

In a letter to Lumex (16 May 2017), Colliers concluded:

*“Overall, the sales and leasing campaign was conducted for a period of 6 months as set out above, limited interest was received in the tenancies and no suitable formal offers were provided. In light of the length of time dedicated to the campaign, and the lack of interest resulting from our efforts, it was my recommendation that the active campaign be ceased.*

*In my opinion, the tenancies are not located in a desirable position for non-residential uses which we believe are ordinarily suitable for such a site, such as a cafe or retail premise. The tenancies are removed from the core retail/commercial strip of Bay Street and Grand Parade, resulting in substantially less foot traffic which is unattractive to potential tenants. Furthermore, the context of the tenancies on Princess Street is largely residential, with limited attraction for non-residential uses due to concerns about noise impacts and potential complaint limiting or affecting operations.”*

#### **LJ Hooker Commercial**

Given the lack of interest generated from the leasing campaigns operated by the previous two ‘corporate’ commercial leasing agents, the local office of LJ Hooker Commercial was engaged to continue the leasing program in June 2017.

LJ Hooker Commercial tends to operate from smaller regional offices who have a closer relationship with the local business community within the area that they serve.

Since June 2017, LJ Hooker Commercial has continued to market the property to potential tenants, with only six formal enquiries made in the past 6-months. None of these inquiries have proceeded to a formal commitment to lease the shops.

### **3.2 Comments on Leasing Program**

The leasing program undertaken for the ground floor shops at the subject site has been comprehensive, with three well-regarded commercial agencies unable to lease the tenancies over a period exceeding 2.5 years.

Feedback from the leasing agents, including written advice from Colliers International, is that the tenancies lack the locational attributes able to attract commercial tenants.

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It is understood that the asking rental level for the shops has been reduced over the period since June 2015, in response to the lack of tenant interest. The current asking rent for the shops is at a discount to that being achieved in Bay Street.

Furthermore, the leasing agents for the subject site have successfully leased space at other locations controlled by the client.

### 3.3 Implications for Subject Site

Overall, the leasing program implemented for the ground floor shops at the Blue Apartments is consistent with normal industry expectations. Three well-known and competent leasing agencies have been engaged to undertake the leasing program, and available evidence suggests that all agents have made genuine efforts to attract tenants to the site.

The lack of interest in the site for potential tenants is not associated with the specific layout and design of the tenancies, rather the leasing agents have identified the poor locational attributes of the site as a key reason for a lack of tenant interest. The asking rents and leasing terms being sought by the owner for the shops are reasonable in the context of standard tenant expectations.

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SHOP TENANCY ASSESSMENT

## 4 LOCATION ASSESSMENT

This Chapter undertakes a locational assessment for the subject site at the Blue Apartments in Brighton-Le-Sands with the application of criteria normally applied to commercial location decisions in private client advice by our firm.

### 4.1 Methodology and Criteria

An important consideration in the trading performance of any shop or retail outlet is the relative locational and design merits of the individual tenancy in which the outlet operates.

Two factors which are usually fundamental to business success in the retail industry are exposure and accessibility to potential customers.

A scorecard methodology can be used to assess the merits of shop tenancies for potential operators. A summary of 12 location criteria which are commonly applied in locational advice to clients is summarised in Table 4.1, with the relative performance of the subject identified according to each measure. In general, developers/landlords/tenants are seeking sites with an average score of 3 (average) or better.

**Table 4.1 Location Assessment Criteria**

Criteria	Considerations	Subject Site Score <sup>a</sup>
Retail Spending	Per capita food and non-food retail spending	3 - Average
Socio-Economic Profile	Are demographics of local population supportive of potential tenants	3 - Average
Resident Population	Is the local population stable, declining or growing.	3 - Average
Daytime population	Number of daytime workers and/or students	2- Below Average
Visitor spending	Visitors on weekends or during holidays	3 -Average
Significant retailers	Exposure to customers generated by national brand major, mini major and specialty stores	2- Below Average
Competition	Is the location well-placed relative to local competitors	1 - Very Low
Vehicle traffic and parking	Ease or difficulty of accessing the site by car. Availability of parking. Volume of passing vehicle traffic.	2 – Below Average
Pedestrian traffic	Ease or difficult of accessing the site for pedestrians. Volume of pedestrian traffic.	1 - Very Low
Visibility to passing traffic	Sight lines, signage opportunities	1 – Very Low
Adjacencies	Benefit of adjacent land uses to retail traders	1 – Very Low
Critical mass/destination appeal	Number and size of surrounding shops. Local attractiveness of site for shoppers.	1 – Very Low
<b>Overall Average</b>		<b>1.9 Below Average</b>
Source:	Essential Economics	
a.	1=Very Low, 2=Below Average, 3=Average. 4=Above Average, 5=Very High	

Essential Economics Pty Ltd

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SHOP TENANCY ASSESSMENT

#### 4.2 Implications for Subject Site

An average of score of 1.9 has been assessed for the subject site, which reflects locational attributes well-below average and indicates:

- A low desirability for potential tenants
- Poor locational attributes which may undermine the long-term trading success of any tenants which are attracted to the site
- A high 'vacancy risk' for the shop tenancies.

SJB Architects



# Design Report

8 Princess Street  
Brighton Le Sands

4 April 2017 | Version 1.0



SJB Architects

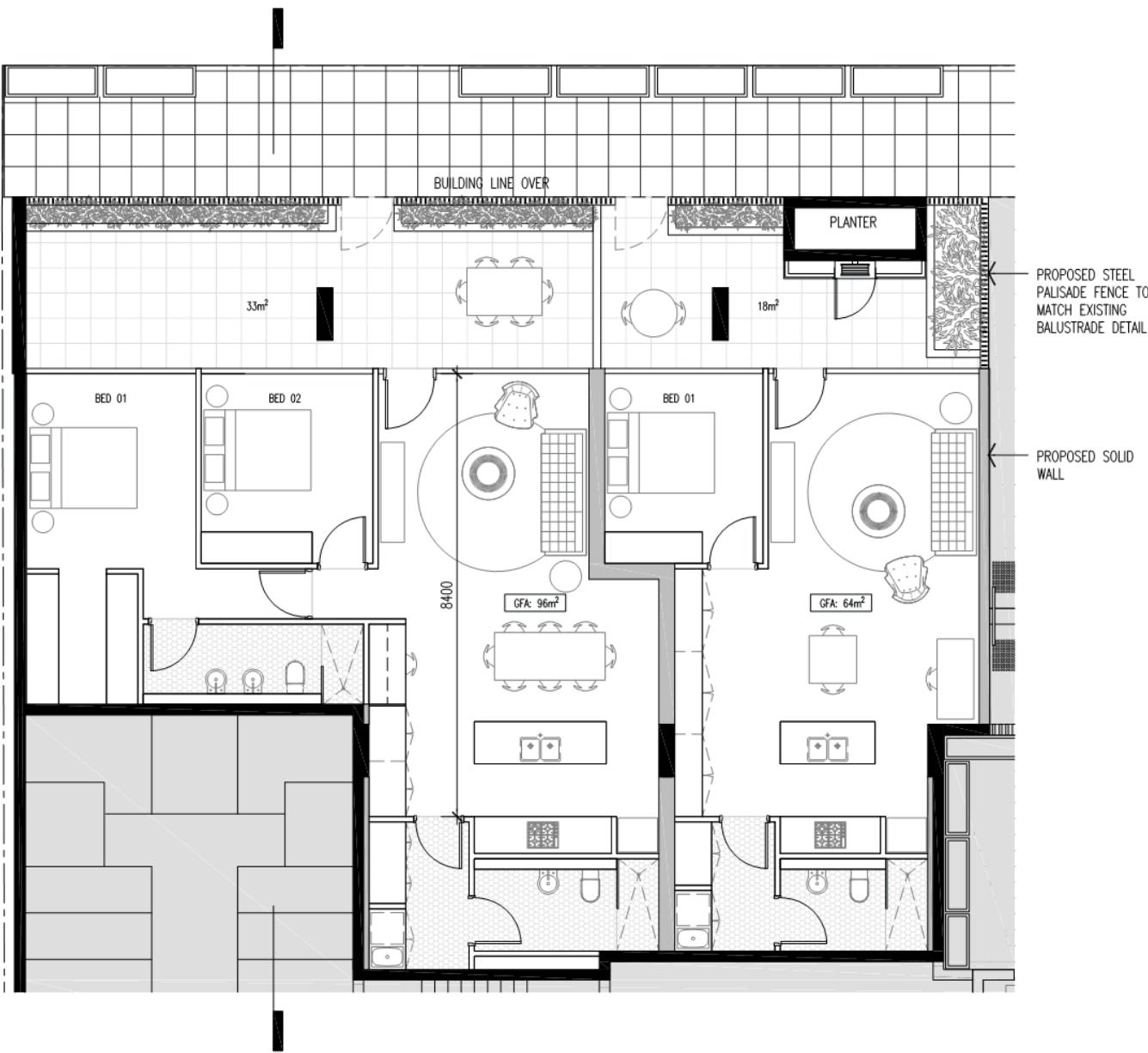


Design Report  
8 Princess Street  
Brighton Le Sands

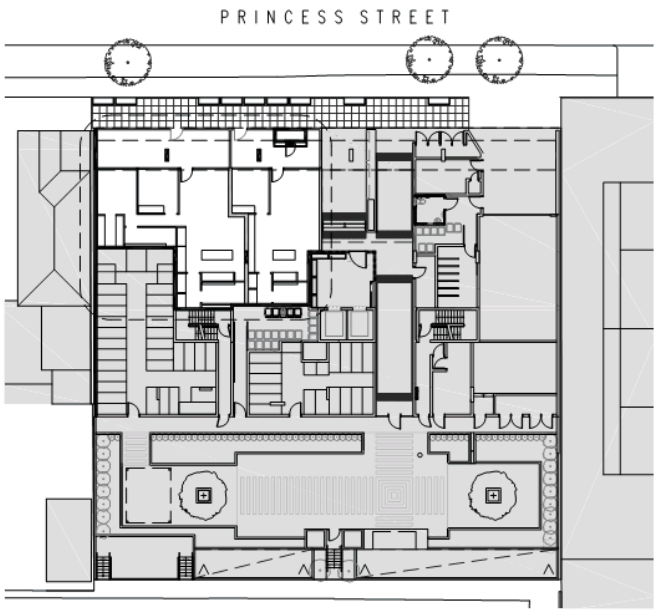
5627  
Date issued: 4 April 2017  
Version: 1.0  
Prepared by: PC  
Checked by: GS

**Contact Details**  
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Level 2, 490 Crown Street  
Surry Hills NSW 2010  
Australia

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architects@sjb.com.au  
www.sjb.com.au



Floor Plan - Proposed Apartment Layout



Existing Floor Plan - Ground Floor

Project	Job No.	Scale
LUMEX	5627	1:100 @ A3
6-14 Princess Street		1 2 3 4 5



Drawing	Revision	SJB Architects
SK01	1.0	Level 2, 490 Crown Street, Surry Hills NSW 2010
Proposed Apartment Layout	04/04/17	T: 61 2 9390 9911 sjb.com.au
		SJB Architecture (NSW) Pty Ltd ACN 061 094 724
		Adam Haddow 7166 John Pradel 7004

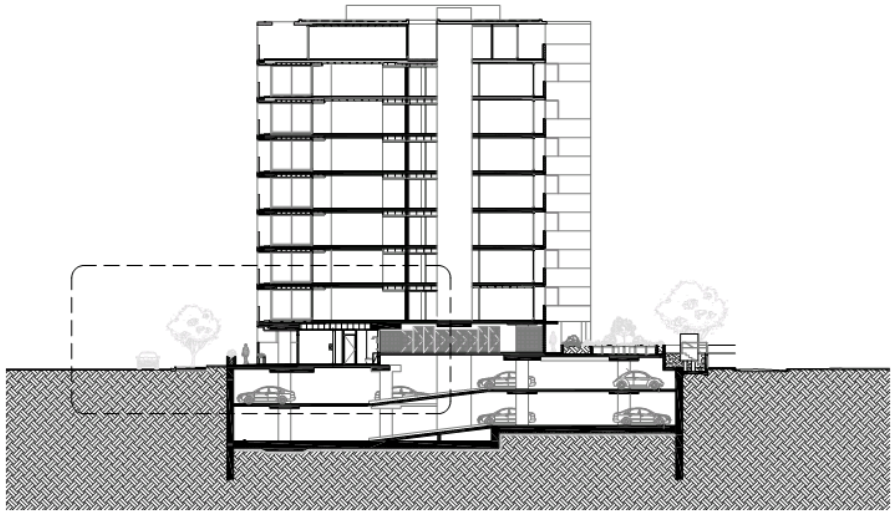




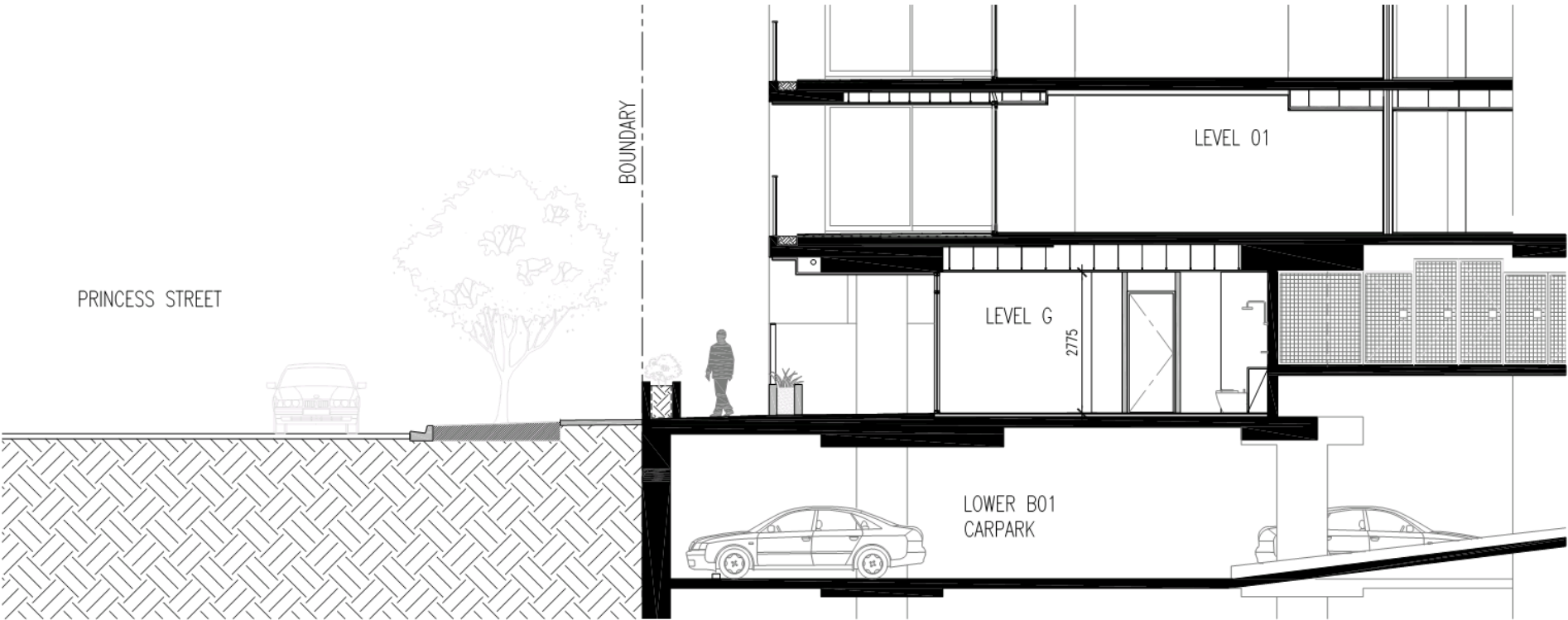
Project	Job No.	Scale
LUMEX	5627	1:100 @ A3
6-14 Princess Street		1 2 3 4 5

Drawing	Revision	SJB Architects
SK02	1.0	Level 2, 490 Crown Street, Surry Hills NSW 2010
North Elevation	04/04/17	T: 61 2 9390 9911 sjb.com.au
		SJB Architecture (NGW) Pty Ltd ACN 081 094 724
		Adam Haddow 7188 John Pradel 7004





Existing Section

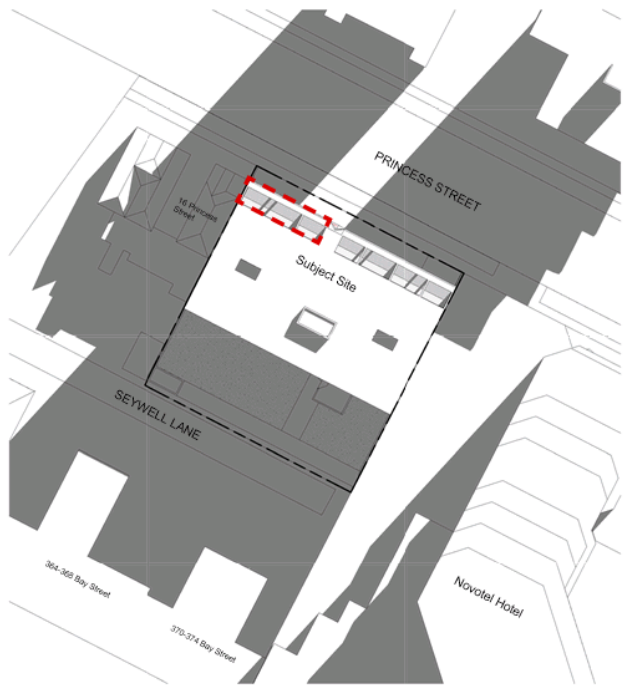


Section - Proposed Apartment Section

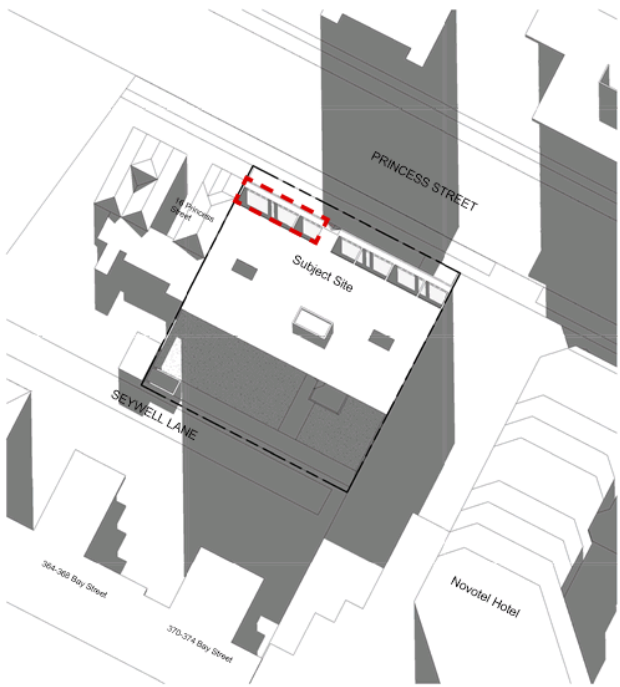
Project	Job No.	Scale
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6-14 Princess Street		

Drawing	Revision	SJB Architects
SK03	1.0	Level 2, 490 Crown Street, Surry Hills NSW 2010
Section	04/04/17	T: 61 2 9390 9911 sjb.com.au
		SJB Architecture (NGW) Pty Ltd ACN 061 094 724
		Adam Haddow 7166 John Pradel 7004





Shadow Diagram - Winter 9am



Shadow Diagram - Winter 12pm



Shadow Diagram - Winter 3pm

**Solar Analysis**

Achieves a minimum of 2 hours of direct sunlight on at least 1sq.m of living room glazing between 9am to 3pm, June 21st.

Approved Total: 51/67 (76%)  
Proposed Total: 53/69 (76%)

**Cross Ventilation**

Approved Total: 53/67 (79%)  
Proposed Total: 53/69 (76%)

Project

LUMEX

6-14 Princess Street

Job No.

5627

Scale

1:100 @ A3

1

2

3

4

5

Drawing

SK04

Shadow Diagrams

Revision

1.0

04/04/17

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## Council Meeting

8/08/2018

Item No	8.3
Subject	<b>Bayside Council F6 Submission</b>
Report by	Michael McCabe, Director City Futures
File	SF12/172

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## Summary

The NSW Roads and Maritime Services (RMS) have released details of the proposed F6 Extension (Stage 1) between Marsh Street, Arncliffe and President Avenue, Kogarah. In preparing a submission in response to this documentation Bayside Council have raised a number of concerns as well as noting areas requiring further investigation as part of the RMS's development of the Environmental Impact Statement. Council's draft submission is attached to this report for Council's endorsement.

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## Officer Recommendation

- 1 That Council endorses the attached submission prepared in response to NSW Roads and Maritime Service *F6 Extension Stage 1 New M5 Motorway at Arncliffe to President Ave at Kogarah Project Overview* documentation.
  - 2 That Council endorses the inclusion of the Moorefield Estate submission as an appendix to Council's submission.
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## Background

In October 2017, the NSW Government announced it will proceed with the F6 Extension Stage 1 to provide a new motorway connection between the New M5 Motorway at Arncliffe and President Avenue at Kogarah. In December 2017, Bayside Council responded to the NSW Department of Planning and Environment draft Secretary's Environmental Assessment Requirements (SEARs) for the proposed F6 Stage 1 extension. This submission highlighted a number of Council's concerns including:

- Traffic and parking congestion
- Impacts on community recreation space
- Sustainability Impacts

In June this year the Roads and Maritime Service (RMS) released the *F6 Extension Stage 1 New M5 Motorway at Arncliffe to President Ave at Kogarah Project Overview* documentation. This documentation provides details on:

- Indicative alignment for the motorway tunnels
- Information about the locations of motorway construction sites and permanent facilities
- Information on the new intersection at President Avenue

- Information on the proposed shared cycle and pedestrian pathways.

The release of the *F6 Extension Stage 1 New M5 Motorway at Arncliffe to President Ave at Kogarah Project Overview* documentation was accompanied by community drop in sessions and Council staff workshops. The community were provided until Friday 27 July to comment on this released documentation and the Council can submit its submission post this Council meeting. The submissions received by the RMS will help guide the development of the Environmental Impact Statement (EIS) in line with the Secretary's Environmental Assessment Requirements (SEARs). The Environmental Impact Statement is expected to be released later this year and Council will prepare a detailed response to the Environmental Impact Statement.

In recognition of the complexity of this project and the impact it will have on the Bayside LGA the RMS have also created staff technical working groups focused on:

- Traffic
- Active Transport
- Open Space
- Environment

The purpose of these workshops is to:

- Commence information flow between RMS and Bayside Council prior to the EIS exhibition
- Provide Council with information about the project to assist with assessments and responses
- To seek Council input on key items and inform the design and planning process
- To develop technical outcomes developed jointly by RMS and Council
- Incorporate agreed outcomes into the EIS where possible

These meetings commenced in late July and will be held regularly until the release of the Environmental Impact Statement.

In addition, the RMS are also in the process of developing a Stakeholder Liaison Group which will be comprised of representatives from Bayside Council, local sporting clubs and other stakeholders. The group will focus on identifying ways to minimise construction impacts and provide a lasting legacy of improved sporting fields and better cycle and pedestrian facilities. Council has provided input into the community groups who will form part of the Liaison Group.

In addition, since June Council has actively kept the community informed of the release of the *F6 Extension Stage 1 New M5 Motorway at Arncliffe to President Ave at Kogarah Project Overview* documentation and the associated workshops. In response to this the Moorefield Estate have requested their submissions is also submitted to the RMS as part of Council's submission.

Council's draft submission (attached) covers the following issues and includes specific actions for the RMS to undertake as part of the development of the Environmental Impact Statement. This submission continues Bayside Council's focus on ensuring the F6 Stage 1



Extension Environmental Impact Statement (EIS) adequately addresses key issues which are summarised below:

1) *Priority for Section B works (Kogarah to Taren Point)*

The large volume of southbound motorway traffic expected to exit the tunnel onto President Avenue will likely result in traffic congestion in southern Sydney and therefore it is imperative that the announcement and planning for Section B works occurs as part of Stage 1.

2) *Ensure connection of the F6 extension to Sydney Airport*

The completion of Stage 1 of the F6 extension includes a direct connection to Sydney Airport.

3) *Investigate connection of the Port Botany road freight route to the F6 extension*

Council requests the RMS to investigate a direct motorway connection from Port Botany to the F6 via an access point at the Arncliffe interchange.

4) *Impact on sporting fields*

The proposed construction, although allowing the continued use of the Ilinden Stadium and Brighton Memorial Field affects significant loss of parking and accessibility for these sporting fields. The negative effects to public amenity, noise and air quality during and post-construction is of concern and needs to be addressed in the Environmental Impact Statement.

5) *Impact on open space*

Council is concerned about the short and long term impact on open space as the result of the proposed motorway and that the relocation of like-for-like facilities will not be achieved. Council also requests that RMS, in consultation with NSW Government and Council, identify strategic Government owned land holdings that can be dedicated to Council to provide a continuous green link of open space incorporating active transport from Bestic Street, Kyeemagh to President Avenue, Kogarah.

6) *Provision and safety of active transport*

Council requests that RMS reconsider the location of parts of the proposed active transport route on road, improves the linkage of the proposed active transport route to link into existing or potentially enhanced cycleway routes as well as the RMS, in consultation with NSW Government and Council, identify strategic Government owned land holdings that can be dedicated to Council to provide a continuous green link of open space incorporating active transport from Bestic Street, Kyeemagh to President Avenue, Kogarah.

7) *Environmental (including biodiversity, flooding, water quality and contamination) consideration*

Council requests the Environmental Impact Statement to provide further detail on a number of environmental issues including Biodiversity, Air and Noise Quality, Water Quality, Contamination, Flooding, Vibration and Heritage.

8) *Land acquisition considerations*

Council is requesting addition detail regarding the properties that are proposed to be acquired by the RMS for the construction and operation of the motorway to be considered for the purpose of LEP amendments. Council also seeks to be included as part of the decision making process for the future of the current road reservation located from Arncliffe to Kogarah

9) *Traffic impacts*

Council request the preparation of detailed traffic management plans that identify:

- Impacts on local streets
- Proposed intersection upgrades
- Proposed clearways
- Impacts of parking demand and proposed parking offset
- Impacts on parking for the neighbouring industrial areas
- Impacts on safety and access to and from the Moorefield Estate precinct
- Pedestrian and Active Transport Management Plan.

10) *Impacts on local business*

Bayside Council requires information on what mitigation and compensatory measures will be implemented to address the impacts on local businesses and the process for local businesses to access compensatory funding.

11) *Community construction fatigue*

Bayside Council requests that RMS to undertake extensive and regular community engagement focused on project updates and identify in the Environmental Impact Statement what mitigation and compensatory measures will be undertaken to address community construction fatigue and improve the local amenity.

12) *Urban Design considerations*

Bayside Council requests opportunities for consultation and extensive urban design input throughout the project and contribute to the final design of temporary and permanent infrastructure that will result from this project.

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13) *Consultation on legacy projects*

RMS are requested to closely engage with Council in deciding what legacy project will result as part of this proposed motorway project to ensure there is maximum community benefit

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### Financial Implications

Not applicable	<input checked="" type="checkbox"/>
Included in existing approved budget	<input type="checkbox"/>
Additional funds required	<input type="checkbox"/>

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### Community Engagement

As highlighted above the RMS have undertaken community consultation as part of the release of *F6 Extension Stage 1 New M5 Motorway at Arncliffe to President Ave at Kogarah Project Overview documentation*. Council has actively promoted this information to the community.

In addition, the RMS are also in the process of developing a Stakeholder Liaison Group which will be comprised of representatives from Bayside Council, local sporting clubs and other stakeholders. The group will focus on identifying ways to minimise construction impacts and provide a lasting legacy of improved sporting fields and better cycle and pedestrian facilities.

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### Attachments

- 1 Bayside Council draft F6 Submission
- 2 Appendix Moorefield Estate Submission [↓↓](#)

10 August 2018

Our Ref F09/836  
Contact Michael McCabe 9562 1689

Customer Feedback  
Roads and Maritime Services  
Locked Bag 928  
North Sydney  
NSW 2059

Dear Sir/Madam

**Re: Bayside Council Submission – F6 Extension (Stage 1)**

Thank you for the opportunity to respond to the Road and Maritime Services (RMS) Project Overview for the F6 Extension (Stage 1) to President Avenue, Kogarah. Bayside Council acknowledges the preliminary planning undertaken for this project by the RMS in recognition of the significant impact the construction and operation of this proposed motorway may have on the local community

On 19 December 2017, Bayside Council responded to the Draft SEARS for this project. This submission continues Bayside Council's focus on ensuring the F6 Stage 1 extension Environmental Impact Statement (EIS) adequately addresses key issues. The issues raised in the response to the Draft SEARS are to be considered in conjunction with this submission.

Council will be providing a more detailed review of this project as part of the Environmental Impact Assessment (EIA) process.

In addition, Council also acknowledges the submission to the RMS from the Moorefield Estate which highlights the impacts of this proposed motorway on the local community. The submission from the Moorefield Estate is attached as an appendix to this submission.

The issues raised by Council in this submission are categorised as:

- 1) *Priority for Section B works (Kogarah to Taren Point)*
- 2) *Ensure connection of Stage 1 F6 extension to Sydney Airport*
- 3) *Investigate connection of Port Botany road freight route to the F6 extension*
- 4) *Impact on sporting fields*
- 5) *Impact on open space*
- 6) *Provision and safety of active transport*
- 7) *Environmental (including biodiversity, flooding, water quality and contamination)*
- 8) *Land acquisition considerations*
- 9) *Traffic impacts*
- 10) *Impacts on local business*

- 11) Community construction fatigue
- 12) Urban design considerations
- 13) Consultation on legacy projects

**1) Priority for Section B works (Kogarah to Taren Point) to be brought forward and included in Stage 1**

The Infrastructure Australia Priority List released in July 2018 identifies the construction of the F6 corridor from Arncliffe to Waterfall as a priority initiative. However, only Stage 1 of the F6 project has been committed to by the NSW Government. Furthermore it is stated in the *F6 Extension Stage 1 New M5 Motorway at Arncliffe to President Ave at Kogarah Project Overview* documentation that traffic on General Holmes Drive will decrease by 10,000 vehicles a day as a result of the Stage 1 project.

Those 10,000 vehicles will now, however, be exiting at President Avenue and its connecting road network. The resultant congestion, as a result of this, to areas south of President Avenue will impact the amenity of Bayside's southern suburbs. Therefore as stated in Council Minute 2018/110 (13 June 2018)

*That Stage 1 is to include Section B works that is a tunnel from President Ave to Taren Point*

it is imperative that the announcement and planning for Section B works occurs as part of Stage 1.

*Action: As part of the EIS the RMS incorporates Section B (Kogarah to Taren Point) works for F6 Stage 1 Extension*

**2) Ensure connection of Stage 1 F6 extension to Sydney Airport**

In 2017 a record 43.3 million passengers passed through Sydney Airport. By 2033 these numbers are projected to increase to 74.3 million as well as 1 million tonnes of freight entering Sydney via Sydney Airport. The current design of the Stage 1 F6 expansion, however, does not provide a direct link for transport to the airport.

Therefore as expressed in Council Minute 2018/110 (13 June 2018 Council meeting)

*That a connection to Sydney Airport for those coming from the south be included in this project.*

this connection needs to be incorporated into Stage 1 works.

*Action: As part of the EIS the RMS includes the direct connection of the F6 Stage 1 Extension to Sydney Airport.*

**3) Investigate connection of Port Botany road freight route to the F6 extension**

The NSW Ports have identified that container movements are set to triple from 2.3 million in 2015 to 7 million by 2040 and therefore freight access to industrial precincts to the south including Port Kembla will result in significant increase in freight movement on Sydney's road network. The RMS assumption that a detour via Joyce Drive and the proposed Gateway/Northern Lands will provide a

preferential heavy vehicle route is noted. The EIS should address in detail how this will be achieved to avoid freight traffic using Grand Parade, Kyeemagh as general traffic decreases as part of the F6 Stage 1 project.

Furthermore, Council notes in addition to the Infrastructure Australia Priority List, the Eastern City District Plan, Draft NSW Ports and Freight Plan, and NSW State Infrastructure Strategy identifies initiatives that support improved road network links to Port Botany and Sydney Airport. Council requests the RMS to investigate whether a direct motorway connection from Port Botany to the F6 via an access point at the Arncliffe interchange with the new M5 as part of Stage 1 F6 extension could be included as part of the proposed construction of the Stage 1 F6 motorway.

*Action: The RMS in the EIS should address in detail how a detour via Joyce Drive and the proposed Gateway/Northern Lands will provide a preferential heavy vehicle route*

*The RMS to investigate a direct motorway connection from Port Botany to the F6 via an access point at the Arncliffe interchange with the new M5 as part of Stage 1 F6 extension*

#### **4) Impact on sporting fields**

It is stated in the *F6 Extension Stage 1 New M5 Motorway at Arncliffe to President Ave at Kogarah Project Overview* documentation that the proposed construction and operation of the motorway will not directly impact on the Ilinden Sportfields and Brighton Memorial Field. However, during construction there will be loss of parking and amenity for the sporting fields as well as noise and air quality impacts during and post construction. It is understood this impact will be felt by Brighton Public School who rely on Brighton Memorial Fields as part of their access to open space. It is noted that the RMS has stated they will develop a Stakeholder Liaison Group comprising of representatives from Bayside Council, local sports clubs and other stakeholders to focus on identifying ways to minimise impacts of the proposed motorway on sporting fields and Bicentennial Park.

*Action: RMS to expedite the commencement of the Stakeholder Liaison Group to identify ways to reduce the above-noted impacts of this proposed motorway.*

#### **5) Impact on open space**

The construction and operation for the Stage 1 F6 Extension would result in a multiyear loss of the majority of Bicentennial Park including a skate park, play equipment (including accessible play equipment), barbeque equipment and informal walking trails around the wetland. The proposed project will also result in the loss of open space for community events which are regularly held at Bicentennial Park. This is in addition to the permanent loss of open space in the eastern section of Bicentennial Park to provide for the access ramps.

It is acknowledged RMS will work with Council to relocate the infrastructure of the recreational facilities (with the exclusion of walking trails) so they are provided to the community during construction. Council is not aware of how the loss of the community events space is proposed to be managed. As the RMS is aware, open, accessible space particularly with substantial parking, is extremely limited in the Bayside LGA and Council is concerned the relocation of like-for-like facilities may not be achieved.

Council is also aware that the RMS/NSW Government own a number of landholdings along the F6 Reservation route which will not be required for the proposed construction of Stage 1 of this motorway. Council therefore recommends that RMS identifies government properties (such as 100 & 102 Bruce St Brighton le Sands), in consultation with Council and the NSW Government that can be dedicated to Council to allow for the creation of a continuous green link from Bestic St, Kyeemagh to President Ave, Kogarah. The creation of this link will also support the NSW Government's 'Green Grid' Strategy where provision of continuous open space along the Rockdale Wetlands Corridor is identified as a strategic priority.

*Action: RMS to expedite the commencement of the Stakeholder Liaison Group to identify ways to reduce the above-noted impacts of this proposed motorway.*

*RMS, in consultation with NSW Government and Council, identify strategic Government owned land holdings that can be dedicated to Council to provide a continuous green link of open space incorporating active transport from Bestic Street, Kyeemagh to President Avenue, Kogarah.*

#### **6) Improve provision and safety of active transport route**

Bayside Council supports the provision of active transport into this project. Investing in safe, separated active transport corridors for local, short trips is a key component of Transport for New South Wales' *Future Transport 2056 Strategy*. The active transport route proposed as part of this project is generally supported.

However the on-street diversion of the active transport route onto sections of Crawford, Bay, Francis and Bruce Streets in Brighton Le Sands would not result in a suitably safe design and would act to decrease the effectiveness of this active transport route. All attempts should be made to provide a north-south route within the existing green-space corridor.

In addition, the proposed Muddy Creek cycleway route appears to end at West Botany Street and Scarborough Park North. The proposed cycleway routes are requested to be amended to link into existing or potentially enhanced cycleway routes (ie the creation of a Bay Street share path) to the town centres of Kogarah and Rockdale.

The proposed active transport path through the wetlands, south of the President Avenue pedestrian bicycle bridge needs to be realigned to accommodate the existing natural environment which has biodiversity value.

*Action: The F6 extension Stage 1 active transport proposal requires the implementation of a safe, off-road network and one that provides clear connectivity to Rockdale, Kogarah and Brighton-Le-Sands town centres via the provision of dual east-west share paths along Bay Street and President Avenue.*

*Proposed active transport path through the wetlands, south of the President Avenue pedestrian bicycle bridge needs to be realigned to accommodate the existing natural environment which has biodiversity value.*

*In addition as stated above Council requests the RMS, in consultation with NSW Government and Council, identify strategic Government owned land holdings that can be dedicated to Council to provide a continuous green link of open space incorporating active transport from Bestic Street, Kyeemagh to President Avenue, Kogarah. Any legacy projects should be planned and designed in conjunction with Council and the community.*

#### **7) Environmental Considerations**

Council requests that the Environmental Impact Statement provides more information in relation to:

- **Biodiversity**

A key component of the Stage 1 SEARS report was the acknowledgment of the importance of the conservation and enhancement of the ecologically significant wetland corridor and the significance of this area's open space. As also highlighted above the importance of this wetland corridor is reflected in the NSW Government's 'Green Grid' Strategy.

*Action: As part of the Environmental Impact Statement RMS is to provide more information on the impact of construction and operation of the proposed motorway on Bicentennial Parkland and Ponds and Patmore Swamp*

*As a minimum Council requests that a Wetland Environmental Management and Maintenance Plan is developed for this project and to include details on*

- a) *Protection of threatened species and endangered ecological communities*
- b) *Protection of other native vegetation communities, and flora and fauna*
- c) *Protection of terrestrial and aquatic habitat*
- d) *Protection of migratory species*
- e) *Inter-relationship between the motorway and the surrounding natural area*
- f) *Impact of development on ecological significance of the area*
- g) *Measures to reduce adverse environmental impact*
- h) *Management of pest species (plant and animal) during and post construction*

- **Air and Noise Quality**

Both the construction and operation of Stage 1 will impact on local air and noise quality including:

- dust during construction,
- vehicle emissions from ventilation stacks,
- emissions from vehicles exiting the proposed motorway steep incline at Bicentennial Park, and
- noise impacts during construction and operation of the motorway, particularly close to the access ramps.

This impact will be felt by local residents, users of the Bicentennial Park sporting fields and parklands, Brighton Public School, people in vicinity of the ventilation stacks in addition to the users of the proposed motorway.



*Action: Council requests that as part of the Environmental Impact Statement detailed information is provided on*

- *the likely changes in the surrounding area's air and noise quality*
  - *details on air quality within the tunnels,*
  - *comparison of resulting air and noise quality to relevant standards including National Air Quality standards, World Health Organisation air quality guidelines, Road Tunnel ventilation Standards, and NSW Road Noise Policy,*
  - *identification of air and noise quality impacts on community health and the environment,*
  - *the best practice standards that will be used as part of this project and*
  - *what compensatory measures will be included as part of this project to address the impacts of air and noise quality*
- **Water Quality**

There are many parts of this project that can impact on water quality including:

- sediment entering waterways during construction,
- vehicle run off,
- changes to the area of impervious surface during and post construction, and
- changes in environmental flows.

Poor water quality not only impacts on the natural environment and the aesthetics of open space but the Bayside LGA stormwater system flows directly into Botany Bay which is a regionally significant swimming and fishing recreational asset.

As the RMS is aware, due to the highly urbanised nature of the Bayside LGA and historical land uses, many of the waterways including Bicentennial Ponds are already under stress and therefore it is imperative that this project does not further add to this but provides opportunities to enhance the water quality entering local waterways.

Adjacent to the ramps at Bicentennial Park are a number of sports facilities and parklands which would benefit from a water source appropriate for irrigation. It is noted that the RMS through dewatering and capturing water from within the tunnels will be collecting water during the construction and operation of this proposed motorway.

*Action: Within the Environmental Impact Statement detailed information must be provided on*

- *how this project will ensure it will not negatively impact on water quality (surface and ground water), or environmental flows, and*
- *what measures will be implemented to improve ground and surface water quality post construction*

*Council requests that water quality monitoring is undertaken pre, during and post construction and that this information is also supplied to Council on a six monthly basis. RMS are also to develop an Emergency Management Plan detailing the response to any soil and chemical spillage incident.*

*In addition a soil and water management plan must be developed that address the following:*

- (a) the likely impacts of development on water quality during and after construction,*
- (b) the utilisation of effective erosion and sediment control measures in accordance with the State government guidelines entitled Managing urban stormwater: soils and construction (Department of Housing, 3rd ed., 1998),*

*(c) the recommendations of the wetlands environmental management plan.*

*It is also requested that the RMS identifies opportunities for the water collected as part of the construction and operation of this motorway to be used for irrigation by Bayside Council.*

- **Contamination**

As the RMS is aware, parts of the Bicentennial Park area were used for landfilling which means there is potential contamination present. This historic landfill may also be impacting on the groundwater quality flowing into Bicentennial Ponds. It is likely that this landfill will be disturbed as part of the construction of this motorway so the potential for contamination of soil and groundwater needs to be assessed for the areas relevant to the development to determine if there could be unacceptable impacts on human or environmental health and to assess if remediation is required. Such an investigation needs to be conducted in accordance with SEPP 55.

*Action: Within the Environmental Impact Statement detailed information is required on the*

- a) Geotechnical findings of this project to provide evidence on the extent of disturbance of the landfilled areas, particularly at Bicentennial Park*
- b) Site contamination assessment, particularly at Bicentennial Park*
- c) Potential impacts of disturbing the landfill on environmental and human health*
- d) Development of a remediation plan (if required under State legislation) that will be implemented by the RMS during any disturbance of the landfilled areas*

- **Excess Spoil**

Council understands that if this project is to proceed that the tunnelling will result in many thousands of tonnes of spoil having to be trucked to Western Sydney. This will notably impact on the amount of heavy traffic movement in southern Sydney. There may, however, be opportunities for clean spoil to be used locally.

*Action: RMS to commence discussions with Council about the opportunity to use clean spoil from the proposed tunnelling.*

- **Flooding**

The construction and operation of Stage 1 F6 will increase the potential of flooding in the local area. Bayside Council's flood model for this area is the Spring St Drain, Muddy Creek and Scarborough Ponds Catchment 2D Flood Study Review, BMT WBM, 2017 which can be provided to the RMS if required.

*Action: Within the Environmental Impact Statement the RMS is required to provide detailed information on:*

- a) RMS proposed changes to the President Avenue stormwater road drainage particularly due to the changes to road levels. It is anticipated that additional drainage will be required at either end of the President Avenue road level changes to manage the new low points. Flood modelling would need to show no negative impacts result from the road raising.*
- b) Any RMS decision on changes to pipe capacity under President Avenue, from south to north would need to be in consultation with Council to ensure the proposed works does not*

*move flooding issues upstream and downstream. Council would require the RMS to run a number of scenarios to determine the preferred pipe size/capacity.*

- c) Council requests details on how the stormwater network be managed during construction especially during a flood event when the open cut drain tunnel is in place.*
- d) RMS management of the east to west stormwater network (two pipes) discharging to the pond system from O'Neill Street during and post construction as well as the 1200mm stormwater discharge from French St (to the west) into the ponds. There may be a need increase the capacity of the Francis St pipe at the time of the works, dependent on modelling*

- **Vibration**

The construction of the motorway may result in vibration impacts to private and public assets. Council is particularly aware of community concerns about the impacts of construction of the new M5 on the properties directly above the tunnelling site.

*Action: Council requests that RMS undertake dilapidation reports prior to the start of construction and detailed asset monitoring, during construction and post construction of public and private assets directly and adjacent to tunnelling sites.*

*In addition Council requires information from RMS on what measures will be implemented to reduce vibration impacts and what compensatory processes and measures and will be implemented to address properties impacted by vibration.*

- **Heritage**

The widening of President Avenue will have a direct impact upon a heritage item listed in Schedule 5 of Rockdale Local Environmental Plan 2011 – Item I202 Scarborough Park. The works are also in the vicinity of two other heritage items I167, Brighton Le Sands Public School and I169, Kings Wetland.

Scarborough Park is considered to be significant for its contribution to the Central Scarborough wetland area which is an integral part of the wetlands corridor. The place also has historical value for its role in the depression era program of public works. The wetland reserve contributes to amenity and character of the area. The former Rockdale Council has prepared a Conservation Management Plan (CMP) for Scarborough Park (Geoffrey Brittain 2014). This document is the guiding policy document for the heritage values of the park. A statement of heritage impact referencing the CMP in its analysis must be prepared to inform the EIS.

The peninsula is a known area of potential for Aboriginal archaeology. The 1999 Rockdale Aboriginal Heritage Study states that it is possible Aboriginal sites may still exist in the vicinity of the original lake where the wetlands occur in Scarborough Park. The EIS must be informed by an Aboriginal Heritage Impact Statement.

*Action: Bayside Council requires as part of the EIS that a Statement of Heritage Impact be prepared identifying all heritage items directly impacted or within the vicinity of the proposed motorway. The statement must outline all impacts and any proposed mitigation measures. The 2014 Conservation Management Plan for Scarborough Park is to be used as a reference and policy document.*

*As part of the EIS Council requires information on how this proposed motorway will impact on Indigenous heritage. An Aboriginal Heritage Impact Statement of the route must therefore be prepared in consultation with Local Aboriginal Land Councils.*

#### **8) Land Acquisition Considerations**

The tunnelling option used in Stage 1 of the F6 extension is understood to have chosen a route to minimise the extent land acquisition and subsequent community disruption. There are however, several sites that will be required by the RMS to undertake this project. For example the work sites, control centres, ventilation shafts and the final tunnel location will require land currently occupied by several properties across Kogarah and Brighton-Le Sands. Some of these sites are currently utilised by businesses, are community recreation areas within the Rockdale's Bicentennial Park or are residential properties adjacent to President Avenue. Such changes in land use for these sites may require Local Environment Plan (LEP) amendments.

In addition, with the location of the proposed motorway for Stage 1 placed underground Council requests that it is part of the decision making for the future of the road reservation located from Arncliffe to Kogarah. It is requested that the decision making process commences as soon as possible so any decision can be incorporated into the development of the Bayside Local Environmental Plan.

*Action:*

*Council is notified as soon as possible of the properties that are proposed to be acquired by the RMS for the construction and operation of the motorway to be considered for LEP amendments.*

*RMS to ensure Bayside Council is included into the decision making process for the road reservation located from Arncliffe to Kogarah and that this process commences as soon as possible.*

#### **9) Traffic Impacts**

It is forecast that the tunnels will remove 10,000 vehicles per day from General Holmes Drive in Brighton-Le-Sands and direct them underground. The impact to the local road network of these cars then exiting onto President Avenue in Kogarah will be significant and require traffic network upgrades. Bayside Council and local residents have concerns about the volumes of traffic redirecting to a new street network, with unexpected traffic outcomes imparted to local precincts. It is also expected the road surface will deteriorate as a result of the increased construction traffic.

*Action: Bayside Council requests details of the modelling on an extended catchment showing the impact to not only President Avenue, but importantly the impact on the nearby local streets, major intersections and areas considerably further afield than President Avenue.*

*This includes through local streets such as O'Connell Street, Civic Avenue which will significantly alter the function and safety outcomes for locals. Council request the preparation of detailed traffic management plans that identify.*

- a) Impacts on local streets*
- b) Proposed intersection upgrades*

- c) *Proposed clearways (during construction and operation)*
- d) *Impacts of parking demand and proposed parking offset (including for major sports events at Ilinden)*
- e) *Impacts on parking for the neighbouring industrial areas*
- f) *Impacts on safety and access to and from the Moorefield Estate precinct*

*Council also requests RMS provide information on the final construction and soil compounds and dive sites as soon as these decision are made as well as the provision of*

- a. *Construction Traffic Management Plan*
- b. *Parking Management Plan*
- c. *Pedestrian and Active Transport Management Plan*

*RMS are also requested to undertake post completion survey to monitor how the predicted traffic impacts transpire, and whether the proposed mitigation measures are effective. These counts are to be undertaken at 12 monthly intervals post completion, for a period of 5 years, and a RMS required to implement treatment measures if the traffic conditions are found to be deteriorating. RMS are also requested to monitor and remediate the road surface impacted during the proposed construction period.*

*Council also request details on what measures the RMS will put in place to ensure traffic is not automatically funnelled into the motorway.*

#### **10) Impacts on Local Business**

There are a number of local businesses on both sides of President Ave that will be directly impacted by the construction and operation of the motorway, including loss of parking, decline in amenity, and noise, air and vibration impacts.

*Action: Bayside Council requires as part of the Environmental Impact Statement information on what mitigation and compensatory measures will be implemented to address the impacts on local businesses and the process for local businesses to access compensatory funding.*

#### **11) Community Construction Fatigue**

Bayside Council are aware of the impact of construction fatigue to local residents caused by major infrastructure projects such as the F6 extension. Residents particularly in the Arncliffe area have lived through a number of years of motorway construction works in relation to the new M5 and now will be further impacted for a number of years with the proposed construction of Stage 1 F6. Construction fatigue is known to have a detrimental impact on human health as local streets and neighbourhoods are overcome by heavy vehicles, detours, construction noise and negative visual impacts. Relaying a level of certainty to the local residents with a clearly detailed timeline of the works will be essential through appropriate community communication channels as will project guarantees to ensure this timeline's compliance.

*Action: RMS needs to undertake extensive and regular community engagement focused on project updates and identify in the Environmental Impact Statement what mitigation and compensatory measures will be undertaken to address construction fatigue and improve the local amenity.*

### **12) Urban Design Considerations**

Both the proposed construction and final infrastructure of the motorway (including ventilation stacks) will impact on the visual amenity, connectivity and functionality of the local area.

The F6 project should take into consideration urban design from the early planning stages, concept designs to the details of the final infrastructure, such as pedestrian bridges.

The architectural design of the proposed ventilation facilities on West Botany Street should be well integrated with the surrounding built form and streetscape. The proposed development should refer to Council's Design Review Panel and the Council's Strategic Planning department for comments.

The design of the tunnel portals should see as an opportunity to create a significant landmark. The design principles should include creativity, innovation but should respect the wetland context and be legible and straightforward in form.

The design of the President Avenue Shared Cycle and pedestrian Bridge should see an opportunity to create a piece of functional as well as a significant visual feature which sits within the built and natural landscapes. The design principles should include capitalising the views to the Bay, enhancing the visual connections between the green wetland and Scarborough Park North, which will add visual interest and identity to the environment.

The concept design of the public domain plan (including, streetscape upgrades, Rockdale Bicentennial Park, Brighton Memorial Planning Fields, and Scarborough Park North) should holistically consider a range of issues and the relationships between them, including:

- its surrounding urban character, built form and identity of the suburbs.
- its surrounding land use and tourism.
- a variety of transport modes including pedestrians, cycling, public transport and vehicles.
- amenity and safety.
- environmental issues such as flooding, Water Sensitive Urban Design and biodiversity.
- social inclusion and equity.

*Action: RMS will liaise with Council throughout the proposed project to provide Council with the opportunity to provide input into the design of temporary and permanent infrastructure that will result from this project.*

*RMS will investigate the feasibility of developing an Urban Design Panel to review design of temporary and permanent infrastructure.*

### **13) Consultation on Legacy Projects**

Council understands the proposed construction of this motorway will result in the opportunity for legacy projects, particularly for land that is no longer required by the RMS post construction.

*Action: RMS to closely engage with Council in deciding what legacy projects will result as part of this proposed motorway project to ensure there is maximum community benefit. Council and the community should be invited to be active participants during the planning and design of any legacy projects.*

If you have any queries regarding this submission, please do not hesitate to contact Michael McCabe, Director City Futures, on 9562 1689.

Yours faithfully

Bill Saravinovski  
**Mayor**

ko77582@bigpond.net.au

July 11, 2018

Moorefield Estate Submission to F6 [Extension@rms.nsw.gov.au](mailto:Extension@rms.nsw.gov.au)

To Bayside Council

Att: Alexandra Vandine

I provide on behalf of the Moorefield Estate F6 Committee the following concerns and comments.

**1) TRAFFIC ISSUES ENTERING AND EXITING THE MOOREFIELD ESTATE**

The F6 Stage One will create major issues for residents on the Moorefield Estate. The residents consider that there will be an "entrapment" as a result of the Freeway and therefore have huge concerns.

At the present time, access onto and off President Avenue is difficult, particularly in peak hour traffic. The only other exit is Marshall Street, which is not a safe exit. In leaving the Estate at Marshall Street, drivers have to wait for a break in the traffic from the Princes Highway, and then exit quickly. The road maybe clear when you exit Marshall Street, and then a motorist accelerates along the Princes Highway and is closely behind you tooting the horn. It is also not a safe entrance to the Estate, due to its location at the beginning of Rocky Point Road turnoff.

There are **four exits** from the Moorefield Estate onto President Avenue: Lachal Avenue (one way north), Oakdale Avenue, Moorefield Avenue (left turn only) and Civic Avenue (exit right and left). If a resident wishes to travel to Rockdale or the Airport, he or she must get into the far right turning lane in President Avenue. This is becoming increasingly difficult due to the volume of traffic coming up President Avenue, as well as the increasing queue of traffic in the right turning lane. There is no exit from Traynor Avenue, as it is one way south.

There are **four entries** onto the Moorefield Estate from President Avenue; Traynor Avenue (one way south), Oakdale Avenue, Moorefield Avenue and Civic Avenue. There is no entry into Lachal Street as it is one way to the north.

All the streets on the Moorefield Estate, except for Civic Avenue and Marshall Street, are narrow and cannot take large volumes of traffic.

**2) RECENT INCREASED TRAFFIC IN PRESIDENT AVENUE**

Since the removal of the right hand turning lane at the intersection of Princes Highway and Gray Street, Kogarah it appears that traffic has increased in the President Avenue right hand turning lane at the intersection of the Princes Highway. This allows travel to the Kogarah Town Centre. In peak hour traffic, this right hand turning lane can extend back along President Avenue to the Moorefield Estate shops, and sometimes the wetlands.



A Moorefield Estate resident recounts the story of attempting to take a passenger in peak hour one morning recently to Kogarah Station :

“There was a queue in the right hand turning lane from Princes Highway all the way to near Civic Avenue. I could not enter the right hand lane. I then used the southbound lane on the Princes Highway. The diversion via Rocky Point Road and Gray Street was busy. No right hand turn is now permitted into Gray Street, so this could not be used. I continued on the Princes Highway to the right hand turn at Jubilee Oval (the limited spaces in the right hand turning lane were full ) My passenger was finally dropped off at Carlton Railway Station .”

### **3) CLOSURE OF MOOREFIELD AVENUE**

Many residents travelling to Kogarah use this access as a safe way to exit onto President Avenue . The traffic lights in West Botany Street and President Avenue stop the traffic, and this allows a safe exit. Residents travelling along West Botany Street often use Moorefield Avenue to enter the Estate.

### **4) CIVIC AVENUE EXIT AND A POSSIBLE TURNING CIRCLE TO EXIT LACHAL AVENUE**

Residents currently use Civic Avenue to exit and cross to the right turning lane at the corner of President Avenue and West Botany Street. If the traffic lights remain at the corner of President Avenue and West Botany Streets, there will be a substantial increase in traffic from the F6. It will be then impossible to access this turning bay.

Currently, RMS may be proposing an exit only out of Civic Avenue. It is unlikely however that RMS would permit traffic lights here, due to their proximity to the President Avenue and West Botany Street traffic lights . Traffic lights in Civic Avenue would afford Moorefield Estate residents a safe entry and exit to and from the Estate.

Traffic lights are expected to be installed in President Avenue at the southern exit of the F6 freeway . Such a set of lights would then be approximately only 100m away from possible traffic lights in Civic Avenue, which would not be a workable solution .

Residents cannot exit across multi lanes of traffic into President Avenue from either Oakdale or Lachal Avenues. This is impossible as it would be extremely dangerous. Oakdale Avenue has a petrol station located on the corner; this can also be a hazard as a result of traffic entering and exiting the garage.

Should an exit be proposed by RMS from Lachal Street via a turning bay built in President Avenue, it will be unsafe . There will be a long line of traffic in peak hour in particular travelling south down President Avenue from the traffic lights. It will be difficult to then join the line of traffic. In addition, it must be noted that the St George TAFE entrance, which is located close to Lachal Avenue , has been the site of numerous car accidents over the years.

The northern end of Lachal and Traynor Avenue were made one way, as a result of complaints due to TAFE students parking too close to residents 'driveways. This situation made it impossible for residents to safely enter or leave their properties. Parking is now

prohibited on one side of these streets between 8am and 9pm, Monday to Friday. Bayside Council implemented these regulations.

When vehicles are parked both sides in these narrow streets, it leaves only one vehicle width in the centre of the road. Should a right turn be permitted out of Lachal Avenue, there will be a long queue of vehicles in Lachal Street waiting to exit Lachal Street to the left or to enter the turning bay. In peak hour, traffic extends down President Avenue from the Princes Highway intersection to the Moorefield Estate shops and sometimes beyond.

An exit from Lachal Avenue therefore will be unsafe.

There are the conflict issues with exit and entry to the streets on the Moorefield Estate . The residents must be safe at all times.

#### **5) INCREASED TRAFFIC FLOW FROM RECENT HOME UNIT DEVELOPMENT APPROVALS.**

Increased urban densities, as a result of the Sutherland Shire Council LEP and the Kogarah LEP, will result in a huge increase of vehicles on our roads. No other infrastructure, such as additional trains or a light rail network, has been provided to cope with this additional traffic.

In our immediate area, we have construction currently underway at Ramsgate Park for hundreds of units. Construction will start soon in Kogarah North Precinct (Regent Street, Stanley Street , Victoria Street , Palmerston Street , Victor Street) for 11 storeys. Areas along the Princes Highway at Carlton and Kogarah Bay have also been rezoned. Travel further south into Sutherland Shire, and you will currently observe many new developments.

This will have a huge impact on traffic on President Avenue, Kogarah in 2019 when these buildings are constructed. It is only when residents' journeys are being considerably added to, time wise, that they will comprehend the enormity of the impact of the higher density policies of the NSW State Government. The LEPs were approved by the Department of Planning , and then gazetted by the NSW Government in recent years.

#### **6) LANES IN THE TUNNEL**

It is not clear as to whether there will be 2 lanes each way or 3 lanes each way in the tunnel . RMS literature has not made this clear.

It is expected that there will be a line of traffic on the entrance and exit ramps to the tunnel. Traffic congestion is witnessed daily at the entrance to the M5 tunnel near Marsh Street, Arncliffe. The same situation will arise here in President Avenue.

#### **7) TRAFFIC FLOWS ON PRESIDENT AVENUE, GRAND PARADE, O'CONNELL STREET AND PRINCES HIGHWAY**

Traffic, in leaving the tunnel, will travel south down President Avenue to either O'Connell Street or to Grand Parade.

Traffic travelling north will travel up President Avenue to the Princes Highway, and then travel either along the Princes Highway or to Rocky Point Road.

It is likely that new road that runs in suburban streets will develop as motorists attempt to take detours.

A 4 km tunnel is clearly unacceptable. Had Stage One been built to Taren Point Bridge, the impact on our local area would have been much less. It would make more economic sense to build a longer tunnel, which would cope more effectively with the larger traffic volumes.

**“This is a tunnel to no where”**, which will bring enormous negative impacts to our local area. The reality is that time is not going to be saved by driving in this tolled freeway, when there will be a huge increase in traffic from the increase in residential densities. The tunnel will be clogged with traffic most of the time.

Local residents will not be fooled by the impact of the LEPS on the amenity of our local area. They are concerned, that “the liveability of our local area”, will be lost forever as a result of these poor planning decisions. The freeway will only compound resident views on the loss of amenity of our local area.

#### **8) NO PLANNING FOR ALTERNATIVE TRANSPORT**

No consideration for light rail transport through the corridor has been considered by the NSW Government. They have had “a freeway vision” without understanding the huge impacts of the freeway on our local area. The benefits of a light rail network have been brushed aside, when light rail would have been more acceptable people mover to the community. It is likely to have been more cost effective.

#### **9) LOSS OF SPORTING FIELDS**

Bicentennial Park East playing fields will be lost as football grounds. This is currently used by Rockdale City Suns Football Club with over 500 junior soccer players registered and using this as their home ground. Sporting fields are already in peak demand in our local area; to lose this area will have a huge impact on local sport.

#### **10) VENTILATION STACK**

The ventilation stack was expected to be built in the industrial area around Bermill Street, Rockdale. The latest proposal is for it to be located on the western side of West Botany Street near French Street, Kogarah. Factories and old shops are currently located here. The area is located in close vicinity to Brighton Le Sands Infants and Primary School, the residential areas of French, Green, Cross, Baxter, Beach and Chandler Streets and the open space of Bicentennial Park.

Health issues are a major concern to the community. We have been told that the pollutants will be ejected into the atmosphere. The residents have no idea as to where these particles might settle other than in our densely populated local area. Residents, who already suffer from lung related and breathing difficulties, have every reason to be very concerned.

In an article in the Mosman Daily on February 22, 2018, Dr Ray Nasser is quoted as saying “ People need to wake up to the fact that this is the new asbestos and it’s coming out of a stack.” He went on to explain that “knowledge is gathering in the medical world about the health impacts of air pollution, and that the pollution has been shown to be carcinogenic” He also stated that “he is concerned about the concentrated exhaust fumes coming out of unfiltered stacks. There is no evidence to prove that it is safe to put unfiltered stacks in communities. “

#### **11) AIR QUALITY AND NOISE**

RMS have assured residents about the air quality within the tunnel with monitors attached. Outside of the tunnel, the air pollution will be high, as huge trucks and large numbers of motor vehicles clog the roads. What measures will the EPA introduce to monitor these levels?

How are the noise levels of increased volumes of traffic entering and leaving the tunnel to be controlled ? Truck drivers currently use their air brakes , rev their vehicles and use gear changes ,which can be heard some significant distance away .

#### **12) DAMAGE TO RESIDENTIAL AND COMMERCIAL PROPERTIES**

RMS have indicated to residents 50 metres away from the construction site that their homes will be inspected prior to the commencement of work .This 50 metre area must be considerably widened.

The excessive weight and noise, which will be generated from heavy vehicles along West Botany Street and President Avenue, will be felt by houses located outside a 50 metre radius.

Many homes in this area are very old, and will not sustain intense pressure from heavy equipment. One must ask the question as to who is then going to compensate the home owner if damage occurs during construction ?

#### **13) BICENTENNIAL PARK, ROCKDALE**

Bicentennial Park, which was opened in 1988, is built on an old rubbish dump . It is likely that highly dangerous and toxic materials were dumped here.

The community must be assured that in disturbing this area, it will be undertaken in a safe way.

#### **CONCLUSION**

This 4 km tunnel will have an enormous impact on our local area. There are simply no economic benefits to the local community of this freeway.

There are a long list of costs- financial cost in the form of a toll, traffic congestion , time delays from sitting in traffic, air quality affected from the increased traffic, visual

pollution and air pollution from the unfiltered stack , possible damage to properties during construction, loss of football fields , and new rat runs forming in residential streets.

It makes no sense to build this 4km freeway to President Avenue, Kogarah with the end result being that our local area will be simply unliveable. This will be the Berejiklian Government's legacy to the residents of Rockdale and Kogarah electorates .

RMS must be cognisant of resident concerns. We will not accept being ignored.

Moorefield Estate F6 Committee-all are residents of the Moorefield Estate for over 30 years.

Anne Field , retired secondary teacher , former Local Government Councillor , author.

Bob Greenhill , Barrister

John Paxos , auto electrician and businessman

**Please also refer to Appendix 1 and Appendix 2 as part of our submissions highlighting further concerns**

**APPENDIX 1**

6 July, 2018

Attention: Customer Feedback  
Roads and Maritime Services  
Locked Bag 928  
North Sydney 2059  
and via email: F6 extension@rms.nsw.gov.au

Dear Sir/Madam

**F6 CONCERNS**

I have read the F6 extension Stage 1 project overview documentation and attended an information session. I have come to the conclusion that the F6 tunnel and President Avenue intersection will have a detrimental affect on my local community both in terms of construction and long term impacts for the area. I am concerned about the direct impacts the F6 proposal will have on our local wetlands. I am also concerned that a valuable and rare community resource will be annexed by the RMS for at least 4 years for construction purposes and returned to the community with no net gain. I have identified the F6 impacts as follows:

**1 Natural environment**

The Kings Road Wetland, Bicentennial Pond and adjacent vegetated areas are vital links in the chain of ponds and wetlands stretching from Cooks River to Sans Souci. These wetlands are recognised by the Office of Environment and Heritage as aesthetically and technically significant. They are highly valued by the local community. The former Rockdale Council made great efforts and spent much money over the years to conserve and improve these wetlands.

The former council identified 3 endangered ecological communities in the area that will be affected by the F6 tunnel excavation as follows:

Wetland	Endangered Ecological Community
Kings Road Wetland	<ul style="list-style-type: none"><li>Swamp Oak Floodplain Forest</li></ul>
Bicentennial Ponds	<ul style="list-style-type: none"><li>Sclerophyll Forest on Coastal Floodplains</li><li>Bangalay Sand Forest</li><li>Swamp Oak Floodplain Forest</li></ul>

These endangered communities are home to a wide variety of native animals. Bird species in particular are abundant. The wetlands contain important foraging and roosting habitat for the smaller bird species, which has been mostly eliminated in the wider municipality. Bayside Council estimates that some 50-60 per cent of the area's original bird species remain within areas such as these wetlands. Native frogs are also common and can even be found in the gardens and lawns of houses in the nearby Moorefield Estate. The Kings Road wetland is the habitat for The Eastern Bent-wing bat, which is listed as a vulnerable species. Almost 20 different fish species have been recorded in the Scarborough Ponds further downstream.

The following native animals are commonly observed in the area:

Animal Group	Species
Birds	Blue Wren, New Holland Honeyeater, Red Browed Finch, Yellow Tailed Black Cockatoo, Kookaburra, Magpie, White Ibis, Dusky Moorhen, Swamp Hen, Grey Teal, Chestnut Teal, Noisy Minor, and Wattle Bird
Reptiles	Blue tongue lizards, long neck turtles, snakes and skinks
Frogs	Common Eastern Froglet and Striped Marsh Frog
Mammals	Brush Tailed Possum, and micro bats including the Eastern Bent-wing bat

Construction activities will have a direct and significant impact on these endangered ecological communities. For example, construction will disturb frogs lying hidden during the day, which will make them give up their camouflage and become easy prey. However, the proposal does not contain detailed information or a clear site diagram showing the full extent of the construction activities and impacts. There is no detail about the nature and location of ancillary construction functions such as stock piling of equipment and material, installation of demountable buildings, parking for workers and plant, heavy vehicle access around site, excavation and processing of excavated contaminated material, or how natural areas are to be impacted or protected.

How much existing vegetation will be removed?

How will the existing vegetation be protected?

How will removed vegetation be compensated?

How will the shared cycle path be constructed through the Kings Road wetland without causing damage to its ecology?

How will the local populations of native animals be identified and protected?

How will the health of these native animal populations be monitored?

## **2 Bicentennial Park**

The area of land now occupied by Bicentennial Park was once occupied by market gardens. The land was boggy and a good metre below the level of West Botany Street. Bicentennial Park was created by the disposal of household rubbish and industrial waste to build the land up to its present level. It must therefore be assumed the landfill contains toxic chemicals and hazardous materials. The F6 corridor will be excavated through this material.

How will this excavated material be treated and disposed of?

How will nearby residents be protected?

How will the site be remediated?

What will be the extent of the remediation?

How will the waterways be protected from run-off from this contaminated material?

### **3 Bicentennial Park construction depot**

Bicentennial Park will be closed to the community and become a construction site for at least 4 years. The park is extensively used by adults (exercise), youths (skateboard/bikes) and children (kid's park) during weekdays and by family picnic and community groups during weekends. The park is host to a number of community festivals. Many of the park users come from nearby unit blocks for which the park is a green oasis in an otherwise urban landscape.

Where will all these activities be re-accommodated given the equivalent park space isn't available within a 15 minute walking radius of the existing park?

### **4 Excavation and diversion of the bicentennial pond and waterway**

Studies have shown the pond water and sediments are heavily contaminated with material leaching from the former tip site under the park and runoff from the surrounding catchment. The excavation of the pond and diversion of the waterway will disturb this sediment. Disturbance of these sediments in the past has resulted in fish kill further downstream. The tidal wetlands to the south of President Ave are an important fish nursery and juvenile bream, mullet and other species travel from the ponds through pipes at Ramsgate to Botany Bay. Water quality studies have confirmed the wetlands high degree of susceptibility "to the adverse impacts from urban runoff, storm water, sewage overflows, fertiliser usage and the legacy of former landfill sites."

Given the ponds in Patmore Swamp, Scarborough Ponds and Tonbridge Creek are an important fish habitat and breeding ground for Botany Bay how will this downstream area be protected from disturbed sediment and excavation run-off?

During the excavation and diversion of the waterway how will the water levels in the pond be maintained?

How will water quality be measured?

What extent of the ponds area will be affected?



**5 President Ave to be raised on an embankment**

President Ave is to be raised on an embankment through the wetlands. At its highest point President Ave will be over three metres above the existing ground level. The rationale for raising the road is to prevent flood water entering the tunnel portal based on flood modeling that indicates President Ave is submerged once every ten years. Local experience demonstrates this is not correct. I have lived in the local area for over 50 years and have never seen or heard of President Avenue flooded.

Can the data and assumptions on which the flood modeling is based be reviewed for accuracy so that the flood predictions are in line with actual experience?

President Avenue, in its current form, is essentially a causeway crossing through Patmore Swamp connecting Kogarah with Botany Bay. Its low lying nature preserves the vistas from the northern parkland looking across the bullrushes of Patmore Swamp to the south and visa-versa. A pedestrian walking along President towards Botany Bay can see the bay's Norfolk Pines in the distance. This long straight vista down President Ave forms an important sense of connection for local residents with the bay. However, the embankment will be visually intrusive. It will sever the visual connection between the green spaces north and south of President Ave and easterly to Botany Bay.

Can alternative flood and drainage mitigations be designed so that President Avenue remains at its present level?

Traffic noise is also likely to carry across the surrounding low lying ground and affect residents living in the vicinity and on the elevated land nearby. Traffic noise is audible to Moorefield residents late at night now.

How far will the extra traffic noise travel?

How will this extra noise be managed?

**6 President Avenue weir**

The President Avenue embankment is likely to alter the hydrology of the wetlands. It has the potential to act as a dam and create local flooding. Water from the Bicentennial park ponds flows over a small weir on the northern side of President Ave and through pipes under the road into Patmore Swamp. This weir is important, as it separates the fresh water bicentennial ponds from the brackish ponds to the south in Patmore Swamp.

The proposal does not identify what will become of the weir?

How will rainwater run-off from an elevated President Ave be treated before flowing into the local wetlands?

**7 Bicycle and pedestrian track and bridge**

Patmore Swamp on the southern side of President Avenue remains in much of its pre European state and contains much native flora and fauna. The F6 proposal shows a bridge over President Avenue carrying a bike and pedestrian track with an arrow pointing in a

southerly direction through the swamp to nowhere. The artist's impression shows the bridge over a road level with the surrounding landscape. This is clearly not accurate as the road will be raised on an embankment.

How high will this bridge be?

Where will the bike track end?

What will the design look like?

How much of the original Patmore Swamp will be affected?

What plans are in place to protect the ecology of this special place?

#### **8 Loss of playing field**

Playing fields in the F6 corridor, constructed in the last decade, will be lost under the new ramp connecting the tunnel portals with the President Avenue intersection.

How will local residents be compensated for the loss of these playing fields?

#### **9 Excavation of tunnel spoils**

Excavated tunnel spoil is to be removed via a decline originating from the RMS depot in West Botany Street. West Botany Street is one lane in each direction and always congested.

What will be the frequency of departing trucks loaded with spoil from the RMS depot?

What will the traffic management arrangements for heavy vehicle entry and exit into the depot look like?

Where will the trucks be heading and what route will they be taking?

#### **10 Filter stack West Botany Street**

The tunnel filter stack is proposed to be located on West Botany Street in an industrial area. However, this area is surrounded by residential areas in close proximity bordered by French and Cross Streets. Bright-le-Sands public school could also be potentially affected.

What is the maximum height and dimensions of this building?

How will air monitoring data and pollution dispersal across the surrounding area be made available to the local community?

#### **11 Traffic Management-President Avenue and beyond**

The design documentation appears focused on the immediate F6 intersection with President Ave, West Botany and O'Connell Streets. Moorefield Avenue will be blocked and Civic Ave will become a left turn exit and entry only due to traffic safety concerns. The freeway will empty additional traffic onto President Ave, which is congested now.

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How will this extra traffic be managed along the length of President Ave and further downstream beyond the parameters identified in the proposal documentation?

Will it involve road widening, clearways, traffic turn restrictions?

How will local resident parking along President Ave be affected?

How will local businesses along President Ave be affected?

Will the intersections of President Ave at Princess Hwy and Grand Parade require amplification?

What will the design for these intersections look like?

How will Moorefield residents turn across this extra traffic when they enter and exit their estate via Oakdale, Traynor and Lachal Avenues?

#### 12 **F6 corridor reservation**

Given that the F6 motorway will now be underground the F6 freeway reservation at ground level is no longer necessary.

What will happen to the F6 corridor now that it's superseded by stage 1 going underground?

Will the former corridor be gazetted for parkland?

What is the planned route for the next stages of the F6?

Will the next stages also be placed underground?

Will Patmore Swamp be protected from freeway development?

#### 13 **Restored landscape and configuration of Bicentennial Park, wetland and waterway**

The proposal contains a very brief mention that Bicentennial Park will be returned to the community and the waterway will be restored. The construction work will impact a much greater area including both sides of the bicentennial ponds and the playing fields and vegetated areas within the F6 corridor. The proposal does not address in any detail what the condition of the impacted areas will be after they are returned to the community.

What will the final landscape look like?

To compensate residents for the loss of their park for at least 4 years, increased traffic congestion, restricted access, loss of views, increased noise and the resumption of their playing fields, the park and waterway should be restored and enhanced. The endangered and valued natural areas should be returned to the community in a condition better than their current state. Many years ago there was a scheme before council to create a bird and wildlife sanctuary in the area between the Bicentennial Ponds and Brighton Public School. I propose that this scheme should be resurrected and include the remediation and

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restoration of the Kings Road wetland. This scheme should form an integral part of this project and be fully funded by the government as just compensation to the community for the loss of its amenity during construction and ongoing impacts of the F6 freeway going forward.

Yours Sincerely

Andrew Gordon

24 Traynor Avenue, Kogarah

sg607054@gmail.com

**APPENDIX 2**

8 July 2018

Attention: Customer Feedback  
Roads and Maritime Services  
Locked Bag 928  
North Sydney 2059  
and via Email: F6 extension@rms.nsw.gov.au

Dear Sir/Madam,

I have read the F6 Extension Stage 1 Project overview and have a number of concerns that require addressing to ensure that there are a limited number of detrimental effects on our local environment and community. My primary concerns are:-

1. Traffic congestion and the ability of residents to commute to and from the Moorefield Estate
2. Loss of streetscape and the division of our community
3. Environmental concerns for our wetlands and the native animals who call the wetlands home
4. Loss of green space for our community
5. Construction noise and pollution

**1. Traffic Congestion and the ability of residents to commute to and from the Moorefield Estate**

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I have reviewed the project overview document and then considered how my main driving routes will be effected. On reflecting my main driving trips, it seems obvious to me that driving around for residents of the Moorefield Estate will become more difficult, time consuming and will increase the risk of having a car collision when entering into our local streets. Please find below some typical scenarios to be considered.

**a. Daily journey of leaving the Moorefield Estate to drive to West Botany Street during peak hour and non- peak hour**

In order to currently access West Botany Street from Civic Ave, it is very difficult to safely cross two lanes to get into the right turning lane at the intersection of West Botany and President Ave. This traffic manoeuvre will become more difficult and dangerous with the F6 proposal.

**Picture Below: View from Civic Ave towards President Ave at 4pm Monday 9th July 2018. Note the number of cars in the right turning lane for West Botany Road**



Questions 1.a.1.: How will the Residents of the Moorefield access West Botany St given the increased traffic volumes from the F6?

Questions 1.a.2.: Will there be different arrangements during the peak hour times?

**b. School Drop Off: Driving from St Patricks School Kogarah and to the Moorefield Estate during morning peak hour**

When I drive my son to the local primary school located in Short Street Kogarah, my return journey back home to the Moorefield Estate is time consuming and difficult now. My journey involves turning left into Gray Street, then

continuing over the highway and turning left onto Rocky Point Road. I am then confronted with signs stating No Right turn into Tomevara Street during 6am to 10am. My only option is to proceed to President Ave where I have to turn right into Traynor Ave. I am very concerned that the F6 proposal will result in no Right turns from President Ave and I will have no direct access to my home. I am also concerned that the right turn into Traynor Ave which is already difficult may become impossible and highly dangerous.

Question 1.b.1: Will it be possible to turn right into Traynor Ave from President Ave after the F6 is built?

Question 1.b.2: Will there be different arrangements during the peak hour times?

**c. Driving from Kirrawee to the Moorefield Estate during morning peak hour and afternoon peak hour**

This is another scenario of a typical drive from the south to the Moorefield Estate.

Question 1.c.1: Can this Right turn into Traynor Ave be made safer by installing a traffic light or right hand turning lane?

**d. Entering the new F6 Motorway from the Moorefield Estate**

One of the major selling points of the new roadway is to improve our commute through to other parts of Sydney. From the map on page 16 of the project overview document, it is very hard to work out how residents of the Moorefield Estate will enter into the new F6 northbound.

Question 1.d.1: How will the residents of the Moorefield Estate enter the new motorway and take advantage of the new improved commuting time heading north?

**e. Accessing the Grand Parade from Moorefield Estate during peak hour**

I received advice from the RMS Project team that I would still have to use the Grand Parade if I wished to drive to the city. I normally turn right at Civic Ave onto President Ave and then proceed to the Grand Parade

Question 1.e.1: How will the residents of the Moorefield Estate access the Grand Parade?

## **2. Loss of streetscape and the division of our community**

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When I walk down President Ave towards the Moorefield Estate, in the horizon I see the pine trees from Brighton-Le-Sands and have an immediate connection with Botany Bay. For a major road, President Ave does not obstruct the streetscape of the wetlands or the distant view to the Bay.

When I pass by the proposed site of the F6 intersection, I have a view of both the north and south wetlands. From the north side of President Ave, I can see the “Bullrushes” (the symbol and meaning of Kogarah) from Pat Moore Swamp.

I am very concerned about the 3 metre height of the new roadway which will obstruct our views to the East and also our views across the wetlands from the North to South.

The project team informed me that this was due to the flood modelling and that our area floods every 10 years.

Question 2.a.1: I challenge that this modelling is flawed as experience living as a local resident for over 30 years here tells me that the risk of flooding has been extremely overestimated. Can the RMS team revisit these assumptions and then review if a 3 metre height road can be justified?

## **3. Environmental concerns for our wetlands and the native animals who call the wetlands home**

---

My family and I are passionate about our local native wildlife. I actively volunteer for WIRES and rescue many animals here in Kogarah. Most of the animals I care for live in the local Wetland's Corridor including the Kings Wetlands, and Bicentennial Park Rockdale. The animals I have cared for and released include:-

- Possums
- Birds including Magpies, Kookaburras, Currawongs, Lorikeets, Ducks, and Ibis
- Reptiles such as Turtles, Frogs, Water Dragons and Blue Tongue Lizards

The wetlands are home to so many native animals and I am very concerned that the construction of the new motorway will have a detrimental effect on the native



wildlife. Although many of the native wildlife who live in Bicentennial Park are not endangered, all native animals are protected by law.

Question 3.1: Has the RMS assessed the impact on native birdlife, marine and reptiles?

Question 3.2: What baseline data will be used to assess that the local wildlife who live in Bicentennial Park and the Kings Wetlands have not been adversely effected by the construction of the new motorway?

Question 3.3: How will the RMS assess that during the construction phase and after construction that the native wildlife of the Kings Wetlands and Bicentennial Park have not been effected?

Question 3.4: Will the assessments be made by an independent assessor or staff paid by the RMS?

Question 3.5: What are the performance measures which will be used to assess the impact of the construction on all the native wildlife?

Question 3.5: Can all assessments be made available to the public for review and comment?

As a wildlife rescuer and carer, I have specialised in the rescuing and caring for Eastern Long Necked Turtles here in the St George area. I have rescued turtles from Monterey Beach, Ramsgate and Carrs Park. It is my responsibility to release each turtle into a habitat that is both suitable and as close to the place of rescue as is practicable. After consultation with my local council, my ONLY release site for my turtles in care is the Rockdale Bicentennial Park. North of President Avenue is the only freshwater habitats for these turtles. The St George Leader ran a lead story on 7<sup>th</sup> February 2016 about a local turtle. This story demonstrates that our native turtles are highly valued by our community.



**Above: St George Leader Article - 7 February 2016 – An Eastern Long-Necked Turtle was found on Ramsgate Beach**

Question 3.6: Will I continue to have access to the Bicentennial Park to release my turtle in care during the 5 year construction period?

The diversion of the waterway is of great concern. In March 2016, an unidentified pollutant resulted in thousands of fish being killed at Tonbridge St Reserve at Ramsgate. This local incident highlights what can happen if pollutants are released into our waterways. I like many of my local residents were horrified at the number of fish that lay dead on the top of the water.

Bicentennial Park was a rubbish tip for many years and it is very unlikely not to have been lined to stop the toxic rubbish seeping into the water table.

Question 3.7: During construction as the tunnel is being built and the rubbish disturbed, how will the waterways be protected?

Question 3.8: What baseline data will be used to assess that no pollutants have seeped into the wetlands?

Question 3.9: Will an independent monitoring system be responsible to ensure that the wetlands are safeguarded?

Question 3.10: Will monitoring data for the wetlands be published on the internet during the construction period?

The timing of the diversion of the waterway is critical to reduce the impact on the wildlife. Reptiles hibernate during the cooler months and are unable to move away from danger like construction vehicles and machinery. There are a turtles, lizards, frogs and snake populations who would perish if construction occurred during April to October.

There is a large population of Ibis at Bicentennial Park. There is an island in the middle of the waterway which is a popular and safe breeding ground for the ibis. The Ibis won the Australian Bird of the Year 2017 which shows how much loved this bird is by all Australians. The Ibis tend to breed in the autumn months and so construction of the waterway diversion should not commence during this time.

Picture below: Baby Ibis rescued local Rockdale wetlands, April 2018



In warmer months, most birds breed and many nests can be easily seen within the Bicentennial parklands. The Figbirds breed towards the end of summer and are found in our local wetlands.

**Picture below: Baby Figbird rescued from local Rockdale wetlands, February 2018**



Blue Tongue Lizards also bear their live young in the summer months. In January of this year, I rescued a pregnant Blue Tongue lizard from the Rockdale wetlands who ended up having twelve babies in care. If the construction works commence in the summer months and a blue tongue lizard is injured or killed, the reality is not one lizard causality but more than 10 lizards.

**Picture below: Blue Tongue babies born in care, mother rescued from Rockdale Wetlands, January 2018.**



Question 3.11: Is the waterway diversion necessary?

Question 3.12: What time of year will the waterway diversion be constructed?

Question 3.13: How will the impact on the native animals (marine, birds and reptiles) be minimised?



The President Ave Weir is **critical to maintain the wetlands as a freshwater habitat.**

It also allows for water to flow between the wetlands. The Weir is horizontally aligned with President Ave as can be seen in the picture below.

**Picture below: President Ave Weir showing its current alignment to President Ave**



Question 3.11: How will the Weir be protected during construction of the motorway?

Question 3.12: How will the wetlands south of the construction site be protected from possible pollutants?

Question 3.13: How will the Kings Wetlands site be protected from possible pollutants?

In the project overview on page 17, there is a statement to indicate the waterways be restored and the bridge reinstated. Considering our community is suffering for 5 years for a road we do not want, **I request that the wetlands be restored to a highest international standard.**

Question 3.14: What standard will the wetlands be restored to when construction has been completed?

Question 3.15: What performance indicators will be used to measure this outcome?

#### **4. Loss of green space for our community**

---

My family and I are regular users of Bicentennial Park and Pat Moore's Swamp. It is a peaceful place to use to get together with friends and my community. We especially love the dog park in Pat Moore's swamp which has been recently constructed by our local council and is always used by locals. During school holidays the parklands are full of children enjoying the open spaces and skate park. Local residents have so few green spaces to retreat from our urban existence.

I am saddened by the possibility that Bicentennial Park will be used as a construction zone for **5 years!!!**

Question 4.1: Where will the parks and facilities be relocated?

Question 4.2: Will the relocated parks be within walking distance or will I have to drive?



## **5. Construction noise and pollution**

---

During any construction there is noise and pollution. I learnt at the information night held by the RMS that there will be trucks departing the RMS depot every 15 minutes to remove debris from the construction site.

Question 5.1: What safeguards will be put in place that all hazardous materials will be removed safely from the construction site?

Question 5.2: What times will the construction be operating at Bicentennial Park? Will any work be done at night or weekends?

I am aware the Environmental Impact Statement is the next stage of the project plan and legislation states that the consultation period needs to be 28 days. I was informed that this documents is hundreds of pages in length.

As a working mother here in Kogarah, I would like to request that this consultation period be extended to 60 days to allow more members of the community to participate in this process

Yours sincerely

Stefanie Dietsch

24 Traynor Ave

Kogarah

Email: Stefanie\_dietsch@bigpond.com

## **Council Meeting**

**8/08/2018**

Item No	8.4
Subject	<b>The Future of the Fishermans Club- 100B Bestic Street, Kyeemagh</b>
Report by	Michael McCabe, Director City Futures
File	SF18/675

---

## **Summary**

The 'Fishermans Club' is located at 100B Bestic Street, Kyeemagh. The club was a registered Club, operated by the Brighton Le Sands Amateur Fisherman's Association. In 2012 a controller was appointed to manage the clubs finances, and the club was subsequently closed.

The Fishermans Club building (Fischo's) is currently vacant, and in a dilapidated state, not fit for occupation.

Council officers have been working on a long term strategy for the Fishermans Club. This report will detail:

- 1 Current condition of the Fishermans Club building
- 2 Long term options for the site
- 3 Current permit with the Muddy Creek Boating and Fishing Association

A General Manager's briefing was held for Councillors on 26 June 2018 to discuss the Options considered in this report.

---

## **Officer Recommendation**

It is recommended that approval be granted for the following:

- 1 To proceed with recommended Option 2 within this report, to replace the existing 'Fishermans Club' building, and to finalise the scope, funding and program of this option.
  - 2 To engage an appropriate consultant to undertake a Masterplan for the Muddy Creek precinct.
  - 3 To continue to work with the Muddy Creek Boating and Fishing Association to explore a longer term licence for their current occupation, considering the demolition of the existing Fisherman's Club building.
  - 4 A further report be submitted in early 2019 to provide an update on the scope, funding and the program to implement Option 2, referred to in this report.
-

## Background

The 'Fisherman's Club' (The Fisho's) is a 3 storey building, located at 100B Bestic Street, Kyeemagh, situated within Muddy Creek Reserve, bound by Muddy Creek to the north, Lance Studdert Reserve to the east and Bestic Street to the south, as shown on the Location Plan at Attachment A.

The club was a registered Club, operated by the Brighton Le Sands Amateur Fisherman's Association. In 2012 a controller was appointed to manage the troubled clubs finances, the club was subsequently closed.

### Select Tender

In 2013 Council conducted a select tender to seek a new operator for the premise. Six submissions were received. A summary of the select tender submissions is shown on the table below:

Applicant	Refurbish/ Redevelop	Terms
Laced Investments Group P/L	Refurbish- \$1.4 Mil on upgrades to existing building	Use: Childcare, café and community use. Term: 21 years
Hardcore Gym	Refurbish- \$920K on upgrades to the existing building	Use as a gym, café and dry boat storage. Term: 21 years
The Greek Orthodox Community of NSW Ltd	Refurbish- \$1.11 Mil on upgrades to existing building	Use as a registered club: Term: 21 years
Three Olives Pty Ltd	Refurbish- \$838,379	Use as a restaurant Term: 21 years
YMCA	Refurbish- \$2.9 Mil on upgrading the building, including foreshore and slipway	Recreation and community facilities Term 21 years
Rockdale Community Club	Refurbish- \$2.7 Mil on upgrading the building	Function space and community use Term: 21 years

Table 1

The tender process was not successful, as none of the applicants met Council's vision for the facility. Council instead resolved to include the site within the footprint of Cook Cove, intending that planning for the eastern side of Muddy Creek would be consistent with the future use of the open space on the western side. The building has been left vacant and is now in a dilapidated state.

Council officers now seek to find a long term solution for the Fisherman's Club, to align with the changing demographic of the area and to meet Council's vision for the site.

## **Site Considerations**

### ***Muddy Creek Boating & Fishing Association***

The 'Muddy Creek Boating & Fishing Association' (MCBAFA) currently occupies a small area north of the main Fisherman's Club building. The occupation is via a permit (expiring November 2018) to operate a boating association on a reduced scale.

Council officers are currently working with MCBAFA to consider their needs in line with our long term strategy for the site.

MCBAFA has sought approval from Council to use the undercroft area and slipways, located on the north western side of the building, adjacent to Muddy Creek. They propose to upgrade and make the undercroft area habitable, provided that they are given a longer term for the site to justify the investment.

Given the proposed long term planning for the site, we agreed to:

- Consider a term, based on the long term options put forward.
- Undertake a condition assessment for the building.

A condition assessment was subsequently undertaken within the undercroft area. It is currently not habitable, requiring major refurbishment. The costs for the works are estimated at \$717,900.

Given the high cost to refurbish the undercroft, the application to occupy the undercroft has been refused, however we will continue to work with MCBAFA to explore a longer term, dependent on the long term strategy for the site.

### ***Muddy Creek Precinct Analysis***

The Fisho's Club is on Council owned community classified land. Muddy Creek Reserve falls under the Muddy Creek Plan of Management, adopted in 2011. The proposed uses within the Muddy Creek Reserve need to align with the objectives proposed within the Muddy Creek Plan of Management.

The current plan of management contemplates the use of the Fisherman's Club upon the land.

The Muddy Creek Precinct is planned to undergo significant growth in coming years. It is surrounded by several major developments, including the Cook Cove Development, Muddy Creek Naturalisation Project and the Arncliffe and Banksia Priority precincts, which is likely to encourage high density residential housing developments surrounding the stations.

Given the planned growth in population, increased need for open space, new active transport connections and infrastructure, it is recommended that the current plan of management for Muddy Creek, be amended to reflect the changes to demographics envisaged in the area, and the contemplated use of the Fisherman's Club also be reviewed through.

The most appropriate way to analyse the Muddy Creek precinct (to include in a new plan of management) is through a master planning process. The masterplan will analyse the needs for the area, and undertake a feasibility of the Fisho's Club site. To assist with a long term strategy for the site.

### ***Fisho's Condition Assessment***

As part of the investigations undertaken for the Fisho's Club, Council staff engaged Asset Technologies Pacific to undertake a Condition Assessment for the Fisherman's Club building, as shown at Attachment B.

A summary of the findings is below:

- That the foundation and loadbearing structures are in fair condition and would support a refurbishment.
- The shell (roof and perimeter) have deteriorated significantly and are in poor condition.
- Major repairs are required to replace the roof cover and remediate the internal construction elements and finishes.
- Electrical, hydraulic, fire, vertical transport and electronic security services are in fair to poor condition with significant deterioration evident.
- The mechanical services are in very poor condition and a comprehensive upgrade of the heating, ventilation and air-conditioning systems will be required.
- Remediation of the interiors will need to include removal of fungal growth and asbestos containing materials. For the building to be used as a registered club or other commercial purpose.
- Major refurbishment of the building interiors and services will be required to enable the facility to meet minimum acceptable standards.

### ***Costs to Refurbish***

The estimated costs to undertake works referred to above are \$5,543,000. These costs do not include maintenance and are the minimum costs required to bring the building to a habitable state, suitable only as a club.

The report also prescribed a 20 year life expectancy for the building, meaning that the building may require demolition within 20 years.

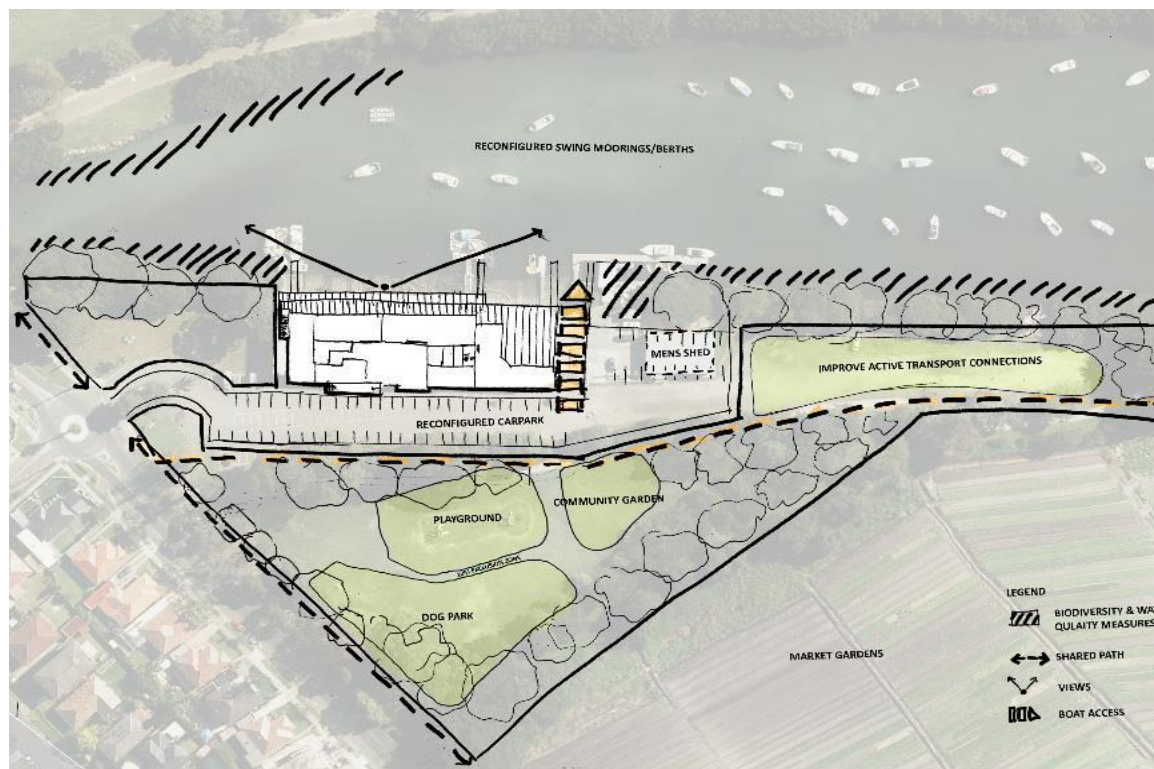
### ***Risk***

The building will continue to deteriorate if left in its current state, posing a significant risk. It is critical that we investigate a long term use for the site and either refurbish or demolish the site as soon as possible.

## Long-Term Options

### *Option 1- Refurbish Existing Building*

This option explores retaining the existing structure and undertaking external works, an internal fit out and refurbishment of the building.



This option includes:

- Refurbished building (\$5.5 MIL).
- Reconfigured carpark, including approx. 82 car parking spaces.
- Open space retains existing layout including:
  - Approx. 1000sqm upgraded playground (already planned 2019/2020)
  - Approx. 500sqm community garden (retained as existing)
  - Approx. 2,000sqm dog park
- Views to foreshore.
- Improved active transport connection, lighting and vegetation.
- Reconfigured swing moorings.

This option has significant constraints and does not necessarily achieve an outcome that can provide significant amenity for an increase in population and allow for the revitalisation of the precinct to its full extent.



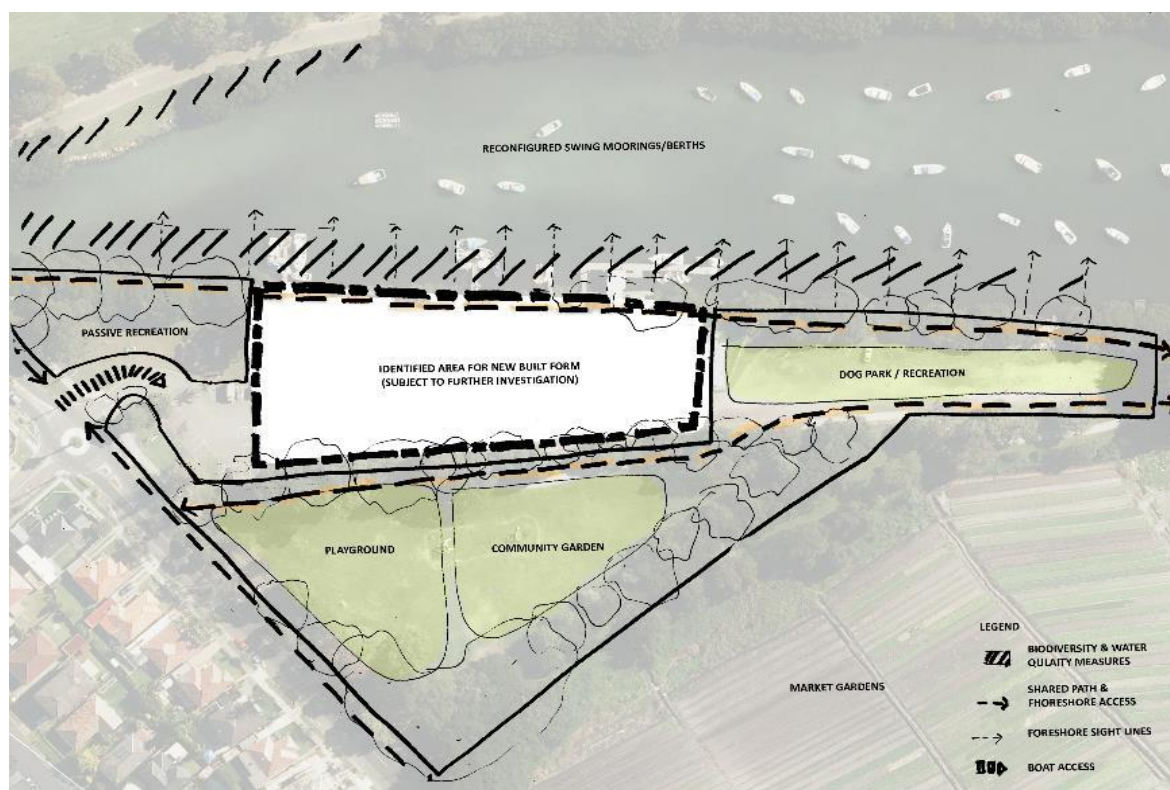
The costs to refurbish the building are high, given the 20 year life expectancy of the building. This option is not recommended.

The estimated timing for completion of this option is mid-2021.

### ***Option 2- Replace Existing Building***

This option explores the demolition of the current built form and a revised site layout to provide increased open space to the north and construct a new development on site.

This option would require further site analysis (Masterplan) to understand the required built form on the site to ensure an outcome that aligns with the needs of the community as determined through the masterplan and subsequent amended plan of management.



This option proposes the following:

- Demolition of existing building (Range \$400,000- \$800,000). Timing - early 2019, subject to funding.
- Masterplan of the Muddy Creek Precinct.
- Amended Muddy Creek Plan of Management.
- Inclusion of the existing Men's Shed.
- New building (subject to masterplan outcome) (costs from \$2 MIL to \$9 MIL, dependant on the design of the built form).
- Reconfigured carpark (subject to investigation).
- Reconfigured open space layout including:

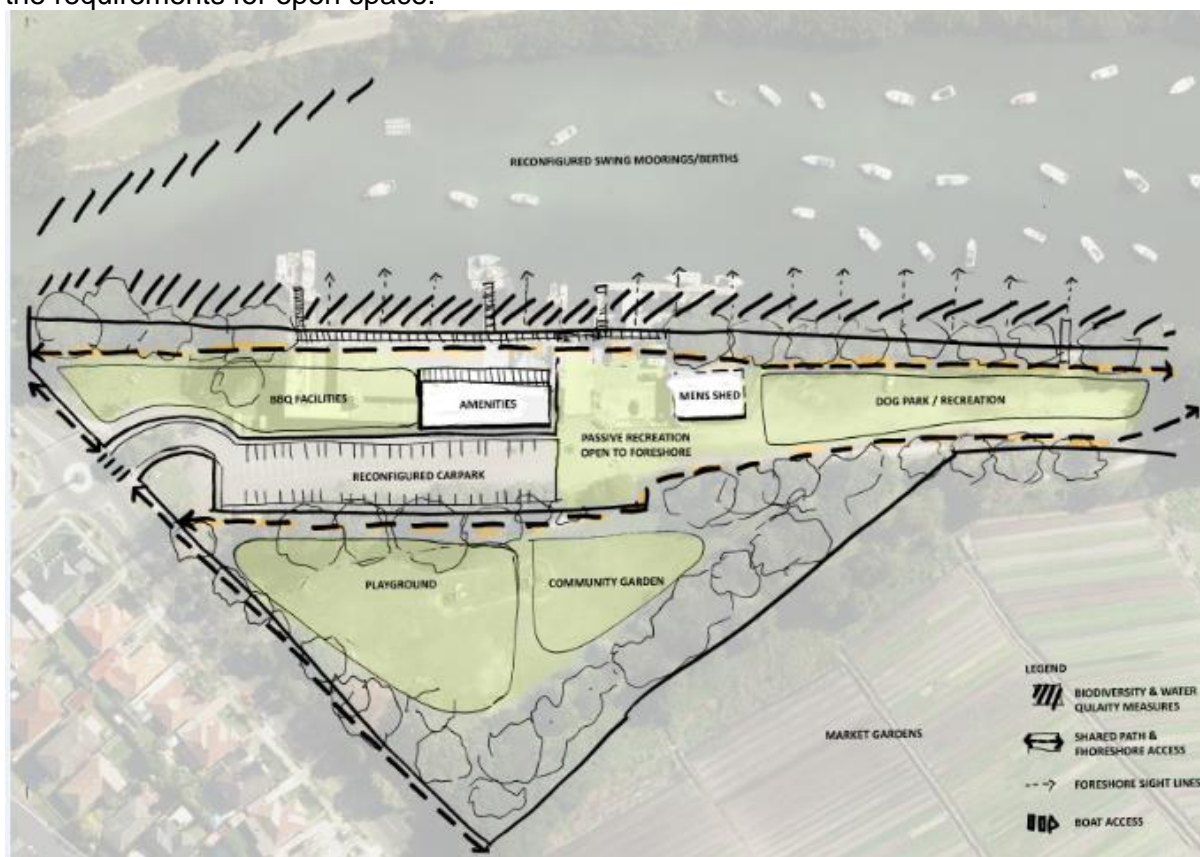
- Approx. 3000sqm upgraded playground (already planned 2019/2020).
- Approx. 500sqm community garden (controlled expansion possible).
- Approx. 2000sqm dog park foreshore access (boardwalk) subject to further investigation.
- Improved active transport connection, lighting and vegetation.
- Reconfigured swing moorings.
- Inclusion of at least two new slipways.

This option seeks to undertake an analysis of the site and surrounding precinct by way of a masterplan. This will allow Council to create a synergy with the built form, park, active transport corridors, considering the expected growth in population. This represents a positive outcome for the area and an opportunity for Council. This is the recommended option.

The estimated completion for this option is late 2022, with demolition of the site likely to occur mid-2019, subject to further investigation and discussions with affected stakeholders. This option should enable a licence to be issued to MCBAFA for a term up to December 2020, however should we consider early demolition of the Fisherman's Club we will need to work with MCBAFA on a temporary solution whilst demolition occurs (estimated timing is up to 4 months).

### **Option 3- Convert to Open Space**

This option explores the demolition of the current built form and a revised site layout to provide increased open space. This option is aligned with projected population growth and the requirements for open space.





This option proposes the following:

- Demolition and basic upgrade to open space amenity, tree planting and carpark reconfiguration and replacement (including 80 car spaces) (\$1.2 MIL)
- Reconfigured open space layout including:
  - Approx. 3000sqm upgraded playground (already planned 2019/2020).
  - Approx. 500sqm community garden (controlled expansion possible).
  - Approx. 2000sqm dog park.
  - Outdoor facilities such as BBQ's and tables.
- Amenities building.
- Foreshore access (boardwalk) subject to further investigation.
- Improved active transport connection, lighting and vegetation.
- Reconfigured swing moorings.

This option will provide an increase in open space, which aligns with the expected growth to the surrounding area. It also seeks to create a synergy with active transport, open space and waterways.

The estimated timing for this option is mid to late 2019.

---

## Financial Implications

Not applicable	<input type="checkbox"/>	
Included in existing approved budget	<input type="checkbox"/>	
Additional funds required	<input checked="" type="checkbox"/>	There is capital works funding of \$50,000 allocated for the masterplanning process. Additional funds will be require, dependant on the option chosen.

A report on the capital funding strategy will be provided to Council. Options include developing a bid in the 2019/2020 Capital Works program or alternatively seeking staged funding to commence demolition of the building.

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## Community Engagement

Extensive community consultation on the future use of the site will be undertaken as part of the development of the masterplan.

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## Attachments

- 1 Attachment A- Location Plan
- 2 Condition Assessment Report for the Fishermans Club [↓↓↓](#)





## **BAYSIDE COUNCIL BRIGHTON FISHERMAN'S CLUB**

### Condition Assessment Report



Version 1 – 24 May 2018

Asset Technologies Pacific  
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## QUALITY SYSTEM

<b>Client:</b>	Bayside Council
<b>Document:</b>	Brighton Fisherman's Club - Condition Assessment Report
<b>Version:</b>	Version 1 – 24 May 2018
<b>Reason for Issue:</b>	Client Issue

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## EXECUTIVE SUMMARY

Bayside Council (Council) is currently considering the most appropriate option regarding the future use of the Fisherman's Club located at 100B Bestic Street, Brighton Le Sands. The site is not currently occupied as a registered club and is being used by Council for temporary storage purposes.

Council has recognised the need to appraise the current status of the building structures, systems and services so that informed decisions can be made in relation to the building occupancy strategy and possible refurbishment works.

This report is intended to provide Council with a clear understanding of the current status of the systems, services and structures that were assessed by Asset Technologies Pacific. The report also references the findings of other organisations that were commissioned by Council to assess the compliance status of the building and to identify the presence of fungi and hazardous materials such as asbestos.

The report also contains a maintenance regime that will need to be implemented should Council elect to undertake a major refurbishment of the site. The building structures, systems and services have been independently assessed and the condition and the remaining life of the elements have been identified.

A life cycle cost plan has been prepared for a ten year period of financial interest from 2018/19 to 2027/28. The cost plan identifies the project and ongoing costs for different scenarios, being the remediation of the existing structure as well as an alternative scenario to demolish the facility and convert it to an open passive recreation space. It should be noted that the ordering of scenarios identified in this report (i.e. first, second, etc) may not necessarily correspond to the ordering of options being considered by Council. All life cycle costs have been represented in present values and exclude GST.

Following is the key information relating to the building:

Site Overview			
<b>Location:</b>	100B Bestic Street, Brighton Le Sands		
<b>Condition Status:</b>	The foundation and loadbearing structures are in fair condition and would support a refurbishment. The shell (roof and perimeter) have deteriorated significantly and are in poor condition. Major repairs are required to replace the roof cover and remediate the internal construction elements and finishes. Electrical, hydraulic, fire, vertical transport and electronic security services are in fair to poor condition with significant deterioration evident. The mechanical services are in very poor condition and a comprehensive upgrade of the heating, ventilation and air-conditioning systems will be required.		
<b>Functional Status:</b>	The integrity of the structural elements is adequate to enable the building to be retained (subject to major refurbishment and fitout works). Remediation of the interiors will need to include removal of fungal growth and asbestos containing materials. For the building to be used as a registered club or other commercial purpose, a major refurbishment of the building interiors and services will be required to enable the facility to meet minimum acceptable standards.		
<b>Existing Facility Full Refurbishment</b>	<b>2018/19 – 2019/20</b>	<b>10 Yr Annual Average</b>	<b>10 Yr Total</b>
Capital Investment/Renewal	\$5,543,000	\$572,300	\$5,723,000
Regular & Reactive Maintenance	\$0	\$102,740	\$1,027,400
<b>Total Expenditure</b>	<b>\$5,543,000</b>	<b>\$675,040</b>	<b>\$6,750,400</b>
<b>Converted to Passive Recreation Space</b>	<b>2018/19 – 2019/20</b>	<b>10 Yr Annual Average</b>	<b>10 Yr Total</b>
Capital Investment	\$1,240,000	\$124,000	\$1,240,000
Regular Maintenance	\$46,800	\$42,120	\$421,200
<b>Total Expenditure</b>	<b>\$1,286,800</b>	<b>\$166,120</b>	<b>\$1,661,200</b>



### Expenditure Summary

Life cycle costs have been projected for the ten year period of financial interest from 2018/19 to 2027/28. The costs are represented in terms of whether they relate to the case where the existing building is retained and a major refurbishment is undertaken or whether the building is demolished and converted to a passive recreation space. In the case of retaining and refurbishing the building, the major refurbishment works have been identified to occur over the two year period from 2018/19 to 2019/20. Capital costs scheduled during the subsequent eight years relate to capital renewal for assets that have a short useful life and will require repair / refurbishment during this period. Regular and reactive maintenance costs have been projected following the major refurbishment works and defects liability period.

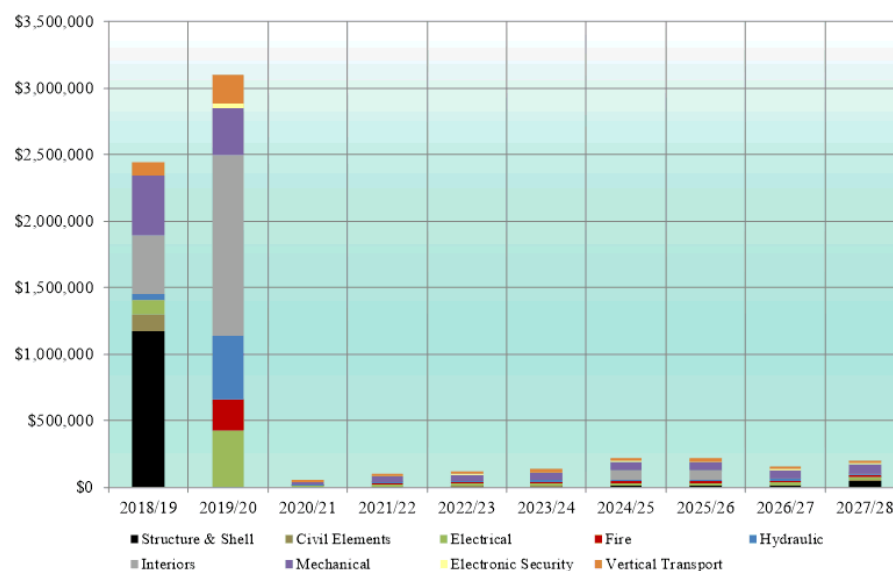
Cost Item	Expenditure by Year										
	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	Total
If Retaining and Refurbishing Existing Facility (Major Works During 2018/19 and 2019/20)											
Structure & Shell - Capital	\$1,179,000									\$42,000	\$1,221,000
Structure & Shell - Recurrent					\$5,900	\$8,000	\$9,200	\$9,400	\$9,600	\$10,000	\$52,100
Civil Elements - Capital	\$126,000										\$126,000
Civil Elements - Recurrent				\$3,200	\$3,500	\$3,800	\$4,100	\$4,400	\$4,800	\$2,000	\$25,800
Electrical - Capital	\$103,000	\$430,000									\$533,000
Electrical - Recurrent			\$11,000	\$17,400	\$17,800	\$18,200	\$18,700	\$20,200	\$21,200	\$22,300	\$146,800
Fire - Capital		\$235,000									\$235,000
Fire - Recurrent			\$6,000	\$11,800	\$12,700	\$14,500	\$14,800	\$15,100	\$15,400	\$15,700	\$106,000
Hydraulic - Capital	\$42,000	\$475,000									\$517,000
Hydraulic - Recurrent			\$5,000	\$9,300	\$10,200	\$10,700	\$11,100	\$11,500	\$11,600	\$11,700	\$81,100
Interiors - Capital	\$442,000	\$1,355,000					\$73,000	\$65,000			\$1,935,000
Interiors - Recurrent				\$1,000	\$3,300	\$5,500	\$1,200	\$1,400	\$2,800	\$3,700	\$18,900
Mechanical - Capital	\$455,000	\$358,000									\$813,000
Mechanical - Recurrent			\$21,000	\$40,800	\$44,100	\$50,600	\$60,100	\$63,100	\$63,600	\$64,200	\$407,500
Electronic Security - Capital		\$36,000									\$36,000
Electronic Security - Recurrent				\$2,400	\$3,600	\$4,500	\$6,000	\$7,400	\$8,100	\$8,400	\$40,400
Vertical Transport - Capital	\$97,000	\$210,000									\$307,000
Vertical Transport - Recurrent			\$13,000	\$19,400	\$19,400	\$19,400	\$19,400	\$19,400	\$19,400	\$19,400	\$148,800
Total	\$2,444,000	\$3,099,000	\$56,000	\$105,300	\$120,500	\$135,200	\$217,600	\$216,900	\$156,500	\$199,400	\$6,750,400
If Demolishing and Converting Existing Facility to Passive Recreation Space (Major Works During 2018/19)											
Structure & Shell - Capital	\$390,000										\$390,000
Civil Elements - Capital	\$256,000										\$256,000
Landscaping & Environs - Capital	\$594,000										\$594,000
Landscaping & Environs - Recurrent		\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$421,200
Total	\$1,240,000	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$1,161,200

Doc Ref: 05151-V1

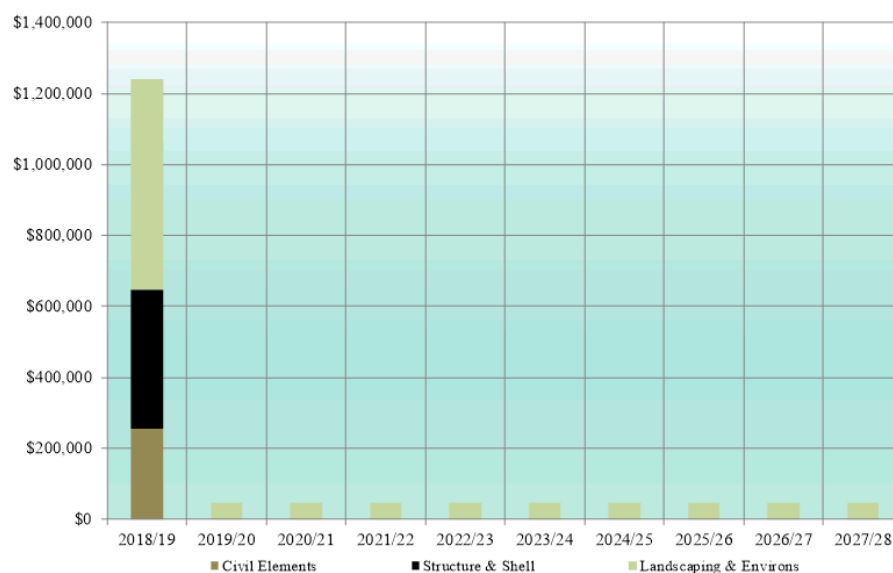
2



The following graph identifies the total expenditure for each year in terms of building element for the case where the building will be retained and undergo a major refurbishment:



The following graph identifies the total expenditure for each year in terms of building element for the case where the building will be demolished and converted to a passive recreation space:





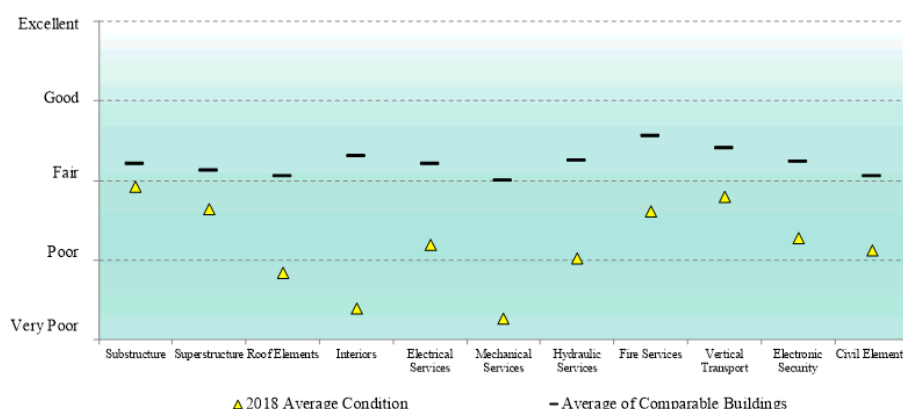
### Functional Overview

The Fisherman's Club is in a dilapidated state and is unfit for occupancy. The structural elements, whilst deteriorated, are in fair condition with sufficient integrity to be retained if Council were to undertake a major refurbishment to reinstate the building for occupancy.

Major remedial works will be required to rectify deteriorated internal construction elements and finishes. The mechanical services have been decommissioned and are at the end of their useful life. The electrical and hydraulic infrastructure have sufficient capacity to be retained however the electrical distribution boards and hydraulic fixtures will need to be upgraded in conjunction with the upgrade of the fire, mechanical, vertical transport and electronic security services.

### Condition Overview

The following figure depicts the average condition status. The structure and shell group element has been separated into the substructure (foundations), superstructure (perimeter and other loadbearing structures) and roof elements (roof structure and cover) due to the varying levels of deterioration that have occurred to these major assets. A comparison of the elements against comparable buildings has also been provided.



The average condition status of the Fisherman's Club is significantly less than the industry average of comparable buildings and will require major remedial works to address the gaps if the building is to be retained for future occupancy.

Following is an overview of the condition status of the Fisherman's Club and required works to enable occupancy. For further details and photographs of assets defects, refer to Section 4, Condition Assessment.

### Structure

The structural elements appear to be in reasonable condition with moderate deterioration that is consistent with the age of the building. The condition of the structural elements indicates that the base building structures have approximately 20 years further effective life, provided that they are maintained to normal industry standards.

Should Council elect to perform a major refurbishment of the building to reinstate it for occupancy, minor repairs to the foundations and structural elements may need to be performed in conjunction with the major refurbishment. A sub-grade inspection of the foundations should be performed, if Council elects to proceed with the refurbishment scenario.

### *Shell*

The building shell is in poor condition with significant deterioration to the perimeter walls and roof. Should Council elect to refurbish the building, a roof replacement and major repair of the perimeter structures will be required so that the building can be adaptively reused. The benefit of refurbishing the building is that it will enable Council to maximise the effective life that is achieved from the built asset and minimise cost in the short term. The condition of the structural elements is such that this scenario will be feasible, subject to any design constraints relating to the proposed occupancy e.g. the foundation may not support an increase in the rise in storeys of the building.

The downside to refurbishing the building is that the configuration of the building is well suited to being used as a registered club and retention of the structures in their current form may not translate well to other uses, e.g. office accommodation or public entertainment venue. Also, by virtue of the building's design in accordance with superseded building codes and standards, consideration will need to be given to ensuring safety and compliance with the mandatory performance requirements of the Building Code of Australia at the time of the new design.

The second scenario is to demolish the building and adaptively reuse the space, whether for the construction of a new building, conversion to a passive recreation area or other use as deemed appropriate by Council. The benefit of this scenario is that the new asset will be designed specifically to suit Council's intended future use. If the new use involves the construction of a new building, then by virtue of it being a new development, it will have a design life that significantly exceeds the 20-year projected remaining life of the existing structure and Council will therefore be able to reduce costs over the long term.

Further benefits of performing a new development relate to the improved management of risks associated with ensuring safety and essential services compliance due to the opportunity to design the building elements, systems and services (where applicable) without the need to consider legacy structures.

### *Interiors*

The internal construction elements, finishes, fittings and fitments are in poor to fair condition with significant deterioration throughout the building and extensive water damage and fungal growth in isolated areas. The water damage is most prevalent in the ceilings in the level 1 function area and offices on levels 1 and 2.

Investigations performed by Ade Consulting Group identified that fungal growth has occurred and that asbestos containing materials are present throughout the building, which will need to be rectified before the internal areas will be fit for occupancy (in addition to other remedial works to the structures, systems and services).

### ***Electrical Services***

The electrical distribution equipment is operational, in fair condition and appears to be sufficiently sized to accommodate the electrical load should the building be occupied as a registered club or similar function. Whilst the distribution equipment is in fair condition, an upgrade should be performed as part of the building wide refurbishment to ensure that power is supplied effectively and that a main circuit breaker is installed on each distribution switchboard to allow the switchboards to be locally isolated for maintenance purposes.

General lighting is provided by a combination of fluorescent, halogen dichroic and compact fluorescent light fittings. The light fittings have been partially removed from the ceilings and diffuser covers have been partially removed throughout the internal areas. General, emergency and exit lighting will need to be upgraded (in conjunction with refurbishment of the internal areas) and coverage of the emergency and exit lighting expanded in accordance with current building code requirements.

### ***Mechanical Services***

The primary system supplying conditioned air to the Fisherman's Club is a central air-conditioning system that is in poor condition and has been decommissioned. The central plant comprises a Carrier 5H80-149 chiller and an Aquacool MSS75 cooling tower, air handling and motor control centre are located in the level 2 plant room. The chiller is fitted with two 40HP compressors and the cooling tower maximum rated cooling capacity is 264kW. A Ferolli SG628 natural gas boiler supplies hot water to the supply air heating coils for the purpose of space heating.

Conditioned air is distributed throughout the ground floor foyer, level 1 office and function areas and level 2 offices via a ducted air-conditioning network. The supply air fans are located in the level 2 plant room.

The air distribution system is sized correctly and designed to accommodate up to nine zones. Whilst the ductwork is of sufficient integrity to be retained, the current configuration of the zoning may not be appropriate for Council's intended future use (particularly if a new fitout and partitioning is to be undertaken).

The existing central plant will need to be replaced with modern and energy efficient chiller, cooling tower and boiler equipment. The air distribution system will need to be modified to ensure appropriate zoning and control is available across the building. Where possible the existing ductwork should be retained, however it is likely that a significant replacement of the ductwork will be necessary.

The split air-conditioning systems have deteriorated and will need to be replaced. In order to ensure complete coverage and maintain comfortable space conditions, it is expected that eight reverse cycle split systems that are sized to meet the heat loads of the building will be required. As the current equipment utilises R22 refrigerant, which has been phased out of production for its high global warming and ozone depleting potential, the upgraded equipment will need to use alternative refrigerants such as R410A. The coolroom and refrigeration equipment is in poor condition and will require upgrade if the Fisherman's Club is to be reinstated and subsequently occupied as a registered club.

### ***Hydraulic Services***

The stormwater system effectively discharges internal and external water runoff from the site. The existing box gutters and PVC and metal downpipes are correctly sized and are in fair condition. Leaf guards should be installed on the gutters as part of the building refurbishment to minimise the risk of accumulated leaf matter obstructing the discharge of stormwater from the roof.

The potable water system supplies water to the kitchen, bathrooms and service areas. The potable water system, piping, fittings and fixtures are correctly sized and are in fair condition.

The sewer system effectively discharges waste from the site. The waste water pipe system, and fixtures are correctly sized for the building type and number of bathrooms and are in fair condition.

The cast iron pipework has deteriorated and will need to be upgraded as part of the bathroom refurbishment works. Consideration will also need to be given to the upgrade of underground clay pipework in conjunction with this work. At the ground floor changeroom, service access to the underground pipework has been exposed and temporary pipework has been installed.

The bathroom basins, pans, cisterns, urinals, taps and fittings are in fair condition overall however will need to be upgraded before the building is occupied as extensive staining, corrosion and cracking have occurred.

The bathrooms will need to be upgraded to rectify the deteriorated state of the structures, finishes and plumbing fixtures and improve the level of amenity that will be afforded to the future occupants of the building. Consideration will need to be given to the intended use of the building and the occupancy requirements such that the number, type and location of bathroom facilities can accommodate demand.

### ***Fire Services***

The fire services involve a combination of dry fire detection and fire suppression equipment. The dry fire system comprises a Tyco Fire Indicator Panel at the ground floor foyer, smoke detectors throughout the internal areas and thermal detectors installed in areas that produce smoke such as the commercial kitchen and services areas.

Fire suppression is provided by a combination of fixed and portable fire fighting equipment. Hose reels are installed on the ground floor in the service area and on level 1 in the auditorium and stair landing. Portable fire extinguishers are located throughout the internal areas as needed.

The general condition of the fire services is fair, however consideration will need to be given to replacing original detection devices during the short to medium term as they approach the end of their effective operational life. Upgraded fire services will need to give consideration to the classification of the building under the Building Code of Australia and any alternative solutions that may be developed.



### ***Vertical Transport***

The passenger lift provides access between the ground floor at the foyer and level 1 at the stair landing. The lift has a hydraulic drive and has a safe working load rating of 635 kg. The lift car is in fair condition however does not have any indication of plant certification or compliance.

Regarding future use, Council will need to ensure that a passenger lift is available that can provide access between the ground floor and areas of the building required to be accessible, as determined by those areas that will be normally used by occupants. If both levels 1 and 2 are designated as being for normal occupancy, then the passenger lift will need to be upgraded to provide access between ground floor, level 1 and level 2.

### ***Electronic Security***

The electronic security systems comprise a combination of detection and closed circuit television (CCTV) monitoring systems. The detection system utilises passive infrared field devices and that are monitored by a DAS control panel. Dome and bullet type CCTV cameras are installed across the internal areas and perimeter of the building to provide coverage of access points. The cameras are in poor condition and the sensors are in fair condition. The electronic security systems will need to be upgraded to ensure adequate coverage and performance.

### ***Civil Elements***

The civil elements comprise the carpark, wharf and outdoor structures. The carpark is constructed from asphalt that is in poor condition, with sections that exhibit crazing and deterioration to the extent where the underlying grade has become exposed. The line markings have deteriorated and will need to be reapplied. The line markings will need to allow for parking spaces that are designated for accessible use.

The concrete hardstand is in fair condition on the southern side and in poor condition on the northern side. Significant cracking has occurred on the northern hardstand and ramps from the northern and eastern slipways and the north-western platform. The wharf and bridge structures are in fair condition with moderate deterioration. The fencing has corroded and is in poor condition.

### ***BCA Compliance***

Although a BCA compliance assessment was not required as part of this condition assessment, it was evident from the inspection that serious non-compliances exist in relation to the essential services and equipment, access and egress and health and amenity. The cost plan prepared as part of this report has allowed for the full refurbishment to be undertaken in accordance with the latest version of the BCA and relevant standards.

**Deferral of Full Refurbishment / Demolition and Conversion to Open Space**

If Council elects to defer making a decision on the demolition, refurbishment or adaptive reuse of the Fisherman's Club, the systems, services and structures will continue to deteriorate to a state that the building cannot be used for storage purposes in a safe manner.

Council will subsequently need to implement measures to protect the safety of persons entering the building and also stabilise the rate of deterioration due to water ingress and other environmental impacts. Reduced structural integrity of the water damaged plasterboard ceiling and timber floor structures will result in asset failures that could cause personal injury or death.

In the short term, Council may need to adopt measures such as requiring persons to wear personal protective equipment to protect against injury from falling objects and fungi that are present throughout the building.

## 1. INTRODUCTION

The Fisherman's Club is a three-storey building located at 100B Bestic Street, Brighton Le Sands that is owned by Bayside City Council (Council) and was formerly leased to the Brighton Le Sands Amateur Fishermen's Association. The building has been vacated and is the subject of a decision-making process by Council in relation to the best use of the building. Council's primary considerations are to either retain and refurbish the building or to demolish the building and convert the area to passive open space.

This report identifies the current condition status of the building structures, systems at the Fisherman's Club and contains costs for the remediation of the built assets and infrastructure. This report is intended to be used by Council in conjunction with other reports to assist Council in making an informed decision on the best use of the building.

Following is an aerial photograph of the Fisherman's Club (building enclosed in yellow):



The Fisherman's Club has a gross floor area of approximately 3,470 m<sup>2</sup> across three levels. A foyer, service area, office, bathrooms and store rooms are located on the ground floor. Office areas, auditorium, function room, bathrooms, kitchen, bar, lounge and bistro areas are located on level 1. Office, bathroom and plant room areas are located on level 2.

## 2. FUNCTIONAL STATUS

The functional status of each building element has been determined from an analysis of the current condition status and overall fitness for purpose. Occupant safety and the suitability of the areas to meet their intended design have also been taken into consideration.

Following is a summary of the functional assessment for each building element:

Item	Building Element	Fit for Purpose	Functional Limitations
1	Structure	Yes	-
2	Shell	No	<ul style="list-style-type: none"> <li>Deterioration of the roof and perimeter structures will need to be rectified to extend the useful life of the building</li> </ul>
3	Interiors	No	<ul style="list-style-type: none"> <li>Severe deterioration of the internal building elements</li> <li>Unsafe building elements as a result of fungal growth in select areas of the building</li> <li>Fixtures and fittings have been partially removed as a result of minor demolition works</li> </ul>
4	Electrical Services	Limited with serious functional problems	<ul style="list-style-type: none"> <li>Electrical distribution infrastructure has adequate capacity however the distribution boards are approaching the end of their effective operational lives</li> </ul>
5	Mechanical Services	No	<ul style="list-style-type: none"> <li>Central and distributed plant have reached the end of their effective operational life and will need to be upgraded</li> </ul>
6	Hydraulic Services	Limited with serious functional problems	<ul style="list-style-type: none"> <li>Bathrooms are in poor condition due to a combination of deterioration and lack of maintenance arising from the building being vacated</li> <li>Kitchen fixtures have been removed as part of minor demolition works</li> </ul>
7	Fire Services	No	<ul style="list-style-type: none"> <li>Insufficient coverage of fixed fire suppression equipment (e.g. hose reels and hydrants)</li> </ul>
8	Vertical Transport	Yes with limitations	<ul style="list-style-type: none"> <li>The passenger lift does not provide access to level 2</li> </ul>
9	Electronic Security	Yes with limitations	<ul style="list-style-type: none"> <li>Cameras are approaching the end of their effective operational life and depending on whether the building is to be remediated and subsequently occupied, coverage is limited</li> </ul>
10	Civil Elements	Yes with limitations	<ul style="list-style-type: none"> <li>Severely deteriorated fencing, handrails and gates and sections of crazing and potholes across the carpark</li> </ul>



### 3. REFURBISHMENT PLANNING

Should Council elect to refurbish the Fisherman's Club, then Council will need to determine whether the site will continue to be used as a registered club or another commercial use. Should the site be used for a different commercial use, then Council will need to determine whether retaining the existing structure will still be feasible.

#### 3.1. Refurbishment Strategy

##### 3.1.1. Definition of Need

Council will need to first identify whether development works are justified by taking into consideration information from the following sources:

- Council's strategic, development and master plans;
- Feedback from the general public and other stakeholders;
- Reports from service providers;
- Independent advice from professional services consultants; and
- Identification of legislative, industry and other drivers.

Council will subsequently determine whether further planning and analysis is warranted. Preliminary analysis should be performed and include basic financial and economic assessments of Council's options.

In terms of the Fisherman's Club, the financial assessment should take into consideration the potential cashflows and resultant net present value that will be achieved if the facility is demolished and reconstructed as a new building, demolished and repurposed as a passive open space facility, retained and remediated for occupancy or any other potential use suited to Council's needs.

The economic assessment should take into consideration the qualitative benefits to the public, environment and Council and other non-financial parameters that are important to Council and aligned with its strategic, development and master planning objectives.

### 3.1.2. Definition of Scope

The extent of the works and changes to the built assets, infrastructure and environs will need to be clearly identified (particularly in terms of whether different development options are being considered). Plans may need to be developed, and a statement of requirement drafted, to clearly document what will / will not be performed. Depending on the complexity of the work and Council's available resources, specialist consultants may need to be engaged to assist with this stage (and potentially later stages).

### 3.1.3. Engagement of Professional Services

Where Council deems it necessary to procure additional technical expertise, then Council should engage a specialist consultant with the necessary experience, qualifications and technical expertise to perform the work. The engagement of the specialist consultant must be undertaken in accordance with the relevant procurement policies.

The manager responsible for the engagement and delivery of the work should seek these professional services as soon as possible upon meeting the aforementioned conditions. This is of particular importance at the planning stage of the development as the early engagement of professional services will reduce the risk of exceeding the project budget whilst also ensuring sufficient prescription to enable the achievement of Council's development objectives.

Council will then need to work closely with the specialist consultant to refine the scope of the works to achieve the optimal balance between the budget and requirements.

### 3.1.4. Definition of Budget

The budget must take into consideration whole of life costs and quantify the labour, materials, design, project management, authority fees, professional services fees, contingency and all other relevant fees.

An asset management plan should be prepared which contains life cycle costings for a period not less than ten years. The costs should include capital renewal and investment expenditure, regular and reactive maintenance, operational expenditure and utilities expenditure.

### 3.1.5. Development Planning and Documentation

Assessments and documentation processes associated with the development planning stage will need to be undertaken, including environmental impact, survey plans, landscape management, quantity surveyor cost plan etc.

A risk assessment should be undertaken in conjunction with the development planning process. The risk assessment will identify threats and establish the existing controls and additional mitigation actions necessary to ensure that the development works are undertaken in a controlled and disciplined manner without adversely impacting Council, the public or other stakeholders.

Contingencies and incident management processes should also be defined in the event of a critical asset or public infrastructure being damaged. The contingency / incident management practices must include the process for controlling and preferably eliminating potential damage, reporting the issue and managing associated works dependent upon the affected element.

Where the works are designed to address compliance requirements, the documentation may require review and technical advice from specialist consultants.

#### **3.1.6. Development Planning**

Approval (or where applicable, exemption) must be obtained from the relevant authority. As part of the approval / exemption, the authority may define specific project constraints that must be adhered to.

### **3.2. Capital Renewal Strategies (Applies Following Major Refurbishment)**

Capital renewal strategies have been established to enable building services to reach maximum effective life.

Capital renewal should be considered in lieu of reactive maintenance when one or more of the following conditions are met:

- a. Where the repair cost exceeds the replacement cost of the asset;
- b. Where repairs to the asset provide diminishing levels of success at reinstating the asset; and
- c. Where a financial cost benefit can be demonstrated from bringing forward the replacement of the asset.

The intervals specified below are based on strategy influenced by asset condition, legislation and changing Council requirements. It will be the responsibility of the asset cost planner to determine intervals based on an assessment of these variables. During the short term following the optional building refurbishment, the intervals at which capital renewal will be undertaken may deviate slightly from the strategy as the assets will have recently been replaced / renewed and will therefore not require capital works. Over time, the requirement for capital works will become more aligned with the nominated intervals.

### 3.2.1. Building Exterior

Every five years following the building refurbishment, an assessment will need to be performed to determine whether the useful life of the building can be extended beyond the initial twenty-year projection (provided that the maintenance regime continues to be implemented). The outcomes of the assessment will then inform Council as to whether to continue maintaining the facility as per the maintenance regime or reduce maintenance levels to minimise cost until such time as a major redevelopment is undertaken.

Should maintenance be performed with the objective of extending the useful life of the built asset, then the building elements will need to be maintained in such a condition so as to protect the integrity of the structures. Remedial works will be required to arrest the rate of deterioration to the building and to limit premature reduction in the effective asset life.

The following table contains a list of typical building elements and the corresponding capital strategy.

Building Element	Maximum Life	Effective Life	Capital Strategy
<b>Structures &amp; Shell</b>			
Foundations	100 years	80 years	Remediate @ 60 yr intervals
Perimeter Walls	100 years	80 years	Major repairs @ 20 yr intervals
Roof Structure	100 years	80 years	Major repairs @ 60 yr intervals
Roof Cover	25 years	20 years	Repair @ 20 yr intervals
Windows	50 years	35 years	Reseal @ 10 yr intervals
Doors (Manual)	25 years	20 years	Replace @ 15 yr intervals
Doors (Automatic)	20 years	15 years	Upgrade @ 12 yr intervals
<b>Services</b>			
Split A/C	10 years	10 years	Replace @ 10 yr intervals
Switchboard	30 years	30 years	Upgrade @ 30 yr intervals
Lighting	18 years	18 years	Upgrade @ 18 yr intervals
Metal Gutters	25 years	25 years	Replace @ 25yr intervals
Metal Downpipes	20 years	20 years	Replace @ 20yr intervals
PVC Downpipes	30 years	30 years	Replace @ 30yr intervals
<b>External Areas</b>			
Carpark Surface	25 years	20 years	Major repairs @ 18 yr intervals
Hardstand	20 years	18 years	Resurface @ 18 yr intervals
Bollards	20 years	16 years	Replace @ 15 yr intervals
Fencing	15 years	13 years	Replace @ 12 yr intervals

### 3.2.2. Common Areas

The following table contains a list of typical building elements and the corresponding capital strategy.

Building Element	Maximum Life	Effective Life	Capital Strategy
<b>Interiors</b>			
Floor Cover - Carpet	10 years	8 years	Replace @ 8 yr intervals
Floor Cover - Vinyl	6 years	6 years	Replace @ 6 yr intervals
Floor Finish - Tiles	18 years	16 years	Replace @ 8 yr intervals
Wall Finish - Paint	8 years	6 years	Repaint @ 6 yr intervals
Ceiling Finish – Paint	10 years	8 years	Repaint @ 6 yr intervals
Ceiling Tiles	10 years	8 years	Replace @ 8 yr intervals
<b>Services</b>			
Electrical Fixtures	12 years	12 years	Replace @ 12 yr intervals
Vertical Transport	15 years	14 years	Refurbish @ 14 yr intervals
Emergency Lighting	12 years	12 years	Refurbish @ 12 yr intervals
Exit Lighting	12 years	12 years	Refurbish @ 12 yr intervals
Lighting (Fluorescent)	24 years	24 years	Refurbish @ 24 yr intervals
Electrical Switchboards	30 years	30 years	Upgrade @ 30 yr intervals
Passenger Lift	15 years	14 years	Refurbish @ 14 yr intervals
Hose Reels	30 years	30 years	Refurbish @ 17 yr intervals
Closed circuit television	10 years	8 years	Upgrade @ 8 yr intervals

### 3.2.3. Bathroom Areas

The following table contains a list of typical building elements and the corresponding capital strategy.

Building Element	Maximum Life	Effective Life	Capital Strategy
<b>Interiors</b>			
Floor Finish - Tiles	18 years	16 years	Replace @ 16 yr intervals
Wall Finish - Paint	8 years	6 years	Repaint @ 6 yr intervals
Wall Finish - Tiles	18 years	16 years	Replace @ 16 yr intervals
Ceiling Finish - Paint	10 years	8 years	Repaint @ 8 yr intervals
Fittings	10 years	8 years	Repaint @ 8 yr intervals
Fixtures	10 years	8 years	Repaint @ 8 yr intervals
Partition Walls (Internal)	18 years	16 years	Replace @ 16 yr intervals
<b>Services</b>			
Lighting (Fluorescent)	24 years	24 years	Refurbish @ 24 yr intervals
Emergency Lighting	12 years	12 years	Refurbish @ 18 yr intervals
Pans (Ceramic)	18 years	18 years	Refurbish @ 18 yr intervals
Cisterns (Ceramic)	18 years	18 years	Refurbish @ 18 yr intervals
Basins (Ceramic)	18 years	18 years	Refurbish @ 18 yr intervals

### 3.2.4. Back of House Areas

The back of house areas include plant rooms, storage areas and corridors. The back of house areas will generally comprise basic construction elements. The effective life of back of house building elements should be maximised to reduce expenditure.

The following table contains a list of typical building elements and the corresponding capital strategy.

Building Element	Maximum Life	Effective Life	Capital Strategy
<b>Interiors</b>			
Wall Finish - Paint	9 years	9 years	Repaint @ 9 yr intervals
Ceiling Finish - Paint	9 years	9 years	Repaint @ 9 yr intervals
Floor Finish - Paint	9 years	9 years	Repaint @ 9 yr intervals
Floor Finish - Epoxy	9 years	9 years	Replace @ 9 yr intervals
<b>Services</b>			
Chiller	25 years	25 years	Upgrade @ 25 yr intervals
Cooling Tower	25 years	25 years	Upgrade @ 25 yr intervals
Coolroom	20 years	15 years	Upgrade @ 15 yr intervals
Switchboards	30 years	30 years	Refurbish @ 30 yr intervals
Electrical Fixtures	24 years	24 years	Refurbish @ 24 yr intervals
Plumbing Fixtures	18 years	18 years	Replace @ 18 yr intervals

### 3.2.5. Office Accommodation Areas

The office accommodation areas include the foyer, corridors, offices and meeting rooms. The capital strategy focuses on delivering a safe and comfortable work environment for staff, whilst maximising the effective asset life.

The following table contains a list of typical building elements and the corresponding capital strategy.

Building Element	Maximum Life	Effective Life	Capital Strategy
<b>Services</b>			
General Power	25 years	25 years	Refurbish @ 25 yr intervals
General Lighting (Fluorescent)	24 years	24 years	Refurbish @ 24 yr intervals
Emergency Lighting	12 years	12 years	Refurbish @ 12 yr intervals
Exit Signage	12 years	12 years	Refurbish @ 12 yr intervals
Split A/C	10 years	10 years	Replace @ 10 yr intervals

### 3.3. Maintenance Strategy (Applies Following Major Refurbishment)

#### 3.3.1. Maintenance Levels

Maintenance levels have been defined which relate to the extent to which maintenance is performed to protect the integrity, functionality, performance and availability of the respective building elements. With increasing maintenance levels, a greater level of protection is afforded and correspondingly, an increase in maintenance cost is realised.

The maintenance levels have been recommended on the basis of the criticality of the respective building elements to Council and the safe, comfortable and effective operation of the building. The maintenance levels also take into consideration Council's budgetary constraints.

**Basic:** Maintenance is performed to comply with manufacturer recommendations.

Following are the key maintenance procedures:

- a) Perform maintenance activities in accordance with Australian Standards, industry codes and manufacturers' recommended maintenance tasks;
- b) Identify defects, operational issues and functional/design issues;
- c) Repair defects and operational issues;
- d) Identify functional/design issues;
- e) Refer functional/design issues to Council;
- f) Refer circumstances where it is economically advantageous to rectify issues through capital renewal to Council;
- g) Reinstate building elements to an operational state following the completion of each maintenance activity.
- h) Address functional/design issues identified by the occupant;
- i) Review recommendations from the occupant to undertake capital renewal and undertake where appropriate; and



- j) Reinstate building elements to an operational state following the rectification of any functional/design issue.

**Standard:** In addition to basic maintenance, tasks are performed to tailor operation of the building elements to specific site conditions.

Following are the key maintenance procedures:

- a) Perform all basic maintenance procedures;
- b) Periodically recalibrate building elements to the suit local environment;
- c) Identify extraneous issues that may affect system performance or reliability over a period of time and rectify, or, where the scale or scope of the issue warrants, refer the extraneous issue to Council; and
- d) Verify the compliance of the building elements compared against applicable legislation, codes and standards. Rectify the non-complying building element or, where the scale or scope of the issue warrants, refer the non-compliance to Council.
- e) Perform all basic maintenance procedures;
- f) Review extraneous issues identified by the occupant and, where the issue warrants Council action, address the issue; and
- g) Review non-compliances identified by the occupant and, where the issue warrants Council action, address the issue.

**Enhanced:** In addition to standard maintenance, tasks are performed to extend the life of the building elements past its normal operating life, and to ensure continuous availability.

Following are the key maintenance procedures:

- a) Perform all standard maintenance procedures;
- b) Periodically inspect and test the performance of equipment sub-components for operation and integrity;



- c) Record and analyse measurements to determine whether assets are not functioning as effectively as at the previous inspections and/or are not in accordance with manufacturers' performance curves. Determine cause of the performance limitation and rectify;
- d) Verify that equipment control strategies are operating as intended;
- e) Review loading, balancing, configuration and other service parameters to ensure that operation will not adversely impact on the desired life target.
- f) Ensure adequate level of redundancy and undertake upgrades where appropriate; and
- g) Undertake upgrades of control devices where inadequate to deliver the intended control strategies.

### 3.3.2. Maintenance Types

The type of maintenance identifies the conditions under which the contractor attends site, what parts they provide as part of the service, and correspondingly, the level of risk that they accept (i.e. the risk that the Council passes on).

Due to the criticality of the specific building element to the service delivery function and the level of risk that Council is prepared to accept, the type of maintenance performed will be selected on a building element basis.

The following maintenance types have been established:

#### Reactive Maintenance

Reactive maintenance is performed on an as-needs basis, generally in response to a request for service from an authorised individual following equipment breakdown or malfunction. The work is undertaken on a do-and-charge basis for labour and parts.

When reactive maintenance is the only maintenance undertaken, the objective is to minimise maintenance costs. This is a risk management exercise, as it requires the balancing of disruption to services and the likely reduction in the lifecycle of the equipment, with the potential for savings on planned maintenance costs.

### **Corrective Maintenance**

Corrective maintenance is performed on a first opportunity basis and is generally in response to a request from an authorised individual to correct performance before breakdown occurs. The large majority of this work is identified from regular and ad hoc inspections.

When corrective maintenance is undertaken, the objective is to avoid breakdown and disruption to services and the likely disruption in the life cycle of the equipment. Preventative maintenance can be brought forward and carried out concurrently to reduce costs.

### **Regular Preventative Maintenance**

Regular maintenance is generally carried out at scheduled intervals and the emphasis on protecting the integrity and value of the asset, optimising performance and eliminating breakdowns as far as possible between regular services. Labour costs for regular service are covered under the contract as well as minor parts.

The cost of major parts and labour associated with remedial works are excluded. Should breakdowns occur between regular maintenance visits, the repair is attended to under normal breakdown maintenance procedures on a labour and parts basis.

Regular maintenance contracts should be prepared that places the onus onto the contractor to rectify minor faults before they develop into major defects.

### **Comprehensive (Exclusive) Maintenance**

Comprehensive maintenance includes preventive maintenance, as well as labour and parts associated with reactive maintenance. However, the replacement of major system components that become obsolete during the term of the agreement (e.g. lift cars) are not included. It is important that the contracts clearly define obsolescence.

The objective is to transfer some of the risk to the service provider to achieve optimum preventative maintenance and equipment life.

### **Comprehensive (Inclusive) Maintenance**

Comprehensive maintenance includes preventive maintenance as well as labour and parts associated with breakdown maintenance. The replacement of all major system components that become obsolete during the term of the agreement are also included.

The objective of implementing fully comprehensive maintenance is to transfer all risk to the service provider and virtually eliminate disruption to services. It also ensures that budgets can be planned effectively. However, it is also the most expensive approach and, therefore, may not realistically represent true value for money.

### 3.3.3. Recommended Maintenance Tasks

#### Regular Maintenance

Regular maintenance will be managed by Council. Following are examples of recommended maintenance tasks and the corresponding level to which the maintenance tasks should be delivered.

Element	Task Description	Maintenance Level
Electrical	Inspection, testing and annual certification of emergency lighting and illuminated exit signage	Standard
Electrical	Testing of residual current devices	Standard
Electrical	Thermal scanning of switchboards	Standard
Electrical	Test / tag of electrical appliances	Standard
Mechanical	Inspection of roof mounted HVAC equipment and perform repairs where necessary	Standard
Hydraulic	Inspection and testing of thermostatic mixing valves and recalibration where necessary	Standard
Hydraulic	Clear stormwater drainage grates and inspect hydraulic system for defects	Standard
Fire	Inspection, testing and annual certification of fire fighting and detection equipment	Enhanced
Fire	Collation of certifications for each essential service and preparation of the annual fire safety statement	Standard
Security	Clean closed circuit television camera enclosures and verify camera image	Standard
Vertical Transport	Inspection, testing and annual certification of vertical transport system	Standard
External Elements	Inspection of paths and hardstand areas	Standard

#### Reactive Maintenance

Following are typical reactive maintenance tasks and the corresponding level to which the maintenance tasks should be delivered.

Element	Task Description	Maintenance Level
Structure / Shell	Repair damaged structural (load-bearing) members	Standard
Structure / Shell	Repair damaged structural (load-bearing) members	Standard
Structure / Shell	Clean / clear roofs, gutters and downpipes	Standard
Structure / Shell	Replace door and window seals	Standard
Structure / Shell	Touch up finishes and protective coatings	Standard

Element	Task Description	Maintenance Level
Structure / Shell	Treat corrosion	Standard
Structure / Shell	Apply sealants to address minor roof leaks	Standard
Structure / Shell	Rectify flashings and roof leaks	Standard
Structure / Shell	Re-hang doors and adjust windows	Standard
Structure / Shell	Replace door and window seals	Standard
Interiors	Patch cracks and mechanical damage to internal construction elements	Standard
Interiors	Touch up paint finishes	Standard
Interiors	Adjustments to ensure elements are mechanically secure	Standard
Electrical	Replace faulty lamps	Standard
Electrical	Repair minor damage to electrical socket outlets	Standard
Mechanical	Repair air-conditioning faults	Standard
Hydraulic	Replace washers and seals	Standard
Hydraulic	Clear blocked toilets and drains	Standard
Hydraulic	Clear drain waste traps	Standard
Fire	Rectify fire system faults	Standard
Fire	Recharge extinguishers	Standard
Security	Repair damaged electronic security system field devices	Standard
Vertical Transport	Repair faulty devices	Standard
External Elements	Patch pot holes in carpark surface	Standard
External Elements	Repair cracks in hardstand areas and pathways	Standard
External Elements	Repair damage to stairs and ramps	Standard
External Elements	Re-level small sections of uneven surfaces (up to 2m <sup>2</sup> )	Standard
External Elements	Repair trip hazards	Standard

#### 4. CONDITION ASSESSMENT

This section contains individual subsections which relate to each group element, including a description of the respective building element and a listing of defects and associated remedial works (if any). Following are the page references:

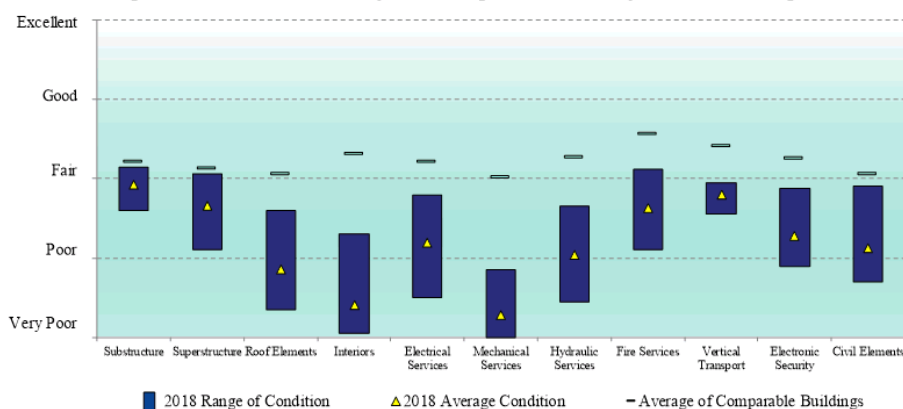
Page No.	Building Element
25	Structure & Shell
35	Interiors
46	Electrical Services
51	Mechanical Services
54	Hydraulic Services
57	Fire Services
59	Vertical Transport
60	Electronic Security
61	Civil Elements

The asset register identifies the specific systems and services and details relating to the assets. The condition rating was assigned at the site inspection performed in May 2018. Asset defects have been identified in the report and cross references inserted against relevant assets. Where a defect relates to two or more assets, then the cross reference has been assigned to the asset to which the defect most relates.

The condition assessment is based on the methodology outlined in the Institute of Public Works Engineers Australia National Asset Management Strategy. The condition was rated in accordance with the following rating scale:

Numerical Rating	Qualitative Rating	Definition
1	Excellent	No deterioration or defects
2	Good	Superficial deterioration and minor defects
3	Fair	Deterioration requires attention
4	Poor	Significant deterioration or defects
5	Very Poor	Element has failed and is unfit for normal use

The following figure depicts the weighted average condition status and range of condition for each group element. The structure and shell group element has been separated into substructure (foundations), superstructure (perimeter and other loadbearing structures) and roof elements (roof structure and cover) due to the varying levels of deterioration that have occurred to these major assets. A comparison of the elements against comparable buildings has also been provided.



## Fishermans Club

### Group Element: Structure & Shell

The Fisherman's Club is a three-storey building located at 100b Bestic Street, Brighton Le Sands NSW 2216. The Fisherman's Club is a concrete structure that is constructed on concrete footing foundations with concrete loadbearing walls and columns that support levels 1 and 2 of the building.

The overall status of the structural elements is fair with moderate deterioration that is consistent with the age of the building. The condition of the structural elements indicates that the base building structures have approximately 20 years further effective life. Should Council elect to perform a major refurbishment of the building to reinstate it for occupancy, the structural elements may be retained with only minor remedial works required subject to any additional construction works that may be required relating to adaptively reusing the building.



Location Photo: 1581

#### Foundation

The foundation is in fair condition and possesses sufficient structural integrity to support the Fisherman's Club. Whilst cracking of the floor structures and perimeter and internal loadbearing walls has occurred, the extent of deterioration is minor and does not indicate that significant building movement has occurred. Evidence of water ingress from Muddy Creek that would adversely affect the foundations was not identified.

#### Roof

The roof is constructed from a metal frame and timber joists and spans two levels. The upper level of the roof relates to the roof of level 2 (northern and eastern sides) and the lower level of the roof relates to the roof of level 1 (western and southern sides). Cliplock metal sheets cover both the level 1 and level 2 roofs.

The roof covers across the level 2 roof and the western side of the level 1 roof are in poor condition. The metal ribbings have been damaged and sections of the roof cover have bowed such that water accumulates and cannot effectively drain to the box gutters. The roof covers across the level 2 roof and western side of the level 1 roof will need to be replaced.

The roof covers across the southern side of the level 1 roof are in fair condition and can be retained through any building refurbishment works that may be undertaken during the next five years.

#### Perimeter - Northern Aspect

The loadbearing elements across the northern aspect are the concrete columns and perimeter walls. The columns are in fair condition and evidence of deterioration attributable to buckling or compressive stress was not identified. Metal roller doors are installed between the columns and are in

poor condition as a result of severe corrosion and deterioration. The external paint finish is in fair condition.

The perimeter construction at level 1 is brick with glazed curtain wall across the northern extent. The perimeter construction at level 2 is cliplock metal sheeting with moderate deterioration and surface corrosion.

Extensive water damage and deterioration has occurred to the soffit structure and finish. Minor cracking was also identified below the ground floor window at the north-eastern corner of the building.

#### Perimeter - Eastern Aspect

The eastern aspect is constructed from a concrete wall that is in fair condition. Superficial defects were identified such as surface blistering and deterioration of the paint finish, neither of which adversely affect the structural integrity of the concrete wall.

Damage was identified at the north-eastern corner of the concrete wall which is likely due to mechanical impact. The damage has resulted in a section of exposed concrete and reinforcing steel which will need to be repaired to protect the underlying elements from further deterioration and corrosion.

Water penetration was identified at the eastern perimeter wall where water ingress has occurred between the level 1 deck area and the ground floor covered storage area. The seals will need to be repaired to prevent further water penetration.

The perimeter construction at level 2 is cliplock metal sheeting with moderate deterioration and surface corrosion.

#### Perimeter - Southern Aspect

The loadbearing elements across the southern aspect are the concrete columns and perimeter walls. The columns are in fair condition and evidence of deterioration attributable to buckling or compressive stress was not identified.

The perimeter wall at the ground floor level on either side of the main entrance to the Fisherman's Club is clad with painted fibre cement sheets. The sheets are in fair condition. The concrete walls at the eastern side of the southern aspect are in fair condition and finished with paint that is in fair condition. Superficial cracking was identified which does not adversely affect the structural integrity of the walls.

The perimeter construction at level 1 is brick with glazed curtain wall. It is recommended at the next building refurbishment that the fire resisting construction of the perimeter structures be upgraded to achieve a fire resistance level of not less than 60/60/60. The perimeter construction at the level of the level 1 roof is cliplock metal sheeting with moderate deterioration and surface corrosion.

Extensive water damage and deterioration has occurred to



the soffit structure and finish towards the centre and eastern sides of the southern aspect and sections of the structure have been exposed.

#### Perimeter - Western Aspect

The loadbearing elements across the southern aspect are the concrete columns and masonry block perimeter walls. The columns are in fair condition and evidence of deterioration attributable to buckling or compressive stress was not identified.

The masonry block perimeter walls at the ground floor level is in fair condition with minor deterioration evident. The concrete columns extend to level 1 and support the use of a glazed curtain wall. The perimeter construction at the level of the level 1 roof is cliplock metal sheeting with moderate deterioration and surface corrosion.

#### Recommendation

It is recommended that Council prepare a technical specification for the remediation of the building structures and seek competitive tenders from the market for detailed design and construction works. The request for tender should detail two scenarios, being the retention of the base building structures and performance of major repairs (Scenario 1) and the demolition and adaptive reuse of the space (Scenario 2).

The first scenario is to retain the base building structures and remediate the roof and perimeter structures so that the building can be adaptively reused. The benefit of refurbishing the building is that it will enable Council to maximise the effective life that is achieved from the built asset and minimise cost in the short term. The condition of the structural elements is such that this scenario will be feasible, subject to any design constraints relating to the proposed occupancy e.g. the foundation may not support an increase in the rise in storeys of the building.

The downside to refurbishing the building is that the configuration of the building is well suited to being used as a registered club and retention of the structures in their current form may not translate well to other uses, e.g. office accommodation or public entertainment venue. Also, by virtue of the building's design in accordance with superseded building codes and standards, consideration will need to be given to ensuring safety and compliance with the mandatory performance requirements of the Building Code of Australia at the time of the new design.

The second scenario is to demolish the building and adaptively reuse the space, whether for the construction of a new building, conversion to a passive recreation area or other use as deemed appropriate by Council. The benefit of this scenario is that the new asset will be designed specifically to suit Council's intended future use. If the new use involves the construction of a new building, then by virtue of it being a new development, it will have a design life that significantly exceeds the 20-year projected



remaining life of the existing structure and Council will therefore be able to reduce costs over the long term.

Further benefits of performing a new development relate to the improved management of risks associated with ensuring safety and essential services compliance due to the opportunity to design the building elements, systems and services (where applicable) without the need to consider legacy structures.

Council's determination in relation to the future use or conversion of the building structure will dictate the application of the recommended works for the internal building elements, systems and services. The recommendations for these assets have been given for Council's consideration in the event that the building will be retained, because if the building is to be demolished and converted to another function then remediation of the assets in their current purpose will no longer be applicable.

#### Condition Details:

Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Foundation	Substructure: Concrete		3 - Fair	19	
Perimeter Wall	Roof Level: Metal Cliplock		4 - Poor	19	
Perimeter Wall	Concrete		3 - Fair	19	69, 70
Perimeter Wall	Perimeter (Level 2): Metal Cliplock		4 - Poor	19	
Perimeter Wall	South Wall (Ground Level): Fibre Cement		3 - Fair	19	
Perimeter Wall	Southeast and East Walls: Concrete		3 - Fair	19	
Perimeter Wall	South and North Walls (Level 1): Brick		3 - Fair	19	
Perimeter Wall	North Wall: Concrete Block		3 - Fair	19	
Perimeter Wall	Southwest Wall (Ground Level): Masonry Block		3 - Fair	19	
Roof Construction	Metal Structure		3 - Fair	19	
Roof Construction	Timber Joists		3 - Fair	19	
Roof Cover	South: Metal Cliplock		3 - Fair	19	94
Roof Cover	South West and West: Metal Cliplock		4 - Poor	19	92, 93
Roof Cover	Upper Roof Level: Metal Cliplock		4 - Poor	19	
Parapet Wall	Level 1 Deck: Concrete		3 - Fair	19	
Window	Roof Level: Aluminium Frame		4 - Poor	19	96, 97
Window	Ground Level: Aluminium Frame		3 - Fair	19	123
Roof Platform	Entrance to Plantroom: Timber and Fibre Cement		4 - Poor	5	45, 95
Exterior Column	South Covered Carpark: Concrete		3 - Fair	19	
Roof Walkway	South and West: Timber		4 - Poor	5	
Soffit	Fibre Cement		4 - Poor	5	74,
Awning	Level 1 Deck: Timber / Metal		3 - Fair	12	
Awning	Level 1 Deck: Metal		3 - Fair	12	
Deck Structure	Level 1 Deck: Concrete		3 - Fair	19	88
Exterior Handrail	Roof Level		4 - Poor	8	46
Perimeter Door	Exterior: Automatic Door	1	4 - Poor	8	

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Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Perimeter Door	Ground Floor Foyer: Aluminium Frame and Glass Leaf		4 - Poor	3	
Perimeter Door	Exterior: Timber		4 - Poor	8	79, 121
Perimeter Door	Ground Floor Internal Slipway: Metal Roller Door	6	4 - Poor	6	
Perimeter Wall Finish	Exterior (North): Paint		4 - Poor	4	
Perimeter Wall Finish	Exterior (South): Paint		3 - Fair	4	

**Defects Identified:**

**Defect ID:** 93

**Individual Element:** Roof Cover

**Defect Description:** Roof (Southwest and West) - Deteriorated roof cover.

**Recommended Works:** Replace affected sections as part of building refurbishment.

**Photo No.:** 1151

**Priority:** High



**Defect ID:** 115

**Individual Element:** Soffit

**Defect Description:** Exterior (South) - Severely damaged soffit with exposed sections evident.

**Recommended Works:** Repair as part of building refurbishment.

**Photo No.:** 1558

**Priority:** Medium



**Defect ID:** 118

**Individual Element:** Soffit

**Defect Description:** Exterior (South) - Severely water damaged soffit with exposed section evident.

**Recommended Works:** Repair as part of building refurbishment.

**Photo No.:** 1562

**Priority:** Medium

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**Defect ID:** 119

**Individual Element:** Soffit

**Defect Description:** Exterior (South) - Damaged soffit with exposed section evident.

**Recommended Works:** Repair as part of building refurbishment.

**Photo No.:** 1563

**Priority:** Medium



**Defect ID:** 120

**Individual Element:** Soffit

**Defect Description:** Exterior (South) - Damaged soffit with exposed section evident.

**Recommended Works:** Repair as part of building refurbishment.

**Photo No.:** 1564

**Priority:** Medium



**Defect ID:** 121

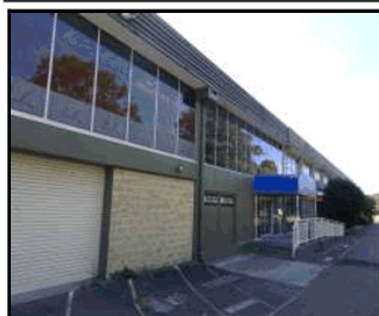
**Individual Element:** Perimeter Door

**Defect Description:** Exterior (South) - Severely deteriorated door.

**Recommended Works:** Replace as part of building refurbishment.

**Photo No.:** 1565

**Priority:** Medium



**Defect ID:** 123

**Individual Element:** Window

**Defect Description:** Exterior (South and West) - Glazing across perimeter walls does not achieve required fire resistance level of 60/60/60.

**Recommended Works:** Upgrade fire resistance as part of building refurbishment.

**Photo No.:** 1574

**Priority:** Medium

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**Defect ID:** 44  
**Individual Element:** Roof Cover  
**Defect Description:** Roof (West and Northwest) - Accumulated leaf matter on roof  
**Recommended Works:** Remove as part of building refurbishment.  
**Photo No.:** 1165  
**Priority:** Medium



**Defect ID:** 45  
**Individual Element:** Roof Platform  
**Defect Description:** Roof - Space between platform and roof plantroom stair landing presents a trip risk.  
**Recommended Works:** Replace platform as part of building refurbishment.  
**Photo No.:** 1197  
**Priority:** Medium



**Defect ID:** 113  
**Individual Element:** Soffit  
**Defect Description:** Exterior (South) - Damaged sections of the soffit.  
**Recommended Works:** Repair as part of building refurbishment.  
**Photo No.:** 1556  
**Priority:** Medium



**Defect ID:** 92  
**Individual Element:** Roof Cover  
**Defect Description:** Roof (South West) - Deteriorated timber roof walkway.  
**Recommended Works:** Replace roof walkway as part of building refurbishment.  
**Photo No.:** 1171  
**Priority:** High



**Defect ID:** 88  
**Individual Element:** Deck Structure  
**Defect Description:** Level 1 Deck - Deteriorated deck surface  
**Recommended Works:** Repair cracks and repaint surface as part of building refurbishment.  
**Photo No.:** 1437  
**Priority:** Medium



**Defect ID:** 94  
**Individual Element:** Roof Cover  
**Defect Description:** Roof (South) - Deteriorated roof cover.  
**Recommended Works:** Replace deteriorated sections as part of building refurbishment.  
**Photo No.:** 1205  
**Priority:** High



**Defect ID:** 95  
**Individual Element:** Roof Platform  
**Defect Description:** Roof - Severely deteriorated platform and stairs at the roof entrance to the level 2 plantroom.  
**Recommended Works:** Replace platform as part of building refurbishment.  
**Photo No.:** 1199  
**Priority:** Medium

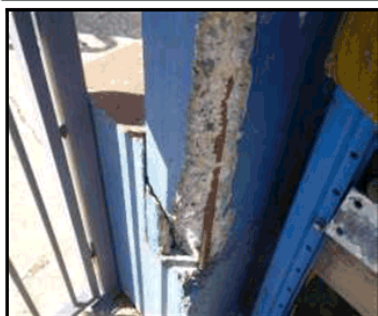


**Defect ID:** 96  
**Individual Element:** Window  
**Defect Description:** Roof Level (West) - Severely deteriorated window frame  
**Recommended Works:** Replace window frames as part of building refurbishment.  
**Photo No.:** 1207  
**Priority:** Medium

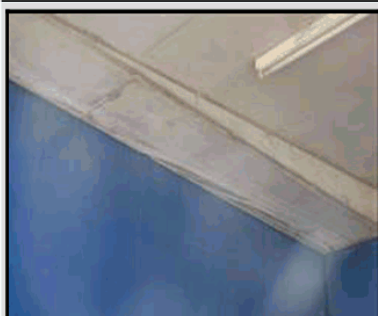




**Defect ID:** 97  
**Individual Element:** Window  
**Defect Description:** Roof Level (West) - Damaged window glazing.  
**Recommended Works:** Replace glazing in conjunction with window frame replacement works performed as part of building refurbishment.  
**Photo No.:** 1208  
**Priority:** Medium



**Defect ID:** 68  
**Individual Element:** Perimeter Wall  
**Defect Description:** Exterior (Northeastern Corner) - Deteriorated concrete structural wall with exposed steel reinforcement  
**Recommended Works:** Perform remedial works to repair concrete and enclose steel reinforcement.  
**Photo No.:** 1327  
**Priority:** Medium



**Defect ID:** 69  
**Individual Element:** Perimeter Wall  
**Defect Description:** Exterior (Northeastern Corner) - Evidence of water leaks penetrating from level 1 deck to the underside of the deck  
**Recommended Works:** Seal water penetrations.  
**Photo No.:** 1328  
**Priority:** Medium



**Defect ID:** 70  
**Individual Element:** Perimeter Wall  
**Defect Description:** Exterior (Northeastern Corner, North Aspect) - Minor cracking below window frame.  
**Recommended Works:** Perform remedial works to repair cracks.  
**Photo No.:** 1330  
**Priority:** Medium



**Defect ID:** 74  
**Individual Element:** Soffit  
**Defect Description:** Exterior (North) - Deteriorated soffit  
**Recommended Works:** Perform remedial works as part of building refurbishment.  
**Photo No.:** 1349  
**Priority:** Medium



**Defect ID:** 79  
**Individual Element:** Perimeter Door  
**Defect Description:** Exterior Slipway (North) - Severely corroded roller doors.  
**Recommended Works:** Replace roller doors.  
**Photo No.:** 1380  
**Priority:** Medium



**Defect ID:** 46  
**Individual Element:** Exterior Handrail  
**Defect Description:** Roof - Corroded handrails at platform.  
**Recommended Works:** Replace handrails as part of building refurbishment.  
**Photo No.:** 1202  
**Priority:** Medium

## Fishermans Club

### Group Element: Interiors

The internal areas are primarily constructed from concrete floors, brick and painted plasterboard walls and suspended grid ceilings. The floors are covered with carpet in the function, corridor and office areas and finished with tile in the bathrooms and wet areas.

The internal construction elements are generally in poor condition with moderate deterioration throughout the building and extensive water damage and fungal growth in isolated areas. The water damage is most prevalent in the ceilings in the level 1 function area and offices on levels 1 and 2. An investigation performed by Ade Consulting Group, a mycological and hazardous materials inspector, which indicates that fungal growth has occurred and will need to be treated before the internal areas will be fit for occupancy (in addition to other remedial works to the structures, systems and services).

Asbestos containing materials were also identified in the vinyl floor tiles at the ground floor bathrooms and level 1 projection room, boiler gasket in the level 2 plantroom and zelemite backing boards to the switchboards throughout the building. Damage has also occurred which appears to be the result of electrical and plumbing fixtures being removed.

#### Recommendation

A major refurbishment will need to be performed to enable reinstatement of the internal areas for occupancy. The first stage of the works should include demolition of the internal construction elements and finishes as needed to expose the water damaged fabric and areas affected by fungal growth. Structural drying, air filtration and remediation of the internal structures will then be performed to be followed by reconstruction and reconfiguration works.

The design and technical plans will need to be developed in consultation with engineers and designers from each of the building services disciplines to ensure that any dependencies (e.g. project programming, access, power supply etc) are accounted for. This will be particularly important for those building services which will be concealed (e.g. ductwork) or upgraded in conjunction with the replacement of the wall and ceiling elements (e.g. lighting).

#### Condition Details:

Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Ceiling Construction	Level 2: Suspended Grid and Tile		4 - Poor	3	50
Ceiling Construction	Level 2: Timber and Plaster Tile		4 - Poor	3	52, 56
Floor Cover	Level 2 Internal Areas: Carpet		4 - Poor	4	
Interior Door	Level 2: Timber Frame		4 - Poor	8	59
Floor Cover	Level 2 Internal Areas: Vinyl		4 - Poor	4	51
Wall Construction	Level 1: Rendered Brick		4 - Poor	15	



Location Photo: 1269



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Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Wall Finish	Level 1: Paint		3 - Fair	2	
Floor Cover	Level 1 Internal Areas: Carpet		3 - Fair	4	
Wall Construction	Ground Floor Foyer: Plasterboard		3 - Fair	3	
Wall Construction	Level 1: Timber Partition		4 - Poor	3	
Ceiling Construction	Level 1 Function Area: Plasterboard		5 - Very Poor	0	62
Ceiling Finish	Level 1 Function Area: Paint		4 - Poor	0	
Floor Construction	Level 1 Auditorium: Timber		3 - Fair	19	60
Stage Construction	Level 1 Auditorium: Timber		3 - Fair	10	66
Floor Finish	Level 1 Function Area: Tile		4 - Poor	0	
Floor Finish	Level 1 Restaurant: Tile		3 - Fair	4	
Wall Construction	Ground Floor Internal Slipway: Brick		3 - Fair	19	
Floor Construction	Level 1: Concrete		4 - Poor	19	
Interior Column	Ground Floor Internal Slipway: Concrete		3 - Fair	19	
Wall Finish	Level 1 Female Bathroom: Tile		3 - Fair	4	90
Wall Construction	Level 1 Female Bathroom: Brick		3 - Fair	15	
Wall Construction	Level 2: Rendered Brick		3 - Fair	14	
Ceiling Construction	Underside of Level 1 Floor: Concrete		3 - Fair	19	
Ceiling Finish	Underside of Level 1 Floor: Paint		4 - Poor	2	
Wall Construction	Ground Floor Service Area: Rendered Brick		3 - Fair	19	
Wall Finish	Ground Floor Service Area: Paint		3 - Fair	1	
Floor Construction	Ground Floor Service Area: Concrete		3 - Fair	19	87, 110
Floor Finish	Ground Floor Service Area: Paint		4 - Poor	1	
Wall Construction	Ground Floor Changeroom: Concrete Block		4 - Poor	19	
Ceiling Construction	Underside of Level 1 Floor: Concrete		3 - Fair	19	
Floor Construction	Ground Floor Internal Slipway: Concrete		4 - Poor	19	83
Floor Construction	Level 2: Concrete		3 - Fair	19	
Wall Finish	Ground Floor Internal Slipway: Paint		4 - Poor	1	
Wall Finish	Level 2: Paint		3 - Fair	2	
Floor Construction	Level 1 Female Bathroom: Concrete		3 - Fair	19	
Ceiling Construction	Level 1 Female Bathroom: Plasterboard		2 - Good	15	
Ceiling Finish	Level 1 Female Bathroom: Tile		2 - Good	4	
Partition	Level 1 Female Bathroom		3 - Fair	8	
Wall Construction	Ground Floor Foyer: Brick		3 - Fair	19	107
Wall Finish	Ground Floor Foyer: Paint		3 - Fair	3	
Floor Construction	Ground Floor Foyer: Concrete		3 - Fair	19	
Floor Finish	Ground Floor Foyer: Tile		3 - Fair	3	
Ceiling Finish	Underside of Level 1 Floor: Paint		3 - Fair	2	
Ceiling Construction	Level 1 Auditorium: Timber Panel		3 - Fair	10	
Ceiling Construction	Ground Floor Female Artist Bathroom: Suspended Grid		4 - Poor	0	
Wall Construction	Level 1 Male Bathroom: Brick		3 - Fair	15	
Floor Construction	Level 1 Function Area: Concrete		4 - Poor	19	
Wall Finish	Level 1 Kitchen: Paint		4 - Poor	0	

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Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Wall Construction	Level 1: Plasterboard		3 - Fair	15	
Floor Construction	Ground Floor Male Artist Bathroom: Concrete		4 - Poor	19	
Ceiling Construction	Ground Floor Foyer: Suspended Grid and Tile		4 - Poor	1	108
Ceiling Construction	Ground Floor Male Artist Bathroom: Suspended Grid		4 - Poor	0	
Wall Finish	Ground Floor Female Artist Bathroom: Paint		4 - Poor	0	
Floor Construction	Level 1 South: Timber		4 - Poor	19	61
Wall Construction	Ground Floor Female Artist Bathroom: Brick		3 - Fair	19	
Ceiling Construction	Level 1: Suspended Grid and Tile		5 - Very Poor	0	99,
Floor Construction	Level 1 Kitchen: Concrete		3 - Fair	19	
Ceiling Construction	Underside of Level 1 Floor		3 - Fair	19	
Wall Finish	Level 1 Kitchen: Tile		3 - Fair	0	
Wall Construction	Level 1 Function Area: Plasterboard		4 - Poor	19	
Wall Finish	Level 1 Function Area: Paint		4 - Poor	0	
Interior Door	Level 1: Timber Frame		4 - Poor	8	
Interior Door	Ground Floor: Timber Frame		4 - Poor	8	
Interior Stairs	Level 1 Plantroom: Concrete		3 - Fair	19	
Ceiling Finish	Ground Floor Male Artist Bathroom: Paint		4 - Poor	0	
Floor Construction	Level 1 Male Bathroom: Concrete		3 - Fair	19	
Wall Finish	Western Storage Area: Pebblecrete		4 - Poor	4	
Ceiling Construction	Ground Floor Foyer: Plasterboard		3 - Fair	1	
Ceiling Construction	Underside of Level 1 Floor		4 - Poor	19	
Ceiling Finish	Ground Floor Changeroom: Paint		4 - Poor	0	
Floor Cover	Ground Floor Female Artist Bathroom: Carpet		4 - Poor	0	
Wall Construction	Level 1 Kitchen: Brick		3 - Fair	0	
Ceiling Finish	Ground Floor Female Artist Bathroom: Paint		4 - Poor	0	
Wall Construction	Ground Floor Male Artist Bathroom: Brick		3 - Fair	19	
Wall Finish	Ground Floor Male Artist Bathroom: Paint		4 - Poor	0	
Ceiling Construction	Level 1 Male Bathroom: Plaster Tile		3 - Fair	15	
Floor Cover	Ground Floor Male Artist Bathroom: Vinyl Tile		4 - Poor	0	
Interior Door	Ground Floor Service Area: Metal Roller Door	1	3 - Fair	5	
Interior Stairs	Level 1 to Level 2: Concrete		3 - Fair	19	58
Ceiling Construction	Ground Floor Changeroom: Suspended Grid		4 - Poor	0	
Ceiling Finish	Ground Floor Foyer: Paint		3 - Fair	1	
Ceiling Construction	Level 1 Kitchen: Plasterboard		5 - Very Poor	0	104
Ceiling Finish	Level 1 Kitchen: Paint		5 - Very Poor	0	
Floor Finish	Level 1 Kitchen: Rubber Tile		4 - Poor	0	
Wall Finish	Level 1 Male Bathroom: Tile		3 - Fair	4	89
Floor Finish	Ground Floor Changeroom: Tile		4 - Poor	0	
Floor Cover	Ground Floor Foyer: Carpet		3 - Fair	3	
Interior Stairs	Ground Floor to Level 1: Concrete		3 - Fair	19	85
Wall Finish	Ground Floor Changeroom: Tile		4 - Poor	0	
Floor Construction	Ground Floor Changeroom: Concrete		4 - Poor	19	109

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Asset Technologies Pacific

Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Floor Construction	Ground Floor Female Artist Bathroom: Concrete		4 - Poor	19	

**Defects Identified:**

**Defect ID:** 52

**Individual Element:** Ceiling Construction

**Defect Description:** Level 2 Boardroom: Water damaged and deteriorated ceiling tiles with evidence of fungal spores independently identified throughout the building

**Recommended Works:** Replace affected building elements.

**Photo No.:** 1251

**Priority:** Medium



**Defect ID:** 99

**Individual Element:** Ceiling Construction

**Defect Description:** Level 1 Restaurant: Ceiling tile not mechanically secure.

**Recommended Works:** Secure ceiling tile.

**Photo No.:** 1472

**Priority:** Medium



**Defect ID:** 101

**Individual Element:** Ceiling Construction

**Defect Description:** Level 1 Restaurant: Missing ceiling tile.

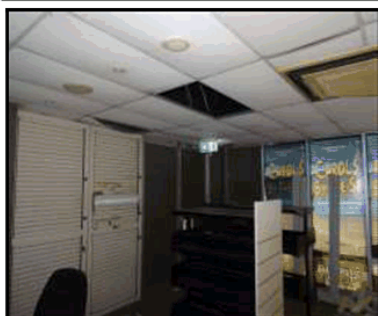
**Recommended Works:** Install ceiling tile.

**Photo No.:** 1475

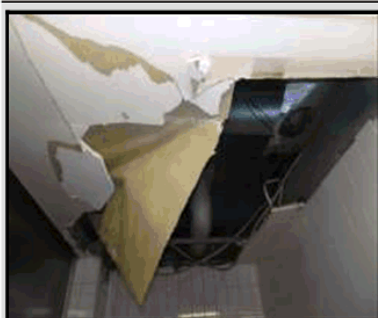
**Priority:** Medium



**Defect ID:** 102  
**Individual Element:** Ceiling Construction  
**Defect Description:** Level 1 Restaurant: Water damaged and deteriorated ceiling tiles with evidence of fungal spores independently identified throughout the building.  
**Recommended Works:** Replace affected building elements.  
**Photo No.:** 1474  
**Priority:** Medium



**Defect ID:** 103  
**Individual Element:** Ceiling Construction  
**Defect Description:** Level 1 Store (Northwest): Deteriorated and missing ceiling tiles.  
**Recommended Works:** Replace ceiling tiles.  
**Photo No.:** 1479  
**Priority:** Medium



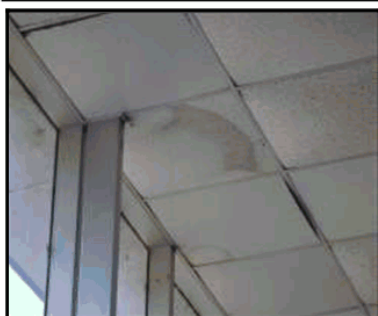
**Defect ID:** 104  
**Individual Element:** Ceiling Construction  
**Defect Description:** Level 1 Kitchen - Severely damaged ceiling construction.  
**Recommended Works:** Reconstruct affected sections of the ceiling.  
**Photo No.:** 1487  
**Priority:** Medium



**Defect ID:** 105  
**Individual Element:** Ceiling Construction  
**Defect Description:** Level 1 Office: Water damaged and deteriorated ceiling tiles with evidence of fungal spores independently identified throughout the building.  
**Recommended Works:** Replace affected building elements.  
**Photo No.:** 1492  
**Priority:** Medium



**Defect ID:** 107  
**Individual Element:** Wall Construction  
**Defect Description:** Ground Floor Foyer - Cracked wall above entrance counter.  
**Recommended Works:** Repair crack as part of building refurbishment.  
**Photo No.:** 1503  
**Priority:** Medium



**Defect ID:** 108  
**Individual Element:** Ceiling Construction  
**Defect Description:** Ground Floor Foyer - Water damaged and deteriorated ceiling tiles with evidence of fungal spores independently identified throughout the building  
**Recommended Works:** Replace affected building elements.  
**Photo No.:** 1504  
**Priority:** Medium



**Defect ID:** 109  
**Individual Element:** Floor Construction  
**Defect Description:** Ground Floor Changeroom - Service access to the underground pipework has been exposed and temporary pipework installed.  
**Recommended Works:** Upgrade hydraulic services as part of building refurbishment.  
**Photo No.:** 1517  
**Priority:** Medium



**Defect ID:** 110  
**Individual Element:** Floor Construction  
**Defect Description:** Ground Floor Service Area - Water damaged concrete floors.  
**Recommended Works:** Perform remedial works as part of building refurbishment.  
**Photo No.:** 1528  
**Priority:** Medium



**Defect ID:** 49  
**Individual Element:** Ceiling Construction  
**Defect Description:** Level 2 Boardroom: Water damaged and deteriorated ceiling tiles with evidence of fungal spores independently identified throughout the building  
**Recommended Works:** Replace affected building elements.  
**Photo No.:** 1243  
**Priority:** Medium



**Defect ID:** 98  
**Individual Element:** Ceiling Construction  
**Defect Description:** Level 1 Restaurant: Missing ceiling tile and exposed cabling.  
**Recommended Works:** Install ceiling tile.  
**Photo No.:** 1471  
**Priority:** Medium



**Defect ID:** 51  
**Individual Element:** Floor Cover  
**Defect Description:** Level 2 Projection Room: Deteriorated vinyl floor tiles which also contain asbestos  
**Recommended Works:** Replace floor tiles  
**Photo No.:** 1247  
**Priority:** Medium





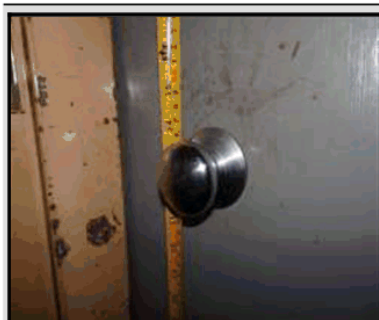
**Defect ID:** 90  
**Individual Element:** Wall Finish  
**Defect Description:** Level 1 Female Bathroom: Damaged wall tiles  
**Recommended Works:** Replace wall tiles as part of building refurbishment.  
**Photo No.:** 1459  
**Priority:** Medium



**Defect ID:** 56  
**Individual Element:** Ceiling Construction  
**Defect Description:** Level 2 Stair Landing: Exposed penetrations in ceiling tiles.  
**Recommended Works:** Replace ceiling tiles.  
**Photo No.:** 1276  
**Priority:** Medium



**Defect ID:** 58  
**Individual Element:** Interior Stairs  
**Defect Description:** Level 1 to 2 Stairs: Stair does not afford a continuous path of travel for egress purposes and is not fitted with non-slip and contrasting nosings, tactile ground surface indicators and has openings that permit a sphere of 125mm diameter to pass.  
**Recommended Works:** Upgrade stairs as part of building refurbishment.  
**Photo No.:** 1277  
**Priority:** Medium



**Defect ID:** 59  
**Individual Element:** Interior Door  
**Defect Description:** Level 2 Doors: Deteriorated door hardware and door handles are at inconsistent heights  
**Recommended Works:** Upgrade door hardware as part of building refurbishment.  
**Photo No.:** 1286  
**Priority:** Medium



**Defect ID:** 60

**Individual Element:** Floor Construction

**Defect Description:** Level 1 Auditorium: Deteriorated timber floor.

**Recommended Works:** Refurbish timber floor as part of building refurbishment.

**Photo No.:** 1291

**Priority:** Medium



**Defect ID:** 61

**Individual Element:** Floor Construction

**Defect Description:** Level 1 Corridor Between Function Area and Bathrooms: Severely deteriorated floor construction and tiles

**Recommended Works:** Perform remedial works as part of building refurbishment.

**Photo No.:** 1296

**Priority:** Medium



**Defect ID:** 62

**Individual Element:** Ceiling Construction

**Defect Description:** Level 1 Function Area: Severely water damaged and deteriorated ceiling construction with evidence from an independent inspection detecting the presence of fungus.

**Recommended Works:** Replace affected building elements as part of building refurbishment.

**Photo No.:** 1297

**Priority:** Medium





**Defect ID:** 66

**Individual Element:** Stage Construction

**Defect Description:** Level 1 Auditorium: Neither the stage nor the projection room is fire separated from the remainder of the building by construction possessing a fire resistance level of 60/60/60 or greater.

**Recommended Works:** Upgrade fire resistance as part of building refurbishment.

**Photo No.:** 1306

**Priority:** Medium



**Defect ID:** 83

**Individual Element:** Floor Construction

**Defect Description:** Ground Floor Internal Slipway - Severely deteriorated concrete floor construction.

**Recommended Works:** Perform major repairs as part of building refurbishment.

**Photo No.:** 1395

**Priority:** Medium



**Defect ID:** 85

**Individual Element:** Interior Stairs

**Defect Description:** Ground Floor to Level 1 Stairs - Water damaged and deteriorated stairs.

**Recommended Works:** Perform remedial works as part of building refurbishment.

**Photo No.:** 1404

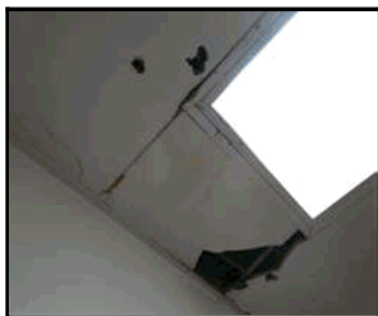
**Priority:** Medium



**Defect ID:** 87  
**Individual Element:** Floor Construction  
**Defect Description:** Ground Floor Service Area -Severely corroded and damaged floor grates  
**Recommended Works:** Replace as part of building refurbishment.  
**Photo No.:** 1430  
**Priority:** Medium



**Defect ID:** 89  
**Individual Element:** Wall Finish  
**Defect Description:** Level 1 Male Bathroom: Damaged wall tiles  
**Recommended Works:** Replace wall tiles as part of building refurbishment.  
**Photo No.:** 1451  
**Priority:** Medium



**Defect ID:** 50  
**Individual Element:** Ceiling Construction  
**Defect Description:** Level 2 Bathroom: Damaged ceiling tiles.  
**Recommended Works:** Replace affected building elements.  
**Photo No.:** 1244  
**Priority:** Medium

## Fishermans Club

### Group Element: Electrical Services

The main switchboard and metering equipment are located in the ground floor main switchroom and the substation is located in the ground floor western store area. The main switchboard supplies the distribution boards on the ground floor, level 1 and level 2.

The main switchboard and control devices are operational and generally in fair condition. The consumer mains and submains appear to be sufficiently sized to accommodate the electrical load should the Fisherman's Club be fully occupied. The distribution boards have spare capacity to accommodate additional final sub-circuits. The control devices comprise a combination of ceramic fuses and miniature circuit breakers are approaching the end of their effective life and should be upgraded.



Location Photo: 1415

A power factor correction unit has been installed adjacent to the main switchboard. At the time of the inspection, the power factor correction unit displayed a reading of 0.77, indicating a high resistive component to the electrical load and therefore inefficient power consumption. The power factor correction unit is in fair condition.

General lighting is provided by a combination of fluorescent, halogen dichroic and compact fluorescent light fittings. Light fittings have been partially removed from the ceilings across level 2 and diffuser covers have been partially removed throughout the internal areas. Apart from these minor defects, the general lighting is operational and in fair condition.

Emergency lights are installed, are operational and in fair condition. A combination of text and pictogram exit signs is installed throughout the building.

The general power final sub-circuit cabling, socket outlets and switches are generally in fair condition.

#### Recommendation

The substation should be relocated to an approved area outside of the Fisherman's Club building envelope to address risks relating to the lack of fire resisting construction separating the substation from the surrounding building elements. This work will need to be planned in consultation with and approved by Ausgrid. Whilst it is expected that the equipment costs will be borne by Ausgrid, Council will incur costs associated with the make good of building elements affected by the works and any additional works that may be required and performed in conjunction with the substation relocation (as part of the overall building refurbishment) which are not strictly the responsibility of Ausgrid.

Replace the distribution switchboards and ensure that a main circuit breaker is installed on each distribution switchboard to allow the switchboards to be locally isolated for maintenance purposes. Residual current device protection

should be installed on final sub-circuits supplying general power from the distribution switchboards. In conjunction with the upgrades to the distribution boards, the asbestos containing backing boards should be removed and the distribution boards installed within suitable distribution board cabinets.

Halogen dichroic and fluorescent lighting should be upgraded with energy efficient LED fixtures. The stage lighting should also be upgraded giving consideration to the proposed future use of the space.

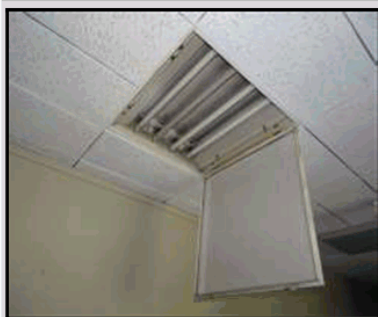
#### Condition Details:

Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Substation	Ground Floor West Store: Substation 10443		3 - Fair	19	111
Main Switchboard	Ground Floor Main Switchroom: Metal Cabinet	1	3 - Fair	19	
Main Switchboard	Ground Floor Main Switchroom: 3 Phase and Single Phase		3 - Fair	19	
Distribution Board	Ground Floor Internal Slipway (East): DB1, Metal Cabinet		3 - Fair	6	
Distribution Board Main	Ground Floor Internal Slipway (West): DB1A, 35A Main		3 - Fair	6	81
Distribution Board Main	Level 2 Plantroom: DB3		3 - Fair	15	47
Distribution Board	Level 2 Plantroom: DB3		3 - Fair	15	
Distribution Board	Ground Floor Internal Slipway (East): DB1		3 - Fair	19	
Distribution Board	Ground Floor Internal Slipway (West): DB1A		3 - Fair	19	
Distribution Board	Level 2 Plantroom: DB3, Single Phase 20A Clipsal Circuit		3 - Fair	15	
Distribution Board	Ground Floor Internal Slipway (East): DB1, Single Phase		3 - Fair	6	
Distribution Board	Ground Floor Internal Slipway (West): DB1A, Ceramic Fuses		4 - Poor	6	
Lighting - General	Level 1: CFL Fittings	56	3 - Fair	6	64
Lighting - General	Level 1: 1x18W Fluorescent Fittings	1	3 - Fair	6	
Lighting - General	Level 1: Spotlight	4	3 - Fair	6	
Lighting - General	Level 1: Track Downlight	20	3 - Fair	6	
Lighting - General	Level 1: Halogen Dichroic Downlight	80	3 - Fair	6	
Lighting - General	Ground Floor Internal Slipway: 1x36W Fluorescent Fittings	11	3 - Fair	6	
Lighting - General	Level 2 Meeting Room: 3x18W Fluorescent Fittings	14	4 - Poor	6	57
Lighting - General	Ground Floor Foyer: Halogen Dichroic Downlights	6	3 - Fair	1	
Lighting - General	Ground Floor Foyer: CFL Fittings	3	3 - Fair	1	
Lighting - General	Ground Floor Service Area: 2x36W Fluorescent Fittings	8	3 - Fair	6	
Lighting - General	Level 2 Meeting Room: CFL Fittings	12	4 - Poor	6	
Lighting - General	Level 1: 2x36W Fluorescent Fittings	17	3 - Fair	6	
Lighting - General	Level 1: PAR38	1	2 - Good	6	
Lighting - General	Level 1: Halogen Dichroic Spotlight	3	3 - Fair	6	
Lighting - General	Level 1: 4x18W Fluorescent Fittings	6	3 - Fair	6	91
Lighting - General	Level 2 Plantroom: 1x36W Fluorescent Fittings	5	3 - Fair	6	
Lighting - Exit Signs	Ground Floor Foyer: Illuminated Text	1	3 - Fair	1	
Lighting - Exit Signs	Ground Floor Internal Slipway: Illuminated Pictogram	2	3 - Fair	6	
Lighting - Exit Signs	Ground Floor Service Area: Illuminated Pictogram	4	3 - Fair	6	
Lighting - Exit Signs	Level 1: Illuminated Pictogram	2	3 - Fair	6	

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Asset Technologies Pacific

Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Lighting - Exit Signs	Level 1: Illuminated Text	1	3 - Fair	6	
Lighting - Emergency	Level 2: Tungsten Halogen Spitfire	1	3 - Fair	6	
Lighting - Emergency	Level 2: LED Spitfire	6	3 - Fair	6	
Lighting - Emergency	Level 1: Tungsten Halogen Spitfire	6	3 - Fair	6	
General Power	Level 2: Cabling and Outlets		3 - Fair	19	
General Power	Ground Floor: Cabling and Outlets		3 - Fair	19	
General Power	Level 1: Cabling and Outlets		3 - Fair	19	
Lighting - External	Roof Level: 2x36W Fluorescent Fittings	18	3 - Fair	6	
Lighting - External	Roof Level: Spotlight	2	3 - Fair	6	
Lighting - External	Roof Level: 1x18W Fluorescent Fittings	2	4 - Poor	6	
Main Switchboard	Ground Floor Main Switchroom	1	3 - Fair	19	
Power Factor Correction	Ground Floor Main Switchroom: ABB Abbacus RVC 3		3 - Fair	19	

**Defects Identified:**

**Defect ID:** 91

**Individual Element:** Lighting - General

**Defect Description:** Level 1 Stair Landing: Diffuser cover is not mechanically secure.

**Recommended Works:** Secure diffuser cover.

**Photo No.:** 1467

**Priority:** Medium



**Defect ID:** 81

**Individual Element:** Distribution Board Main Switch

**Defect Description:** Ground Floor Internal Slipway (West) - Distribution board backing contains asbestos fibres.

**Recommended Works:** Replace backing board in conjunction with distribution board upgrade.

**Photo No.:** 1392

**Priority:** Medium



**Defect ID:** 64  
**Individual Element:** Lighting - General  
**Defect Description:** Level 1 Auditorium: Diffuser cover not mechanically secure on fitting.  
**Recommended Works:** Secure diffuser cover.  
**Photo No.:** 1301  
**Priority:** Medium



**Defect ID:** 57  
**Individual Element:** Lighting - General  
**Defect Description:** Level 2 Boardroom: Light fitting is not fitted with a diffuser cover.  
**Recommended Works:** Install diffuser as part of lighting upgrade.  
**Photo No.:** 1275  
**Priority:** Medium



**Defect ID:** 47  
**Individual Element:** Distribution Board Main Switch  
**Defect Description:** Level 2 Plantroom - Distribution board backing contains asbestos fibres.  
**Recommended Works:** Replace backing board in conjunction with distribution board upgrade.  
**Photo No.:** 1223  
**Priority:** Medium



<b>Defect ID:</b>	111
<b>Individual Element:</b>	Substation
<b>Defect Description:</b>	Ground Floor Western Storage Area - Inadequate fire separation of the substation from other parts of the building by construction having a fire resistance level of 120/120/120 or greater.
<b>Recommended Works:</b>	Relocate substation to an area external to the building that is deemed suitable by Ausgrid as part of building refurbishment.
<b>Photo No.:</b>	1533
<b>Priority:</b>	Medium



## Fishermans Club

### Group Element: Mechanical Services

#### Central System Architecture

The primary system supplying conditioned air to the Fisherman's Club is a central air-conditioning system that is in poor condition and has been decommissioned. The central plant comprises a Carrier 5H80-149 chiller and an Aquacool MSS75 cooling tower, air handling and motor control centre are located in the level 2 plant room. The chiller is fitted with two 40HP compressors and the cooling tower maximum rated cooling capacity is 264kW. A Ferolli SG628 natural gas boiler supplies hot water to the supply air heating coils for the purpose of space heating.

Conditioned air is distributed throughout the ground floor foyer, level 1 office and function areas and level 2 offices via a ducted air-conditioning network. The supply air fans are located in the level 2 plant room.

The air distribution system is sized correctly and designed to accommodate up to nine zones. Whilst the ductwork is of sufficient integrity to be retained, the current configuration of the zoning may not be appropriate for Council's intended future use (particularly if a new fitout and partitioning is to be undertaken).

#### Distributed System Architecture

Supplementary air-conditioning is provided by split systems. The condensing equipment is roof mounted and the evaporator units are installed internally across level 1. The split air-conditioning systems have deteriorated, with the York units having reached the end of their effective life and requiring replacement and the remaining units needing replacement in the short term.

As the current equipment utilises R22 refrigerant, which has been phased out of production for its high global warming and ozone depleting potential, the upgraded equipment will need to use alternative refrigerants such as R410A.

#### Refrigeration System

Coolroom and refrigeration equipment is provided on the ground floor which was used for the storage of food and beverage when the Fisherman's Club was operated as a registered club. The coolroom and refrigeration equipment is in poor condition and will require upgrade if the Fisherman's Club is to be reinstated and subsequently occupied as a registered club.

#### Recommendation

As the central plant, distributed split systems and refrigeration equipment have either reached or are approaching the end of their effective lives, a building wide air-conditioning and refrigeration system upgrade is recommended. It



Location Photo: 1230



It is recommended that Council prepare a technical specification for the upgrade of the mechanical services plant and seek competitive tenders from the market for the detailed design, supply, installation and commissioning of the new system.

The existing central plant should be replaced with modern and energy efficient chiller, cooling tower and boiler equipment. The air distribution system will need to be modified to ensure appropriate zoning and control is available across the building. Where possible the existing ductwork should be retained, however it is likely that a significant replacement of the ductwork will be necessary.

The distributed system will need to be upgraded. In order to ensure complete coverage and maintain comfortable space conditions, it is expected that eight reverse cycle split systems that are sized to meet the heat loads of the building will be required.

#### Condition Details:

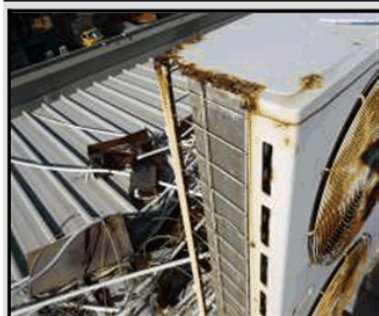
Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Damper	Throughout: Ductwork		3 - Fair	3	
Cool Room	Ground Floor Service Area	3	4 - Poor	1	
Refrigeration Compressor	Ground Floor Internal Slipway: R22 refrigerant, 2.2kW	3	3 - Fair	4	84
Supply Air Fan	Internal		3 - Fair	9	
Air Compressor	Level 2 Plant Room: Hankison	1	5 - Very Poor	2	48
Return Air Fan	Internal		3 - Fair	9	
MCC	Level 2 Plant Room	1	3 - Fair	5	
Chiller	Level 2 Plant Room: Carrier 5H80-149 40HP 2x Compressors	1	4 - Poor	5	
Cooling Tower	Level 2 Plant Room: Aquacool MSS75, 264kW Cooling	1	5 - Very Poor	1	
Pipework - Chilled Water	Level 2 Plant Room		3 - Fair	5	
Pipework - Condensor	Level 2 Plant Room		3 - Fair	5	
Water Treatment	Level 2 Plant Room: ProMinent 500 Series Water Treatment		3 - Fair	4	
Ductwork	Internal Areas: Metal	2	3 - Fair	15	
Split System Condensing	Roof Mounted: Airwell Condensing Unit	1	4 - Poor	1	
Split System Condensing	Roof Mounted: Mitsubishi MUH-GA25VB 2.55kW	1	3 - Fair	1	
Split System Condensing	Roof Mounted: Fujitsu AOT30PMAL 8kW Cooling	2	4 - Poor	1	
Split System Condensing	Roof Mounted: York Condensing Unit	4	5 - Very Poor	0	43
Split System Evaporator	Internal: Fujitsu AST30PBA 8kW Cooling Condensing	2	4 - Poor	2	
Boiler	Level 2 Plant Room: Ferroli SG628	1	3 - Fair	7	
Exhaust Fan	Roof Mounted: Fantech 0.5kW Fan	1	5 - Very Poor	1	
Exhaust Fan	Roof Mounted: Fantech 0.5kW Fan	3	3 - Fair	5	
Pump	Level 2 Plant Room: Condenser Water	1	5 - Very Poor	1	

**Defects Identified:**

**Defect ID:** 84  
**Individual Element:** Refrigeration Compressor  
**Defect Description:** Ground Floor Internal Slipway - Refrigeration equipment utilises redundant R22 refrigerant which has been phased out of production.  
**Recommended Works:** Upgrade to equipment that utilises refrigerant with low ozone depleting and global warming potential.  
**Photo No.:** 1396  
**Priority:** Medium



**Defect ID:** 48  
**Individual Element:** Air Compressor  
**Defect Description:** Level 2 Plantroom - Air compressor is approaching the end of its effective operational life.  
**Recommended Works:** Upgrade air compressor.  
**Photo No.:** 1227  
**Priority:** Medium



**Defect ID:** 43  
**Individual Element:** Split System Condensing Unit  
**Defect Description:** Roof (West) - Severely deteriorated split air-conditioning system condensing units and redundant equipment stored on roof  
**Recommended Works:** Upgrade air-conditioning and remove redundant equipment as part of building refurbishment  
**Photo No.:** 1156  
**Priority:** Medium

## Fishermans Club

### Group Element: Hydraulic Services

The stormwater system effectively discharges internal and external water runoff from the site. The existing box gutters and PVC and metal downpipes are correctly sized and are in fair condition.

The box gutters are adequate to discharge stormwater from the site. Leaf matter has accumulated on the western side of the roof and will need to be cleared. Leaf guards should be installed as part of the building refurbishment to minimise the risk of accumulated leaf matter obstructing the discharge of stormwater from the roof.

The potable water system supplies water to the kitchen, bathrooms and service areas. The potable water system, piping, fittings and fixtures are correctly sized and are in fair condition.

The sewer system effectively discharges waste from the site. The waste water pipe system, and fixtures are correctly sized for the building type and number of bathrooms and are in fair condition.

Hot water is provided by a Rheem hot water system that utilises natural gas and is rated at 11kW. The hot water system is in fair condition. The kitchen fixtures have been removed and isolated.

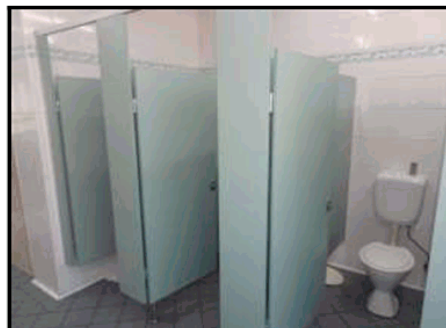
On the ground floor, bathrooms are provided for male and female artists and a changeroom is available at the service area. On level 1, bathrooms are available for male, female and accessible use. On level 2, one bathroom is available however it has not been designated in terms of the intended use.

The bathroom basins, pans, cisterns, urinals, taps and fittings are in fair condition overall however will need to be upgraded before the building is occupied as extensive staining, corrosion and cracking have occurred.

#### Recommendation

Should Council elect to retain the building, then a major upgrade of the hydraulic infrastructure and bathrooms will need to be undertaken to rectify the deteriorated state of the pipework and bathroom structures, finishes and plumbing fixtures as well as to improve the level of amenity that will be afforded to the future occupants of the building. Consideration will need to be given to the intended use of the building and the occupancy requirements such that the number, type and location of bathroom facilities can accommodate demand.

In conjunction with the bathroom refurbishment, cast iron pipework will need to be upgrade. Consideration will also need to be given to the upgrade of underground clay pipework in conjunction with this work. Temporary pipework, such as that identified at the ground floor



Location Photo: 1455

changeroom where service access to the underground pipework has been exposed, will also need to be addressed and permanent hydraulic infrastructure installed.

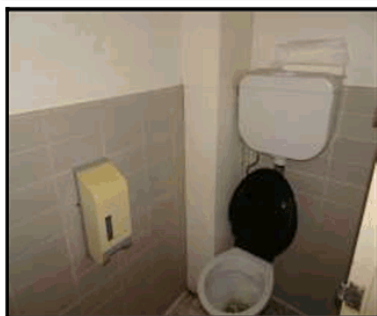
#### Condition Details:

Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Water Tank	Level 2 Plant Room		4 - Poor	4	
Internal Pipework	Bathrooms, Kitchens and Internal Areas: Pipework and		3 - Fair	19	
Internal Pipework Sewer	Bathrooms and Internal Areas: Pipework and Fittings		3 - Fair	19	
Internal Pipework Potable	Bathrooms, Kitchens and Internal Areas: Pipework and		3 - Fair	19	
Bathroom Pans	Ground Floor Male Artist Bathroom: Ceramic	1	4 - Poor	1	
Bathroom Pans	Level 1 Male Bathroom: Ceramic	4	3 - Fair	8	
Bathroom Pans	Ground Floor Female Artist Bathroom: Ceramic	1	4 - Poor	1	
Bathroom Pans	Level 1 Accessible Bathroom: Ceramic	1	3 - Fair	8	
Bathroom Pans	Level 1 Female Bathroom: Ceramic	5	3 - Fair	8	
Bathroom Pans	Level 2 Bathroom: Ceramic	1	3 - Fair	8	53
Bathroom Cisterns	Ground Floor Female Artist Bathroom: Plastic	1	4 - Poor	1	
Bathroom Cisterns	Level 1 Accessible Bathroom: Ceramic	1	3 - Fair	8	
Bathroom Cisterns	Level 1 Female Bathroom: Plastic	1	4 - Poor	4	
Bathroom Cisterns	Level 1 Male Bathroom: Plastic Drawstring	4	3 - Fair	8	
Bathroom Cisterns	Ground Floor Male Artist Bathroom: Plastic	1	4 - Poor	1	
Bathroom Cisterns	Level 1 Female Bathroom: Ceramic	4	3 - Fair	8	
Bathroom Cisterns	Level 2 Bathroom: Plastic Drawstring	1	3 - Fair	8	
Bathroom Basins	Ground Floor Male Artist Bathroom: Ceramic	1	4 - Poor	1	
Bathroom Basins	Ground Floor Changeroom: Ceramic	3	4 - Poor	1	
Bathroom Basins	Level 1 Female Bathroom: Ceramic	4	4 - Poor	4	
Bathroom Basins	Level 1 Male Bathroom: Ceramic	3	3 - Fair	8	
Bathroom Basins	Level 2 Bathroom: Ceramic	1	4 - Poor	4	
Bathroom Basins	Ground Floor Female Artist Bathroom: Ceramic	1	4 - Poor	1	
Bathroom Basins	Level 1 Accessible Bathroom: Ceramic	1	3 - Fair	8	
Bathroom Tap Fittings	Level 2 Bathroom: Metal	2	4 - Poor	4	
Bathroom Tap Fittings	Level 1 Accessible Bathroom: Metal	1	3 - Fair	8	
Bathroom Tap Fittings	Ground Floor Female Artist Bathroom: Metal	2	4 - Poor	1	
Bathroom Tap Fittings	Ground Floor Male Artist Bathroom: Metal	2	4 - Poor	1	
Bathroom Tap Fittings	Level 1 Female Bathroom: Metal	8	4 - Poor	4	
Bathroom Tap Fittings	Ground Floor Changeroom: Metal	12	4 - Poor	1	
Bathroom Tap Fittings	Level 1 Male Bathroom: Metal	6	3 - Fair	8	
Urinal	Level 2 Bathroom: Metal Trough	1	2 - Good	6	
Urinal	Level 1 Male Bathroom: Metal Trough	2	3 - Fair	6	
Hot Water Heater	Level 2 Plantroom: Rheem Natural Gas 11kW 260L	1	3 - Fair	6	
Guttering	Perimeter: Box Gutters		3 - Fair	6	
Downpipe	Perimeter: PVC		3 - Fair	12	
Thermostatic Mixing	Level 1 Accessible Bathroom: Wall Mounted	1	3 - Fair	6	
Shower	Ground Floor Male Artist Bathroom: Metal	1	4 - Poor	1	

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Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Shower	Ground Floor Female Artist Bathroom: Metal	1	4 - Poor	1	
Shower	Ground Floor Changeroom: Metal	2	4 - Poor	1	

**Defects Identified:**

**Defect ID:** 53

**Individual Element:** Bathroom Pans

**Defect Description:** Level 2 Bathroom: Only one sanitary compartment is available on level 2, bathroom fixtures are deteriorated, insufficient space is available and there is not a clear designate of whether it is designated for unisex or male / female use.

**Recommended Works:** Upgrade bathroom facilities as part of building refurbishment.

**Photo No.:** 1253

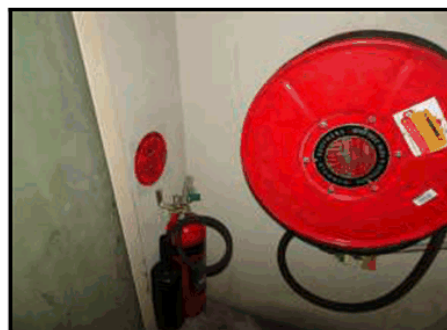
**Priority:** Medium

## Fishermans Club

### Group Element: Fire Services

The fire services involve a combination of dry fire detection and fire suppression equipment. The dry fire system comprises a Tyco Fire Indicator Panel at the ground floor foyer, smoke detectors throughout the internal areas and thermal detectors installed in areas that produce smoke such as the commercial kitchen and services areas.

Fire suppression is provided by a combination of fixed and portable fire fighting equipment. Hose reels are installed on the ground floor in the service area and on level 1 in the auditorium and stair landing. Portable fire extinguishers are located throughout the internal areas as needed. The general condition of the fire services is fair.



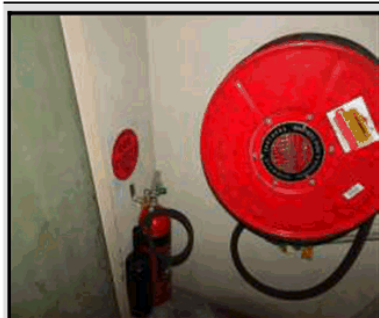
Location Photo: 1408

#### Recommendation

Should Council elect to retain the building, then a major upgrade of the fire services, including expansion of coverage of fire detection and suppression equipment, will need to be undertaken. The design of the fire services will need to give consideration to the classification of the building under the Building Code of Australia and any alternative solutions that may be developed. Allowances have been made in the life cycle cost plan for the installation of hydrants and upgrade of the hose reel services and fire detection services.

#### Condition Details:

Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Smoke Detector	Ground Floor Foyer	2	3 - Fair	1	
Extinguisher	Ground Floor Internal Slipway: CO2 4.5kg	1	2 - Good	12	
Thermal Detector	Level 1 Internal Areas	18	3 - Fair	6	
Hose Reel	Ground Floor Service Area	2	2 - Good	16	86
Extinguisher	Level 2: CO2 4.5kg	1	1 - Excellent	16	
Hose Reel	Level 1 Stair Landing	1	2 - Good	16	
Extinguisher	Level 1: CO2 4.5kg	4	1 - Excellent	16	
Extinguisher	Level 1: Water 9L	1	1 - Excellent	16	
Hose Reel	Level 1: Auditorium	1	2 - Good	16	65
Hose Reel	Ground Floor Internal Slipway	1	2 - Good	16	
Smoke Detector	Ground Floor Internal Slipway	9	3 - Fair	6	
Smoke Detector	Level 1 Internal Areas	23	3 - Fair	6	
Smoke Detector	Level 2	6	3 - Fair	6	
Thermal Detector	Level 2	2	3 - Fair	6	
Fire Indicator Panel	Ground Floor Foyer: Tyco F3200	1	3 - Fair	8	

**Defects Identified:**

**Defect ID:** 86  
**Individual Element:** Hose Reel  
**Defect Description:** Ground Floor Service Area - Distance between the hose reel and required exits exceeds the 4m limit recommended by the BCA  
**Recommended Works:** Upgrade fire safety measures as part of building refurbishment.  
**Photo No.:** 1408  
**Priority:** Medium



**Defect ID:** 65  
**Individual Element:** Hose Reel  
**Defect Description:** Level 1 Auditorium: Distance between the hose reel and required exits exceeds the 4m limit recommended by the BCA  
**Recommended Works:** Upgrade fire safety measures as part of building refurbishment.  
**Photo No.:** 1303  
**Priority:** Medium



## Fishermans Club

### Group Element: Vertical Transport

One passenger lift is installed which provides access between the ground floor at the foyer and level 1 at the stair landing. The lift has a hydraulic drive and has a safe working load rating of 635 kg. The lift car is in fair condition however does not have any indication of plant certification or compliance.

Regarding future use, Council will need to ensure that a passenger lift is available that can provide access between the ground floor and areas of the building required to be accessible, as determined by those areas that will be normally used by occupants.

#### Recommendation

Should Council elect to retain the building, then a determination will need to be made during the preliminary planning and conceptual design processes regarding the occupancy profile and classification of the building parts under the Building Code of Australia. If both levels 1 and 2 are designated as being for normal occupancy, then the passenger lift will need to be upgraded to provide access between ground floor, level 1 and level 2. The life cycle costs identified for this scenario include allowance for repairing and extending the lift shaft and upgrading the lift equipment to provide access between the ground floor, level 1 and level 2.



Location Photo: 1501

#### Condition Details:

Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Lift Switchboard	Roof Plantroom: 40A Main Circuit Breaker		2 - Good	5	
Lift Motor	Roof Plantroom: Hydraulic 635 SWL		2 - Good	5	
Lift Control Panel	Roof Plantroom		3 - Fair	5	
Lift Car	Ground Floor and Level 1: Schindler		3 - Fair	5	106

#### Defects Identified:



<b>Defect ID:</b>	106
<b>Individual Element:</b>	Lift Car
<b>Defect Description:</b>	Lift Car: Lift car does not service level 2 of the building and does not indicate compliance with the BCA Clause E provisions.
<b>Recommended Works:</b>	Consider upgrading lift depending on future intended use and building classification.
<b>Photo No.:</b>	1495
<b>Priority:</b>	Medium



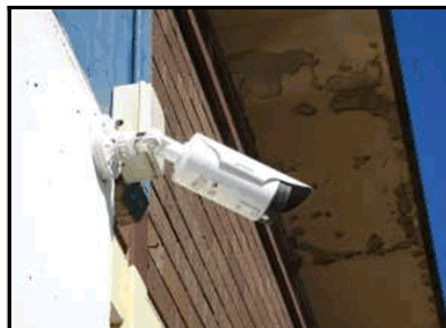
## Fishermans Club

### Group Element: Electronic Security

The electronic security systems comprise a combination of detection and closed circuit television (CCTV) monitoring systems. The detection system utilises passive infrared field devices and that are monitored by a DAS control panel. Dome and bullet type CCTV cameras are installed across the internal areas and perimeter of the building to provide coverage of access points. The cameras are in poor condition and the sensors are in fair condition.

#### Recommendation

The electronic security systems will need to be upgraded to ensure adequate coverage and performance should Council elect to retain the building.



Location Photo: 1347

### Condition Details:

Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
CCTV Control Unit	Internal Areas		3 - Fair	3	
CCTV Monitor	Internal Areas		3 - Fair	3	
CCTV Camera	Throughout: Dome	6	4 - Poor	3	
CCTV Camera	Throughout: Bullet	6	4 - Poor	3	
Field Device	Internal Areas: Passive Infrared Sensor	3	3 - Fair	8	
Control Panel	Ground Floor Foyer: DAS	1	3 - Fair	3	

## Fishermans Club

### Group Element: Civil Elements

The civil elements comprise the carpark, wharf and outdoor structures. The carpark is constructed from asphalt that is in poor condition, with sections that exhibit crazing and deterioration to the extent where the underlying grade has become exposed. The line markings have deteriorated and will need to be reapplied. The line markings will need to allow for parking spaces that are designated for accessible use.

The concrete hardstand is in fair condition on the southern side and in poor condition on the northern side. Significant cracking has occurred on the northern hardstand and ramps from the northern and eastern slipways and the north-western platform.

The wharf and bridge structures are in fair condition with moderate deterioration. The fencing has corroded and is in poor condition.

#### Recommendation

Major repairs will need to be undertaken to address the deteriorated condition of the carpark, hardstand, fencing and gate elements. The works should focus on those areas where safety risks are evident, such as trip hazards caused by displacement of the hardstand at the northern side and subsidence of isolated sections of the carpark or the damaged handrail at the entrance ramp.



Location Photo: 1569

### Condition Details:

Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Wharf Structure	Northern Exterior: Concrete		3 - Fair	7	
Driveway Line Marking	Driveway: Paint		4 - Poor	2	
Carpark Surface	Carpark: Asphalt		4 - Poor	6	117,
Gate	Northeastern Exterior: Metal		3 - Fair	7	
Kerb	Carpark: Concrete		3 - Fair	8	
Wharf Bridge	Northern Exterior: Timber		3 - Fair	7	
Carpark Line Marking	Carpark: Paint		4 - Poor	2	
Fence	Northern Exterior: Metal Chainlink		3 - Fair	9	
Slipway Track	Muddy Creek Boating and Amateur Fishing Association		3 - Fair	3	71
Retaining Wall	Carpark: Masonry		4 - Poor	11	114
Slipway Track	Fisherman's Club		4 - Poor	3	77, 82
Hardstand	Northern Exterior: Concrete		4 - Poor	5	73, 78,
Slipway Structure	Muddy Creek Boating and Amateur Fishing Association		3 - Fair	3	
Slipway Structure	Fisherman's Club		4 - Poor	3	
Gate	Northern Exterior: Metal Chainlink		3 - Fair	7	
Driveway Surface	Driveway: Asphalt		4 - Poor	6	
Gate	Eastern Exterior: Metal Chainlink		3 - Fair	7	124

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Individual Element	Description	Quantity	Condition Rating	Remaining Life	Defect ID
Wharf Bridge Handrail	Northern Exterior: Metal		4 - Poor	7	76
Deck Structure	Exterior (Northeast): Metal Frame and Timber Deck		4 - Poor	19	75
Exterior Handrail	Southern Exterior: Metal		4 - Poor	7	112
Exterior Signage	Carpark: Paint		3 - Fair	8	

**Defects Identified:**

**Defect ID:** 82

**Individual Element:** Slipway Track

**Defect Description:** Ground Floor Internal Slipway - Severely corroded slipway tracks.

**Recommended Works:** Replace affected sections of the slipway tracks.

**Photo No.:** 1393

**Priority:** Medium



**Defect ID:** 80

**Individual Element:** Hardstand

**Defect Description:** Exterior Slipway (Northwest) - Severely deteriorated concrete hardstand.

**Recommended Works:** Perform remedial works as part of building refurbishment.

**Photo No.:** 1382

**Priority:** Medium



**Defect ID:** 78

**Individual Element:** Hardstand

**Defect Description:** Exterior Slipway (North) - Severely deteriorated concrete hardstand.

**Recommended Works:** Perform remedial works as part of building refurbishment.

**Photo No.:** 1374

**Priority:** Medium



**Defect ID:** 77

**Individual Element:** Slipway Track

**Defect Description:** Exterior Slipway (North) - Severely corroded slipway tracks.

**Recommended Works:** Replace affected sections of the slipway tracks.

**Photo No.:** 1364

**Priority:** Medium



**Defect ID:** 76

**Individual Element:** Wharf Bridge Handrail

**Defect Description:** Wharf Bridge - Handrail is not continuous across length of the bridge.

**Recommended Works:** Upgrade handrail to minimise risk of slips and trips.

**Photo No.:** 1373

**Priority:** Medium



**Defect ID:** 75

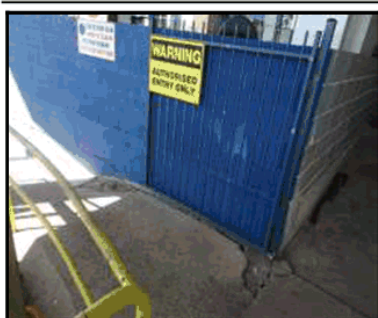
**Individual Element:** Deck Structure

**Defect Description:** Exterior (Northeast Deck) - Severely corroded metal footings that support the timber deck.

**Recommended Works:** Replace metal footings and enclose with protective jackets to minimise the rate of deterioration from exposure to salt water.

**Photo No.:** 1354

**Priority:** Medium



**Defect ID:** 73

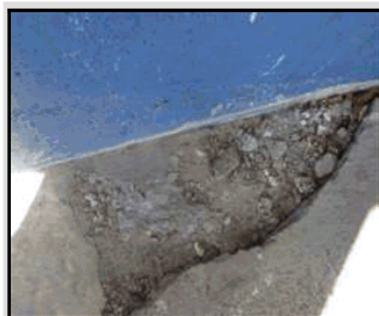
**Individual Element:** Hardstand

**Defect Description:** Exterior (Northern Corridor to Slipway) - Path forms part of the egress route and has width less than 1 metre and noncomplying gradient

**Recommended Works:** Review paths of egress and perform remedial works.

**Photo No.:** 1345

**Priority:** Medium



**Defect ID:** 72  
**Individual Element:** Hardstand  
**Defect Description:** Exterior (Northern Corridor to Slipway) - Deteriorated hardstand.  
**Recommended Works:** Repair hardstand surface.  
**Photo No.:** 1343  
**Priority:** Medium



**Defect ID:** 71  
**Individual Element:** Slipway Track  
**Defect Description:** Exterior (Northeastern Corner) - Slipway tracks and equipment obstruct the path of egress from the building  
**Recommended Works:** Review paths of egress and configuration of slipway.  
**Photo No.:** 1331  
**Priority:** Medium



**Defect ID:** 124  
**Individual Element:** Gate  
**Defect Description:** Exterior (East) - Lockable gate obstructs the path of egress from the northeastern exits of the building.  
**Recommended Works:** Upgrade gate with emergency pushbar provision to enable egress in the event of an emergency.  
**Photo No.:** 1568  
**Priority:** Medium



**Defect ID:** 122  
**Individual Element:** Carpark Surface  
**Defect Description:** Exterior (Southeast) - Damaged carpark surface and exposed sections that permit water to accumulate.  
**Recommended Works:** Repair affected sections as part of building refurbishment.  
**Photo No.:** 1572  
**Priority:** Medium

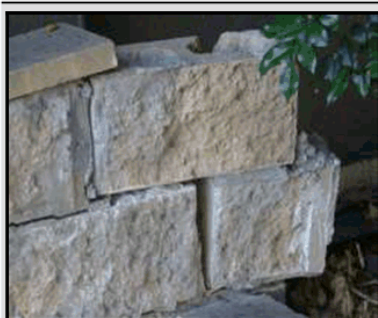




**Defect ID:** 117  
**Individual Element:** Carpark Surface  
**Defect Description:** Exterior (South) - Crazing of carpark surface.  
**Recommended Works:** Repair affected sections as part of building refurbishment.  
**Photo No.:** 1561  
**Priority:** Medium



**Defect ID:** 116  
**Individual Element:** Carpark Surface  
**Defect Description:** Exterior (South) - Damaged carpark surface.  
**Recommended Works:** Repair affected sections as part of building refurbishment.  
**Photo No.:** 1560  
**Priority:** Medium



**Defect ID:** 114  
**Individual Element:** Retaining Wall  
**Defect Description:** Exterior (South) - Damaged retaining wall.  
**Recommended Works:** Repair as part of building refurbishment.  
**Photo No.:** 1557  
**Priority:** Medium



**Defect ID:** 112  
**Individual Element:** Exterior Handrail  
**Defect Description:** Exterior (Southern Entrance) - Sections of handrail have separated and are not mechanically secure.  
**Recommended Works:** Secure handrail by welding discontinuous sections together.  
**Photo No.:** 1553  
**Priority:** Medium

**5. LIFE CYCLE COST PLAN FOR 2018/19 - 2027/28****100B BESTIC STREET, BRIGHTON LE SANDS NSW****Fishermans Club (Retain and Redevelop)**

	Cost Type	Group Element	Details	Priority	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	Total
1.	Capital Investment	Civil Elements	Exterior - Perform surface repairs to carpark	2 - Medium	\$32,000										\$32,000
2.	Capital Investment	Civil Elements	Exterior - Perform major repairs to damaged hardstand, slipway, handrail, fence and gate elements	2 - Medium	\$94,000										\$94,000
3.	Capital Investment	Electrical	Interior - Upgrade submains and distribution boards (including RCD protection for final subcircuits), remove asbestos containing material and update electrical schedules	2 - Medium	\$103,000	\$192,000									\$295,000
4.	Capital Investment	Electrical	Upgrade general, external, emergency and exit lighting and install additional emergency and exit lights as required to achieve the necessary coverage	2 - Medium		\$158,000									\$158,000
5.	Capital Investment	Electrical	Throughout - Upgrade stage light fittings with energy efficient fixtures and provide dimming control	2 - Medium		\$80,000									\$80,000
6.	Capital Investment	Fire & Essential Services	Upgrade fire indicator panel, smoke and thermal detectors, install additional detectors as required to achieve necessary coverage	2 - Medium		\$98,000									\$98,000
7.	Capital Investment	Fire & Essential Services	Allowance for the detailed design, supply, installation and commissioning of four fire hydrants and upgrade of hose reels	2 - Medium		\$137,000									\$137,000
8.	Capital Investment	Hydraulic	Roof - Upgrade gutters and downpipes and install leaf guards	2 - Medium	\$42,000										\$42,000
9.	Capital Investment	Hydraulic	Ground Floor, Level 1 and Level 2 - Refurbish seven bathrooms including upgrade of fixtures, construction and finishes, and perform major repairs to hydraulic infrastructure	2 - Medium		\$475,000									\$475,000
10.	Capital Investment	Internal Construction	Ground Floor, Level 1 and Level 2 Interiors (Excluding Ground Floor Service Area and Level 2 Plant Room) - Remove suspended grid and plasterboard ceilings, seal water penetrations and replace suspended ceiling grids, tiles and plasterboard	2 - Medium		\$410,000									\$410,000

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**Fishermans Club (Retain and Redevelop)**

Cost Type	Group Element	Details	Priority	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	Total
11. Capital Investment	Internal Construction	Ground Floor, Level 1 and Level 2 Interiors (Excluding Ground Floor Service Area and Level 2 Plant Room) - Replace carpet and tile floor covers across ground floor, level 1 and level 2 and repair timber floor at level 1 auditorium	2 - Medium		\$300,000									\$300,000
12. Capital Investment	Internal Construction	Interiors - Perform demolition works to remove asbestos containing materials as well as interior plasterboard walls and suspended grid and plasterboard ceilings to expose building elements that have been subjected to fungal growth	2 - Medium	\$350,000										\$350,000
13. Capital Investment	Internal Construction	Interiors - Hire of HEPA air filtration units to be located at the ground floor service area corridor and foyer, level 1 function room and bar, and level 2 meeting room and perform structural drying across the level 1 kitchen and northern wall adjacent to the kitchen, ground floor service area corridor and south-western wall adjacent to the exit. Filtration and drying to be performed continuously over two weeks.	2 - Medium	\$42,000										\$42,000
14. Capital Investment	Internal Construction	Interiors - Relocate substation including decommissioning of existing equipment and supply and install of new equipment and consumer mains (Council costs only)	2 - Medium	\$50,000										\$50,000
15. Capital Investment	Internal Construction	Ground Floor, Level 1 and Level 2 Interiors - Refurbish stairs between ground floor and level 1 and between level 1 and level 2 with upgraded balustrade / handrail, tactile ground surface indicators, nosings and finishes	2 - Medium		\$22,000									\$22,000
16. Capital Investment	Internal Construction	Allowance to perform internal modifications to suit future occupancy requirements (excluding fitout) whilst also achieving accessibility requirements where possible	2 - Medium		\$122,000									\$122,000
17. Capital Investment	Internal Construction	Ground Floor, Level 1 and Level 2 Interiors (Excluding Ground Floor Service Area and Level 2 Plant Room) - Repair damaged brick and concrete walls, replace plasterboard walls and reapply wall finishes	2 - Medium		\$278,000									\$278,000
18. Capital Investment	Internal Construction	Interiors - Upgrade fire resistance by constructing separation between the stage and other parts of the building with 60/60/60 FRL construction	2 - Medium		\$223,000									\$223,000

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**Fishermans Club (Retain and Redevelop)**

Cost Type	Group Element	Details	Priority	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	Total
19. Capital Investment	Mechanical	Level 2 Plantroom - Detailed design, supply, installation and commissioning of new 400kW chiller, cooling tower, pump, fan, water treatment and control equipment.	2 - Medium	\$317,000	\$248,000									\$565,000
20. Capital Investment	Mechanical	Roof and Internal Areas - Upgrade eight split air-conditioning systems	2 - Medium	\$59,000										\$59,000
21. Capital Investment	Mechanical	Throughout Ductwork - Modify ductwork (retain existing ductwork where possible) and install additional ductwork as part of upgrade to the central plant.	2 - Medium	\$79,000	\$110,000									\$189,000
22. Capital Investment	Security	Upgrade detection system including control panel and passive infrared sensing field devices and upgrade CCTV system including cameras and control terminal	2 - Medium		\$36,000									\$36,000
23. Capital Investment	Structure & Shell	Roof - Replace roof covers of the level 1 roof and level 2 roof and seal water penetrations	1 - High	\$480,000										\$480,000
24. Capital Investment	Structure & Shell	Exterior - Perform major repairs to soffit	2 - Medium	\$64,000										\$64,000
25. Capital Investment	Structure & Shell	Exterior - Repair cracks, mechanical damage and deterioration across the perimeter and renew paint finishes	2 - Medium	\$508,000										\$508,000
26. Capital Investment	Structure & Shell	Exterior - Replace manual and automatic doors	2 - Medium	\$32,000										\$32,000
27. Capital Investment	Structure & Shell	Foundations - Perform repairs to foundations and structures as required in conjunction with other works to the structure	2 - Medium	\$95,000										\$95,000
28. Capital Investment	Vertical Transport	Ground Floor & Level 1 - Upgrade passenger lift car, controls and motors (includes allowance for Level 2 being designated as an area normally used and needing to be accessible, such that the lift is extended and services all three levels).	2 - Medium	\$97,000	\$210,000									\$307,000
<b>Sub-Total Capital Investment - Fishermans Club (Retain and Redevelop)</b>				<b>\$2,444,000</b>	<b>\$3,099,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$5,543,000</b>

Cost Type	Group Element	Details	Priority	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	Total
1. Capital Renewal	Internal Construction	Ground Floor, Level 1 and Level 2 Interiors - Renew deteriorated internal finishes and perform repairs to damaged floor, wall and ceiling elements as required	2 - Medium							\$73,000	\$65,000			\$138,000

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**Fishermans Club (Retain and Redevelop)**

Cost Type	Group Element	Details	Priority	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	Total
2. Capital Renewal	Structure & Shell	Exterior - Perform repairs to window and door hardware and renew deteriorated finishes	2 - Medium										\$42,000	\$42,000
Sub-Total Capital Renewal - Fishermans Club (Retain and Redevelop)				\$0	\$0	\$0	\$0	\$0	\$0	\$73,000	\$65,000	\$0	\$42,000	\$180,000

Cost Type	Group Element	Details	Priority	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	Total
1. Regular Preventative Maintenance	Electrical	Inspection, testing and annual certification of emergency lighting and illuminated exit signage, testing of residual current devices, thermal scanning of switchboards and test / tag of electrical appliances.	2 - Medium			\$11,000	\$16,200	\$16,200	\$16,200	\$16,200	\$16,200	\$16,200	\$16,200	\$124,400
2. Regular Preventative Maintenance	Fire & Essential Services	Inspection, testing and annual certification of fire fighting and detection equipment and collation of certifications for each essential service and preparation of the annual fire safety statement.	2 - Medium			\$6,000	\$9,700	\$9,700	\$9,700	\$9,700	\$9,700	\$9,700	\$9,700	\$73,900
3. Regular Preventative Maintenance	Hydraulic	Inspection and testing of thermostatic mixing valves (and recalibration where necessary), clearing stormwater drainage grates and inspecting hydraulic systems for defects.	2 - Medium			\$5,000	\$6,900	\$6,900	\$6,900	\$6,900	\$6,900	\$6,900	\$6,900	\$53,300
4. Regular Preventative Maintenance	Mechanical	Inspection of heating, ventilation and air-conditioning equipment and perform repairs where necessary.	2 - Medium			\$21,000	\$35,500	\$35,500	\$35,500	\$35,500	\$35,500	\$35,500	\$35,500	\$269,500
Sub-Total Regular Preventative Maintenance - Fishermans Club (Retain and Redevelop)				\$0	\$0	\$43,000	\$68,300	\$68,300	\$68,300	\$68,300	\$68,300	\$68,300	\$68,300	\$521,100

Cost Type	Group Element	Details	Priority	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	Total
1. Reactive Maintenance	Civil Elements	Repair defects.	2 - Medium				\$3,200	\$3,500	\$3,800	\$4,100	\$4,400	\$4,800	\$2,000	\$25,800
2. Reactive Maintenance	Electrical	Repair defects and replace lamps as required.	2 - Medium				\$1,200	\$1,600	\$2,000	\$2,500	\$4,000	\$5,000	\$6,100	\$22,400
3. Reactive Maintenance	Fire & Essential Services	Repair defects and recharge extinguishers.	2 - Medium				\$2,100	\$3,000	\$4,800	\$5,100	\$5,400	\$5,700	\$6,000	\$32,100
4. Reactive Maintenance	Hydraulic	Repair defects, replace washers and seals, clear blocked toilets and drains, and clear drain waste traps	2 - Medium				\$2,400	\$3,300	\$3,800	\$4,200	\$4,600	\$4,700	\$4,800	\$27,800
5. Reactive Maintenance	Internal Construction	Repair defects.	2 - Medium				\$1,000	\$3,300	\$5,500	\$1,200	\$1,400	\$2,800	\$3,700	\$18,900

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**Fishermans Club (Retain and Redevelop)**

Cost Type	Group Element	Details	Priority	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	Total
6.	Reactive Maintenance Mechanical	Repair defects.	2 - Medium				\$5,300	\$8,600	\$15,100	\$24,600	\$27,600	\$28,100	\$28,700	\$138,000
7.	Reactive Maintenance Security	Repair defects.	2 - Medium				\$2,400	\$3,600	\$4,500	\$6,000	\$7,400	\$8,100	\$8,400	\$40,400
8.	Reactive Maintenance Structure & Shell	Repair defects.	2 - Medium					\$5,900	\$8,000	\$9,200	\$9,400	\$9,600	\$10,000	\$52,100
<b>Sub-Total Reactive Maintenance - Fishermans Club (Retain and Redevelop)</b>				\$0	\$0	\$0	\$17,600	\$32,800	\$47,500	\$56,900	\$64,200	\$68,800	\$69,700	\$357,500

Cost Type	Group Element	Details	Priority	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	Total
1.	Comprehensive Maintenance	Vertical Transport Inspection, testing and annual certification of vertical transport services.	2 - Medium			\$13,000	\$19,400	\$19,400	\$19,400	\$19,400	\$19,400	\$19,400	\$19,400	\$148,800
<b>Sub-Total Comprehensive Maintenance - Fishermans Club (Retain and Redevelop)</b>				\$0	\$0	\$13,000	\$19,400	\$19,400	\$19,400	\$19,400	\$19,400	\$19,400	\$19,400	\$148,800

**Total - Fishermans Club (Retain and Redevelop)**      \$2,444,000    \$3,099,000    \$56,000    \$105,300    \$120,500    \$135,200    \$217,600    \$216,900    \$156,500    \$199,400    \$6,750,400

**Cumulative Total for Fishermans Club (Retain and Redevelop)**      \$2,444,000    \$5,543,000    \$5,599,000    \$5,704,300    \$5,824,800    \$5,960,000    \$6,177,600    \$6,394,500    \$6,551,000    \$6,750,400

**Cumulative Average for Fishermans Club (Retain and Redevelop)**      \$2,444,000    \$2,771,500    \$1,866,333    \$1,426,075    \$1,164,960    \$993,333    \$882,514    \$799,313    \$727,889    \$675,040

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**Fishermans Club (Demolish and Convert)**

Cost Type	Group Element	Details	Priority	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	Total
1. Capital Investment	Civil Elements	Demolish carpark surface and remove from site all waste	2 - Medium	\$256,000										\$256,000
2. Capital Investment	Environs and Site Structures	Levelling of land and supply and installation of turf across 2200m2 area (correlating to the existing building)	2 - Medium	\$185,000										\$185,000
3. Capital Investment	Environs and Site Structures	Tree planting (allow 30 large trees) and basic landscaping including gardens and edging	2 - Medium	\$163,000										\$163,000
4. Capital Investment	Environs and Site Structures	Supply and installation of six seats and two benches	2 - Medium	\$34,000										\$34,000
5. Capital Investment	Environs and Site Structures	Levelling of land and supply and installation of turf across 2900m2 area (correlating to the existing carpark)	2 - Medium	\$212,000										\$212,000
6. Capital Investment	Structure & Shell	Demolish and remove from site all structures, systems and services (including allowance for safe disposal of asbestos containing materials and fungus affected construction elements).	2 - Medium	\$390,000										\$390,000
<b>Sub-Total Capital Investment - Fishermans Club (Demolish and Convert)</b>				<b>\$1,240,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,240,000</b>
Cost Type	Group Element	Details	Priority	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	Total
1. Regular Maintenance	Environs and Site Structures	Maintain open space area including grass cutting, garden plant pruning and inspection of seats / benches	2 - Medium		\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$46,800	\$421,200
<b>Sub-Total Regular Maintenance - Fishermans Club (Demolish and Convert)</b>				<b>\$0</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$421,200</b>
<b>Total - Fishermans Club (Demolish and Convert)</b>				<b>\$1,240,000</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$46,800</b>	<b>\$1,661,200</b>
<b>Cumulative Total for Fishermans Club (Demolish and Convert)</b>				<b>\$1,240,000</b>	<b>\$1,286,800</b>	<b>\$1,333,600</b>	<b>\$1,380,400</b>	<b>\$1,427,200</b>	<b>\$1,474,000</b>	<b>\$1,520,800</b>	<b>\$1,567,600</b>	<b>\$1,614,400</b>	<b>\$1,661,200</b>	
<b>Cumulative Average for Fishermans Club (Demolish and Convert)</b>				<b>\$1,240,000</b>	<b>\$643,400</b>	<b>\$444,533</b>	<b>\$345,100</b>	<b>\$285,440</b>	<b>\$245,667</b>	<b>\$217,257</b>	<b>\$195,950</b>	<b>\$179,378</b>	<b>\$166,120</b>	

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**Summary of Major Defects to Be Rectified as Part of Capital Investment**

Cost Type	Group Element	Details
1. Capital Investment	Shell	Exterior (Southern Entrance) - Sections of handrail have separated and are not mechanically secure. - Secure handrail by welding discontinuous sections together.
2. Capital Investment	Shell	Exterior (South) - Damaged sections of the soffit. - Repair as part of building refurbishment.
3. Capital Investment	Shell	Exterior (South) - Severely damaged soffit with exposed sections evident. - Repair as part of building refurbishment.
4. Capital Investment	Shell	Exterior (South) - Severely water damaged soffit with exposed section evident. - Repair as part of building refurbishment.
5. Capital Investment	Shell	Exterior (South) - Damaged soffit with exposed section evident. - Repair as part of building refurbishment.
6. Capital Investment	Shell	Exterior (South) - Damaged soffit with exposed section evident. - Repair as part of building refurbishment.
7. Capital Investment	Shell	Exterior (South) - Severely deteriorated door. - Replace as part of building refurbishment.
8. Capital Investment	Shell	Exterior (South and West) - Glazing across perimeter walls does not achieve required fire resistance level of 60/60/60. - Upgrade fire resistance as part of building refurbishment.
9. Capital Investment	Shell	Roof (West and Northwest) - Accumulated leaf matter on roof - Remove as part of building refurbishment.
10. Capital Investment	Shell	Roof - Space between platform and roof plantroom stair landing presents a trip risk. - Replace platform as part of building refurbishment.
11. Capital Investment	Shell	Roof - Corroded handrails at platform. - Replace handrails as part of building refurbishment.
12. Capital Investment	Shell	Roof (South West) - Deteriorated timber roof walkway. - Replace roof walkway as part of building refurbishment.
13. Capital Investment	Shell	Roof (Southwest and West) - Deteriorated roof cover. - Replace affected sections as part of building refurbishment.
14. Capital Investment	Shell	Roof (South) - Deteriorated roof cover. - Replace deteriorated sections as part of building refurbishment.
15. Capital Investment	Shell	Roof - Severely deteriorated platform and stairs at the roof entrance to the level 2 plantroom. - Replace platform as part of building refurbishment.
16. Capital Investment	Shell	Roof Level (West) - Severely deteriorated window frame - Replace window frames as part of building refurbishment.

Cost Type	Group Element	Details
17. Capital Investment	Shell	Roof Level (West) - Damaged window glazing. - Replace glazing in conjunction with window frame replacement works performed as part of building refurbishment.
18. Capital Investment	Shell	Exterior (Northeastern Corner) - Deteriorated concrete structural wall with exposed steel reinforcement - Perform remedial works to repair concrete and enclose steel reinforcement.
19. Capital Investment	Shell	Exterior (Northeastern Corner) - Evidence of water leaks penetrating from level 1 deck to the underside of the deck - Seal water penetrations.
20. Capital Investment	Shell	Exterior (Northeastern Corner, North Aspect) - Minor cracking below window frame. - Perform remedial works to repair cracks.
21. Capital Investment	Shell	Exterior (North) - Deteriorated soffit - Perform remedial works as part of building refurbishment.
22. Capital Investment	Shell	Exterior (Northeast Deck) - Severely corroded metal footings that support the timber deck. - Replace metal footings and enclose with protective jackets to minimise the rate of deterioration from exposure to salt water.
23. Capital Investment	Shell	Exterior Slipway (North) - Severely corroded roller doors. - Replace roller doors.
24. Capital Investment	Shell	Level 1 Deck - Deteriorated deck surface - Repair cracks and repaint surface as part of building refurbishment.
25. Capital Investment	Civil Elements	Exterior (South) - Damaged carpark surface. - Repair affected sections as part of building refurbishment.
26. Capital Investment	Civil Elements	Exterior (South) - Cracking of carpark surface. - Repair affected sections as part of building refurbishment.
27. Capital Investment	Civil Elements	Exterior (Southeast) - Damaged carpark surface and exposed sections that permit water to accumulate. - Repair affected sections as part of building refurbishment.
28. Capital Investment	Civil Elements	Exterior (Northeastern Corner) - Slipway tracks and equipment obstruct the path of egress from the building - Review paths of egress and configuration of slipway.
29. Capital Investment	Civil Elements	Wharf Bridge - Handrail is not continuous across length of the bridge. - Upgrade handrail to minimise risk of slips and trips.
30. Capital Investment	Civil Elements	Exterior Slipway (North) - Severely corroded slipway tracks. - Replace affected sections of the slipway tracks.
31. Capital Investment	Civil Elements	Ground Floor Internal Slipway - Severely corroded slipway tracks. - Replace affected sections of the slipway tracks.
32. Capital Investment	Compressed Air	Level 2 - Medium Plantroom - Air compressor is approaching the end of its effective operational life. - Upgrade air compressor.

Cost Type	Group Element	Details
33. Capital Investment	Electrical	Ground Floor Western Storage Area - Inadequate fire separation of the substation from other parts of the building by construction having a fire resistance level of 120/120/120 or greater. - Relocate substation to an area external to the building that is deemed suitable by Ausgrid as part of building refurbishment.
34. Capital Investment	Electrical	Level 2 Plantroom - Distribution board backing contains asbestos fibres. - Replace backing board in conjunction with distribution board upgrade.
35. Capital Investment	Electrical	Level 2 Boardroom: Light fitting is not fitted with a diffuser cover. - Install diffuser as part of lighting upgrade.
36. Capital Investment	Electrical	Level 1 Auditorium: Diffuser cover not mechanically secure on fitting. - Secure diffuser cover.
37. Capital Investment	Electrical	Ground Floor Internal Slipway (West) - Distribution board backing contains asbestos fibres. - Replace backing board in conjunction with distribution board upgrade.
38. Capital Investment	Electrical	Level 1 Stair Landing: Diffuser cover is not mechanically secure. - Secure diffuser cover.
39. Capital Investment	Environs and Site Structures	Exterior (South) - Damaged retaining wall. - Repair as part of building refurbishment.
40. Capital Investment	Environs and Site Structures	Exterior (East) - Lockable gate obstructs the path of egress from the northeastern exits of the building. - Upgrade gate with emergency pushbar provision to enable egress in the event of an emergency.
41. Capital Investment	Fire & Essential Services	Level 1 Auditorium: Distance between the hose reel and required exits exceeds the 4m limit recommended by the BCA - Upgrade fire safety measures as part of building refurbishment.
42. Capital Investment	Fire & Essential Services	Ground Floor Service Area - Distance between the hose reel and required exits exceeds the 4m limit recommended by the BCA - Upgrade fire safety measures as part of building refurbishment.
43. Capital Investment	Fuel System	Exterior (Northern Corridor to Slipway) - Deteriorated hardstand. - Repair hardstand surface.
44. Capital Investment	Fuel System	Exterior (Northern Corridor to Slipway) - Path forms part of the egress route and has width less than 1 metre and noncomplying gradient - Review paths of egress and perform remedial works.
45. Capital Investment	Fuel System	Exterior Slipway (North) - Severely deteriorated concrete hardstand. - Perform remedial works as part of building refurbishment.
46. Capital Investment	Fuel System	Exterior Slipway (Northwest) - Severely deteriorated concrete hardstand. - Perform remedial works as part of building refurbishment.
47. Capital Investment	Hydraulic	Level 2 Bathroom: Only one sanitary compartment is available on level 2, bathroom fixtures are deteriorated, insufficient space is available and there is not a clear designate of whether it is designated for unisex or male / female use. - Upgrade bathroom

Bayside Council – Condition Assessment Report

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Cost Type	Group Element	Details
48. Capital Investment	Internal Construction	Level 1 Restaurant: Missing ceiling tile and exposed cabling. - Install ceiling tile.
49. Capital Investment	Internal Construction	Level 1 Restaurant: Ceiling tile not mechanically secure. - Secure ceiling tile.
50. Capital Investment	Internal Construction	Level 1 Restaurant: Missing ceiling tile. - Install ceiling tile.
51. Capital Investment	Internal Construction	Level 1 Restaurant: Water damaged and deteriorated ceiling tiles with evidence of fungal spores independently identified throughout the building. - Replace affected building elements.
52. Capital Investment	Internal Construction	Level 1 Store (Northwest): Deteriorated and missing ceiling tiles. - Replace ceiling tiles.
53. Capital Investment	Internal Construction	Level 1 Kitchen - Severely damaged ceiling construction. - Reconstruct affected sections of the ceiling.
54. Capital Investment	Internal Construction	Level 1 Office: Water damaged and deteriorated ceiling tiles with evidence of fungal spores independently identified throughout the building. - Replace affected building elements.
55. Capital Investment	Internal Construction	Ground Floor Foyer - Cracked wall above entrance counter. - Repair crack as part of building refurbishment.
56. Capital Investment	Internal Construction	Ground Floor Foyer -Water damaged and deteriorated ceiling tiles with evidence of fungal spores independently identified throughout the building - Replace affected building elements.
57. Capital Investment	Internal Construction	Ground Floor Changeroom - Service access to the underground pipework has been exposed and temporary pipework installed. - Upgrade hydraulic services as part of building refurbishment.
58. Capital Investment	Internal Construction	Ground Floor Service Area - Water damaged concrete floors. - Perform remedial works as part of building refurbishment.
59. Capital Investment	Internal Construction	Level 2 Boardroom: Water damaged and deteriorated ceiling tiles with evidence of fungal spores independently identified throughout the building - Replace affected building elements.
60. Capital Investment	Internal Construction	Level 2 Bathroom: Damaged ceiling tiles. - Replace affected building elements.
61. Capital Investment	Internal Construction	Level 2 Boardroom: Water damaged and deteriorated ceiling tiles with evidence of fungal spores independently identified throughout the building - Replace affected building elements.
62. Capital Investment	Internal Construction	Level 2 Stair Landing: Exposed penetrations in ceiling tiles. - Replace ceiling tiles.
63. Capital Investment	Internal Construction	Level 1 to 2 Stairs: Stair does not afford a continuous path of travel for egress purposes and is not fitted with non-slip and contrasting nosings, tactile ground surface indicators and has openings that permit a sphere of 125mm diameter to pass. - Upgrad

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Cost Type	Group Element	Details
64. Capital Investment	Internal Construction	Level 2 Doors: Deteriorated door hardware and door handles are at inconsistent heights - Upgrade door hardware as part of building refurbishment.
65. Capital Investment	Internal Construction	Level 1 Auditorium: Deteriorated timber floor. - Refurbish timber floor as part of building refurbishment.
66. Capital Investment	Internal Construction	Level 1 Corridor Between Function Area and Bathrooms: Severely deteriorated floor construction and tiles - Perform remedial works as part of building refurbishment.
67. Capital Investment	Internal Construction	Level 1 Function Area: Severely water damaged and deteriorated ceiling construction with evidence from an independent inspection detecting the presence of fungus. - Replace affected building elements as part of building refurbishment.
68. Capital Investment	Internal Construction	Level 1 Auditorium: Neither the stage nor the projection room is fire separated from the remainder of the building by construction possessing a fire resistance level of 60/60/60 or greater. - Upgrade fire resistance as part of building refurbishment.
69. Capital Investment	Internal Construction	Ground Floor Internal Slipway - Severely deteriorated concrete floor construction. - Perform major repairs as part of building refurbishment.
70. Capital Investment	Internal Construction	Ground Floor to Level 1 Stairs - Water damaged and deteriorated stairs. - Perform remedial works as part of building refurbishment.
71. Capital Investment	Internal Construction	Ground Floor Service Area - Severely corroded and damaged floor grates - Replace as part of building refurbishment.
72. Capital Investment	Internal Finishes	Level 2 Projection Room: Deteriorated vinyl floor tiles which also contain asbestos - Replace floor tiles
73. Capital Investment	Internal Finishes	Level 1 Male Bathroom: Damaged wall tiles - Replace wall tiles as part of building refurbishment.
74. Capital Investment	Internal Finishes	Level 1 Female Bathroom: Damaged wall tiles - Replace wall tiles as part of building refurbishment.
75. Capital Investment	Mechanical	Roof (West) - Severely deteriorated split air-conditioning system condensing units and redundant equipment stored on roof - Upgrade air-conditioning and remove redundant equipment as part of building refurbishment
76. Capital Investment	Mechanical	Ground Floor Internal Slipway - Refrigeration equipment utilises redundant R22 refrigerant which has been phased out of production. - Upgrade to equipment that utilises refrigerant with low ozone depleting and global warming potential.
77. Capital Investment	Vertical Transport	Lift Car: Lift car does not service level 2 of the building and does not indicate compliance with the BCA Clause E provisions. - Consider upgrading lift depending on future intended use and building classification.

### Indicative Allowances for Demolition & Reconstruction of a Similar Facility

The following table contains indicative capital investment allowances for the demolition of the existing structure and subsequent detailed design and construction of a new building of similar type. It should be noted that the cost will be subject to Council's specific requirements as well as the extent of the design in terms of inclusions and the standard of equipment, finishes and fixtures selected.

Examples of New Construction by Total Floor Area	Indicative Allowance
3500m <sup>2</sup>	\$9,100,000 excluding GST
3000m <sup>2</sup>	\$8,200,000 excluding GST
2500m <sup>2</sup>	\$7,100,000 excluding GST
2000m <sup>2</sup>	\$5,900,000 excluding GST
1500m <sup>2</sup>	\$4,700,000 excluding GST
1000m <sup>2</sup>	\$3,400,000 excluding GST

## **Council Meeting**

**8/08/2018**

Item No	8.5
Subject	<b>Sale of Lots 101,103,104 in DP 445997 at 1545 Botany Road, Botany</b>
Report by	Michael McCabe, Director City Futures
File	F13/461

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## **Summary**

This report seeks Council approval to dispose of Lots 101,103 and 104 in DP 445997 (Lots). These Lots are situated adjacent to 1543-1545 Botany Road, Botany (adjoining land) as shown at Attachment 1 (Lot Plan) to this report.

The Lots were at one time set aside for road widening of Botany Road. The re-alignment of Botany Road was revoked in 1989 and The Lots have remained vested with Bayside Council. The Lots have a total area of about 120 sqm.

The Lots are situated between Botany Road and the adjoining land. This currently prevents lawful entry onto the adjoining land. In this regard the current owner of the adjoining land has made an offer to purchase The Lots.

Council previously considered this report at the Council meeting dated 11 April, 2018. Councillors deferred the matter and held an on-site meeting on 23 June 2018.

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## **Officer Recommendation**

- 1 That attachments 2 and 3 to this report be withheld from the press and public as they contain information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. It is considered that if these matters were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.
  - 2 That approval be granted for the sale of Lots 101, 103 and 104 in DP 445997 at 1543-1545 Botany Road to Dunning 77 Pty Limited for a value of not less than the valuation amount referenced at Confidential Attachment 2, (Valuation Analysis).
  - 3 That approval be granted for the sale of Lots 101, 103 and 104 in DP 445997 at 1543-1545 Botany Road to Dunning 77 Pty Limited be sold on terms set out in Confidential Attachment 3 – term Sheet
  - 4 That all costs associated with the sale be paid by 77 Dunning Pty Limited.
  - 5 That the General Manager be authorised to finalise the commercial terms of the sale and sign the required documentation to finalise the mater.
-

## Background

The land proposed for sale comprises three small lots that were the subject of the realignment of Botany Road in 1959, being:

- Lot 101 in Deposited Plan 445997 – 44.4 sqm
- Lot 103 in Deposited Plan 445997 – 12.6 sqm
- Lot 104 in Deposited Plan 445997 – 63.2 sqm

The location of these lots is shown on the Lot Plan at Attachment 1. The Lots adjoin land between 1543 and 1545 Botany Road, Botany (adjoining land) that are owned by 77 Dunning Pty Ltd with the company extract provided in Attachment 4.

The Lots were resumed by the 'Roads Authority' for road widening purposes between 1959 and 1979 and under the Gazettal notice the land was to be transferred to the Municipality of Botany as public road. The revocation of the realignment occurred in 1989 and The Lots have subsequently been vested in Council as operational land.

No compensation was paid to the adjoining land owner at the time of resumption. The adjoining land has changed ownership in the intervening period, with the current owner acquiring the properties with the 'reservation' in place.

The Lots are surplus to Council's needs and have little operational value to Council. The rationale for this being:

- The road re-alignment has now been revoked and The Lots are now residual strips of land separating Botany Road from the adjoining land.
- The Lots would have little utility or development opportunity given their size and the operational need to accommodate access to the adjoining land owners.
- There are no other adjoining land owners that would benefit from acquiring the land.

## Relevant Planning Controls

In completing our analysis we have referred to the Botany Development Control for controls affecting, particularly the front land portion.

The land is classified operational and is **zoned B4 Mixed use** zone and within this section of Botany road there is no defined setback (build to boundary) with maximum two storey height to the street and then merit based assessment of setbacks.

The property sits within a **street activation zone**.

There is merit from a planning perspective with the alignment of setbacks and activation at the front, and the imposed set back due to the land reservation acts against the planning instrument.

The **Floor Space Ratio** for the site is 1:1. The proposed acquisition would represent an additional 120m<sup>2</sup> of Gross Floor Area (GFA) on top of 7,295m<sup>2</sup> (1.6%) increase.

The permissible **height** is between 10 and 12 metres.

## Value

A valuation was undertaken in relation to The Lots. The valuation and corresponding summary is attached at Attachment 2. The agreed sale price is within the negotiation range set out within the valuation.

The properties were valued on before and after analysis on the land values derived from comparative land sales.

The valuer then applied a 50% discount to the value, given the limited market for the properties and this was a hypothetical sale in a constrained market. The valuer noted in his analysis the difference between the 'value' and the discounted value as the value negotiation range.

We have independently analysed the valuer's market evidence and support the adopted valuation rate.

## Operational Land

Pursuant to Section 43(2) of the Roads Act 1993, land comprising a former public road is deemed to be operational land for the purposes of the Local Government Act 1993. Proceeds from the sale of this land must be re-invested into the acquisition of lands for public roads or for carrying out road work on public roads.

## Council's Finance & Asset Management Committee

The potential sale was profiled at Council's Finance and Asset Management Committee meeting dated 31 January 2018 – Agenda item 5.5. The minutes of the Committee were subsequently adopted by Council on 14 February 2018.

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## Financial Implications

Not applicable ☒

Included in existing approved budget ☐

Additional funds required ☐

The proceeds from the sale of The Lots will be put into the Strategic Priority Reserve, where it will be used pursuant to Section 43 of the Roads Act 1993.

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## Community Engagement

Not Applicable

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## Attachments

- 1 Lot Plan
- 2 Valuation (confidential)

- 3 Terms Sheet (confidential)
- 4 Company Extract [↓](#)



## Current Company Extract for DUNNING 77 PTY LTD

Extracted from ASIC database on 27 March 2018 03:45 PM AEST

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001. Please advise ASIC of any error or omission which you may identify.

### Organisation Details

Name:	DUNNING 77 PTY LTD
A.C.N:	156648814
Status:	Registered
Registered In:	NSW
Registration Date:	03/04/2012
Review Date:	03/04/2018
Name Start Date:	03/04/2012
Type:	Australian Proprietary Company
Organisation Number Type:	Australian Company Number
Details Start Date:	03/04/2012
Class:	Limited By Shares
Subclass:	Proprietary Company
Disclosing Entity:	No
Registered charity:	No
Document Number:	1E8246655

### Organisation Address

Status	Address Type	Address	Start Date	Doc Number
Current	Registered Office	SUITE 6 LEVEL 8 95-99 YORK STREET SYDNEY NSW 2000	03/04/2012	1E8246655
Current	Principal Place of Business	SUITE 6 LEVEL 8 95-99 YORK STREET SYDNEY NSW 2000	03/04/2012	1E8246655

### Organisation Officers

Role	Officer Details	Address	Appointment Date	Court Details	Doc Number
Director	PETER ROYAL Date of Birth: 03/12/1965 Place of Birth: SYDNEY NSW	41 PORTLAND STREET DOVER HEIGHTS NSW 2030	03/04/2012		1E8246655

Appointment of secretary is optional. In the event no secretary is appointed the director(s) assume the responsibilities under the Law

### Share Structure

Share Class	No. Issued	Amount Paid	Amount Unpaid	Doc Number
ORD ORD CLASS SHARES 1		\$1.00	\$0.00	1E8266661

Note: For each class of shares issued by a proprietary company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

### Shareholders

Class	No. Held	Beneficially Held	Fully Paid	Shareholder Details	Document Number
ORD	1	No	Yes	DANJAR PTY. LIMITED SUITE 6 LEVEL 8 95-99 YORK STREET SYDNEY NSW 2000 ACN: 083179846 ABN: 67083179846	1E8266661

### Documents



Form Code	Description	# of pages	Received	Processed	Effective	Doc Number
484	484 Change to Company Details 484O Changes to Share Structure 484N Changes to (Members) Share Holdings	3	12/04/2012	12/04/2012	05/04/2012	1E8266661
201	201C Application For Registration as a Proprietary Company	3	03/04/2012	03/04/2012	03/04/2012	1E8246655

## **Council Meeting**

**8/08/2018**

Item No	8.6
Subject	<b>Ador Reserve - Summer Allocation</b>
Report by	Debra Dawson, Director City Life
File	F17/559

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## **Summary**

This report considers proposed expressions of interest for a summer permit for the new synthetic playing facility, which is currently under construction at Ador Avenue Reserve.

The Sport and Recreation Committee have been provided the relevant information relating to Ador Reserve summer use and the Chair of the Sport and Recreation committee supports the recommendations and proposal. Given the urgency and timing of the request, a Committee meeting could not be held to discuss this request.

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## **Officer Recommendation**

That Council award a permit to St George Football Association, Rockdale City Suns and St George Football Club for the 2018/2019 summer use in accordance with Council adopted 2018/2019 fees and charges and a further rate to be determined subject to lighting arrangements and costs.

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## **Background**

The Sport and Recreation Committee meeting of 16 July 2018 recommended that the licence agreement for the operation of Ador Reserve be granted to St George Football Association for the winter season for a one year period with two subsequent option periods. It was further agreed that Council would seek open Expressions of Interest for the use of Ador Reserve for the summer period 2019 - 2020.

Ideally, Bayside Council would prefer to undertake an Expression of Interest for the Use of Ador Reserve for the 18/19 summer competition, however the timeframe to undertake this process is insufficient.

The timeframe to conduct an Expression of Interest for the 2018 /2019 summer use requires four to six weeks to process, meaning that a Council decision would be too late for this summer season if an EOI was to be conducted.

A request for the summer use of Ador Reserve has since been received from St George Football Association (SGFA) to run a Six-A-Side Competition two nights per week (Tuesdays and Wednesdays) during the summer season starting from September – December 2018.

Rockdale City Suns and St George Football Club have also expressed an interest to book the Ador Reserve during summer season of 2018 – 2019.

Rockdale City Suns Soccer Club has advised that they would require Ador Reserve for 2 – 3 nights a week to support their Soccer Juniors grading Program. Rockdale City Suns currently have a license to use Bicentennial Stadium and Bicentennial East.

St George Football Club has also expressed an interest in booking Ador Reserve for 1- 2 nights per week and currently have a lease to use St George Stadium and Barton Park.

Council endorsed Fees and Charges will be applied on the usage of the field with further associated costs currently being explored to incorporate the hire of temporary lighting at the field and will be costed to the users.

These arrangement will only be applicable for the summer season of 2018/2019. Council will be undertaking an Expression of Interest for the 2019/2020 summer use sport allocation following Council Procurement Policy.

The arrangement of permitting the Ador Reserve Synthetic field to local sporting clubs and Association for the summer use would benefit the community.

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### **Financial Implications**

Not applicable	<input type="checkbox"/>
Included in existing approved budget	<input type="checkbox"/>
Additional funds required	<input type="checkbox"/>

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### **Community Engagement**

Not Applicable

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### **Attachments**

Nil

## **Council Meeting**

**8/08/2018**

Item No	8.7
Subject	<b>Tender for Foreshore Upgrade Works at Cahill Park and Pine Park</b>
Report by	Karin Targa, Major Projects Unit Director
File	F18/447

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## **Summary**

The 2018/2019 City Projects program includes funding for the following three projects to be constructed:

- Cahill Park Masterplan implementation
- Cahill Park seawall rehabilitation stage 1
- Pine Park Masterplan implementation

The Cahill Park and Pine Park Masterplan implementation are funded by Stronger Communities funding as well as Council funding.

The refined Masterplan for Pine Park was endorsed by Council on 13 December 2017 as well as the scope for Masterplan implementation.

The refined Masterplan for Cahill Park was endorsed by Council on 14 March 2018 as well as the scope for the masterplan implementation. Council at that meeting also endorsed the seawall options and noted the funding for stage 1 of the seawall implementation.

The three above-mentioned projects were combined in one tender to attract high quality submissions from contractors with relevant experience that can deliver the projects concurrently within a compressed timeframe to mitigate the impact on community groups and visitors during peak usage periods.

The tender for foreshore works was advertised on 12 June 2018 and closed on 16 July 2018.

This report recommends a contractor to carry out these works.

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## **Officer Recommendation**

- 1 With reference to Section 10(A)(2)(d)(i) of the Local Government Act 1993, the attachment relates to(d)(i) commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.
  - 2 That in accordance with Regulation 178 (1) (a) of the Local Government (General)
-

Regulations 2005, Council accepts the tender of Antoun Civil Engineering (Aust) Pty Ltd for the contract F18/447 being the construction of the Major Park and Foreshore upgrades at two prime locations: Pine Park at Ramsgate Beach and Cahill Park at Wolli Creek for the amount of \$7,175,923.64 exclusive of GST.

- 3 That Carruthers Drive between The Grand Parade and Sandringham Street be converted to a road related area and remain open to cyclist, pedestrians, emergency services and service vehicles, but otherwise be closed to the public for driving, riding or parking vehicles.
- 

## Background

### Cahill Park Masterplan

The Cahill Park Masterplan responds to the increasing pressures for quality open space in Wolli Creek – an area undergoing rapid re-development and population increase.

The project scope for the Masterplan includes the implementation of the following works:

- Upgrade of the existing pathways, inclusive of removal of redundant pathways and construction of new pathways in a hierarchy system of a major shared path (separated in sections for tree protection) and other secondary paths.
- New public amenity lighting along the primary shared path and at important park entries.
- A fenced dog off-leash area at 2-6 Levey Street, including installation of perimeter fencing and gates, furniture and the relocation of the St George Dog Training School to this location.
- A new formalised picnic area to the west of the Rowing Club.
- New seating, picnic tables, barbeques, shelters, bins, drinking fountains and bike racks in suitable and strategic locations throughout the park.

### Cahill Park Seawall

The Cahill Park seawall, which comprises a portion of the southern foreshore of the Cooks River, is reaching the end of its useful life and is likely to fail, allowing ongoing and greater tidal inundation of Cahill Park in extreme rain events and tidal surges. Extensive flooding and seawall investigations have been undertaken and designs for the remediation and reconstruction of the existing seawall between Tempe Bridge, Princess Highway to the Giovanni Bridge, Marsh Street have been prepared in order to protect open space assets and Council infrastructure from ongoing inundation. The new seawall is environmentally friendly, easily maintained and an asset to the park and the community.

The seawall component incorporates the following:

- reconstruction to an environmentally friendly sea wall
- civil works
- construction of two concrete viewing platforms, as proposed in the Cahill Park Masterplan

- flood mitigation measures
- an incorporated flood levee along the foreshore

The dilapidated Cahill Park seawall on the southern side of the Cooks River is causing the inundation of Cahill Park during extreme rain events and tidal surges. As well as damaging park infrastructure and affecting public accessibility, the pathways have reduced serviceable condition due to the volumes and frequency of stormwater and tidal inundation. Surrounding roads are also frequently inundated by high tide events and storm flooding. The frequency of inundation from tidal and rainfall events is causing damage to both public and private property and infrastructure, as well as being a public nuisance.

The existing Cahill Park seawall will be re-constructed at a higher level in order to prevent park inundation during tidal surges and high tide events and during minor storm events.

The existing stormwater outlets into the Cooks River backflow during tidal events, causing flooding in the vicinity of Arncliffe Street. As part of the seawall construction works, backflow prevention devices will be installed at these outlets.

The seawall within the project area extends for 800m. The seawall has been divided into 5 reaches and reach 2, 3 and 4 are included in the tender to be reconstructed as stage 1 seawall works. These reaches of the seawall are required to be constructed before or at the same time as some of the masterplan components due to the integrated nature of the works.

These include sections of the shared path and the picnic area.

**Reach 2:** A length of 163m extending from the stormwater drain outlet to the Bonnie Doon Canal. This section of seawall has significant areas of failure to the top rows of block work with the toe of the wall is largely intact. The works for Reach 2 involves raising the height of the seawall to protect against small flood events and tidal surges and reconstruction as an environmentally friendly seawall with sandstone blocks and planting. Whilst structurally it is considered to be of moderate priority for remediation, it is integrated with the adjacent shared path and is required to be constructed at the same time as the shared path, making implementation of this reach a high priority. Works in this reach will involve full reconstruction of the seawall.

**Reach 3:** A length of 86m extending from Bonnie Doon Canal to where the adjacent shared path diverges away from the river towards Levey Street. The seawall is in reasonable condition and considered moderate priority for remediation works. The remediation design involves raising the height of the existing seawall with some modification and retrofitting to improve environmental value. Given the level of integration with the adjacent shared path, this section of seawall is required to be constructed before the shared path, making implementation of this reach a high priority. Works in this reach will primarily involve retrofit of the existing seawall.

**Reach 4:** A length of 130m extending from the shared path diversion to the Cahill Park car park (Rowers Club). This section of seawall has been almost completely dismantled and is in poor condition. It is a high priority for remediation. The design involves construction of a new environmentally friendly seawall with sandstone blocks and planting. The design is integrated with the proposed picnic area adjacent and must be constructed before the picnic area to achieve desired levels. Given the level of integration with the adjacent picnic area, this section of seawall is required to be constructed before the picnic area, making implementation of this reach a high priority. Works in this reach will involve full reconstruction of the existing seawall.

## **Pine Park**

The following components of the Masterplan are included in the tendered scope:

- a. Removal of car parking and public vehicle access from Caruthers Drive whilst retaining access for maintenance and emergency vehicles;
- b. A feature promenade along the existing foreshore section of Caruthers Drive for pedestrians and leisure/family cyclists which includes decorative paving treatments and accessible pavements, landscaped areas through the central areas in the promenade to reduce the amount of hard surface and increase the amount of landscaped green space on the foreshore, new lighting throughout the promenade and park furniture.
- c. New off street car parking adjacent to the Grand Parade operating through an internal driveway and one way in/out system to improve circulation along the Grand Parade by minimising parking access impediments between Alice Street and the lifesaving club. The car parks will be constructed in permeable pavers.
- d. A feature entry area to the park opposite Alice Street and continuing eastward to the bay front promenade that includes new feature paving, landscaping and park furniture.
- e. A new commuter cycleway adjoining the Grand Parade between the existing car park and the Alice Street intersection for cyclists wishing to travel faster through the park and into surrounding suburbs.
- f. Creation of a shared environment adjacent to the RLSC that includes removal of the existing small carpark but retention of driveway / service access for loading, maintenance, deliveries and drop off/collection by community buses and the like as a loading zone. This will be a share, slow speed zone using surfacing, bollards and effective signage to create clear signals for usage pathways.
- g. Improvements to the lifesaving club and restaurant forecourt area that includes new park furniture, including a new beach shower and landscaping.
- h. Retention of trees that currently provide important shade and buffering against winds and sand, as well as new landscaping and trees.
- i. New park furniture including seating, new park shelters and lighting to the southern promenade and car parks.

## **The Tender Process**

Council invited open tenders for the major Park and Foreshore Upgrades at two prime locations: Pine Park at Ramsgate Beach and Cahill Park at Wolli Creek on Tuesday 12 June 2018. A 4-week tender period was stipulated in the tender documents, the tender closing date was extended as requested by the tenderers. The tender closed at 02.00 pm on Monday 16 July 2018.

## **Tenders Received**

Eight tender submissions were received, as follows (in alphabetical order):

- Antoun Civil Engineering (Aus) Pty Ltd;

- Ford Civil Contracting Pty Ltd;
- Glascott Landscape & Civil Pty Ltd;
- Growth Civil Landscapes Pty Limited;
- Haslin Constructions Pty Ltd;
- Quality Management and Construction Pty Ltd (QMS);
- Scape Constructions Pty Ltd; and
- Starcon Group Pty Ltd.

One Expression of Interest was received from BR Durham & Sons Pty Ltd for the supply of drainage products. The submission contained one page only and outlined their interest in the supply of drainage products. The submission was non complying as a tender submission and therefore not further considered by the Tender Evaluation Panel.

#### **Directors of the Companies that Provided Tender Submissions**

<b>Company</b>	<b>Company Directors</b>
Antoun Civil Engineering (Aus) Pty Ltd	Robert Antoun
Ford Civil Contracting Pty Ltd	Susan Ford
Glascott Landscape & Civil Pty Ltd	Matthew Glascott
Growth Civil Landscapes Pty Limited	Glenn Simpson
Haslin Constructions Pty Ltd	Colin Woods
Quality Management and Construction Pty Ltd (QMS)	Steve Commisso
Scape Constructions Pty Ltd	Andrew Smith
Starcon Group Pty Ltd	Ty Nguyen

No late tenders were received.

#### **Assessment Methodology**

The tender submission assessment and scoring is outlined in the confidential supporting document to this report.

A comprehensive assessment of the tender submissions was undertaken by the Tender Evaluation Panel. The assessment process has been undertaken in accordance with the provisions of the Local Government Act 1993 and Tendering Regulation 2005. The evaluation was undertaken based on the conditions of tendering and the evaluation criteria as provided in the request for tender documents.



The tender submitted by Antoun Civil Engineering (Aus) Pty Ltd was comprehensive and included a detailed methodology and a detailed program taking into consideration the site limitations and constraints.

Antoun Civil has approximately 25 staff who are engaged in various civil, landscape and infrastructure projects. These staff are directly employed by Antoun Civil over and above the subcontractor work force. Antoun Civil has access to a large fleet of construction plant and machinery. The proposed subcontractors have previous long established working relationships with Antoun and previous experience working on high profile Council projects across Sydney.

### **Proposed Program**

The preliminary program submitted with Antoun Civil's tender has the following project milestones:

<b>Milestone</b>	<b>Date</b>
Council consideration	8 August 2018
Contract award	9 August 2018
Construction Commencement on site	3 September 2018
Pine Park area around Omeros and Life Saving Club complete	21 October 2018
Pine Park all works complete	21 December 2018
Cahill Park all works complete	21 December 2018
Projects complete	21 December 2018

The program does include a wet weather allowance of 10 days.

### **Financial Assessment of Antoun Civil Ptd Ltd**

Antoun Civil has a track record of successful outcomes in undertaking projects of a similar nature in and around Botany Bay and the Cooks River such as the award-winning \$4.5M Woollooware Bay shared pathway and boardwalk project for Sutherland Shire Council. Antoun Civil has also previously successfully undertaken projects for Council. A Corporate Scorecard financial assessment was undertaken with an acceptable outcome. No issues have been identified as part of this process.

### **Tender Recommendation**

References were checked for Antoun Civil and it was found that Antoun Civil is a reputable contractor that delivers high quality work. The referees indicated that they would re-employ Antoun Civil if the opportunity arose. Antoun Civil has completed a number of projects for Rockdale council without any issues and those projects have been completed on time and on budget.

Based upon the assessment criteria, the tender assessment panel recommends acceptance of the tender from Antoun Civil for an amount of \$ 7,175,923.64 (exclusive of GST).

Antoun Civil has in place Public Liability and they have the statutory workers compensation policy in place. Antoun Civil has an Integrated Management System in compliance with ISO 9001, ISO 14001 and AS 4801 guidelines and has a good track record and name in the industry.

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### Financial Implications

Not applicable	<input type="checkbox"/>
Included in existing approved budget	<input checked="" type="checkbox"/>
Additional funds required	<input type="checkbox"/>

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### Community Engagement

Not applicable for the tender process.

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### Attachments

Confidential Attachment Tender for Foreshore works at Cahill Park and Pine Park (confidential)

## Council Meeting

8/08/2018

Item No	8.8
Subject	<b>Call for Motions and Nominations for Councillor Attendance at Local Government NSW Annual Conference, Albury NSW</b>
Report by	General Manager
File	F09/1

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## Summary

The Local Government NSW Conference is an annual event which provides opportunities for Councillors to network and participate in local government debate at a state level. This report seeks to call for motions to be put to the Conference and secondly to call for nominations from Councillors to attend the Conference on Sunday 21 October to Tuesday 23 October 2018 at the Entertainment Centre, Albury NSW.

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## Officer Recommendation

- 1 The Mayor and Deputy Mayor be authorised to attend the 2018 Local Government NSW Annual Conference and associated functions.
  - 2 That Councillors seek nomination to attend the 2018 Local Government NSW Annual Conference and associated functions.
  - 3 That the nominations above be registered to attend the relevant conference(s) including all associated functions in accordance with the Expenses and Facilities Policy.
  - 4 That motions be submitted to the 2018 Local Government NSW Annual Conference as follows:  
  
Increased Fines for Illegal Waste Dumping for Local Government
- 

## Background

The Local Government NSW Annual Conference is an annual event held for local Councillors to come together to share ideas and debate issues. It provides a significant opportunity for Councillors to meet and discuss issues facing local government and develop agreed positions which can inform the development of NSW Local Government policies in the coming year.

The 2018 Local Government NSW (LGNSW) Conference is being held from Sunday 21 to Tuesday 23 October 2018 at the Entertainment Centre, Albury NSW. This report is seeking agreement for the Mayor and Deputy Mayor to attend the annual conference and associated functions. Other Councillors interested in attending are asked to nominate their interest for endorsement at tonight's meeting.

## Motions to be Raised at the Conference

As part of the conference, all members are able to submit motions for inclusion in the business paper.

The LGNSW Board seeks to ensure that the motions debated advance the sector wide policy agenda. Proposed motions should be strategic, affect members state-wide and introduce new or emerging policy issues and actions. Motions need to fall in the following categories: Industrial Relations, Economic Policy, Infrastructure and Planning Policy, Social Policy, Environmental Policy or Governance/Civic Leadership.

Motions for inclusion in the conference business paper are due **Sunday 26 August 2018 (with a latest date of midnight 23 September 2018)**. In order to submit motions for consideration at the Local Government NSW Annual Conference, members must provide accompanying evidence of the Council's support for the motion, including Council minutes.

Councillors have an opportunity at the Council meeting to nominate motions to put forward for the conference. Attached to this report is a suggested motion which Council may wish to submit to the Conference.

## Voting Delegates

Each member council is entitled to have a number of voting delegates at the 2018 Annual Conference for voting on motions and voting in the LGNSW Board election. Bayside Council members' voting entitlement is 10 Councillors who must be financial at both dates (1 March 2018 and 26 August 2018) when the roll of voters closes.

Should the number of Councillors attending the Conference be 10 or less, these Councillors will be registered as Council voting delegates. Should the number exceed 10, Council will need to nominate its voting delegates.

## Financial Implications

The Expenses and Facilities Policy adopted on 12 July 2017, provides budget to enable Councillors to attend conferences and meet costs associated with such attendance.

Council will cover the following costs for councillors attending the conference:

- Registration to attend the conference (including associated functions): \$840
- Accommodation for three nights (Sunday, Monday, Tuesday): \$610
- Travel (flights or car hire): \$350
- Incidental expenses incurred (limits are set at up to \$150 per day on meals and up to \$100 per day for other incidental expenses), including:
  - Costs for parking per day/night of the conference
  - Costs for meals not included the conference registration or associated functions
  - Refreshments

- Taxi fares between accommodation and conference venue (if required)

The costs for a Councillor's partner to attend the President's Opening Reception (\$77) and the Conference Gala Dinner (\$154) will be covered by Council. All other expenses incurred by a partner or accompanying person are to be met by the Councillor.

### **In Conclusion**

This report seeks agreement for the Mayor and Deputy Mayor to attend the 2018 Local Government NSW Annual Conference. Councillors may also nominate their interest in attending.

It is estimated that attendance at the conference will be approximately \$1800 per Councillor including flights (plus incidental expenses). Cost per Councillor if travel by car share would be approximately \$1550 plus incidentals.

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### **Financial Implications**

Not applicable	<input type="checkbox"/>
Included in existing approved budget	<input checked="" type="checkbox"/>
Additional funds required	<input type="checkbox"/>

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### **Community Engagement**

Not applicable

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### **Attachments**

Proposed Motion for LGNSW Conference 2018 - Increased Fines for Illegal Waste Dumping for Local Government [↓](#)

**Proposed Motion for LGNSW Conference Bayside Council****1. Indicative category of the motion**

Environment

**2. Motion title**

Increased value of Local Government Penalty infringements / Fines for Illegal Waste Dumping.

**3. Motion wording**

That Local Government NSW lobbies the State Government to make changes to the Protection of the Environment Operations Act 1997 (POEO Act) to enable Local Government to issue fines and penalty amounts equivalent to the NSW EPA for illegal dumping.

The current applicable penalties / fines, set at the current rates, do “not” discourage nor prevent rogue operators from illegally dumping larger quantities of material throughout Local Government Areas. New penalties/ fines should be identical whether issued by Local Government or the NSW EPA.

**Recommendations:**

1. The applicable Local Government fines be increased to the same value as the NSW Environmental Protection Authority (EPA), for both individual and corporations.
2. That the risk reward deterrent for dumping be re-evaluated by the NSW EPA to include a set base fee for individuals and companies as well as a penalty based on weight. E.g. \$8,000 set fine plus \$3.50 per Kilo.

**4. Background.**

Bayside Council experiences over 3,200 incidences of illegal dumping annually, with other Councils also experiencing high incidences of illegal dumping. Whilst the fines that can be issued for illegal dumping were originally set to deter individuals disposing of household items (small items, low quantities / volumes), the fines are certainly not high enough to deter illegal dumping of large quantities. Council often deals with dumping of this nature including dumping of soil, bitumen and concrete.

For rogue / serial dumpers mainly commercial in nature, the cost of lawfully disposing of waste is often much higher than the fine amounts that can be issued by Local Government. This provides a financial incentive for rogue operators to dump illegally.

## **Council Meeting**

**8/08/2018**

Item No                8.9  
Subject                **Statutory Financial Report for June 2018**  
Report by             Michael Mamo, Director City Performance  
File                     F09/605

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## **Summary**

This report is provided in accordance with the Local Government (General) Regulations, 2005, Division 5, paragraph 212 and s625 of the Local Government Act, 1993.

The necessary certificate by the Responsible Accounting Officer is included in this report and the Statutory Financial Reports are presented as follows:

- Investment Performance against Benchmark
- Statement of Bank Balances
- Schedule of Investments

As at 30 June 2018, Bayside Council had \$394.5m in cash and investments with an adjusted portfolio of 2.70%.

- Income from operating activities \$26.1m from rates, grants and development planning contributions.
- Expenses from operating activities \$19.8m include payments for payroll, utilities, waste, contract and infrastructure work.

The restricted cash and investments funding dissection will be included in a future report to Council.

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## **Officer Recommendation**

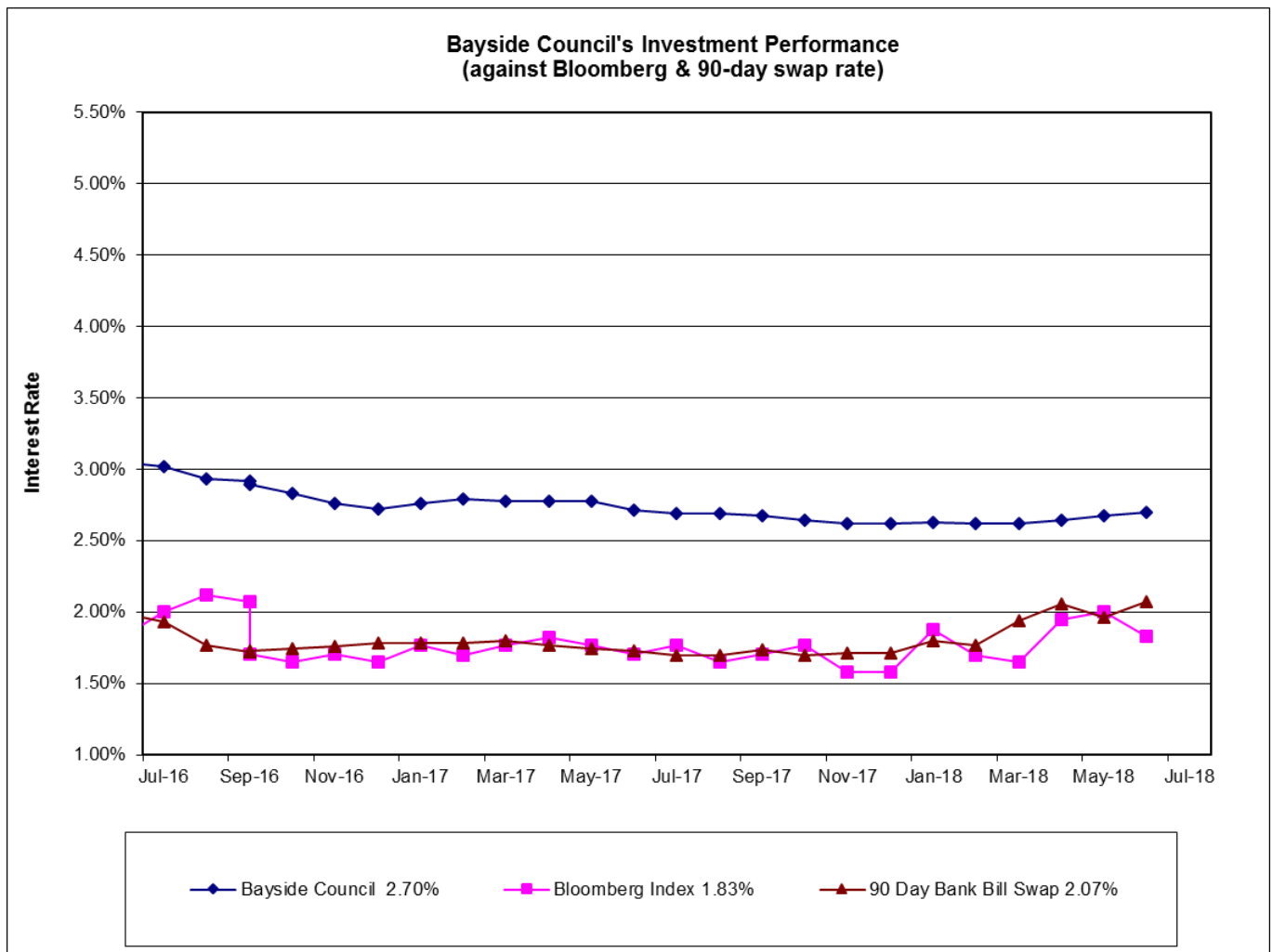
That the Statutory Financial Report by the Responsible Accounting Officer be received and noted.

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## **Background**

The following table shows the performance of Council's investments since July 2016. The Bloomberg (former UBS) Index is used for comparison as this is a generally accepted industry benchmark used by Australian businesses. The 90-day Bank Bill Swap Rate is the worldwide rate that is reviewed by the financial markets every 90 days. This rate underpins the majority of investments which makes it a meaningful comparison for measuring investment performance.

For the current period, Council outperformed the market by 87 basis points. As demonstrated by the investment performance graph, investment returns are stable and consistently above the industry benchmark and 90-day Bank Bill Swap Rate.





## Statement of Bank Balances

The table below shows details of movements in Council's cash at bank for June 2018.

STATEMENT OF BANK BALANCES AS AT 30 June 2018		
	GENERAL FUND	
<b>Cash at Bank (Overdraft) as per Bank Statement as at: 31/05/2018</b>		<b>\$5,552,072</b>
<b>Add: Income from Operating Activities for the Period</b>		
- Rates and other receipts*	\$4,752,255	
- Sundry Debtors	\$458,249	
- DA Fees, FCDs & Application Fees	\$649,745	
- Interest	\$394,446	
- Parking and Other Infringements	\$411,040	
- Rents, Leases, Booking Fees, Certificates & Licences	\$270,364	
- Sydney Airport Contract Income	\$565,659	
- Sale of Assets/Fleet	\$205,935	
- Planning Contributions Income	\$4,852,591	
- Service leave transfer from other councils	\$110,698	
- Insurance Claim	\$812,569	
- Long Service Levy	\$322,684	
- Grants	\$11,175,094	
- Childcare, Pool & Library Income	\$56,668	
- S.94 Contributions	\$1,069,130	
<b>Total Income from Operating Activities for the Period</b>	<b>\$26,107,127</b>	
<b>Less: Expenses from Operating Activities for the Period</b>		
Accounts Paid for Period (includes urgent cheques & refunds)	-\$15,574,624	
Direct Payroll	-\$4,137,749	
Presented Cheques	-\$96,849	
Dishonoured Cheques	-\$137	
Bank Charges (including Agency Fees)	-\$23,252	
<b>Total Expenses from Operating Activities for the Period</b>	<b>-\$19,832,611</b>	
<b>Total Net Movement from Operating Activities:</b>		<b>\$6,274,516</b>
<b>Investment Activities for the Period</b>		
- Investments redeemed	\$0	
- Transfer from Short-Term Money Market	\$18,100,000	
- Transfer to Short-Term Money Market	-\$19,300,000	
- New Investments	-\$10,000,000	
<b>Net Investment Flows for the Period</b>	<b>-\$11,200,000</b>	
<b>Funding Activities for the Period</b>		
Loan Repayments	-\$82,743	
<b>Net Funding Flows for the Period</b>	<b>-\$82,743</b>	
<b>Total Net Movement from Investment &amp; Funding Activities:</b>		<b>-\$11,282,743</b>
<b>Cash at Bank (Overdraft) as per Bank Statement as at: 30/06/2018</b>		<b>\$543,845</b>
Limit of overdraft arranged at Bank for: Bayside West \$350,000 & Bayside East \$540,000		
* other receipts include Australia Post & Bank Tape		

## Schedule of Investments

Bayside Council currently holds \$394.5m in investments and cash at call. In accordance with current accounting standards, investments are recorded at Fair Value (market value).

SCHEDULE OF INVESTMENTS HELD ON BEHALF OF BAYSIDE COUNCIL AS AT: 30/06/2018								
	Credit Rating	Purchase Price	Purchase Date	Maturity Date	Term Days	Prop %	Interest Rate	Market Value
<b>Term Deposits</b>								
Bank of Western Australia	A1	\$1,203,508	23/01/2018	24/07/2018	182	0.35%	2.55%	\$1,203,508
Bank of Western Australia	A1	\$5,000,000	02/03/2018	30/08/2018	181	1.47%	2.45%	\$5,000,000
Bank of Western Australia	A1	\$2,000,000	20/10/2017	18/07/2018	271	0.59%	2.50%	\$2,000,000
Bank of Western Australia	A1	\$2,137,008	30/05/2018	29/11/2018	183	0.63%	2.65%	\$2,137,008
Bank of Western Australia	A1	\$5,193,991	20/06/2018	20/03/2019	273	1.53%	2.80%	\$5,193,991
Bank of Western Australia	A1	\$5,149,822	21/02/2018	20/11/2018	272	1.51%	2.55%	\$5,149,822
Bank of Western Australia	A1	\$1,191,234	27/02/2018	29/08/2018	183	0.35%	2.55%	\$1,191,234
Bank of Western Australia	A1	\$1,215,894	04/10/2017	03/07/2018	272	0.36%	2.50%	\$1,215,894
Bank of Western Australia	A1	\$1,142,737	27/06/2018	26/03/2019	272	0.34%	2.80%	\$1,142,737
Bank of Western Australia	A1	\$1,109,909	10/04/2018	10/10/2018	183	0.33%	2.70%	\$1,109,909
Bank of Western Australia	A1	\$1,271,017	22/11/2017	21/08/2018	272	0.37%	2.55%	\$1,271,017
Bank of Western Australia	A1	\$1,084,961	06/03/2018	13/09/2018	191	0.32%	2.45%	\$1,084,961
Bank of Western Australia	A1	\$1,084,813	13/02/2018	13/11/2018	273	0.32%	2.50%	\$1,084,813
Bank of Western Australia	A1	\$1,332,203	19/10/2017	17/07/2018	271	0.39%	2.50%	\$1,332,203
Bank of Western Australia	A1	\$1,135,414	05/12/2017	05/09/2018	274	0.33%	2.50%	\$1,135,414
Bank of Western Australia	A1	\$2,305,429	16/11/2017	14/08/2018	271	0.68%	2.55%	\$2,305,429
Bank of Western Australia	A1	\$1,164,104	07/02/2018	10/07/2018	153	0.34%	2.50%	\$1,164,104
Bank of Western Australia	A1	\$1,341,658	10/01/2018	10/07/2018	181	0.39%	2.55%	\$1,341,658
Bank of Western Australia	A1	\$1,353,322	12/04/2018	03/10/2018	174	0.40%	2.70%	\$1,353,322
Bank of Western Australia	A1	\$1,196,307	12/01/2018	09/10/2018	270	0.35%	2.55%	\$1,196,307
Bank of Western Australia	A1	\$1,208,837	13/06/2018	13/03/2019	273	0.35%	2.75%	\$1,208,837
Bank of Western Australia	A1	\$1,194,496	30/01/2018	31/07/2018	182	0.35%	2.55%	\$1,194,496
Bank of Western Australia	A1	\$2,081,679	13/03/2018	13/09/2018	184	0.61%	2.55%	\$2,081,679
Bank of Western Australia	A1	\$1,303,595	14/03/2018	12/12/2018	273	0.38%	2.55%	\$1,303,595
Bank of Western Australia	A1	\$1,303,640	15/02/2018	15/11/2018	273	0.38%	2.55%	\$1,303,640
Bank of Western Australia	A1	\$2,036,247	08/05/2018	05/02/2019	273	0.60%	2.65%	\$2,036,247
Bank of Western Australia	A1	\$2,026,712	14/12/2017	12/09/2018	272	0.60%	2.50%	\$2,026,712
						<b>14.61%</b>		
Illawarra Mutual Building Society	A2	\$5,000,000	6/06/2018	06/06/2019	365	1.47%	2.75%	\$5,000,000
Illawarra Mutual Building Society	A2	\$1,198,273	24/04/2018	07/11/2018	197	0.35%	2.65%	\$1,198,273
Illawarra Mutual Building Society	A2	\$1,566,417	16/01/2018	16/07/2018	181	0.46%	2.50%	\$1,566,417
Illawarra Mutual Building Society	A2	\$2,025,929	31/08/2017	31/08/2018	365	0.59%	2.50%	\$2,025,929
Illawarra Mutual Building Society	A2	\$1,408,349	17/01/2018	17/07/2018	181	0.41%	2.50%	\$1,408,349
Illawarra Mutual Building Society	A2	\$1,410,974	5/04/2018	04/10/2018	182	0.41%	2.55%	\$1,410,974
Illawarra Mutual Building Society	A2	\$1,134,511	18/04/2018	18/10/2018	183	0.33%	2.60%	\$1,134,511
Illawarra Mutual Building Society	A2	\$1,206,626	16/05/2018	12/02/2019	272	0.35%	2.70%	\$1,206,626
Illawarra Mutual Building Society	A2	\$2,659,570	5/06/2018	05/06/2019	365	0.78%	2.75%	\$2,659,570
Illawarra Mutual Building Society	A2	\$1,778,167	12/06/2018	12/03/2019	273	0.52%	2.68%	\$1,778,167
Illawarra Mutual Building Society	A2	\$1,310,107	19/04/2018	18/10/2018	182	0.38%	2.60%	\$1,310,107
Illawarra Mutual Building Society	A2	\$2,000,000	1/09/2017	03/09/2018	367	0.59%	2.50%	\$2,000,000
Illawarra Mutual Building Society	A2	\$3,077,104	30/05/2018	30/05/2019	365	0.90%	2.75%	\$3,077,104
Illawarra Mutual Building Society	A2	\$1,262,628	28/03/2018	27/09/2018	183	0.37%	2.50%	\$1,262,628
						<b>7.94%</b>		
Newcastle Permanent Build Society	A2	\$1,272,595	17/01/2018	19/07/2018	183	0.37%	2.20%	\$1,272,595
Newcastle Permanent Build Society	A2	\$1,299,356	10/05/2018	06/11/2018	180	0.38%	2.40%	\$1,299,356
Newcastle Permanent Build Society	A2	\$1,194,645	27/03/2018	23/10/2018	210	0.35%	2.40%	\$1,194,645
Newcastle Permanent Build Society	A2	\$1,356,407	20/02/2018	22/08/2018	183	0.40%	2.40%	\$1,356,407
Newcastle Permanent Build Society	A2	\$1,230,672	07/03/2018	18/09/2018	195	0.36%	2.40%	\$1,230,672
Newcastle Permanent Build Society	A2	\$1,133,269	29/03/2018	17/10/2018	202	0.33%	2.40%	\$1,133,269
Newcastle Permanent Build Society	A2	\$1,244,932	15/03/2018	26/09/2018	195	0.37%	2.40%	\$1,244,932
Newcastle Permanent Build Society	A2	\$1,321,984	17/05/2018	13/02/2019	272	0.39%	2.40%	\$1,321,984
Newcastle Permanent Build Society	A2	\$1,194,339	16/02/2018	16/08/2018	181	0.35%	2.40%	\$1,194,339
						<b>3.30%</b>		
ME Bank	A2	\$1,000,000	07/12/2017	06/09/2018	273	0.29%	2.57%	\$1,000,000
ME Bank	A2	\$2,000,000	22/05/2018	22/05/2019	365	0.59%	2.75%	\$2,000,000
ME Bank	A2	\$2,000,000	01/09/2017	04/09/2018	368	0.59%	2.60%	\$2,000,000
ME Bank	A2	\$1,000,000	09/11/2017	09/08/2018	273	0.29%	2.52%	\$1,000,000
ME Bank	A2	\$2,000,000	29/05/2018	26/02/2019	273	0.59%	2.72%	\$2,000,000
ME Bank	A2	\$2,000,000	19/12/2017	19/09/2018	274	0.59%	2.57%	\$2,000,000
ME Bank	A2	\$3,000,000	08/03/2018	06/12/2018	273	0.88%	2.50%	\$3,000,000
ME Bank	A2	\$4,000,000	11/05/2018	10/05/2019	364	1.17%	2.75%	\$4,000,000
ME Bank	A2	\$2,000,000	06/12/2017	06/09/2018	274	0.59%	2.57%	\$2,000,000
ME Bank	A2	\$1,000,000	08/05/2018	08/05/2019	365	0.29%	2.75%	\$1,000,000
ME Bank	A2	\$1,000,000	11/01/2018	12/07/2018	182	0.29%	2.60%	\$1,000,000
ME Bank	A2	\$1,000,000	23/05/2018	22/05/2019	364	0.29%	2.75%	\$1,000,000
						<b>6.46%</b>		

<u>Schedule of Investments cont'd</u>								
Westpac	AA-	\$5,000,000	06/06/2018	06/06/2019	365	1.47%	2.76%	\$5,000,000
Westpac	AA-	\$3,000,000	01/08/2017	01/08/2018	365	0.88%	2.57%	\$3,000,000
Westpac	AA-	\$3,000,000	01/05/2018	01/05/2019	365	0.88%	2.76%	\$3,000,000
Westpac	AA-	\$3,000,000	08/06/2018	11/06/2019	368	0.88%	2.76%	\$3,000,000
Westpac	AA-	\$3,000,000	23/11/2017	23/11/2018	365	0.88%	2.55%	\$3,000,000
Westpac	AA-	\$2,000,000	18/12/2017	18/12/2018	365	0.59%	2.58%	\$2,000,000
Westpac	AA-	\$5,000,000	09/02/2018	10/09/2018	213	1.47%	2.44%	\$5,000,000
Westpac	AA-	\$5,000,000	09/02/2018	11/02/2019	367	1.47%	2.61%	\$5,000,000
Westpac	AA-	\$5,000,000	23/03/2018	25/03/2019	367	1.47%	2.72%	\$5,000,000
Westpac	AA-	\$5,000,000	09/02/2018	09/11/2018	273	1.47%	2.50%	\$5,000,000
Westpac	AA-	\$5,000,000	09/02/2018	09/08/2018	181	1.47%	2.40%	\$5,000,000
Westpac	AA-	\$5,000,000	02/03/2018	03/12/2018	276	1.47%	2.52%	\$5,000,000
Westpac	AA-	\$5,000,000	02/03/2018	02/01/2019	306	1.47%	2.53%	\$5,000,000
Westpac	AA-	\$5,000,000	02/03/2018	04/03/2019	367	1.47%	2.62%	\$5,000,000
Westpac- AMP FRN	A	\$750,000	11/12/2015	11/06/2019	1278	0.22%	2.86%	\$754,448
Westpac FRN	AA-	\$1,000,000	11/03/2016	10/05/2019	1155	0.29%	2.77%	\$1,009,180
Westpac- Bank of QLD FRN	BBB+	\$1,000,000	18/05/2016	18/05/2021	1826	0.29%	3.25%	\$1,016,540
						<u>18.13%</u>		
AMP Bank	A1	\$3,000,000	12/06/2018	12/06/2019	365	0.88%	2.80%	\$3,000,000
AMP Bank	A1	\$2,000,000	15/05/2018	13/11/2018	182	0.59%	2.75%	\$2,000,000
						<u>1.47%</u>		
National Australia Bank	A1	\$2,000,000	11/01/2018	11/07/2018	181	0.59%	2.46%	\$2,000,000
National Australia Bank	A1	\$1,000,000	12/02/2018	12/11/2018	273	0.29%	2.45%	\$1,000,000
National Australia Bank	A1	\$1,000,000	28/02/2018	30/08/2018	183	0.29%	2.43%	\$1,000,000
National Australia Bank	A1	\$1,000,000	21/02/2018	21/11/2018	273	0.29%	2.45%	\$1,000,000
National Australia Bank	A1	\$1,000,000	15/05/2018	28/11/2018	197	0.29%	2.55%	\$1,000,000
National Australia Bank	A1	\$2,000,000	07/03/2018	25/09/2018	202	0.59%	2.51%	\$2,000,000
National Australia Bank	A1	\$2,000,000	28/02/2018	28/11/2018	273	0.59%	2.45%	\$2,000,000
National Australia Bank	A1	\$3,000,000	29/05/2018	27/11/2018	182	0.88%	2.60%	\$3,000,000
National Australia Bank	A1	\$2,000,000	17/08/2017	17/08/2018	365	0.59%	2.50%	\$2,000,000
National Australia Bank	A1	\$2,000,000	24/05/2018	21/11/2018	181	0.59%	2.58%	\$2,000,000
National Australia Bank	A1	\$1,000,000	14/06/2018	14/06/2019	365	0.29%	2.75%	\$1,000,000
National Australia Bank	A1	\$2,000,000	08/02/2018	08/11/2018	273	0.59%	2.45%	\$2,000,000
National Australia Bank	A1	\$2,000,000	21/03/2018	26/09/2018	189	0.59%	2.55%	\$2,000,000
National Australia Bank	A1	\$1,000,000	13/03/2018	13/09/2018	184	0.29%	2.55%	\$1,000,000
National Australia Bank	A1	\$3,000,000	01/03/2018	04/09/2018	187	0.88%	2.50%	\$3,000,000
National Australia Bank	A1	\$5,000,000	19/06/2018	19/03/2019	273	1.47%	2.70%	\$5,000,000
National Australia Bank	A1	\$5,000,000	20/03/2018	20/09/2018	184	1.47%	2.55%	\$5,000,000
National Australia Bank	A1	\$2,000,000	01/09/2017	03/09/2018	367	0.59%	2.55%	\$2,000,000
National Australia Bank	A1	\$2,000,000	22/02/2018	22/11/2018	273	0.59%	2.45%	\$2,000,000
National Australia Bank	A1	\$2,000,000	25/08/2017	28/08/2018	368	0.59%	2.52%	\$2,000,000
NAB FRN	AA-	\$2,000,000	25/02/2016	25/02/2019	1096	0.59%	2.92%	\$1,009,110
NAB- Suncorp FRN	A+	\$2,000,000	12/04/2016	12/04/2021	1826	0.59%	3.36%	\$2,044,477
NAB - Newcastle Perm Build Soc FRN	BBB	\$2,000,000	22/03/2016	22/03/2019	1095	0.59%	3.59%	\$2,010,407
NAB- Bank of QLD FRN	BBB+	\$1,000,000	29/10/2015	29/04/2019	1278	0.29%	3.19%	\$1,009,110
						<u>14.39%</u>		
ING Direct	A	\$2,000,000	15/09/2017	25/09/2019	740	0.59%	2.75%	\$2,000,000
ING Direct	A	\$4,000,000	31/08/2017	04/09/2019	734	1.17%	2.75%	\$4,000,000
ING Direct	A	\$3,000,000	13/09/2017	18/09/2019	735	0.88%	2.75%	\$3,000,000
ING Direct	A	\$3,000,000	12/09/2017	12/09/2019	730	0.88%	2.75%	\$3,000,000
ING Direct	A	\$1,000,000	05/12/2017	05/12/2018	365	0.29%	2.52%	\$1,000,000
ING Direct	A	\$1,000,000	14/09/2017	18/12/2018	460	0.29%	2.70%	\$1,000,000
ING Direct	A	\$1,000,000	06/06/2018	06/12/2019	548	0.29%	2.80%	\$1,000,000
ING Direct	A	\$3,000,000	15/09/2017	18/12/2018	459	0.88%	2.70%	\$3,000,000
ING Direct	A	\$2,000,000	21/07/2017	24/07/2018	368	0.59%	2.70%	\$2,000,000
						<u>5.87%</u>		

Direct Investments (Floating Rate & Fixed Rate Term Deposits -TDs)								
CBA- ME Bank FRN	BBB	\$3,000,000	09/08/2016	18/07/2019	1073	0.88%	3.52%	\$3,038,640
CBA- Greater Bank FRN	BBB+	\$2,000,000	30/08/2016	30/08/2019	1095	0.59%	3.52%	\$2,010,560
CBA- Bank of QLD FRN	A-	\$2,000,000	26/02/2016	06/11/2019	1349	0.59%	3.07%	\$2,016,600
CBA- Bendigo & Adelaide FRN	A-	\$2,000,000	26/02/2016	18/08/2020	1635	0.59%	3.02%	\$2,016,800
CBA - Rabobank FRN	A+	\$2,000,000	04/03/2016	04/03/2021	1826	0.59%	3.50%	\$2,040,620
CBA FRN	AA-	\$3,000,000	17/01/2017	17/01/2022	1826	0.88%	3.19%	\$3,051,720
CBA- Greater Bank FRN	BBB-	\$3,000,000	07/06/2016	07/06/2019	1095	0.88%	3.65%	\$3,014,160
CBA- Greater Bank FRN	BBB-	\$4,000,000	24/02/2017	24/02/2020	1095	1.17%	3.39%	\$4,013,760
CBA- Greater Bank FRN	BBB-	\$1,000,000	04/08/2017	29/05/2020	1029	0.29%	3.34%	\$1,001,980
CBA- Credit Union Australia FRN	BBB+	\$2,000,000	01/04/2016	01/04/2019	1095	0.59%	3.63%	\$2,010,980
CBA- Credit Union Australia FRN	BBB+	\$2,750,000	20/03/2017	20/03/2020	1096	0.81%	3.39%	\$2,764,768
CBA- Rabobank FRN	A+	\$2,000,000	03/03/2017	03/03/2022	1826	0.59%	3.08%	\$2,016,360
CBA- Bendigo & Adelaide FRN	A-	\$2,000,000	09/08/2016	19/09/2019	1136	0.59%	2.90%	\$2,010,560
CBA-Suncorp FRN	A+	\$2,000,000	12/10/2016	12/10/2018	730	0.59%	2.81%	\$2,014,620
CBA- Bendigo & Adelaide FRN	A-	\$2,000,000	21/11/2016	21/02/2020	1187	0.59%	3.03%	\$2,015,740
CBA- ME Bank FRN	BBB+	\$3,000,000	06/04/2017	06/04/2020	1096	0.88%	3.29%	\$3,008,520
CBA- Greater Bank FRN	BBB-	\$2,000,000	25/03/2017	29/05/2020	1161	0.59%	3.34%	\$2,003,960
CBA- AMP FRN	A	\$2,000,000	06/10/2017	06/10/2020	1096	0.59%	2.79%	\$1,990,940
CBA - Heritage Bank FRN	BBB+	\$2,000,000	27/11/2017	04/05/2020	889	0.59%	3.32%	\$2,019,820
CBA - Newcastle Perm Build Soc FRN	BBB	\$2,000,000	29/11/2017	07/04/2020	860	0.59%	3.40%	\$2,008,640
CBA FRN	AA-	\$2,000,000	12/07/2016	12/07/2021	1826	0.59%	3.27%	\$2,041,440
ANZ - Heritage Bank FRN	BBB+	\$1,450,000	04/05/2017	04/05/2020	1096	0.43%	3.32%	\$1,461,099
ANZ Bank Fixed Rate TD	A1+	\$1,203,555	01/03/2018	01/09/2018	184	0.35%	2.35%	\$1,203,555
ANZ Bank Fixed Rate TD	A1+	\$1,191,338	21/03/2018	21/09/2018	184	0.35%	2.35%	\$1,191,338
ANZ Bank Fixed Rate TD	A1+	\$5,131,392	06/04/2018	06/10/2018	183	1.51%	2.25%	\$5,131,392
Commonwealth Bank Fixed Rate TD	A1+	\$2,000,000	31/01/2018	30/07/2018	180	0.59%	2.49%	\$2,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$2,000,000	18/12/2017	18/07/2018	212	0.59%	2.49%	\$2,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$2,000,000	20/03/2018	20/09/2018	184	0.59%	2.55%	\$2,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$2,000,000	14/05/2018	14/11/2018	184	0.59%	2.43%	\$2,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$5,000,000	08/02/2018	05/11/2018	270	1.47%	2.55%	\$5,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$2,000,000	18/04/2018	18/02/2019	306	0.59%	2.70%	\$2,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$2,000,000	18/06/2018	18/02/2019	245	0.59%	2.70%	\$2,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$2,000,000	20/10/2017	16/08/2018	300	0.59%	2.55%	\$2,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$5,000,000	13/04/2018	13/12/2018	244	1.47%	2.62%	\$5,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$2,000,000	08/03/2018	04/09/2018	180	0.59%	2.50%	\$2,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$5,000,000	02/03/2018	30/11/2018	273	1.47%	2.50%	\$5,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$5,000,000	02/03/2018	01/03/2019	364	1.47%	2.55%	\$5,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$2,000,000	19/03/2018	18/12/2018	274	0.59%	2.50%	\$2,000,000
						<u>27.82%</u>		
FTD= Floating Rate Deposit								
FRN= Floating Rate Note								
Unlisted Community Bank Shares								
NRMA/IAG Shares	Unrated	\$7,552				0.01%		
Bendigo Bank	A2	\$5,000				0.01%		
Total Investments		\$340,544,229				100.00%		
Operating Accounts		\$543,845						
Cash Deposit Accounts		\$42,974,837						
AMP 31 Day Notice Account		\$10,390,714						
Total Investments and Cash		\$394,453,626						

**Investment and Cash Flows for Bayside Council:**

	May-18	Jun-18	Total Net Movement
Total Investments	\$330,340,480	\$340,544,229	\$10,203,749
Operating Accounts	\$5,552,072	\$543,845	-\$5,008,227
Cash/Short Term Money Market	\$41,642,941	\$42,974,837	\$1,331,896
AMP 31 Day Notice Account	\$10,353,139	\$10,390,714	\$37,575
<b>TOTAL Investments and Cash:</b>	<b>\$387,888,632</b>	<b>\$394,453,626</b>	<b>\$6,564,994</b>

**NOTE:** In accordance with current accounting standards Council is required to obtain market values on its investments and hence the inclusion in the above table. It is important to note that Council does not hold any CDOs which have adversely affected many councils in NSW.

I hereby certify in accordance with Clause 212 of the Local Government (General) Regulation 2005 that the above investments have been made in accordance with Section 625 of the Local Government Act 1993, and Council's investment policies.

**MATTHEW WALKER**  
**RESPONSIBLE ACCOUNTING OFFICER**

**Investment Translation**

The following investment information is provided as translation of what the types of investments are:

- \* A Term Deposit is a short term deposit held at a financial institution for a fixed term and attracts interest at the prevailing market rate.
- \* A Bank Bill is a short term investment issued by a bank representing its promise to pay a specific sum to the bearer on settlement. The amount payable to Council at maturity is the face value which represents the purchase price and interest earned.
- \* A Floating Rate Note is a longer term investment issued by a financial institution with a variable interest rate. The adjustments to the interest rate are usually made every three months are tied to a certain money-market index such as the Bank Bill Swap Rate (BBSW).
- \* A CDO (Collateralised Debt Obligation) is an investment backed by a diversified pool of one or more classes of debt. These investments are for longer terms and offer a higher rate of interest. Council does not invest in CDOs.
- \* A Capital Guaranteed Note is a longer term investment issued by a financial institution with a fixed coupon that is paid contingent on the performance of the underlying investments, being equities, property bonds etc. In addition, this form of investment also can attract capital growth. The issuer of the note has provided a guarantee that the capital is guaranteed at maturity.
- \* A Floating Term Deposit and Variable Rate Deposits are exactly the same as term deposits except they automatically roll over (reinvest) at the end of the 90-day period for up to 2 years.
- \* Money Market Call Account refers to funds held at a financial institution and can be recalled by Council either same day or overnight.
- \* Unlisted Community Bank Shares refer to bank shares not listed on the Australian Stock Exchange. The local community owns and operates the Bendigo Bank branch which assists the bank in providing banking infrastructure and community support.

**Credit Ratings**

- \* AAA - Extremely strong capacity to meet financial commitments (highest rating).
- \* AA - Very strong capacity to meet financial commitments.
- \* A - Strong capacity to meet financial commitments, but somewhat more susceptible to adverse economic conditions and changes in circumstances.
- \* BBB - Adequate capacity to meet financial commitments with adverse economic conditions or changing circumstances more likely to lead to a weakened capacity of the obligor to meet its financial commitments.
- \* BB - Less vulnerable in the near term, but faces uncertainties and exposures to adverse business, financial and economic conditions.
- \* B - More vulnerable to non-payment than obligations rated 'BB', but the obligor has the capacity to meet its financial commitment on the obligation.
- \* CCC - Currently vulnerable, dependent upon favourable business, financial and economic conditions to meet its financial commitments.
- \* CC - Currently highly vulnerable.
- \* C - Highly likely to default.

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**Financial Implications**

- |                                      |                                     |
|--------------------------------------|-------------------------------------|
| Not applicable                       | <input checked="" type="checkbox"/> |
| Included in existing approved budget | <input type="checkbox"/>            |
| Additional funds required            | <input type="checkbox"/>            |

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**Community Engagement**

Not required.

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**Attachments**

Nil

## Council Meeting

8/08/2018

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Item No	8.10
Subject	<b>Councillors Expenses and Facilities Policy Review</b>
Report by	Michael Mamo, Director City Performance
File	F11/553

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## Summary

Under section 252 of the NSW Local Government Act 1993, Council is required to adopt a Councillor Expenses and Facility Policy within 12 months of the commencement of a new Council term. Council previously adopted its Expenses and Facilities Policy on 12 July 2017. A review of the current policy has been undertaken in line with the Office of Local Government's (OLG) Councillor Expenses and Facilities Policy template. The current policy has been updated taking into account the model template. A public exhibition period and report back to Council are required prior to finalisation.

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## Officer Recommendation

- 1 That the draft Councillor Expenses and Facilities Policy, attached to the report be placed on public exhibition for 28 days in accordance with Section 253 of the Local Government Act.
  - 2 That a further report on this matter be submitted to the next Council meeting following the expiration of the public exhibition period to consider adoption of this policy.
- 

## Background

The Local Government Act makes provision for the payment of expenses and provision of facilities for the mayor and councillors. This draft policy has been prepared in accordance with the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2005* (the Regulation), and complies with the Office of Local Government's Guidelines for the payment of expenses and provision of facilities to Mayors and Councillors in NSW.

Section 252 (1) of the Local Government Act 1993 states that within the first 12 months of each term of a council, the council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor and the other councillors in relation to discharging the functions of civic office.

The Act requires Council to give 28 days' public notice of the proposal to adopt such a policy (Section 253), and further that Council must not close to the public that part of its meeting at which the policy is adopted or at which any proposal concerning those matters is discussed or considered (Section 254).

Councillors, in carrying out their civic responsibilities, are required to attend a variety of functions in their capacity as a representative of Council i.e. Council meetings, Committee meetings, and as delegates.

Councillors are also expected to attend a variety of functions in a capacity where they may not directly represent Council, but attendance is relevant to their effectiveness as a Councillor, i.e. attendance at community functions.

Council adopted its existing Councillor Fees, Expenses and Facilities Policy on 12 July 2017 including a Budgetary Limit approach to the policy that had the effect of assisting in the interpretation and application of the policy.

The following areas of the current Policy are proposed for amendment. These areas are being changed to incorporate the new clauses from the model template and current industry practices:

- **Summary** (new template clause added to summarise the policy)
- **Annual Fees** (additional clauses)
  - Aligns all payments including Council resolutions of 27 September 2017 and 9 May 2018 regarding the payment of councillors on the Sydney Eastern City Planning Panel.
- **Travel reimbursement – Taxi Cab** (the following additional wording has been added)

“or for documented ride-share programs, such as **Uber**, where tax invoices can be issued.... Documented ride - share programs, such as Uber, can be utilised for the same circumstances as for Taxi Cab as listed below. All Uber claims are to be submitted to the General Manager within one (1) month of costs being incurred as outlined in Appendix A of this policy Reimbursement of Expenses.”
- **Non Attendance at Conferences, Seminars and Functions** - (new clause)

Where costs are paid by Council for Mayor/Councillor attendance at an approved conference, seminar, function or the like, and the Councillor does not attend and has not provided opportunity for Council to seek a refund of the costs incurred or substitute another Councillor to attend; the Mayor/Councillor shall be personally liable to repay all amounts paid (and not refunded) to Council. In this case, the costs incurred (net of any refund) by the Council will be charged to that Mayor/Councillor.

Where the Mayor/Councillor believes there are extenuating circumstances (e.g. family or medical emergency) for non-attendance the Mayor/Councillor may apply to the General Manager to have such repayment waived.
- **Disputes** (new clause)
  - If a Councillor disputes a determination under this policy, the Councillor should discuss the matter with the General Manager.
  - If the Councillor and the General Manager cannot resolve the dispute, the Councillor may submit a notice of motion to a Council meeting seeking to have the dispute resolved.
- **Return or Retention of Facilities** (existing clause updated to new template clause)
  - All unexpended facilities or equipment supplied under this policy are to be relinquished immediately upon a Councillor or Mayor ceasing to hold office or at the cessation of their civic duties.

- Should a Councillor desire to keep any equipment allocated by Council, then this policy enables the Councillor to make application to the General Manager to purchase any such equipment. The General Manager will determine an agreed fair market price or written down value for the item of equipment.
- The prices for all equipment purchased by Councillors under Clause 11.2 will be recorded in Council's annual report.
- **Publication** (new clause)
  - This policy will be published on Council's website. [Note: Council already complies with this requirement].
- **Reporting** (new clause)
  - Council will report on the provision of expenses and facilities to Councillors as required in the Act and Regulations.
  - Detailed reports on the provision of expenses and facilities to Councillors will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by individual Councillor and as a total for all Councillors. [Note: Council currently reports annually]
- **Auditing** (new clause)
  - The operation of this policy, including claims made under the policy, be included in Council's internal audit program to be audited at least every two years.
- **Breaches** (new clause)
  - Suspected breaches of this policy are to be reported to the General Manager.
  - Alleged breaches of this policy shall be dealt with by the processes outlined for breaches of the Code of Conduct, as detailed in the Code and in the Procedures for the Administration of the Code.
- **Definitions (additional definitions added but not itemised here).**

All other Expenses and Facilities outlined in the Policy, including expenditure provisions relating to them, remain the same except any minor cosmetic changes e.g. new branding.

It is recommended that the attached draft Councillor Expenses and Facilities Policy be placed on public notification as required under section 253 of the Local Government Act. Once the public exhibition period is completed, a further report on this matter be submitted to Council for consideration of any submissions received and for adoption of the Policy.

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### Financial Implications

Not applicable	<input type="checkbox"/>
Included in existing approved budget	<input checked="" type="checkbox"/>
Additional funds required	<input type="checkbox"/>

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## **Community Engagement**

That the draft policy be placed on public exhibition for 28 days and any submissions be considered at the next Council.

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## **Attachments**

Bayside Councillors Facilities and Expenses Policy [↓](#)



**Bayside Council**

Serving Our Community

# **Expenses & Facilities Policy**

**Date July 2018**



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Expenses & Facilities Policy

File: F11/553 Document: 18/104794 16/111665[v3]

Policy Register: F16/951 Policy No.:

Class of document: Council Policy

Enquiries: Manager Governance & Risk



**Telephone Interpreter Services - 131 450**

Τηλεφωνικές Υπηρεσίες Διερμηνέων

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## Policy Summary

This policy enables the reasonable and appropriate reimbursement of expenses and provision of facilities to councillors to help them undertake their civic duties.

It ensures accountability and transparency, and seeks to align councillor expenses and facilities with community expectations. Councillors must not obtain private or political benefit from any expense or facility provided under this policy.

The policy has been prepared in accordance with the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2005* (the Regulation), and complies with the Office of Local Government's Guidelines for the payment of expenses and provision of facilities to Mayors and Councillors in NSW.

The policy sets out the maximum amounts council will pay for specific expenses and facilities. Expenses not explicitly addressed in this policy will not be paid or reimbursed.

Additional costs incurred by a councillor in excess of these limits are considered a personal expense that is the responsibility of the councillor.

Councillors must provide claims for reimbursement within one month of an expense being incurred. Claims made after this time cannot be approved.

Detailed reports on the provision of expenses and facilities to councillors will be publicly tabled at a council meeting every six months and published in full on council's website. These reports will include expenditure summarised by individual councillor and as a total for all councillors.

## PART 1 INTRODUCTION

### 1 TITLE - COMMENCEMENT OF THE POLICY

This Policy will be referred to as the Expenses and Facilities Policy for the Mayor and Councillors; long title is Policy for the Payment of Expenses and the Provision of Facilities to the Mayor, and Councillors. This policy takes effect from the date of adoption until further amended.

### 2 DEFINITIONS

For the purpose of this policy the term "**Councillors**" also refers to the **Mayor** and **Deputy Mayor** unless otherwise stated.

**Accompanying person** means a spouse, partner or de facto or other person who has a close personal relationship with the Councillor and/or provides carer support to the Councillor.

**Appropriate refreshments** means food and beverages, excluding alcohol, provided by council to support councilors undertaking official business.

**Act** means the Local Government act 1993 (NSW)

**Clause** means unless stated otherwise, a reference to a clause is a reference to a clause in this policy

**Code of Conduct** means the Code of Conduct adopted by Council or the Model Code if none is adopted

**Councillor** means a person elected or appointed to civic office as a member of the governing body of council who is not suspended, including the mayor

**General Manager** means the general manager of Council and includes their delegate or authorised representative

**Incidental personal use** means use that is infrequent and brief and use that does not breach this policy or the Code of Conduct

**Long distance intrastate travel** means travel to other parts of NSW of more than three hours duration by private vehicle

**Maximum limit** means the maximum limit for an expense or facility provided in the text.

**NSW** New South Wales

**Official Business** means functions that the mayor or councillors are required or invited to attend to fulfil their legislated role and responsibilities for council or result in a direct benefit for council and/or for the local government area, and includes:

- meetings of council and committees of the whole
- meetings of committees facilitated by council
- civic receptions hosted or sponsored by council
- meetings, functions, workshops and other events to which attendance by a councillor has been requested or approved by council.

**Professional Development** means a seminar, conference, training course or other development opportunity relevant to the role of a councillor or the mayor

**Year** means the financial year, that is the 12 month period commencing on 1 July each year

**Administrator/s of Council** in circumstances where an Administrator has been appointed this Policy also applies.

**Councillor Expenses and Facilities Policy:** policy prepared on the payment of expenses and the provision of facilities to Mayor and Councillors.

**Expenses:** Payments made by the Council to reimburse Councillors for reasonable costs or charges incurred or to be incurred for discharging their civic functions. Expenses to be reimbursed must be outlined in Council's policy and may be either reimbursed to a Councillor or paid directly by Council for something that is deemed to be a necessary expense to enable the Councillor to perform their civic functions. Expenses are separate and additional to annual fees.

**Facilities:** Equipment and services that are provided by the Council to Councillors to assist or enable them to perform their civic functions with relative ease and at a standard appropriate to their professional role as Councillors.

**Functions of civic office/civic functions:** Functions that Councillors undertake to fulfil their legislated role and responsibilities for the Council that should result in a direct benefit for the Council and/or for the local government area.

**Legal Expenses** means any fee or fees charged for legal representation or legal advice.

**Regulation:** The Local Government (General) Regulation 2005 (NSW).

### 3 PURPOSE OF THE POLICY

To ensure that there is accountability and transparency in the reimbursement of actual expenses incurred by Councillors. This policy also ensures that the facilities provided to assist Councillors to carry out their civic functions are reasonable.

To reimburse Councillors for expenses reasonably incurred in the performance of their role as a Councillor, including expenses incurred in becoming adequately informed on subjects relevant to their civic functions.

Further that the details and range of expenses paid and facilities provided to Councillors by the Council are clearly and specifically stated, fully transparent and acceptable to the local community.

### 4 OBJECTIVES AND COVERAGE OF THE POLICY

The objectives of this policy are:

- To ensure that the Mayor, as the first citizen of the Bayside Council area, as the leader of the governing body of the Council and as the principal spokesperson on Council policy and attitude is reimbursed for expenses reasonably incurred in performing the role of Mayor, and is provided with a standard and range of facilities appropriate to the importance of the office.
- To ensure that the Councillors of Bayside in their dual roles as members of the governing body of the Council and as elected persons are reimbursed for expenses reasonably incurred in the performance of their role and are provided with a standard and range of facilities to assist in discharging the functions of civic office.
- To ensure that the Mayor and Councillors do not suffer financial hardship by meeting their responsibilities as a member of the governing body of the Council or as an elected person.

### 5 OBLIGATIONS OF COUNCILLORS

A Councillor must:

- Use Council resources effectively and economically in the course of his or her discharging the functions of civic office and must not use them for private purposes unless the use is authorised by this policy and proper payment is made.

- Not convert to his or her use any property of Council.
- Carry out the functions of civic office by attending a variety of functions in their capacity as a representative of Council.

*Note: Breaches of this clause would be viewed as a breach of the Code of Conduct.*

## **6 REPORTING REQUIREMENTS**

Section 428 of the Act and clause 217 of the Regulation require Council to include in each Annual Report a copy of the Policy and details of the cost of implementing the Policy. These are detailed in section 20 of this Policy.

The General Manager must include in Council's annual report such information on expenses as required by the Regulation but also itemised by individual Councillor and Mayor.

## **7 LEGISLATIVE PROVISIONS**

This policy is made under the Act including Sections 252 to 254A, together with clause 403 of the Regulation. The Act requires that the Council must adopt a policy concerning the payment of expenses incurred by, and the provision of facilities to, the Mayor and other Councillors.

*Note: This policy excludes annual fees paid to the Mayor and Councillors in accordance with Sections 248-251 of the Act. These fees are separately determined each year based on the determination of the Local Government Remuneration Tribunal.*

## **8 OTHER GOVERNMENT POLICY PROVISIONS**

In addition to the Act and Regulation a number of documents have also been considered during the development of this Policy including:

- Division of Local Government (Department of Premier and Cabinet) Guidelines for payment of expenses and provision of facilities
- Model Code of Conduct
- Office of Local Government Circulars to Councils
- ICAC publications

Further details in relation to these documents are contained in section 21 of this Policy.

## **9 APPROVAL ARRANGEMENTS**

Attendance at seminars, conferences, training, education and including other activities by Councillors for Council business and the like is to be, where possible, approved by a full meeting of the Council. If this is impracticable then the approval is to be given jointly by the Mayor and the General Manager. If the Mayor requires approval to travel outside of a Council meeting it should be given jointly by the Deputy Mayor or another Councillor and the General Manager.

All other matters not specifically covered by this policy in relation to civic office expenses or facilities are to be dealt with by the Mayor and General Manager.

Total costs for the payment of expenses and the provision of facilities to the Mayor and Councillors are to be within the limits of the provision of this Policy and Council's annual budget, with expenditure against budget allocation to be reviewed quarterly in accordance with Council's normal quarterly budget review process.

## PART 2 PAYMENT OF EXPENSES

### 10 GENERAL PROVISIONS

#### 10.1 Payment of Expenses

Where there is a right under this Policy to claim reimbursement of costs and expenses, reimbursement will only be made upon the production of appropriate receipts and tax invoices, and the completion of the required claim forms, attached to this policy (see Appendix A).

Unless extraordinary circumstances are determined by the Mayor and General Manager, Councillors must seek reimbursement of expenses within one (1) month of incurring that expense. This allows the Council to report on actual expenses monthly internally and within its quarterly reporting processes.

Any payments in advance in anticipation of expenses to be incurred in attending conferences, seminars, training and approved functions/events away from the local government area are to be reconciled and submitted to Executive Services within one (1) month of the conclusion of the conference, seminar, training, and approved event/function. Subsequent advances will not be made until previous reconciliations are submitted.

Where a service is partly used for official Council business, Councillors must claim only that part directly related to their civic duties as a Councillor. Individual Councillors must therefore make a reasonable estimate as to their private and civic duties usage (in percentage terms) for such accounts. In accordance with the Office of Local Government (OLG) Guidelines, incidental private use is allowed. Council allows 5% for private use for mobile phones, landlines, internet, stationery and minor equipment. Any private usage above the 5% threshold must be paid for by the Councillor.<sup>1</sup>

This policy only authorises payment or reimbursement of actual expenses incurred by Councillors in carrying out their civic duties. Council will not pay a general expense allowance. It is not appropriate or lawful to pay a general allowance unrelated to actual expenses incurred or designed to supplement Councillors' annual fees payable under the Local Government Act 1993. Only those expenses included in this policy are to be paid or reimbursed.

Decisions on approval or refusal of claims for expenses for Councillors will be made by the General Manager or his/her nominee.

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<sup>1</sup> DLG Circular No. 09-36 (Guidelines for the Payment of Expenses and the provision of Facilities for Mayors and Councillors in NSW – October, 2009) Guidelines Private Benefit Page 5



### Value of Expenses<sup>2 3</sup>

Notwithstanding any other specific references in this Policy to individual values for expenses, the maximum total expenses that are claimable by Councillors will be as follows:

Total Reimbursement for Value of Expenses each 12 month period from 9 September to 8 September (Amounts below include GST)	
Position	Amount
Mayor	\$15,000
Deputy Mayor	\$12,000
Councillor	\$11,000

## 10.2 Annual Fees

Annual fees are payable to the Mayor and Councillors in accordance with the determination of the Local Government Remuneration Tribunal.

Councillors appointed as council representatives on the Sydney Eastern City Planning Panel (established by the NSW Government as one of the Joint Regional Planning Panels) are paid a \$600 meeting attendance fee.

Councillors appointed as council representatives on the Sydney Eastern City Planning Panel receive an allowance of \$100 per hour, minimum one hour up to a maximum of \$600 for attending briefings of the Regional Planning Panel. The allowance includes travel and briefings on multiple applications.

## 10.3 Spouse, Partner and Accompanying Persons Expenses

Council will meet the reasonable costs of spouses, partners and accompanying persons when they accompany the Mayor or Councillors in the following circumstances:

- Attendance at formal and ceremonial events/functions within the Local Government area. This includes but is not limited to Australia Day Award Ceremonies, Citizenship Ceremonies, Civic Receptions and charitable functions for charities formally supported by the Council.
- Attendance at the LGNSW Annual Conference with costs limited to conference registration and official conference dinner.
- Attendance by the Mayor or a Councillor representing the Mayor at an official Council function or official ceremonial duty outside the city but within the state. Interstate and overseas events are expressly excluded.

The above reasonable costs are limited to the ticket, meal and/or direct costs of attending the function and specifically exclude grooming, special clothing and transport costs. Furthermore the policy does not include attendance at seminars, conferences and the like.

<sup>2</sup> DLG Circular No. 09-36 (Guidelines for the Payment of Expenses and the provision of Facilities for Mayors and Councillors in NSW – October, 2009) Limits Page 6 Reasonable Expenses Page 8 Monetary Limits to Expenses Page 6

<sup>3</sup> Code of Conduct (Part 7) Use of Resources – Page 16-17

Any additional accommodation and/or other costs incurred as a result of the attendance of spouse, partners, accompanying persons and/or children shall be borne by the Councillor.

*Note: An accompanying person in this policy is defined as a person who has a close personal relationship with the Councillor and/or provides care support to the Councillor.*

## **11 SPECIFIC EXPENSES FOR MAYORS AND COUNCILLORS**

### **11.1 Attendance at seminars, conferences, training, education and including Council business.**

Councillors, with the approval of Council or with the written approval of the Mayor and the General Manager are able to attend conferences, seminars, education and training courses etc subject to the following:

- The conference, seminar etc relates to Local Government, its responsibilities and the functions of civic office;
- It is held within Australia; and
- All relevant costs are within the available budget.

Councillors attending conferences, seminars, courses etc will have the following expenses paid, where applicable, provided Council has resolved that the Councillor attend the conference seminar etc or written approval has been provided by the Mayor and the General Manager:

- Registration fees, official luncheons, dinners and tours relevant to the conference, seminar, courses, etc and meetings.
- Accommodation in the hotel where the conference is being held, or the nearest hotel of a similar standard, or as authorised by the host organiser where the conference is not located within the Sydney metropolitan area as defined under the Regional Development Regulation 2012 – Reg 4 or as superseded. The period of accommodation is to not be longer than the night before the official opening of a conference, seminar etc and the night of the last day of the conference, seminar.
- Reasonable costs (including sustenance, telephone, fax and Internet charges, laundry and dry cleaning charges, newspapers, taxi fares and parking fees). Receipts must be supplied to substantiate reimbursement.
- Reasonable childcare expenses of the Councillor incurred where the Councillor is the nominated Primary Care Giver of any child that may be required to accompany the Councillor to the conference during official conference sessions including conference luncheons and dinners.
- Accommodation cost reimbursement for Council business not covered within this policy will be determined by the Mayor and General Manager.

Council will make all necessary arrangements for Councillors attending conferences, seminars, courses etc. The procedures will be as follows:

- Council will, where possible, book accommodation in advance and pay expenses directly to the hotel/host organisation.
- Councillors finding they need to pay reasonable expenses incurred in connection with their attendance but not prepaid by Council will submit a claim for reimbursement to the General Manager, as provided in Clause 10.1 of this policy.
- Once all expenses have been finalised, accounts will be forwarded to Councillors for any expenses payable by them, in accordance with Council's normal terms ie 30 days. Any arrangements to finalise an account by periodic payment must be approved by the Mayor and the General Manager. Accounts, with prior approval, will be settled via a deduction from the Councillor's monthly allowance.

All Councillors will, as soon as possible or otherwise within one month after attending a conference/seminar (excluding the LGNSW Annual Conference and Education and Training Courses), provide the Council with a written report on the aspects of the conference/seminar relevant to the Council business. Alternatively copies of papers presented, decisions taken etc in either an electronic or paper form are to be provided to the General Manager who will advise Councillors of their existence and provide copies to interested Councillors.

Councillors attending approved education and training courses that are directly associated with their civic duties, must provide a written request to the General Manager stating what the course covers and what the benefits are to both Council and the community. Each Councillor will be eligible to attend Council approved education and training courses up to an individual value of \$5,000 per annum.

Council is committed to supporting Councillors attending learning and professional development activities related to Council functions and their role as a Councillor.

The Councillors Professional Development Policy addresses the training needs of Councillors. The cost of attending training will be accounted in the Value of Expenses provided annually to Councillors. As part of this Policy and annual Professional Development Plan, Council will arrange for internal seminars and guest speakers to address Councillors on relevant topics (e.g. changes to legislation, best practice initiatives).

## **11.2 Non Attendance at Conferences, Seminars and Functions**

Where costs are paid by Council for Mayor/Councillor attendance at an approved conference, seminar, function or the like, and the Councillor does not attend and has not provided opportunity for Council to seek a refund of the costs incurred or substitute another Councillor to attend; the Mayor/Councillor shall be personally liable to repay all amounts paid (and not refunded) to Council. In this case, the costs incurred (net of any refund) by the Council will be charged to that Mayor/Councillor.

Where the Mayor/Councillor believes there are extenuating circumstances (eg family or medical emergency) for non-attendance the Mayor/Councillor may apply to the General Manager to have such repayment waived.

### **11.3 Attendance at dinners and other non-Council functions representing Council**

Council will meet the cost of Councillors attendance at dinners and other functions where the Councillor is representing Council or the Mayor as well as non-Council functions that provide briefings to Councillors from key members of the community, politicians and business.

Approval to meet the cost of attending will only be given when the function is relevant to the Council's interest. Reimbursement will be up to a maximum of \$150 per function per Councillor.

Approval will not be provided for a Councillor to attend any political fundraising event, for any donation to a political party or candidate's electoral fund or for some other private benefit. Enquires should be made whether any expenses to be incurred would be directed towards such events and activities prior to approval being granted.

### **11.4 Local travel arrangements and expenses**

As a general principle, Councillors should undertake their travel by utilising the most direct route and the most practicable and economical mode of transport including public transport. Councillors are also encouraged to walk or use a bicycle where appropriate for Council related business.

#### **11.4.1 Public Transport**

Council will meet the cost of reasonable public transport expenses for travel relating to council business eg activities described in clause 11.1, 11.2 and 11.3.4.

#### **11.4.2 Private Motor Vehicle Use**

Councillors may claim the per kilometre allowance prescribed under Clause 10 of the Local Government (State) Award. The claim is to be submitted no later than 1 month after the costs were incurred and the claim include full details of the nature of the Council business, the date and time and the amount claimed. Councillors are responsible for any fines for parking and traffic infringements.

#### **11.4.3 Bicycle**

Councillors may claim incidental costs for the use of a bicycle to attend Council related business.

#### **11.4.4 Taxi Cab or for documented ride-share programs**

A **Taxi** cab card will be provided and is available to an annual value of \$1000, in the following circumstances:-

- Attendance by Councillors at meetings of community groups whose activities encompass all or part of the local government area and where the venue of such meeting may be either inside or outside the area.

- Attendance at social functions or meetings as a representative of the Mayor or Council when requested to do so by the Mayor.
- Attendance at social functions or meetings where the invitation or opportunity to attend the functions or meetings would not, in the normal course of events have been extended to the Councillor(s) concerned had it not been for their position as a Councillor within Council.
- Inspection of works or properties in the city as a result of a request from the resident.
- Travel as a result of Councillors attendance at a Council, Committee, Reference Group, Task Group, External Committee or Working Party meeting or where 3 or more Councillors are meeting on Council business. Attendance at approved Conferences, Seminars, Training Sessions and Courses. Taxi cab cards can be used in relation to the above events/activities for travel between:
  - place of residence and airport, airport and approved accommodation;
  - approved accommodation and site of conference or official visit;
  - within approved locations outside of the Council area.

**Note:** Councillors are required to submit Taxi cab dockets containing a note as to the Council business/function attended that was covered by the journey and the pick-up point and destination for reconciliation with the monthly account from the service supplier.

Documented ride-share programs, such as Uber, can be utilised for the same circumstances and conditions as for Taxi Cab as listed above but also require the submission of a tax invoice with each claim. Each claim is to be submitted to the General Manager within one (1) month of costs being incurred as outlined in Appendix A of this Policy, Reimbursement of Expenses.

The annual value includes claims for documented ride-share programs

## 11.5 Parking Fees and Tolls

Councillors will be reimbursed reasonable parking fees and road tolls incurred while on business expressly authorised by this policy. Fees payable will be up to \$75 per event. In all instances, Councillors are encouraged to find the lowest cost parking and toll option.

## 11.5 Travel outside the LGA including Interstate travel

### 11.5.1 Travel within Australia

Councillors who travel within Australia as approved under this policy have the following entitlements in relation to transportation:

- An economy class air ticket (or business class if medical reasons prevail). With all travel arrangements due consideration is to be given to the physical capacity of the Councillor and any variation to these arrangements will be with the approval of the Mayor and the General Manager.
- Use of a personal vehicle (provided the vehicle has current and unlimited third party risk insurance covering damage by the vehicle to property). Councillors may claim the per kilometre allowance prescribed under Clause 10 of the Local Government (State) Award for the shortest practical route.

The claim is to be submitted no later than 1 month after the costs are incurred and the claim includes full details of the nature of the Council business, the date and time and the amount claimed.

- Travel using a Council owned vehicle – A Councillor may use a Council-owned vehicle (if one is available) to facilitate the Councillors travelling requirements under this Policy by the shortest practical route and meeting the following;
  - Provide a copy of a current and valid driver's licence to the Manager Executive Services indicating that they are licenced to drive a motor vehicle.
  - May claim actual costs, if a fuel card does not meet the full costs involved, and a claim is submitted to the General Manager within one (1) month of costs being incurred in the terms referred to in this policy.
- Use of Hire car – A Councillor may use a hire car to facilitate travel requirements provided approval by the General Manager has been given prior to the hire of the vehicle.

### **11.5.2 Overseas Travel**

- Any overseas travel by a councillor is at the expense of the individual councillor.

### **11.5.3 General**

Council's policy is as follows:

- accommodation expenses incurred for conference, seminars and/or other travel/delegation etc. will be paid for by Council, including for the night prior to the Official Opening of the conference or delegation, depending upon travel schedules, as expressly authorised by Council prior to such travel being incurred. In accordance with the Australian Fringe Benefits Tax Guidelines, these accommodation expenses need to be substantiated in writing and a travel record kept where the travel involves more than 6 nights away (or as required by legislation from time to time) from the Councillor's ordinary place of residence;
- all travel vouchers and/or tickets will be returned to Council at the completion of each journey; the cost of daily meals and any incidental expenses actually incurred by the authorised attendee of Council to conferences and/or delegations. Amounts will be reimbursed on provision of documentary evidence and a claim form and to the daily limit having regard to the amounts set in the Australian Taxation Office TD 2016/13 for 2016/17 or such determinations or policies of the Australian Tax Office that supersede it. In this regard for domestic travel the limits are set per Table 3 of paragraph 11 of that ruling. Provided also that such expenses incurred are subject to the period of stay not exceeding the period for the conference or authorised business plus one day each way for travelling;
- airfares will be at economy class standard, or business class if medical reasons prevail.

After returning from overseas Councillors or an accompanying member of staff are to provide a detailed written report within one month to Council on the aspects of the trip relevant to Council business and/or the local community.

No travel is to be sponsored by private enterprise.

*Note: Administrative arrangements may be made for Council to initially fund travel and accommodation costs of Councillors associated with the Sister City Program, with such costs being fully reimbursed by Councillors from their monthly fee payments over a maximum 12 month period.*

## **11.6 Carers Expenses (Childcare, the care of the elderly, disabled and/or sick immediate family member)**

Councillors will be reimbursed for reasonable expenses incurred for carer's expenses due to the need to attend Council Meetings, Committee Meetings or other official Council business providing the Councillor is the Primary Care Giver or a Legal Guardian irrespective of whether more than one Councillor on Council is responsible for the care of an immediate family member. Councillors are to provide evidence of attendance at such events.

Councillors will be reimbursed for expenses paid to commercial providers other than spouse or partner up to one (1) hour before and up to one (1) hour after the civic duties mentioned above, to a maximum of \$150 per day, per person requiring care except for childcare expenses. In respect of childcare expenses the maximum limit that may be reimbursed is \$150 per family per day for accredited persons/organisations or a maximum of 50% of the daily allowance for non-accredited persons. A tax invoice is to be submitted with the claim. Childcare limits do not apply in cases of the LGNSW Annual Conference (see section 11.1).

## **11.7 Disability and Access Needs**

Council will give consideration to the payment of reasonable expenses associated with the special requirements of Councillors with respect to disability and access needs to allow them to perform their normal civic duties.

## **11.8 Insurance and Legal Assistance**

### **11.8.1 Insurance**

Councillors are covered under the following insurance policies (subject to any limitations or conditions set out in those policies) while discharging the duties of civic functions, including attendance at meetings of external bodies as Council's representative:

- **Personal Injury** For claims arising out of or in connection with a Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor.
- **Professional Indemnity** For matters arising out of Councillors' performance of civic duties or exercise of their functions as Councillors provided the performance or exercise of the relevant civic duty or function is in the opinion of Council bona fide and/or proper and is carried out in good faith, as required under Section 731 of the Local Government Act, but

subject to any limitation or conditions set out in the policy of insurance, which is, at the direction of Council, taken out.

- **Public Liability** For matters arising out of Councillors' performance of civic duties or exercise of their functions as Councillors, carried out in good faith but subject to any limitations or conditions set out in the policy of insurance which is, at the direction of Council, taken out.

## 11.8.2 Legal Assistance

- 11.8.2.1** The Council may indemnify or reimburse a Councillor's reasonable legal costs including defending legal proceedings being taken against a Councillor arising from the discharging in good faith the Councillors functions of civic office under the Local Government Act (section 731 refers) or defending where such proceedings are an action in defamation, provided that the outcome of the legal proceedings is not substantially unfavourable to the Councillor.

Provided that:

- the amount of such reimbursement shall be limited to the extent that only fees charged at a rate equivalent to the average hourly rate then being charged by partners at the firm(s) appointed by Council as it's solicitors will be paid, and any portion of the expenses exceeding that hourly rate will not be reimbursed; and
- the amount of such reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis as a result of the proceedings which caused the legal expenses to be incurred; and
- the legal expenses were incurred:
  1. as a result of an inquiry, investigation or hearing, into a Councillor's conduct by an appropriate investigative or review body including but not limited to:
    - Local Government Pecuniary Interest and Disciplinary Tribunal
    - conduct reviewer or conduct review panel
    - Independent Commission Against Corruption
    - Office of the Ombudsman
    - Division of Local Government, Department of Premier and Cabinet
    - Federal or State Police Force
    - Director of Public Prosecutions
    - Councils Conduct Review Committee/ Reviewer
    - A Court
  2. as a result of legal proceedings taken against the Councillor in relation to his or her discharging in good faith the functions of civic office; or



3. as a result of an appeal commenced by the Councillor against the outcome of any originating inquiry, investigation, hearing or proceeding relating to the discharge of the functions of civic office but only if the appeal is successful;
- the expenses can only be reimbursed after the conclusion of the inquiry, investigation, hearing or proceeding.

*Note: This may include circumstances in which a matter does not proceed to a finding. Also in addition to a Councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach had occurred may not necessarily be considered a substantially unfavourable outcome.*

**11.8.2.2 Council will not meet:**

- the legal costs of legal proceedings initiated by the Mayor and/or Councillors under any circumstance,<sup>4</sup>
- expenses incurred in any defamation proceedings instituted by the Councillor, even if they relate to activities undertaken by the Councillor in relation to discharging the function of civic office;
- expenses arising from an investigation as to whether a Councillor acted corruptly by using knowledge of a proposed rezoning for private gain;
- any expenses incurred by a Councillor in discharging the functions of civic office not in good faith.

**11.8.2.3** It should be noted that the legal expenses must be incurred in relation to discharging the functions of civic office and not all activities by a Councillor undertaken as a Councillor as such.

**11.8.2.4** Notwithstanding the above, the General Manager is delegated to obtain legal advice relating to this Policy and any associated matters concerning to a pecuniary interest, conflict of interests or matter governed by the Code of Conduct which in the opinion of the General Manager is necessary to clarify the particular Councillor's responsibilities in the performance of his/her functions of civic office.

**11.8.2.5** Any resolution by Council to provide indemnity and reimbursement needs to be subject to the provisions of this Policy and specifically clause 11.7.2.1.

**11.8.2.6** A Councillor seeking reimbursement of any legal costs must following the claims process outlined in Appendix B to this Policy.

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<sup>4</sup> DLG Circular No. 09-36 (Guidelines for the Payment of Expenses and the provision of Facilities for Mayors and Councillors in NSW – October, 2009) Legal Assistance Provisions and Expenses Page 17-18

## **PART 3 PROVISION OF FACILITIES**

### **12 PROVISION OF FACILITIES AND EQUIPMENT FOR COUNCILLORS**

Given the increasing ownership or access by individuals to electronic communication devices such as PCs, laptops/tablets, internet, and mobile phone devices it is recognised that Councillors may not wish to duplicate such services by the provision of separate communications devices. Accordingly in such circumstances Council's preference is that Councillors use their own equipment/services and seek reimbursement of usage for civic office purposes from Council eg for voice and data costs.

Council takes a flexible approach towards continuously reviewing innovations to obtain the benefits from such technological advances that improve service and reliability.

Equipment, facilities and services provided under this policy, if any, shall not be used to produce election material or for political purposes. Council's Code of Conduct and Electronic Communications Policy also govern the use of such equipment. Councillors will be required to sign an Electronic Equipment Acknowledgement Statement (as per Appendix C or similar) to that effect.

#### **12.1 Telephone costs and expenses**

Councillors should use their private electronic communications services and related equipment (including mobile, landline and fax) for Council related business and claim reimbursement up to a monthly maximum of \$125 (including voice, fax, landline and data) from Council. Councillors using their private electronic communication devices are required to present copies of monthly accounts and indicate the costs attributable to Council business.

In the event that Councillors use a Council provided mobile phone service and equipment (under a capped agreement up to \$125 per month), costs in excess of capped agreement will be repaid by the Councillor. The mobile phone and any other equipment will remain the property of Council subject to the acquisition provisions under this Policy.

All mobile phone/landline/faxlines numbers the subject of reimbursement of costs or mobile phone numbers provided by Council will be automatically published as contact number(s) of the relevant Councillor.

Councillors must abide by all Federal, State and Local laws and regulations when using a Council mobile phone including those that apply to the use of mobile phones while in motor vehicles.

#### **12.2 Tablet**

Councillors will be provided with a tablet based on Council's current standards, to enable Internet access, emailing access to Council business papers, minutes, policies and other Council records. This will include the provision of relevant "apps" as considered relevant from time to time by Council to enable Councillors to undertake their civic duties. A data package will be provided to a maximum of \$60 per month.

## 12.3 Personal Equipment and Internet Access

All Councillors will be provided with a Council email address and extranet service (or Councillor Webpage).

Councillors should use their own internet service and related equipment eg PC, Laptop and/or printer for Council business and claim reimbursement from Council. The limits are:

- For internet access up to a monthly maximum of \$79. This service may be part an overall voice/data service. Councillors using their internet service are required to present copies of monthly account and indicate the costs attributable to Council business.
- For Multi functional device, printer or similar paper supplies to a limit of \$250 per annum (as per section 12.7) and other consumables ie toner to a limit of \$250 per annum.

In the event that Councillors prefer Council to provide equipment then they may select:

- 1 Multi functional device, printer or similar to Council's standard and the provision of paper suppliers to a limit of \$250 per annum (as per section 12.7) and other consumables ie toner to a limit of \$250 per annum.
- 1 Council Standard Laptop
  - All equipment will be provided with the latest system configuration requirements and be subject to regular reviews to keep pace with future technological advancements and the latest operating software.
  - No unauthorised or unlicensed software is to be installed on the computer provided by Council and Councillors are required to comply with Councillor Use of Email and the Internet at all times, when using Council's computers. Council has the right to block the downloading of software should the need arise.
  - Wireless Internet access via USB dongle or related means up to a maximum of \$79 per month.

## 12.4 Other Equipment

Councillors may also select from within the following list the appropriate type of equipment/support required to perform their duties:

- **Shredder** - Provided with a paper shredder on request.
- **Filing Cabinet** - Be provided with a filing cabinet on request.
- **Computer software training** - Be provided with computer training where necessary to undertake the functions of civic office. The cost of training course fees and software will be met from the annual Councillor Value of Expenses outlined in this policy.

## 12.5 Public Facilities

Councillors will be provided with the following facilities, which remain the property of Council and must be returned to Council within 14 days of Councillors ceasing to hold office:-

- A security card and automatic gate “buzzer” to enable access from outside of the building to the Councillors’ Room, in the case of the Mayor, access to the Mayor’s Office. Access will be denied immediately from ceasing to hold Office.
- Above Rooms suitably furnished and equipped with telephone, computer facilities and photocopier to enable meetings with constituents.
- A bar fridge within the Councillors' Room, which will be maintained and stocked by Council, for Councillors' official use.

## 12.6 Postage Arrangements

Official Councillor correspondence is to be directed through Council's own mail system. Where that is impractical Councillors are entitled to claim a monthly maximum reimbursement subject to substantiation equivalent to the cost of 50 standard letters.

## 12.7 Stationery, Office Supplies and Support

Councillors have access to the following support in performance of their role as elected members of Council:

- Standard office supplies (pens, rulers, staples, paper etc).
- 500 Business Cards (replacement on request) up to a maximum of **\$150** per annum. To include Councillor’s contact details as authorised and a colour photograph. Up to 100 personalised Christmas Cards, if required and corporate presentation gifts (tie, scarf, etc). Additional generic Christmas Cards are to be purchased by the Councillor at the unit cost to Council.
- Personalised Councillor professional eletterhead with colour photograph and their contact details will be provided as well as paper supplies up to a value of \$250 per annum.
- Councillor eletterhead provided to Councillors and Councillor emails using Council email address will carry the following disclaimer:  
*"The statements made in this correspondence [email] are the views of the individual Councillor and do not necessarily reflect the views or the position of the Council or Management of Bayside Council".*
- A suitable name badge.
- Tea, coffee and refreshments when carrying out civic duties in the Council premises during office hours.
- Suitable meal and refreshments at Council/Committee/Task Group/etc meetings. The standard of the meal will be determined by the Mayor in consultation with the General Manager.

- Corporate gifts for use on a Council related business trip or when receiving visitors. These will be of token value and managed in accordance with a policy on Gifts.
- Dedicated executive services in typing of Councillor correspondence and all other needs.
- A briefcase to the value of \$200 will be provided to each Councillor on request.
- Professional advice and assistance from Council officers in preparing media material (other than election campaign material) relevant to the function of civic office and in each case subject to the approval of the Mayor and General Manager.
- A Recognition of Service plaque will be provided to each Councillor when they cease to hold office.

### **13 PROVISION OF ADDITIONAL EXPENSES AND FACILITIES FOR MAYOR**

In addition to the previously detailed support in this Clause the Mayor and Deputy Mayor (when acting in the position of the Mayor) will be provided with:

- Mayoral vehicle of prestige class (of a similar standard as that provided to the General Manager under State Government purchasing requirements) at the discretion of the Mayor of the day, fully maintained and complete with hands free access for a mobile phone and for use by the Mayor at all times;
- The cost of telephone calls made from the Mayor's mobile telephone, in relation to mayoral duties, up to a limit of \$150 per month having regard to the need for additional contact with the community in undertaking mayoral functions and civic duties;
- An allotted secure parking space;
- A petrol card for the Mayoral vehicle;
- Mayoral Chain of Office for official/civic/ceremonial use;
- A Mayoral office, suitably furnished and equipped;
- A refreshment cabinet located in the Mayoral office, which will be maintained and stocked by Council for official use (meetings/receptions) by the Mayor, and by the Deputy Mayor when acting in the position of Mayor.
- A suitably qualified and experienced executive assistant;
- Standard Mayoral letterhead for official correspondence;
- Handling of all Mayoral correspondence written in the course of Mayoral duties, including posting of mail and follow up correspondence.

- Tea, coffee, meals and refreshments when carrying out meetings in the course of official duties in the Council Chambers or Administration Centre.

## 14 PRIVATE USE OF COUNCIL EQUIPMENT AND FACILITIES

Councillors should not generally obtain private benefit from the provision of equipment and facilities, nor from travel bonus or any such loyalty schemes. (Note any benefits from travel or loyalty schemes would be considered a breach of Council's Code of Conduct.) However, it is acknowledged that incidental use of Council equipment and facilities may occur from time to time. Such incidental private use is not subject to a compensatory payment.

Where a Mayor or councillor's private use is more than incidental (5%), the councillor shall compensate Council for the private use within 30 days of request. Council is entitled to deduct from the councillor's fees any amounts outstanding after 30 days from request.

Councillors must report the theft of any equipment issued immediately to the Police and to the General Manager or Manager Executive Services.

## PART 4 OTHER MATTERS

### 15. DISPUTES

15.1 If a Councillor's Expenses Claim is refused for not being in accordance with this Policy:

- The Councillor will be advised by the Manager Executive Services via email.
- Councillor states his/her case to the Manager Executive Services in writing if he/she disputes the determination.
- Manager Executive Services will advise the Councillor of his/her decision in writing.
- If Councillor disputes the determination made by Manager Executive Service, the Councillor should discuss the matter with the General Manager.

15.2 If a Councillor disputes a determination under this policy, the Councillor should discuss the matter with the General Manager.

15.3 If the Councillor and the General Manager cannot resolve the dispute, the Councillor may submit a notice of motion to a council meeting seeking to have the dispute resolved.

15.4 If the matter is determined by Council; Council's Resolution is final and binding.

## 16. RETURN OR RETENTION OF FACILITIES

- 16.1 All unexpended facilities or equipment supplied under this policy are to be relinquished immediately upon a councillor or mayor ceasing to hold office or at the cessation of their civic duties.
- 16.2 Should a councillor desire to keep any equipment allocated by council, then this policy enables the councillor to make application to the general manager to purchase any such equipment. The general manager will determine an agreed fair market price or written down value for the item of equipment.
- 16.3 The prices for all equipment purchased by councillors under Clause 11.2 will be recorded in Council's annual report.

## 17. PUBLICATION

- 17.1 This policy will be published on council's website.

## 18. REPORTING

- 18.1 Council will report on the provision of expenses and facilities to councillors as required in the Act and Regulations.
- 18.2 Detailed reports on the provision of expenses and facilities to councillors will be publicly tabled at a council meeting every six months and published in full on council's website. These reports will include expenditure summarised by individual councillor and as a total for all councillors.

## 19. AUDITING

- 19.1 The operation of this policy, including claims made under the policy, will be included in council's audit program and an audit undertaken at least every two years.

## 20. BREACHES

- 20.1 Suspected breaches of this policy are to be reported to the general manager. Alleged breaches of this policy shall be dealt with by following the processes outlined for breaches of the Code of Conduct, as detailed in the Code and in the Procedures for the Administration of the Code.

## 21. STATUS OF THE POLICY

This Policy, once adopted, is to remain in force until it is reviewed by the Council in accordance with the provisions of Sections 253 and 254 of the Local Government Act 1993.

This Policy will be reviewed in accordance with the provisions of Section 252(1) of the Local Government Act.

Amendments to the Policy will be carried out in accordance with the provisions of Section 253 of the Local Government Act.

Formatting or grammatical corrections to the Policy including amendments to legislation or guidelines issued by the Office of Local Government may be made with approval of the General Manager.

## **22. ALLOWANCE (SALARY) SACRIFICE**

*"In accordance with the Australian Taxation Office Interpretative Decision 2007/205, Council may enter into an arrangement with a Councillor under which the Councillor agrees to forego all or part of their annual fee in exchange for the Council making contributions to a complying superannuation fund on their behalf."*

Councillors should seek their own financial advice on the impact upon their personal financial and taxation benefits before nominating a deduction from their allowance/s into the nominated superannuation fund. These requests are to be directed to the General Manager.

No other allowance (salary) sacrifice benefits are available to Councillors.

## **23. THE ROLE OF COUNCILLOR**

Section 232 of the Local Government Act defines the role of a Councillor. It generally provides that Councillors have two distinct roles; as a member of the governing body of the Council; and as an elected person. Councillors as members of the governing body should work as part of a team to make decisions and policies that guide the activities of the Council. Their role as an elected person requires Councillors to represent the interests of the community and provide leadership.

The Councillor Expenses and Facilities Policy should facilitate and assist Councillors to carry out their role.

Section 232 of the Act (The role of a councillor) states:

*(1) The role of a councillor is as follows:*

- (a) to be an active and contributing member of the governing body,*
- (b) to make considered and well informed decisions as a member of the governing body,*
- (c) to participate in the development of the integrated planning and reporting framework,*
- (d) to represent the collective interests of residents, ratepayers and the local community,*
- (e) to facilitate communication between the local community and the governing body,*
- (f) to uphold and represent accurately the policies and decisions of the governing body,*
- (g) to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor.*

*(2) A councillor is accountable to the local community for the performance of the council.*



**Recognition of service**

In recognition of long service as Councillor and/or Mayor, Councillors are eligible to receive particular Local Government NSW awards if their service meets certain criteria. Refer to Council's *Councillors' Recognition of Service Policy* for details.

**24 ACCESS TO POLICY**

The Government Information (Public Access) Act 2009 ("GIPA Act") gives a right to all persons to access Council documents as listed in the Act. These documents include annual reports, management plans, and Council policies including this Policy. The GIPA Act provides that the public is able to inspect such documents during office hours at the Council, and at no charge. This Policy is also available online.

**25 RELEVANT PROVISIONS UNDER THE ACT AND REGULATION****Reporting**

Section 428(2) (f) of the Act requires Council to include in its annual report:

- *The total amount of monies expended during the year on Mayoral fees and Councillors fees,*
- *The Council's policy on the provision of facilities for the use by Councillors and the payment of Councillors' expenses,*
- *Statement of the total amount of money expended during the year on the provision of such facilities and the payment of such expenses.*

In addition, Section 428(2) (r) of the Act states, "*such other information as the regulations may require*".

Clause 217 of the Regulation requires Council to include in its annual report the following information:

- (a) *details (including the purpose) of overseas visits undertaken during the year by Councillors, Council staff or other persons while representing the Council (including visits sponsored by other organisations).*
- (a1) *details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, Councillors in relation to their civic functions (as paid by the Council, reimbursed to the Councillor or reconciled with the Councillor), including separate details on the total cost of each of the following:*
  - (i) *the provision during the year of dedicated office equipment allocated to Councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in Councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),*
  - (ii) *telephone calls made by Councillors, including calls made from mobile telephones provided by the Council and from landline telephones and facsimile services installed in Councillors' homes,*
  - (iii) *the attendance of Councillors at conferences and seminars,*

- (iv) *the training of Councillors and the provision of skill development for Councillors,*
- (v) *interstate visits undertaken during the year by Councillors while representing the Council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*
- (vi) *overseas visits undertaken during the year by Councillors while representing the Council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*
- (vii) *the expenses of any spouse, partner or other person who accompanied a Councillor in the performance of his or her civic functions, being expenses payable in accordance with the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director-General from time to time.*
- (viii) *expenses involved in the provision of care for a child of, or an immediate family member of, a Councillor, to allow the Councillor to undertake his or her civic functions.*

#### ***Disallowance of expenses and facilities***

Clause 403 disallows the payment of a general expense allowance and for a vehicle to be made available for the exclusive use of a Councillor other than the Mayor.

*Clause 403 (Payment of expenses and provision of facilities) states:*

*A policy under section 252 of the Local Government Act 1993 must not include any provision enabling a Council:*

- (a) to pay any Councillor an allowance in the nature of a general expense allowance, or*
- (b) to make a motor vehicle owned or leased by the Council available for the exclusive or primary use or disposition of a particular Councillor other than a Mayor.*

## **26. OTHER NSW GOVERNMENT POLICY PROVISIONS**

### **26.1 Office of Local Government Guidelines**

Under section 252(5) of the *Local Government Act 1993* the Council expenses policy must comply with guidelines issued under section 23A of the Act.

### **26.2 Circulars to Councils**

The policy must take into account the following Circulars.

- Circular 16-20 re *Misuse of Council Resources*
- Circular 16-18 re *Council Decision Making prior to Ordinary Elections*
- Circular 09/36 re *Councillor Expenses and Facilities Guidelines*
- **Local Government Circular 17-17 Councillor Expenses and Facilities Policy Better Practice Template**

## 26.3 The Model Code of Conduct for Local Councils in NSW (OLG)

The policy should be consistent with the *Model Code of Conduct for Local Councils in NSW, Office of Local Government - November 2015*. The following parts of the Code are particularly relevant to s252 policies:

Code of Conduct provisions relevant to this policy are:

*"Use of Council resources*

*You must use Council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.*

*Union delegates and consultative committee members may have reasonable access to Council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:*

- a) the representation of members with respect to disciplinary matters*
- b) the representation of employees with respect to grievances and disputes*
- c) functions associated with the role of the local consultative committee.*

*You must be scrupulous in your use of Council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.*

*You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.*

*You must not use Council resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.*

*You must not use Council letterhead, Council crests and other information that could give the appearance it is official Council material for:*

- a) the purpose of assisting your election campaign or the election campaign of others, or*
- b) for other non-official purposes.*

*You must not convert any property of the Council to your own use unless properly authorised.*

*You must not use Council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature."*

## 26.4 Councillor Induction and Professional Development Guide (OLG)

The policy provisions on training and development should integrate with any training and development policy, plan or program developed by the Council. The Office has produced a *Councillor Induction and Professional Development Guide*

(September 2008) and this was updated in June 2012 (circular 12-18) to assist Councils to develop these programs. The Guide is available on the OLG website.

## 26.5 No Excuse for Misuse, preventing the misuse of Council resources (ICAC)

Councils should also be aware of and take account numerous corruption reports available from the Independent Commission Against Corruption (ICAC) concerning misuse of resources or corruption that are available on the ICAC website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

Councillors are also referred to the Council's Code of Conduct (Part 7) and its Electronic Communications Policy (Appendix 1 – Inappropriate use of electronic communications) regarding the use of Council's resources

## 27 RELEVANT DOCUMENTS

- Local Government Act 1993, Sections 252 and 253
- Local Government (General) Regulation 2005, Clauses 217 and 403
- Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, 2009
- Local Government Circular 09-36 Guidelines for Payment of Expenses and Facilities
- Local Government Circular 05-08 legal assistance for Councillors and Council Employees
- Local Government Circular 17-17 Councillor Expenses and Facilities Policy Better PracticeTemplate
- Council's Code of Conduct

## 28 VERSION HISTORY

Version	Release Date	Author	Reason for Change
1.0	14/09/2016	Bruce Cooke	New document
2.0	12/07/2017	Warren Park	Review of document
2.1	30/08/2017	Warren Park	Minor edits
3.0	19/07/2018	Coordinator Governance	Review of document

## Appendix A - Claim for Reimbursement of Expenses by Councillors

I hereby submit my claim for reimbursement of expenses in accordance with the provisions of the Local Government Act and Council's Councillors' Expenses & Facilities Policy.

Councillor.....

### Claim for reimbursement of expenses

Date	Nature of Business/ Function attended	Representing Mayor/Council		Nature of Claim	\$ or % For Private Use Above 5%	\$ or % Civic Duties	Amount Claimed (Inc GST)
		Yes	No				

### Claim for reimbursement of travel expenses (personal vehicle/taxi cab / ride-share eg. Uber)

Date	Nature of Business/ Function attended	Method of travel	Pick-up Point*	Destination*	Distance in kms	Rate /km#	Amount claimed

\* Pick-up Point and Designation is required for Taxi cab vouchers / documented ride share eg. Uber.

# Contact Council's Executive Services to obtain current rate for Km usage

**Total amount claimed:** \$\_\_\_\_\_

Please note:

- The form is to be lodged with Tax Invoices/Receipts attached in order for reimbursement to be processed.  
Claims must be lodged within one month of incurring.
- Councillors are required to submit Taxi cab dockets / documented ride share eg. Uber dockets containing a note as to the Council business/function attended that was covered by the journey as well as the pick-up point and destination for reconciliation with the monthly account from the service supplier

I certify that the above expenses have been reasonably incurred in the performance of my role as a Councillor of Bayside Council and are due and payable to me in accordance with Council's Policy.

Signature: ..... Date: .... / .... / ....

## Appendix B – Process for Claiming Reimbursement of Legal Costs

### 1. To whom do you make the application for reimbursement?

The application for reimbursement of legal expenses should be made in writing to the General Manager. The General Manager may ask for additional information and shall put such application before the Council in accordance with the Policy.

### 2. When can you make an application for reimbursement?

An application for reimbursement of legal expenses can be made having regard to rights and obligations in the Policy.

### 3. Requirement for previous application to the Attorney-General where acting as a witness before an ICAC hearing

If you have been called as a witness at a hearing (public or private) conducted by the Independent Commission Against Corruption (**ICAC**), you must have:

3.1. **Prior to or during your appearance as a witness at the hearing**, applied in writing to the Attorney General for financial assistance with respect to your legal representation, pursuant to section 52 of the *Independent Commission Against Corruption Act 1988*; and

3.2. Have been refused such financial assistance in part or full.

*Note: Your application to the Attorney-General will need to include the full details of your financial situation and, provided your summons does not prevent you from doing so, the evidence you expect to give.*

### 4. What other eligibility requirements need to be addressed in your application?

The application should address the following criteria where relevant:

- 4.1 specify which investigative body has conducted the relevant interview/s and hearing/s (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);
- 4.2 specify whether you are currently a Councillor or Mayor, or have been a former Councillor or Mayor (in which case you must have been acting in this office at any time from the March 2004 Local Government Elections onwards);

*Note: See the definition of “investigative body” in the Policy.*

- 4.3 state whether you are the subject of the investigation/s and/or the hearing/s and, if not, specify who is the subject (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);

*Note: Where you are uncertain as to whether you are the subject of the investigation/s and/or the hearing/s, or as to whom the subject is, you should state this.*

- 4.4 provide details of the request or summons to attend an interview/s or hearing/s by the relevant investigative body (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);
- 4.5 detail the legal expenses (including hourly rate charged) in part or in full incurred in connection with attending the interview/s or hearing/s (public or private);
- 4.6 describe the nature of the information the investigative body has, through requesting an interview or your attendance at a hearing, sought from you (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);
- 4.7 describe how the information the investigative body has sought from you directly derives from your discharge of duties or your exercise of civic functions as the Mayor or as a Councillor (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);
- 4.8 state whether you are satisfied you discharged the duties or exercised the functions in question in good faith or with honest intent (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);
- 4.9 show that you have complied with any reasonable and lawful direction of your insurer and/or the General Manager (if there has been any such direction); and
- 4.10 provide evidence that the investigative body or Court has:
  - 4.10.1 confirmed in writing that it has completed the investigation/s or hearing/s or, where a Report is to be provided pursuant to the relevant legislation, published its Report; and
  - 4.10.2 confirmed in writing that the outcome of the legal proceedings is not substantially unfavourable to Council has been made with respect to you.

## **5. What documents need to be included with your application?**

Where appropriate the following information should be provided:

- 5.1 A copy of the document requesting your attendance at an interview/s or hearing/s by the investigative body or Court, for example, a letter or summons (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);
- 5.2 If you have been called as a witness at a hearing (public or private) conducted by ICAC, a copy of your request to the Attorney-General for legal assistance pursuant to section 52 of the *Independent Commission Against Corruption Act 1988*, and a copy of the Attorney General's response;

- 5.3 Copies of any itemised invoices issued to you for legal expenses (fees charged for legal representation or legal advice including the hourly rate charged) in connection with the interview/s or hearing/s and any receipts for payment for such invoices;
- 5.4 Confirmation in writing from the investigative body or Court that it has completed its investigation/s or hearing/s or, where a Report has been prepared, a copy of the Report or the decision of the Court;
- 5.5 Where not included in the Report, or where a Report is not provided, written confirmation that the outcome of the legal proceedings is not substantially unfavourable to Council has been made with respect to you;
- 5.6 Any other documents relevant to the eligibility requirements outlined in paragraph 4.

**6. What will happen where a suppression order or other order restricting disclosure of information applies?**

- 6.1 Where you have been ordered by the investigative body or Court, for example, in your summons, not to disclose information which the Policy requires you to provide (see paragraph 4 and 5 above), you should refrain from including such information in your application.
- 6.2 Once any suppression order or other order has been lifted by the investigative body or Court, you should immediately provide the General Manager with the information previously omitted from your application on this basis.
- 6.3 The General Manager may not be able to consider your application where a suppression order or other order restricting disclosure of information apply until the suppression order or other order is lifted and information previously omitted is available where the information is required to approve the reimbursement.

**7. Will Council need to pass a resolution regarding my application?**

- 7.1 Yes, in accordance with Clause 11.7.2.5 Legal Assistance of this Policy "A Councillor must seek and obtain approval from Council for indemnity and reimbursement of any legal cost covered by this policy prior to legal expenses being incurred.
- 7.2 Any resolution by Council to provide indemnity and reimbursement needs to be consistent with this Policy and subject to the provisions of clause 11.7.2.1.
- 7.3 Where Council is not satisfied of the above, Council should provide reasons for its determination.



## Appendix C - Electronic Equipment Acknowledgement

### Appropriate Use

As a Council official of Bayside Council, I will use electronic communications and/or devices appropriately, and in accordance with the Code of Conduct and Electronic Communications Policy (both accessible from the Councillor Portal).

In particular, I am aware that:

- Council's Code of Conduct specifically includes a requirement that Council officials "must use resources ethically, effectively, efficiently and carefully in the course of (their) duties."
- Council's Electronic Communications Policy provides more specific guidance as to the use of Council's electronic communication devices.

I understand that it is my responsibility to seek advice regarding any questions that I might have regarding the use of Council's equipment prior to my using this device.

### Standards of use

I acknowledge that the standards of use of electronic communications and devices are as outlined in the Electronic Communications Policy:

- Do not use devices or electronic communications in a way that is unlawful or in conflict with this and other Council's policies and procedures.
- Do not use devices or electronic communications in a way that damages Council's reputation.
- Do not access Council information that is not relevant to your official responsibilities.
- Do not interfere with others conducting Council business.
- Do not use Council's electronic devices for personal use (apart from insignificant use).

### Software and applications

I understand that:

- I should report any known misuse of software or related documentation to the General Manager.
- Under Australian copyright law, unauthorised duplication and distribution of software can expose Council to extensive fines and claims for civil damages, and can expose me to personal fines together with possible detention and claims for civil damages.
- With Council owned and supplied electronic devices, I must only use on those devices copies of software legally acquired by the Council or myself, and I must comply with all known license conditions accompanying any software acquired or used.

**Monitoring**

I acknowledge that, in accordance with Section 10 of the Workplace Surveillance Act 2005, surveillance of electronic communications and devices is undertaken by Council.

**Enquiries**

Enquiries to IT Helpdesk through Councillor Support or 9562 1757.

**Ownership**

I acknowledge that, if an electronic communication device is provided by Council, it remains the property of Bayside Council. The following electronic communications and other items have been allocated to me:

Tablet	BC No:	Serial No:
Locker key	No:	
Garage remote	User No:	
Taxi card	Yes	Refer to separate Taxi cab form

---

Councillor's Name

---

Signature

---

Date

---

Councillor Support Officer

## Council Meeting

8/08/2018

Item No                8.11  
Subject                **Planning Panel Name Change**  
Report by             Michael Mamo, Director City Performance  
File                     F17/111

---

## Summary

In accordance with a Ministerial direction recently issued by the Minister for Planning under the Environmental Planning and Assessment Act 1979 Council is required to rename its planning panel to the Bayside Local Planning Panel.

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## Officer Recommendation

That the Bayside Planning Panel be renamed to the Bayside Local Planning Panel.

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## Background

Councils were required by statute to establish Independent Hearing and Assessment Panels (IHAP) earlier this year. No naming convention was prescribed and Bayside's IHAP continued to be named "Bayside Planning Panel".

It appears that IHAPs have been constituted with a variety of different names across the State which may cause some confusion in the community about the purpose of the panel. To address this, the Minister for Planning has made a direction requiring local councils to follow a standard naming convention. The name of the panel is to be identified by the name of the local government area followed by the words "local planning panel" i.e. Bayside Local Planning Panel.

Council is required to follow this naming convention.

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## Financial Implications

Not applicable	<input checked="" type="checkbox"/>
Included in existing approved budget	<input type="checkbox"/>
Additional funds required	<input type="checkbox"/>

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## Community Engagement

Not Applicable

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## Attachments

Nil

## Council Meeting

8/08/2018

Item No	8.12
Subject	<b>Public Interest Disclosures Policy</b>
Report by	Michael Mamo, Director City Performance
File	F11/316

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## Summary

This report provides an updated Public Interest Disclosure Policy for Council's approval.

Council's Public Interest Disclosures Policy was previously adopted on 14 December 2016. Since the adoption of this policy the NSW Ombudsman's Office has provided updated Guidelines and Templates. This policy has been amended to reflect those changes and expand the list of disclosure officers nominated by the General Manager.

## Officer Recommendation

That the Public Interest Disclosures Policy, annexed to the report, be adopted.

---

## Background

Bayside Council's Public Interest Disclosures Policy was previously adopted on 14 December 2016. Since the adoption of Council's policy the NSW Ombudsman's Office has provided updated Guidelines and templates in September 2017. The attached policy has been amended to reflect recent amendments and is based on the NSW Ombudsman's Model Internal Reporting Policy for Local Government and the recent NSW Ombudsman's guidelines.

As background, the *Public Interest Disclosures Act 1994* ensures that public officials who wish to make disclosures about wrongdoing receive protection from reprisals, and that the matters raised in the disclosures are properly investigated.

The Act aims to encourage and facilitate the disclosure - in the public interest - about serious wrongdoing - corrupt conduct, maladministration, serious and substantial waste of public money, breach of the Government Information Public Access (GIPA) Act, or local government pecuniary interest contravention in the public sector.

Under the Act, Council is required to have a policy and procedures for receiving, assessing and dealing with public interest disclosures. Council is also required to have in place an effective and appropriate policy which is aimed at supporting public officials who wish to make disclosures.

A key amendment to this policy is to expand the number of Disclosure Officers that may receive public interest disclosures under the Policy. The Policy allows the General Manager to amend the list of staff nominated Disclosures Officers (refer Appendix 1 of this Policy). It should be noted that the General Manager and Mayor are mandatory Disclosures Officers under the Act.

The Policy also supports Council's commitment to training of all staff in Public Interest Disclosures.

The revised draft amended Public Interest Disclosures policy is attached to this report for Council's consideration. The adoption of this Policy is in accordance with legislative requirements under the Public Interest Disclosures Act 1994 and Guidelines issued by the NSW Ombudsman. Accordingly it is recommended for adoption.

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### **Financial Implications**

Not applicable.

### **Community Engagement**

Not applicable.

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### **Attachments**

Public Interest Disclosures Policy [↓](#)



**Bayside Council**

Serving Our Community

# **Draft Public Interest Disclosures Policy**

**Date**



© Bayside Council

Public Interest Disclosures Policy  
File:F11/316 Document:18/77885  
Policy Register: F16/951 Policy No.PP16/12.3  
Class of document: Council Policy

Enquiries: Manager Governance & Risk



**Telephone Interpreter Services - 131 450**

Τηλεφωνικές Υπηρεσίες Διερμηνέων

خدمة الترجمة الهاتفية

電話傳譯服務處

Служба за преведување по телефон

## 1 Purpose and context of the policy

The purpose of this policy is to establish an internal reporting system for staff and Councillors to report wrongdoing without fear of reprisal. The policy sets out who you can report wrongdoing to in Bayside Council, what can be reported and how reports of wrongdoing will be dealt with by Bayside Council. This policy is based on the NSW Ombudsman's Model Internal reporting policy, Guidelines and templates.

This policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to raise matters of concern at any time with their supervisors, but also have the option of making a report about a public interest issue in accordance with this policy and the *Public Interest Disclosures Act 1994* (PID Act).

This policy is just one in the suite of Bayside Council's complaint handling policies. Other Council policies that deal with complaint handling, including:

- Council's Code of Conduct and
- Council's Complaint Handling Policy and Procedure

The internal reporting system established under this policy is not intended to be used for staff grievances, which should be raised through the Staff Grievance Policy. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to People Organisation Culture to be dealt with in accordance with the Staff Grievance Policy.

## 2 Organisational commitment

Bayside Council does not tolerate corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention. Bayside Council is committed to:

- creating a climate of trust, where people are comfortable and confident about reporting wrongdoings;
- encouraging individuals to come forward if they are aware of wrongdoings within Council;
- keeping the identity of the person disclosing wrongdoings confidential, wherever possible and appropriate;
- protecting the person from any adverse action resulting from them making a report;
- dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it;
- keeping individual who make reports informed of their progress and the outcome;
- encouraging staff to report wrongdoing within Council, but respecting any decision to disclose wrongdoing outside the Council – provided that disclosure outside Council is made in accordance with the provisions of the PID Act;
- ensuring managers and supervisors at all levels understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing.
- will review this policy periodically to ensure it is relevant and effective
- will provide adequate resources, to:



- encourage reports of wrongdoing
- protect and support those who make them provide training about how to make reports and the benefits of internal reports to Council and the public interest generally
- properly assess and investigate or otherwise deal with allegations
- properly manage any workplace issues that the allegations identify or that result from a report
- appropriately address any identified problems.

Under the PID Act, the General Manager is responsible for ensuring that:

- Council has an internal reporting policy
- the staff of Council and Councillors are aware of the contents of the policy and the protection under the PID Act for people who make public interest disclosures
- Council complies with the policy and Council's obligations under the PID Act
- the policy delegates at least one staff member as being responsible for receiving public interest disclosures. Clause 3.15 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW requires the complaints coordinator to be a Disclosures Coordinators. The Ombudsman recommends Councils nominate more than one person as being responsible for receiving public interest disclosures (see Section 8 of this policy "Who can receive a report within Bayside Council").

### **3 Who does this policy apply to?**

This policy will apply to:

- both Council staff and Councillors
- permanent employees, whether full-time or part-time
- temporary or casual employees
- consultants
- individual contractors working for Bayside Council
- employees of contractors providing services to Bayside Council
- other people who perform Council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers.

The policy also applies to public officials of another Council or public authority who report wrongdoing relating to Bayside Council.

## **4 Roles and responsibilities**

### **4.1 The role of Council staff and Councillors**

Staff and Councillors play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All Council staff and Councillors are obliged to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing

- if requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality
- treat any staff member or person dealing with a report of wrongdoing with courtesy and respect
- respect the rights of any person the subject of reports.

Staff and Councillors must not:

- make false or misleading reports of wrongdoing
- victimise or harass anyone who has made a report

Additionally, the behaviour of all Council staff and Councillors involved in the internal reporting process must adhere to Bayside Council's Code of Conduct. A breach of the Code could result in disciplinary action.

## **4.2 The role of Bayside Council**

Bayside Council has a responsibility to establish and maintain a working environment that encourages staff and Councillors to report wrongdoing and supports them when they do. This includes keeping the identity of reporters confidential where practical and appropriate, and taking steps to protect reporters from reprisal and manage workplace conflict.

Bayside Council will assess all reports of wrongdoing it receives from staff and Councillors and deal with them appropriately. Once wrongdoing has been reported, Bayside Council takes 'ownership' of the matter. This means it is up to us to decide whether a report should be investigated, and if so, how it should be investigated and by whom. Bayside Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.

Bayside Council must report on our obligations under the PID Act and statistical information about public interest disclosures in our annual report and to the NSW Ombudsman every six months.

To ensure Bayside Council complies with the PID Act and deals with all reports of wrongdoing properly, all staff and Councillors with roles outlined below and elsewhere in this policy will receive training on their responsibilities.

## 4.3 Roles of key positions

### **General Manager**

The General Manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring Bayside *Council* complies with the PID Act. The General Manager can receive reports from staff and Councillors and has a responsibility to:

- assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures
- ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- make decisions following any investigation or appoint an appropriate decision-maker
- take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified
- refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

### **Disclosures Coordinators**

The Disclosures Coordinators has a central role in Bayside Council's internal reporting system. The Disclosures Coordinators can receive and assess reports, and is the primary point of contact in Bayside Council for the reporter. The Disclosures Coordinators have a responsibility to:

- assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager)
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures
- coordinate Bayside Council's response to a report
- acknowledge reports and provide updates and feedback to the reporter
- assess whether it is possible and appropriate to keep the reporter's identity confidential
- assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- ensure Bayside Council complies with the PID Act

- provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

### **Disclosures Officers**

Disclosures Officers are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff and Councillors to make reports.

Disclosures Officers have a responsibility to:

- document in writing any reports received verbally, and have the document signed and dated by the reporter
- make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary away from the workplace
- discuss with the reporter any concerns they may have about reprisal or workplace conflict
- carry out preliminary assessment and forward reports to the Disclosures Coordinators or General Manager for full assessment.

### **Mayor**

The Mayor can receive reports from staff and Councillors about the General Manager. Where the Mayor receives such reports, the Mayor has a responsibility to:

- assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures
- refer reports to an investigating authority, where appropriate
- liaise with the Disclosures Coordinators to ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- refer actual or suspected corrupt conduct to the ICAC
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

**Note:** In assessing reports, the Mayor may seek guidance from a Disclosure Coordinator (if appropriate) or an investigating authority (ie. the ICAC, the NSW Ombudsman, the NSW Information & Privacy Commissioner or the Director-General of the Office of Local Government).

### **Managers, Coordinators and Supervisors**

Managers, Coordinators and Supervisors play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process.

Managers, Coordinators and Supervisors should be aware of the internal reporting policy and are responsible for creating a local work environment where staff are comfortable and confident about reporting wrongdoing. They have a responsibility to:

- encourage staff to report known or suspected wrongdoing within the organisation and support staff when they do
- identify reports made to them in the course of their work which could be public interest disclosures, and assist the staff member to make the report to an officer authorised to receive public interest disclosures under this policy
- implement local management strategies, in consultation with the Disclosures Coordinators, to minimise the risk of reprisal or workplace conflict in relation to a report
- notify the Disclosures Coordinators or General Manager immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the General Manager, notify the Mayor.

## **5 What should be reported?**

You should report any suspected wrongdoing within Bayside Council, or any activities or incidents you see within Bayside Council that you believe are wrong.

Reports about five categories of serious misconduct – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, and local government pecuniary interest contravention – which otherwise meet the criteria of a public interest disclosure, will be dealt with under the PID Act and according to this policy. See below for details about these types of conduct. More information about what can be reported under the PID Act can be found in *the NSW Ombudsman's Guideline B2: What should be reported?* (<https://www.ombo.nsw.gov.au/news-andpublications/publications/guidelines/public-interestdisclosures/>).

All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in line with the relevant policies. This might include:

- harassment or unlawful discrimination
- practices that endanger the health or safety of staff or the public.

Even if these reports are not dealt with as public interest disclosures, Bayside Council recognises such reports may raise important issues. We will respond to all reports and make every attempt to protect the staff member making the report from reprisal.

Further information in relation to Council's Grievance Policy, Prevention of Bullying and Harassment Policy and the Code of Conduct can be found on Council's intranet.

## 5.1 Corrupt conduct

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

- the improper use of knowledge, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust
- a Council official being influenced by a member of public to use their position in a way that is dishonest, biased or breaches public trust.

## 5.2 Maladministration

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

- making a decision and/or taking action that is unlawful
- refusing to grant an approval for reasons that are not related to the merits of their application.

## 5.3 Serious and substantial waste of public money

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money.

For example, this could include:

- not following a competitive tendering process for a large scale contract
- having bad or no processes in place for a system involving large amounts of public funds.

## 5.4 Breach of the GIPA Act

A breach of the *Government Information (Public Access) Act 2009* (GIPA Act) is a failure to properly fulfil functions under that Act.

For example, this could include:

- destroying, concealing or altering records to prevent them from being released
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation.

## 5.5 Local government pecuniary interest contravention

A local government pecuniary interest contravention is a failure to comply with requirements under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests

returns, disclose pecuniary interests at Council and Council committee meetings and leave the meeting while the matter is being discussed. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

For example, this could include:

- a senior Council staff member recommending a family member for a Council contract and not declaring the relationship
- a Councillor participating in consideration of a DA for a property they or their family have an interest in.

## **6 Assessment of reports**

All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether or not the report will be treated as a public interest disclosure.

The Disclosures Coordinators are responsible for assessing reports, in consultation with the General Manager where appropriate. All reports will be assessed on the information available to the Disclosures Coordinator at the time. It is up to the Disclosures Coordinator to decide whether an investigation should be carried out and how that investigation should be carried out. In assessing a report the Disclosures Coordinator may decide that the report should be referred elsewhere or that no action should be taken on the report.

## **7 When will a report be treated as a public interest disclosure?**

Bayside Council will treat a report as a public interest disclosure if it meets the criteria of a public interest disclosure under the PID Act. These requirements are:

- the report must be about one of the following five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention
- the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing
- the report has to be made to either the General Manager or, for reports about the General Manager the Mayor, a position nominated in this policy (refer section 8), an investigating authority or in limited circumstances to an MP or journalist (refer section 9).

Reports by staff are not public interest disclosures if they:

- mostly question the merits of government policy (refer section 17)
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (refer section 18).

## 8 Who can receive a report within Bayside Council?

Staff are encouraged to report general wrongdoing to their supervisor. However the PID Act requires that, for a report to be a public interest disclosure, it must be made to certain public officials identified in this policy or any supporting procedures.

The following positions listed below and the officers listed in the attached Appendix 1 are the only people within Bayside Council who are authorised to receive a public interest disclosure. Any supervisor who receives a report that they believe may be a public interest disclosure is obliged to assist the staff member to make the report to one of the positions listed below. The broader responsibilities of these positions are outlined under Roles and Responsibilities (section 4).

If your report involves a Councillor, you should make it to the General Manager. If your report relates to the General Manager, you should make it to the Mayor.

### **General Manager**

Meredith Wallace

T: 95621795

[meredith.wallace@bayside.nsw.gov.au](mailto:meredith.wallace@bayside.nsw.gov.au)

### **Mayor**

Bill Saravinovski

T: 95621796

[bill.saravinovski@bayside.nsw.gov.au](mailto:bill.saravinovski@bayside.nsw.gov.au)

### **Disclosures Coordinator/s**

- Manager Governance & Risk - Fausto Sut  
[fausto.sut@bayside.nsw.gov.au](mailto:fausto.sut@bayside.nsw.gov.au)  
T: 0418230535
- Coordinator/s Governance (Alternate)

[NOTE: Clause 3.15 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW requires the Complaints Coordinator to be a Disclosures Coordinator. Bayside Council's Complaints Coordinator is the Manager Governance & Risk (Fausto Sut)]

### **Disclosures Officers**

The General Manager has approved Council Officers from various locations and Directorates to be Disclosure Officers as listed in Appendix 1 of this Policy.

The Policy allows the General Manager to amend the list of staff nominated Disclosures Officers. Council acknowledges that this list may need to be updated from time to time by the General Manager without the Policy needing to be re-adopted by Council.

For staff Disclosure Coordinators and Disclosure Officers contact details please refer to Appendix 1 of this policy and Council's Intranet – Disclosure Coordinators and Disclosure Officers Contact List.



## 9 Who can receive a report outside of Bayside Council?

Staff and Councillors are encouraged to report wrongdoing within Bayside Council, but internal reporting is not your only option. You can also make a public interest disclosure to:

- An investigating authority.
- A Member of Parliament or a journalist, but only in the limited circumstances outlined below.

### 9.1 Investigating authorities

The PID Act lists a number of investigating authorities in NSW that staff and Councillors can report wrongdoing to and the type of wrongdoing each authority can deal with. In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example a report about either the General Manager or the Mayor.

The relevant investigating authorities for Bayside Council are:

- the Independent Commission Against Corruption (ICAC) — for reports about corrupt conduct
- the Ombudsman — for reports about maladministration
- the Information & Privacy Commissioner — for disclosures about a breach of the GIPA Act
- the Office of Local Government— for disclosures about Local Government including pecuniary interest contravention or serious and substantial waste of public money.

You should contact the relevant investigating authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this policy.

You should be aware that the investigating authority may well discuss any such reports with Bayside Council. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to staff or Councillors who report wrongdoing to an investigating authority, if we are made aware that this has occurred.

### 9.2 Members of Parliament or journalists

To have the protections of the PID Act, staff reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- the General Manager
- a person nominated in this policy, including the Mayor for reports about the General Manager
- an investigating authority.

Also, Bayside Council or the investigating authority that received your initial report must have either:

- decided not to investigate the matter
- decided to investigate the matter, but not completed the investigation within six months of the original report
- investigated the matter but not recommended any action as a result
- not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true (refer section 19).

### **9.3 Other external reporting**

If you report wrongdoing to a person or authority that is not listed above, or make a report to an MP or journalist without following the steps outlined above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or our Code of Conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside Bayside Council, contact the Disclosures Coordinators or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

## **10 How to make a report**

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation. You can use the Internal Reporting Form (included in Section 23 of this policy).

If a report is made verbally, the person receiving the report will make a comprehensive record of the report and ask the person making the report to sign this record. The reporter should keep a copy of this record using the Internal Report Form (included in Section 23 of this policy).

## **11 Can a report be anonymous?**

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Bayside Council, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.

It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report or your colleagues. If we do not know who made the report, it is very difficult for us to prevent any reprisal should others identify you.

## 12 Feedback to staff who report wrongdoing

Staff and Councillors who report wrongdoing will be told what is happening in response to their report.

### 12.1 Acknowledgement

When you make a report, Bayside Council will contact you to confirm that your report has been received and to advise:

- the timeframe within which you will receive further updates
- the name and contact details of the people who can tell you what is happening or handle any concerns you may have.

After a decision is made about how your report will be dealt with, Bayside Council will send you an acknowledgment letter, providing:

- information about the action that will be taken in response to your report
- the likely timeframes for any investigation or other action
- information about the internal and external resources or services available that you can access for support.

We will provide this information to you within ten (10) working days from the date you make your report. We will also advise you if we decide to treat your report as a public interest disclosure and provide you with a copy of this policy at that time, as required by the PID Act.

Please note, if you make a report which meets the requirements of the PID Act but the report was made under a statutory or legal obligation or incidental to the performance of your day to day functions, you will not receive an acknowledgement letter or a copy of this policy.

### 12.2 Progress updates

While your report is being dealt with, such as by investigation or making other enquiries, you will be given:

- information about the progress of the investigation or other enquiries and reasons for any delay
- advice of any decision by Bayside Council not to proceed with the matter
- advice if your identity needs to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this beforehand.

### 12.3 Feedback

Once the matter has been finalised you will be given:

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
- advice about whether you are likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings.

## 13 Maintaining confidentiality

Bayside Council realises reporters may want their identity and the fact they have made a report to remain confidential. This can help to prevent any action being taken against them for reporting wrongdoing.

Where possible and appropriate we will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. We will discuss with you whether it is possible to keep your identity confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from reprisal in consultation with you.

If you report wrongdoing, it is important that you only discuss your report with those responsible for dealing with it. This will include the Disclosures Coordinator and the General Manager, or in the case of a report about the General Manager, the Disclosures Coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal.

Any staff or Councillors involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

## 14 Managing the risk of reprisal and workplace conflict

When a staff member or Councillor reports wrongdoing, Bayside Council will undertake a thorough risk assessment to identify the risk to you of detrimental action in reprisal for reporting, as well as indirect but related risks of workplace conflict or difficulties. The risk assessment will also identify strategies to deal with those risks and determine the level of protection and support that is appropriate.

Depending on the circumstances, Bayside Council may:

- relocate the reporter or the staff member who is the subject of the allegation within the current workplace
- transfer the reporter or the staff member who is the subject of the allegation to another position for which they are qualified
- grant the reporter or the staff member who is the subject of the allegation leave of absence during the investigation of the disclosure.

These courses of action are not punishment and will only be taken in consultation with the reporter.

## 15 Protection against reprisals

Bayside Council will not tolerate any reprisal against staff or Councillors who report wrongdoing or are believed to have reported wrongdoing.

The PID Act provides protection for staff and Councillors who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

Detrimental action means action causing, comprising or involving any of the following:

- injury, damage or loss
- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to employment
- dismissal from, or prejudice in, employment
- disciplinary proceedings.

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines, and may be required to pay the victim damages for any loss suffered as a result of the detrimental action. Taking detrimental action in reprisal is also a breach of Council's Code of Conduct which may result in disciplinary action. In the case of Councillors, such disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

It is important for staff and Councillors to understand the nature and limitations of the protection provided by the PID Act. The PID Act protects reporters from detrimental action being taken against them because they have made, or are believed to have made, a public interest disclosure. It does not protect reporters from disciplinary or other management action where Bayside Council has reasonable grounds to take such action.

### 15.1 Responding to allegations of reprisal

If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell your supervisor, a Disclosures Coordinator or the General Manager immediately. In the case of an allegation of reprisal by the General Manager, you can alternatively report this to the Mayor.

All supervisors must notify the Disclosures Coordinator or the General Manager if they suspect that reprisal against a staff member is occurring or has occurred, or if any such allegations are made to them. In the case of an allegation of reprisal by the General Manager, the Mayor can alternatively be notified.

If Council becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, Bayside Council will:

- assess the allegation of reprisal to decide whether the report should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue
- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff
- if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter
- take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure
- refer any breach of Part 8 of Council's Code of Conduct (reprisal action) by a Councillor or the General Manager to the Office of Local Government.
- refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.

If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.

If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Office of Local Government, the Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

## 15.2 Protection against legal action

If you make a public interest disclosure in accordance with the PID Act, you will not be subject to any liability, and no action, claim or demand can be taken against you for having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

## 16 Support for those reporting wrongdoing

Bayside Council will make sure that staff who have reported wrongdoing, regardless of whether their report is treated as a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management or counselling services.

Access to support may also be available for other staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with a Disclosures Coordinator.

Bayside Council offers a free Employee Assistance Program for support and/ or counselling for workplace and personal issues. The service is by qualified professionals **Converge International**. The telephone number is **1300 687327** and is a free call. More information about this program is on the Intranet. Council also offers tips to stay healthy and Health and Wellbeing Programs information on these programs are also on Council's intranet under "Health and Wellbeing."

## 17 Sanctions for making false or misleading statements

It is important all staff and Councillors are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. Bayside Council will not support staff or Councillors who wilfully make false or misleading reports. Such conduct may also be a breach of the Code of Conduct resulting in disciplinary action. In the case of Councillors, disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

**Note:** The internal investigation of complaints made under this policy are to be conducted in accordance with the Independent Commission Against Corruption (ICAC) publication.

## 18 The rights of persons the subject of a report

Bayside Council is committed to ensuring staff or Councillors who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential, where this is practical and appropriate.

If you are the subject of the report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time you will be:

- advised of the details of the allegation
- advised of your rights and obligations under the relevant related policies and procedures
- kept informed about the progress of any investigation
- given a reasonable opportunity to respond to any allegation made against you
- told the outcome of any investigation, including any decision made about whether or not further action will be taken against you.

Where the reported allegations against the subject officer are clearly wrong, or have been investigated and unsubstantiated, the subject officer will be supported by Bayside Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

## 19 Policy implementation

### 19.1 Policy responsibilities

The General Manager has overall responsibility for this policy.

The Manager Governance and Risk has responsibility for the implementation of the policy, and for providing advice.

Training will be provided on induction and to all staff every two (2) years.



## 19.2 Procedures

Procedures that support this policy, may be approved by the General Manager from time to time.

## 19.3 Breaches

Breaches of the policy may be dealt with in accordance with the PID Act.

# 20 Document control

## 20.1 Review

This policy will be reviewed by Council every two (2) years however it may be required to be reviewed earlier due to relevant legislation changes.

The Manager Governance and Risk may approve non-significant and/or minor editorial amendments that do not change the policy substance.

## 20.2 Related documents

Relevant legislation

- Public Interest Disclosures Act 1994
- Government Information (Public Access) Act 2009
- Work Health and Safety Act

Council policies relevant to this policy

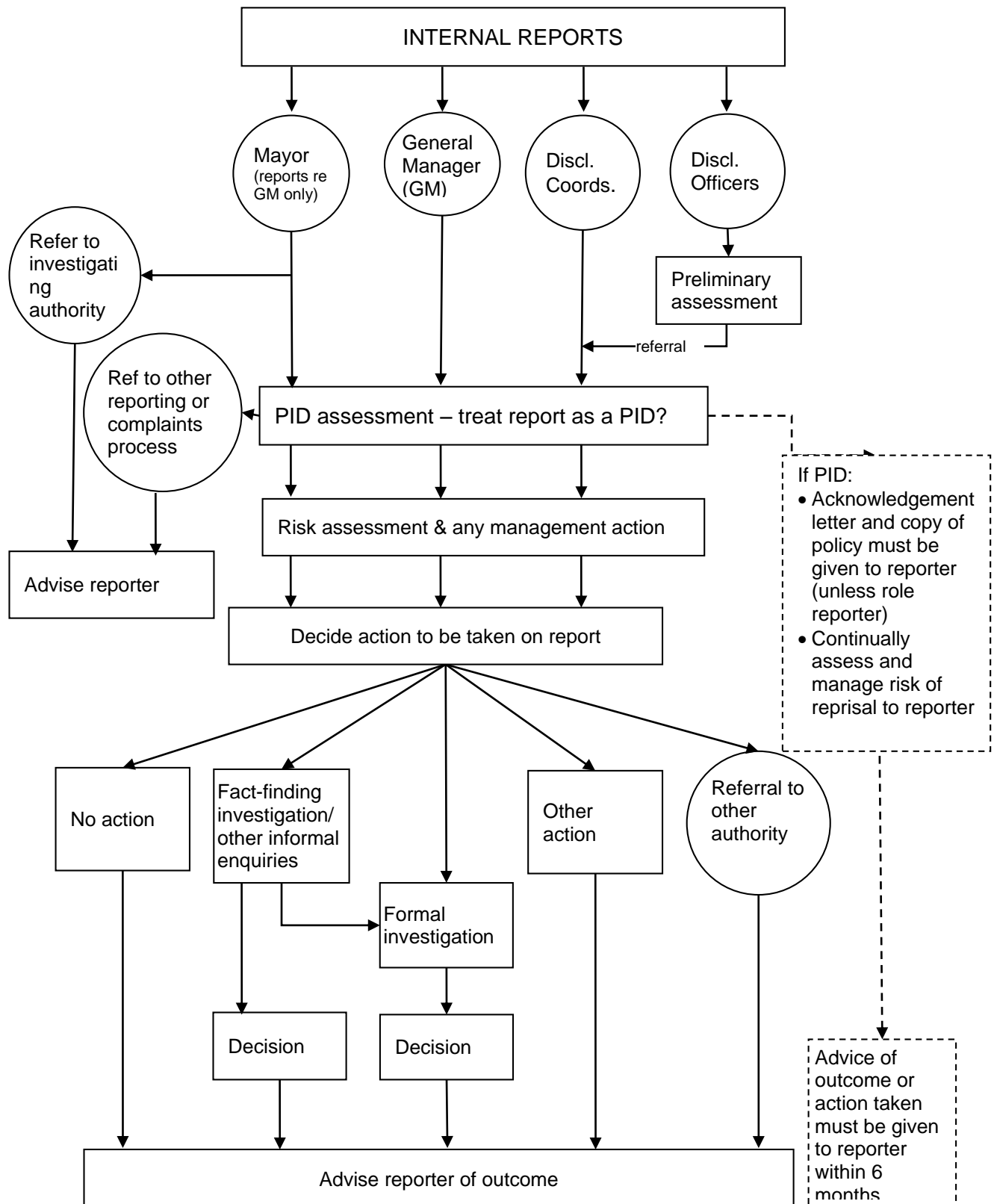
- Code of Conduct
- Grievance Policy
- Prevention of Bullying and Harassment Policy

## 20.3 Version history

Version	Release Date	Author	Reason for Change
1.0	14/12/2016	Liz Rog	New document
1.1	29/11/2017	Warren Park	Minor editorial amendments.
2.0	TBA	Cathryn Bush	Policy review due to updated NSW Ombudsman's Guidelines and Templates



## 21 Flow chart of internal reporting process



## 22 Internal Report Form

To be completed by an internal reporter and submitted to a nominated disclosures officer

### Details of reporter *(You can make an anonymous report by leaving this section blank)*

Name:		
Position:		
Division/Unit:		Preferred method of contact
Telephone:		<input type="checkbox"/> Telephone
Email:		<input type="checkbox"/> Email
Postal address:		<input type="checkbox"/> Post

### Details of the wrongdoing being reported

Description:										
<ul style="list-style-type: none"> <li>• What happened?</li> <li>• Where did this happen?</li> <li>• When did this happen?</li> <li>• Is it still happening?</li> </ul> <i>[Attach an additional page if required]</i>										
How did you become aware of this?										
Name and position of people involved in the wrongdoing:	<table border="1"> <thead> <tr> <th>Name</th> <th>Position</th> </tr> </thead> <tbody> <tr><td></td><td></td></tr> <tr><td></td><td></td></tr> <tr><td></td><td></td></tr> </tbody> </table>	Name	Position							
Name	Position									
Attach any additional relevant information or indicate where supporting evidence may be found:	<table border="1"> <thead> <tr> <th>Supporting evidence</th> <th>Attached</th> </tr> </thead> <tbody> <tr><td></td><td><input type="checkbox"/></td></tr> <tr><td></td><td><input type="checkbox"/></td></tr> <tr><td></td><td><input type="checkbox"/></td></tr> </tbody> </table>	Supporting evidence	Attached		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
Supporting evidence	Attached									
	<input type="checkbox"/>									
	<input type="checkbox"/>									
	<input type="checkbox"/>									
Name and position of other people who may have additional information:	<table border="1"> <thead> <tr> <th>Name</th> <th>Position</th> </tr> </thead> <tbody> <tr><td></td><td></td></tr> <tr><td></td><td></td></tr> <tr><td></td><td></td></tr> </tbody> </table>	Name	Position							
Name	Position									

### Statement

I honestly believe that the above information shows or tends to show wrongdoing.

\_\_\_\_\_  
Signature of reporter  
*(Do not sign if you want to make an anonymous report)*

\_\_\_\_\_  
Date report submitted  
*(Essential information)*

To be completed by a nominated disclosures officer

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## 24 Checklist - Assessment of an internal report against the criteria in the PID Act

To be completed by the disclosures coordinator

Public Interest Disclosures Act Criteria			Comments
1	Is the reporter a public official?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Anonymous	<p>If the reporter is not a <i>public official</i>, as defined in the PID Act the report is not a PID.</p> <p>If the reporter is anonymous, the content of the report may indicate that the reporter is a public official. In such cases it is always best to assume the reporter is a public official unless there is evidence to indicate the reporter is not a public official.</p>
2	Is the report about the conduct of a public official or a public authority?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If the report is not about the conduct of a <i>public official</i> or <i>public authority</i>, as defined in the PID Act, the report is not a PID.</p>
3	Is the report about one of the categories of conduct in the PID Act? <input type="checkbox"/> Breach of the GIPA Act <input type="checkbox"/> Serious maladministration <input type="checkbox"/> LG pecuniary interest contravention <input type="checkbox"/> Corrupt conduct <input type="checkbox"/> Serious and substantial waste of public money	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If the report is not about one of the categories of conduct in the PID Act it is not a PID.</p> <p>For more information about these categories of conduct see NSW Ombudsman PID Guideline B2.</p> <p>If you have answered no because you believe the maladministration or waste of public money was not <i>serious</i> or <i>substantial</i> enough, clearly record your reasons over the page.</p>
4	Does the reporter have <b>reasonable grounds</b> to believe that the information they have reported <b>shows or tends to show the alleged wrongdoing</b> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p><b>Assume the reporter has an <i>honest belief</i> unless there is evidence to the contrary.</b></p> <p>If another person, given the same conditions, would take the same viewpoint, this is <i>reasonable grounds</i>.</p> <p>The reporter must be able to <i>show or tend to show</i> evidence of the alleged wrongdoing, i.e. they witnessed it or they have documentary or other evidence. It cannot be hearsay.</p> <p>If you have answered no, clearly record your reasons over the page.</p>
5	Was the report made to the principal officer, or a public official nominated to receive disclosures in the public authority's Internal Reporting Policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If the report was not made to the <i>principal officer</i> or a <i>nominated disclosures officer</i> the report is not a PID.</p> <p>If the reporter has not made the report to an authorised person they should be redirected to one.</p>
6	Does the report primarily question the merits of government policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If the report <i>primarily questions the merits of government policy</i> the report is not a PID.</p>
7	Is there substantial evidence indicating that the report was made solely or substantially with the motive of avoiding dismissal or other disciplinary action?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If the report has been made <i>solely or substantially with the motive of avoiding dismissal or other disciplinary action</i> the report is not a PID.</p> <p>A high evidential threshold is required to conclude the reporter's motives were improper.</p> <p>If you have answered yes, you should have sound reasons and clearly record those reasons over the page.</p>

### Further comments

- The PID assessment should be based on the content of the disclosure, not the outcome of any investigation.
- An internal reporter does not have to explicitly indicate that they are making a PID or ask to be protected.
- If in doubt, err on the side of caution and interpret the PID Act broadly – i.e. assume that the PID Act applies and proceed accordingly.
- For further advice, please refer to the NSW Ombudsman's PID Guidelines at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au) or contact the NSW Ombudsman PID Unit on [pid@ombo.nsw.gov.au](mailto:pid@ombo.nsw.gov.au) or 02 9286 1000.

## 25 More information

More information around public interest disclosures is available on our intranet. Staff can also seek advice and guidance from a Disclosures Coordinator and the NSW Ombudsman's website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

## 26 Resources

The contact details for external investigating authorities that staff can make a public interest disclosure to or seek advice from are listed below.

### **For disclosures about corrupt conduct:**

Independent Commission Against Corruption (ICAC)

Phone: 02 8281 5999  
Toll free: 1800 463 909  
Tel. typewriter (TTY): 02 8281 5773  
Facsimile: 02 9264 5364  
Email: [icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au)  
Web: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

Address: Level 21, 133 Castlereagh Street,  
Sydney NSW 2000

### **For disclosures about breaches of the GIPA Act:**

Information & Privacy Commissioner

Toll free: 1800 472 679  
Facsimile: 02 8114 3756  
Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)  
Web: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)

Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

### **For disclosures about maladministration:**

NSW Ombudsman

Phone: 02 9286 1000  
Toll free (outside Sydney metro): 1800 451 524  
Tel. typewriter (TTY): 02 9264 8050  
Facsimile: 02 9283 2911  
Email: [nswombo@ombo.nsw.gov.au](mailto:nswombo@ombo.nsw.gov.au)  
Web: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

Address: Level 24, 580 George Street,  
Sydney NSW 2000

### **For disclosures about local Councils:**

Office of Local Government

Phone: 02 4428 4100  
Tel. typewriter (TTY): 02 4428 4209  
Facsimile: 02 4428 4199  
Email: [dlg@dlg.nsw.gov.au](mailto:dlg@dlg.nsw.gov.au)  
Web: [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au)

Address: 5 O'Keefe Avenue, Nowra, NSW 2541

## 27 Appendix 1 – Disclosure Officers

The following officers have been designated as Council's network of nominated Disclosure Coordinators and Disclosure Officers:

**Disclosure Coordinators:**

- Manager Governance & Risk
- Coordinators Governance (Alternate)

**Disclosure Officers:**

- Manager Governance & Risk
- Coordinators Governance
- Manager Executive Services
- Manager People & Organisational Culture
- People Organisation Culture (POC) Business Partners
- Coordinator Civil Works
- Coordinator Parks & Open Space
- Coordinator Operations Waste and Cleansing
- Operations Specialist Process
- Manager Airport Business Unit
- Coordinator Library
- Coordinator Sports & Recreation
- Coordinator Children's Services
- Senior Environmental Health Officer
- Senior Parking Control Officer
- Coordinator Development Advisory Services

## **Council Meeting**

**8/08/2018**

Item No                8.13  
Subject                **Review of Key Governance Codes**  
Report by             Michael Mamo, Director City Performance  
File                     F11/563

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## **Summary**

It is good governance to review key governance policies and codes within 12 months of the new term of Council. Bayside Council has adopted both a Code of Meeting Practice and a Code of Conduct in accordance with the current best practice requirements of the Office of Local Government (OLG). The OLG is intending to release a Model Code of Meeting Practice and a revised Code of Conduct and Procedures. Once issued, all councils will be required to review their Codes to ensure they meet the new standards. Accordingly Council's adopted Codes remain current and only minor cosmetic edits (e.g. new branding) are proposed as a result of this review.

---

## **Officer Recommendation**

- 1      That Council determine, as a result of the current review and anticipated regulatory changes, that it make no changes to the current Code of Meeting Practice and Code of Conduct and Procedures other than any minor cosmetic edits.
  - 2      That the Code of Meeting Practice and Code of Conduct and Procedures, attached to the report, be adopted.
  - 3      That the Code of Meeting Practice and Code of Conduct and Procedures be further reviewed once the requirement to adopt the new/revised Model Codes are prescribed.
- 

## **Background**

### **Code of Meeting Practice**

All councils are required to have a Code of Meeting Practice. Currently councils are required to have regard to the Meetings Practice Note issued by the Office of Local Government (OLG).

Council reviewed and adopted its Code of Meeting Practice taking into account the OLG guidelines on 12 July 2017. The adopted Code is current and reflects current standards.

Amendments made to the Local Government Act now provides for a model Code of Meeting Practice to be prescribed by regulation. The OLG is currently finalising the drafting of a Model Code of Meeting Practice and once regulated, councils will have a period of 6 months in which to adopt a Code of Meeting Practice based on the Model Meeting Code.

The current proposal is for the Model Meeting Code to have two elements i.e. mandatory provisions which are to be adapted and are currently contained in the Regulation and non-mandatory provisions based on best practice.

Accordingly Council's adopted Code of Meeting Practice remains current and only minor cosmetic edits like branding are proposed as a result of this review.

### **Code of Conduct**

Councils are required within 12 months of each ordinary election to review and adopt a Code of Conduct and Procedures that meets at least the minimum requirement of the Model Code of Conduct and Procedures prescribed by regulation.

In light of amendments to the Local Government Act 1993 (the Act) it is intended to incorporate the pecuniary interest obligations from the Local Government Act and Regulation into a revised Model Code. As such, the OLG is undertaking a review of the Model Code and the associated Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (the Procedures). The new Code will contain new provisions that are designed to improve ethical standards, more effectively deter non-compliance and lead to improved transparency and accountability. The OLG has advised it is anticipated to be finalised before the end of the year. Once finalised, councils will be given a 6-month transition period to review and adopt a Code and Procedures based on the new Model Code of Conduct and Procedures.

Accordingly, Council's current Code of Conduct and Procedures, previously adopted on 14 September 2016 and 7 December 2016, remains current and only minor cosmetic edits (e.g. new branding) are proposed as a result of this review.

---

### **Financial Implications**

Not applicable	<input checked="" type="checkbox"/>
Included in existing approved budget	<input type="checkbox"/>
Additional funds required	<input type="checkbox"/>

---

### **Community Engagement**

Due to there being no significant changes proposed to the current Code of Meeting Practice, the Local Government Act does not require public consultation. Should Council wish to make any substantial changes to the Meeting Code it will be required to give public notice of the proposed revised code including a public exhibition period of not less than 28 days and allow a period of not less than 42 days during which public submissions may be made to the Council.

There is no requirement for public consultation of the Code of Conduct.

---

### **Attachments**

- 1 Code of Meeting Practice
- 2 Code of Conduct
- 3 Code of Conduct Procedures





**Bayside Council**  
Serving Our Community

# Code of Meeting Practice

**August 2018**



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Code of Meeting Practice

File: (R) F11/563 Document: 16/110968[v3] 18/101810

Policy Register: F16/951 Policy No.PP16/1[v3]

Class of document: Council Policy

Enquiries: Manager Governance & Risk



**Telephone Interpreter Services - 131 450**

Τηλεφωνικές Υπηρεσίες Διερμηνέων

بخدمة الترجمة الهاتفية

電話傳譯服務處

Служба за преведување по телефон

## Part 1 – Preliminary

### ***Title***

This Code of Meeting Practice (**Code**) has been developed in accordance with the Local Government Act 1993 (**Act**), Local Government (General) Regulation 2005 (**Regulation**), Office of Local Government's Meetings Practice Note No.16, dated August 2009.

### ***Objectives***

This Code has the following objectives:

- 1 To ensure that Council and Committee Meetings are conducted expeditiously in an orderly, efficient and equitable manner.
- 2 To ensure that Council and Committee Meetings promote open government and maximise community access and participation.
- 3 To ensure that all meetings of Council and its Committees are conducted according to the principles of procedural fairness and due process.
- 4 To ensure that all Councillors have an equal opportunity to participate in the meeting to the fullest extent possible, with respect being accorded to the expression of differing views.
- 5 To ensure that proceedings are transparent and understandable to all persons participating in and observing meetings of Council and its Committees.
- 6 To ensure that Council Meetings restrict themselves to matters of policy, direction, resource allocation and statutory decisions.

### ***Interpretation***

This Code may be cited as the Council Code of Meeting Practice.

The Code shall be interpreted in a manner which is consistent with the Act, Regulations, and objectives of this Code. Should there be any inconsistencies the Act or Regulations will prevail.

### ***Definitions***

In this Code:

**Advisory Committee:** in relation to Council, means a Committee established under Clause 6.2 of the Code.

**Amendment:** in relation to an original motion, means a motion moving an amendment to that motion. Amendments may be in the form of additional words to a motion and/or the removal of words from a motion. Any amendment to a motion must not alter the motion to the extent that it effectively reverses the motion. If more than one amendment has been moved against the motion subsequent amendments are Foreshadowed Amendments and

are only considered after the original amendment is defeated. Each amendment is separately considered and voted on.

**Chairperson:**

- a in relation to a meeting of the Council - means the person presiding at the meeting as provided by Clause 3.1 of this Code; and
- b in relation to a meeting of a Committee of a Council - means the person presiding at the meeting as provided by Clause 5.9 of this Code;

**Committee:** in relation to a Council means a Committee established under Clause 5.2 or the Council when it has resolved itself into a Committee of the Whole;

**Office of Local Government** means the Office of Local Government, Department of Premier and Cabinet and its successors;

**late Report** means a report which is not listed on the published agenda for the meeting but is considered by the General Manager, in view of the importance or urgency of the issue, to be a report which must be submitted to the meeting of the Council, provided the statutory notice is given;

**Motion:** is a proposal put forwarded by a Councillor or Committee member calling for action to be taken or a decision to be made on a particular matter under consideration. A motion should be specific. If possible, it should be qualified by referring to a timetable, amounts of money involved, who is to take the necessary action and so on. It should be simple, clearly expressed and easy to understand so that there is no doubt as to its meaning. It should be well structured and if it involves a number of different aspects then there should be different parts to the motion or a series of separate motions. A motion needs to be seconded to become a motion for consideration at the meeting. Any amendments to a motion put forward by a Councillor need to be seconded but it cannot be accepted if it is a direct rebuttal of the motion it seeks to amend (see definition of amendment);

**Record:** means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial graphic work) that is or has been made or received in the course of official duties by a Councillor or an employee of the Council and, in particular, includes the minutes of meetings of the Council or of a Committee of the Council;

**Relative:** in relation to a person, means any of the following:

- a the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;
- b the spouse or the de facto partner of the person or of a person referred to in paragraph (a).

**Supplementary report:** means a report which adds to or amends a report which is included on the agenda for a meeting of Council;

**Task group:** means a group established under Clause 6.1 of the Code;

**the Act** means the Local Government Act 1993;

**the Code** means Council's Code of Meeting Practice; and

**the Regulation** means the Local Government (General) Regulation 2005.

Except as otherwise provided, expressions used in this Code which are defined in the dictionary at the end of the Act have the meanings set out in the dictionary.

### ***Act and Regulation***

- a This Code is made pursuant to Section 360(2) of the Act.
- b It incorporates relevant provisions of the Act and the Regulation.
- c In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.

### ***Notes to text***

Notes in the text of this Code are explanatory notes and do not form part of this Code. They are provided to assist understanding.

## ***General***

### **1.1 Application of the Code - Conduct of Meetings of Council and Committees (Section 360 of the Act)**

- 1.1.1 The regulations may make provision with respect to the conduct of meetings of Councils and Committees of Councils of which all the members are Councillors.
- 1.1.2 A Council may adopt a Code that incorporates the regulations made for the purposes of this section and supplement those regulations with provisions that are not inconsistent with them.
- 1.1.3 A Council and a Committee of Council of which all the members are Councillors must conduct its meetings in accordance with the Code adopted.

### **1.2 Preparation of the Code of Meeting Practice - Preparation, public notice and exhibition of draft Code (Section 361 of the Act)**

- 1.2.1 Before adopting the Code, Council must prepare a draft.
- 1.2.2 The Council must give public notice of the Draft Code after it is prepared.
- 1.2.3 The period of public exhibition must be not less than 28 days.
- 1.2.4 The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to Council.

- 1.2.5 The Council must publicly exhibit the draft Code in accordance with this notice.

### **1.3 Adoption and Amendment of the Code - Adoption of Draft Code (Section 362 and Section 363 of the Act)**

- 1.3.1 After considering all submissions received by it concerning the draft code, the Council may decide:
  - a To amend those provisions of its draft Code that supplement regulations made for the purposes of Section 360 of the Act; or
  - b Adopt the draft Code as its Code.
- 1.3.2 If the Council decides to amend its draft Code, it may publicly exhibit the amended draft in accordance with this Division, or, if the Council is of the opinion that the amendments are not substantial, it may adopt the amended draft Code without public exhibition as its Code.
- 1.3.3 A Council may amend a Code adopted under this Part by means only of a Code so adopted (Section 363 of the Act).

### **1.4 Revision of the Code**

- 1.4.1 Changes to the Local Government Act and Regulations automatically change the Code. Automatic amendment of the Code by the Act and/or Regulation does not require public notification under Sections 361 to 363 of the Local Government Act 1993.
- 1.4.2 The Council authorises the General Manager to reissue the Code without public exhibition to incorporate any amendments to relevant Acts, Regulations or formal advices from the Office of Local Government. The General Manager shall cause Councillors to be informed of such amendments to the Code.

### **1.5 Availability of the Code (Section 364 of the Act) - Public Availability of the Code**

- 1.5.1 The Code under this Division adopted by a Council must be available for public inspection free of charge at the office of the Council during ordinary working hours.
- 1.5.2 Copies of the Code must be available free of charge or, if the Council determines, on payment of the approved fee.
- 1.5.3 A copy of the Code will also be available on Council's website.

## Part 2 – Before Council Meetings

### 2.1 Frequency of Meetings of the Council (Section 365 of the Act)

- 2.1.1 The Council is required to meet at least 10 times each year, each time in a different month.
- 2.1.2 The Council meets ordinarily, on the second Wednesday of each month (except January) commencing at 7:00 pm in either Rockdale Town Hall, Princes Highway, Rockdale or the Botany Town Hall, corner Botany Road and Edward Street, Botany as determined by the Council and indicated in the Notices of Meeting.

### 2.2 Extraordinary Meetings of Council (Section 366 of the Act)

- 2.2.1 Notwithstanding Sub Clause 2.1.2, the Mayor may call Extraordinary Meetings of the Council on any matter or matters considered necessary.
- 2.2.2 If the Mayor receives a request in writing signed by at least two (2) Councillors (one of which may be the Mayor), the Mayor must call an Extraordinary Meeting of the Council to be held as soon as practicable but in any event within 7 days after the receipt of the request.
- 2.2.3 If the Mayor refuses or delays to call an Extraordinary Meeting after receiving a request, signed by at least two (2) Councillors, those Councillors, may, in writing, request the General Manager to call the Extraordinary Meeting. The General Manager shall call the meeting as soon as practicable.

### 2.3 Notice of Meetings to Councillors (Section 367 of the Act)

- 2.3.1 The General Manager of the Council must send to each Councillor, at least three (3) days before each meeting of the Council, a notice specifying the time, date and place at which the meeting is to be held and the business proposed to be transacted at the meeting.
- 2.3.2 Notice of less than three (3) days may be given of an Extraordinary Meeting called in an emergency, but in no case shall notice of less than one day be given. [Note: Notice of meetings can be delivered by courier, by facsimile transmission or by electronic means used by the Council].
- 2.3.3 A notice under this section and the agenda for, and the business paper relating to, the meeting will be given in either:
  - a Electronic form if all Councillors have such access, or
  - b Hard copy but allowing Councillors the option to be notified electronically.

### 2.4 Order of Business (Clause 239 of the Regulation)

- 2.4.1 At a meeting of the Council (other than an Extraordinary Meeting), the general order of business is (except as provided by the Regulations) as fixed by Council's Code of Meeting Practice or (if the Council does not have a Code of

Meeting Practice or its Code does not fix the general order of business) as fixed by resolution of Council.

2.4.2 The order of business for Ordinary Meetings is as follows:

- a Acknowledgement of traditional owners
- b Opening Prayer
- c Apologies
- d Disclosures of Interests
- e Minutes of Previous Council and Extraordinary Meetings
- f Mayoral Minutes
- g Public Forum and associated business paper items
- h Minutes of Previous Committee Meetings
- i Officer Reports
- j Notices of Motion – including rescission motions
- k Questions With Notice
- l Confidential items
- m Consideration of recommendations from Closed Session
- n Call for Rescission Motions

2.4.3 Apart from those items on the business paper that members of the public have registered to speak on, the Mayor may bring forward an item of business from the business paper where it is established there is a strong community interest or that a member of the public with an interest in that item is present in the public gallery.

2.4.4 The order of business fixed under Sub-Clause 2.4.2 may be altered if a motion to that effect is carried. Such a motion can be moved without notice.

2.4.5 Despite Clause 3.23, only the mover of a motion referred to in Sub-Clause 2.4.4 may speak to the motion before it is put.

## 2.5 Giving Notice of Business (Clause 241 of the Regulation)

2.5.1 A Council must not transact business at a meeting of the Council:

2.5.1.1 unless a Councillor has given notice of the business in writing at least two (2) days prior to the day on which the business paper is prepared and delivered to Councillors; and

2.5.1.2 unless notice of the business has been sent to the Councillors in accordance with Section 367 of the Act, that being 3 clear working days notice.

2.5.2 Sub-Clause 2.5.1 does not apply to the consideration of business at a meeting if the business:

2.5.2.1 is already before, or directly relates to a matter that is already before, the Council; or

2.5.2.2 is the election of a Chairperson to preside at the meeting as provided by Clause 3.9; or

2.5.2.3 is a matter or topic put to the meeting by the Chairperson in accordance with Clause 2.6; or



2.5.2.4 is a motion for the adoption of recommendations of a Committee of the Council; or.

2.5.2.5 are reports from officers listed on the business paper which require additional information pursuant to a decision of a Committee or for other circumstances.

2.5.3 Despite Sub-Clause 2.5.1, business may be transacted at a meeting of a Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:

2.5.3.1 a motion is passed to have the business transacted at the meeting; and

2.5.3.2 the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.

Such a motion can be moved without notice.

2.5.4 Despite Clause 3.23, only the mover of a motion referred to in Sub Clause (3) can speak to the motion before it is put.

## **2.6 Mayoral Minutes (Clause 243 of the Regulation)**

2.6.1 If the Mayor (or the Deputy Mayor, if acting for the Mayor) is the Chairperson at a meeting of a Council, the Chairperson is, by minute signed by the Chairperson, entitled to put to the meeting any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.

2.6.2 Such a minute, when put to the meeting, takes precedence over all business on the Council's agenda for the meeting. The Chairperson (but only if the Chairperson is the Mayor, or the Deputy Mayor, if acting for the Mayor) may move the adoption of the minute without the motion being seconded.

2.6.3 A recommendation made in a minute of the Chairperson (being the Mayor, or Deputy Mayor, if acting for the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council.

## **2.7 Agenda for Extraordinary Meeting (Clause 242 of the Regulation)**

2.7.1 The General Manager must ensure that the business paper for an Extraordinary Meeting of the Council deals only with the matters stated in the notice of the meeting.

2.7.2 Despite Sub-Clause 2.7.1, business may be transacted at an Extraordinary Meeting of a Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:

2.7.2.1 a motion is passed to have the business transacted at the meeting; and

2.7.2.2 the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.

- 2.7.3 Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.
- 2.7.4 Despite Clause 3.23, only the mover of a motion referred to in Sub-Clause 2.7.3 can speak to the motion before it is put.
- 2.7.5 The order of business for Extraordinary Council Meetings is as follows:
  - a Acknowledgement of traditional owners
  - b Opening Prayer
  - c Apologies
  - d Disclosures of Interests
  - e Reports as listed on notice

## **2.8 Notice of Motion - Lodgement**

- 2.8.1 Notice of Motion serves two purposes:
  - 2.8.1.1 It enables a Councillor to bring to the attention of the Council, matters particularly of a policy nature, which may not otherwise be included in the business of a Council Meeting.
  - 2.8.1.2 It also provides opportunity for other Councillors to consider the form and content of the motion before a matter is presented at the meeting.
- 2.8.2 A Notice of Motion must be submitted in writing to the General Manager or their delegate no later than 12 noon on the Tuesday before the day on which the business paper is delivered to the Councillors.

## **2.9 Public Notice of Meetings (Section 9(1) of the Act) (Clause 232 of the Regulation)**

*[Note: This clause prescribes the manner in which the requirements outlined in Section 9(1) of the Act are to be complied with.]*

- 2.9.1 A Council must give notice to the public of the times and places of its meetings and meetings of those of its Committees of which all the members are Councillors
- 2.9.2 A notice of a meeting of a Council or of a Committee must be published in a newspaper circulating in the area before the meeting takes place.
- 2.9.3 Notice of more than one meeting may be given in the same notice.
- 2.9.4 The Council and each Committee (of which all Councillors are members) must have available to the public at its offices and each meeting, copies (for inspection or take away by any person) of the agenda and the associated business papers for the meeting.
- 2.9.5 In the case of a meeting where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the General Manager, is likely to take place when the meeting is closed to the public:
  - 2.9.5.1 the agenda for the meeting must indicate that the relevant item of business is of such a nature (but not give details of that item): and

2.9.5.2 the requirements of Clause 2.9.4 with respect to the availability of business papers do not apply for that item of business.

2.9.6 The copies of the agenda and associated business paper are to be available to the public as soon as possible to the time they are available to Councillors.

2.9.7 The copies of the agenda and associated business paper are to be available free of charge.

2.9.8 A notice given under this clause or a copy of an agenda or of a business paper made available under this clause may in addition be given or made available in electronic form.

2.9.9 Public Notices of meetings will also be displayed on the website.

## **2.10 Application for Leave of Absence (Section 234 of the Act)**

2.10.1 A Councillor applying for a leave of absence from the meeting of a Council does not need to make the application in person and the Council may grant such leave in the absence of that Councillor.

2.10.2 A Councillor's application for leave of absence from Council Meetings should, if practicable, identify (by date) the meetings from which the Councillor intends to be absent (Clause 235A (1) of the Regulation).

*Note: If a Councillor is on leave of absence he/she may not sit in the public gallery of a meeting as they will be recognised as being in attendance even though they may not vote on an item/s.*

2.10.3 If the holder of a civic office attends a Council Meeting (whether or not an Ordinary Meeting) despite having been granted leave of absence, the leave of absence is taken to have been rescinded as regards to any future Council Meeting.

2.10.4 This section does not prevent the Council from granting further leave of absence in respect of any future Council Meeting.

2.10.5 A Councillor who intends to attend a Council Meeting despite having been granted leave of absence should, if practicable, give the General Manager at least 2 days notice of his or her intention to attend, (Clause 235A(2) of the Regulation).

## **2.11 Agendas and Business Papers for Council Meetings (Clause 240 of the Regulation)**

2.11.1 The General Manager must ensure that the business paper for a meeting of the Council states:

2.11.1.1 all matters to be dealt with arising out of the proceedings of former meetings of the Council; and

2.11.1.2 (if the Mayor is the Chairperson) - any business that the Chairperson may decide to put before the meeting without notice or the Deputy Mayor if acting for the Mayor; and

- 2.11.1.3 subject to Sub-Clause 2.11.2 any business of which due notice has been given.
- 2.11.2 The General Manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report (without giving details of the item of business) any such exclusion to the next meeting of the Council.
- 2.11.3 The General Manager must cause the agenda for a meeting of the Council or a Committee of Council to be prepared as soon as practicable before the meeting. *[Note: The agenda is ordinarily made available to Councillors with at least 3 working days notice preceding the Wednesday meeting. The papers are available to the public at the same time or by at least the Friday preceding the meeting.]*
- 2.11.4 If, in the opinion of the General Manager, business to be transacted at a meeting of the Council is a kind of business referred to in Clause 3.7, the business may be included in a confidential business paper. All other business to be transacted at the meeting must be included in an ordinary business paper.
- 2.11.5 If a confidential business paper is prepared for a kind of business referred to in Clause 3.7, the business must be referred to in the ordinary business paper prepared for the same meeting.
- 2.11.6 Nothing in this clause limits the powers of the Chairperson under Clause 243 of the Regulation.

## **2.12 Supplementary or Late Reports**

- 2.12.1 As circumstances necessitate, supplementary or late reports may be tabled at an Ordinary Meeting.
- 2.12.2 In the case of a supplementary report, where the report is distributed at or just prior to the Meeting, a period of time (to be determined by the Chairperson) shall be allowed for Councillors to read the report.
- 2.12.3 Supplementary and/or late reports are to be electronically provided to Councillors prior to the Meeting.
- 2.12.4 Notwithstanding this clause, the requirements of Clause 2.3 concerning notice of meetings to Councillors must be met for late reports except minutes by the Mayor.

## Part 3 – Procedure for the conduct of council meetings

### 3.1 Quorum and Attendance

The quorum for a meeting of the Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office.

### 3.2 Councillor Presence at Council Meetings (Clause 235 of the Regulation)

- 3.2.1 A Councillor cannot participate in a meeting of Council unless personally present at the meeting.
- 3.2.2 A Councillor shall not be deemed to be present at any meeting of the Council, unless they are within the Council Chamber. For the purposes of this requirement, the Council Chamber foyer is not regarded as being in the Council Chamber.
- 3.2.3 However, for the sake of clarity, a Councillor declaring an interest in a matter and leaving the Chamber shall not remain in either the public gallery or any part of the foyer within view of the meeting.

### 3.3 What Happens When a Quorum is Not Present (Clause 233 of the Regulation)

- 3.3.1 A meeting of the Council must be adjourned if a quorum is not present:
  - a within half an hour after the time designated for the holding of the meeting; or
  - b at any time during the meeting.
- 3.3.2 In the case of 3.3.1, the meeting must be adjourned to a time, date and place fixed:
  - a by the Chairperson; or
  - b in his or her absence - by the majority of the Councillors present; or
  - c failing that, by the General Manager
- 3.3.3 The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the Councillors present.

### 3.4 Councillor Attendance at Council Meetings (Section 234 of the Act)

A civic office becomes vacant if the holder (Councillor) is absent from 3 consecutive Ordinary Meetings of the Council (unless the holder is absent because he or she has been suspended from office under Section 482 of the Act) without:

- a prior leave of the Council, or

- b leave granted by the Council at any of the meetings concerned.

### **3.5 Councillor Departure from Meeting**

Councillors are required, on proposing to retire from a meeting of Council for the remainder of that meeting, to give prior notice of intended departure to the Chairperson.

### **3.6 Who is entitled to attend Council Meetings (Section 10 of the Act)**

3.6.1 Except as provided by this Part:

- a everyone is entitled to attend a meeting of the Council and those of its Committees of which all the members are Councillors; and
- b a Council must ensure that all meetings of the Council and of such Committees are open to the public.

3.6.2 However, a person (whether a Councillor or another person) is not entitled to be present at a meeting of the Council or of such a Committee if expelled from the meeting:

- a by a resolution of the Council;
- b by the person presiding at the meeting if the Council has, by resolution, authorised the person presiding to exercise the power of expulsion.

3.6.3 A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.

### **3.7 Attendance of General Manager (Section 376 of the Act)**

3.7.1 The General Manager is entitled to attend, but not to vote at a meeting of the Council or a meeting of a Committee of the Council of which all the members are Councillors.

3.7.2 The General Manager is entitled to attend a meeting of any other Committee of the Council, and may if a member of the Committee exercises a vote.

3.7.3 However, the General Manager may be excluded from a meeting of the Council or a Committee while the Council or Committee deals with a matter relating to the standard of performance of the General Manager or the terms of the employment of the General Manager.

### **3.8 Attendance of Council Employees**

The General Manager shall arrange for the attendance of such Council employees as are considered necessary by the General Manager for the transaction of the notified Council business.

### **3.9 Chairperson of Council Meetings (Section 369 of the Act) (Clause 236 of the Regulation)**

- 3.9.1 The Mayor, or at the request of or in the absence of the Mayor, the Deputy Mayor, presides at meetings of the Council.
- 3.9.2 If the Mayor and the Deputy Mayor are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council.
- 3.9.3 If no Chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a Chairperson to preside at the meeting.
- 3.9.4 The election must be conducted:
  - 3.9.4.1 by the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election;  
or
  - 3.9.4.2 if neither of them is present at the meeting or there is no General Manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.
- 3.9.5 If, at an election of a Chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the Chairperson is to be the candidate whose name is chosen by lot.
- 3.9.6 For the purposes of Clause 3.9.5, the person conducting the election must:-
  - 3.9.6.1 arrange for the names of the candidates who have equal numbers of votes to be written on similar slips; and
  - 3.9.6.2 then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 3.9.7 The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.

### **3.10 Chairperson to Have Precedence (Clause 237 of the Regulation)**

When the Chairperson rises or speaks during a meeting of the Council:

- a any Councillor then speaking or seeking to speak must immediately resume his or her seat; and
- b every Councillor present must be silent to enable the Chairperson to be heard without interruption.

### **3.11 Chairperson's Duty with Respect to Motions (Clause 238 of the Regulation)**

- 3.11.1 It is the duty of the Chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 3.11.2 The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.

- 3.11.3 Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.

### **3.12 Recognition of Chairperson**

- 3.12.1 In addressing Council, Councillors and other persons addressing the Council shall at all times speak through the Chairperson.
- 3.12.2 Councillors and other persons addressing the Council shall at all times show appropriate respect and observe the ruling of the Chairperson.
- 3.12.3 A Councillor, despite the clauses immediately above, may, through a motion of dissent, challenge a ruling from the Chairperson.

### **3.13 Mode of Address**

Councillors shall at all times address other Councillors by their official designation, as Mayor or Councillor, as the case may be; and with the exception of the Chairperson, or any Councillor prevented by physical infirmity, shall stand when speaking.

### **3.14 Report of an Office of Local Government's Representative to be Tabled at Council Meeting (Clause 244 of the Regulation)**

When a report of a Departmental representative has been presented to a meeting of Council in accordance with Section 433 of the Act, the Council must ensure that the report:

- a is laid on the table at that meeting; and
- b is subsequently available for the information of Councillors, General Manager and members of the public at all reasonable times.

### **3.15 Notice of Motion - Absence of Mover (Clause 245 of the Regulation)**

In the absence of a Councillor who has placed a Notice of Motion on the agenda for a meeting of the Council:

- a any other Councillor may move the motion at the meeting; or
- b the Chairperson may defer the motion until the next meeting of the Council at which the motion can be considered.

### **3.16 Motions to be Seconded (Clause 246 of the Regulation)**

- 3.16.1 A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the Chairperson to speak for five (5) minutes to the motion before calling for the motion to be seconded. (Note: seconder is not required to speak).
- 3.16.2 The seconder of a motion or of an amendment may reserve the right to speak for five (5) minutes later in the debate.



### **3.17 How Subsequent Amendments May be Moved (Clause 247 of the Regulation)**

- 3.17.1 A Councillor who does not agree with the motion, or agrees in part, may move an amendment after the motion has been seconded. (Note: Amendments cannot be accepted if they are a direct rebuttal of the motion they seek to amend).
- 3.17.2 If an amendment has been accepted or rejected, a further amendment can be moved to the motion in its original or amended form (as the case may be), and so on, but no more than one motion and one proposed amendment can be before the Council at any one time.
- 3.17.3 It is permissible to debate the motion and an amendment concurrently.
- 3.17.4 It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such Foreshadowed Amendment shall not be moved and debated until the amendment is dealt with.
- 3.17.5 If a Councillor who moves a motion thinks that an amendment moved later is an improvement on the motion, the Councillor may withdraw the motion in favour of the amendment, provided the seconder agrees. Alternatively, the mover and seconder of the original motion may agree to incorporate in the motion, points raised in the amendment. On this basis the amendment would be withdrawn.

### **3.18 Procedural Motions**

- 3.18.1 Procedural Motions are used for dealing with the Order of Business of the meetings. A Procedural Motion may be moved at any time and must be dealt with immediately by the Chairperson. A Procedural Motion requires a seconder and cannot be moved by the Chairperson.
- 3.18.2 Procedural Motions can seek to:
  - a Bring forward an item of business
  - b Withdraw an item
  - c Defer an item of business to later in the meeting
  - d Adjourn the meeting
  - e Reconvene the meeting

### **3.19 Motions of Dissent (Clause 248 of the Regulation)**

- 3.19.1 A Councillor can, without notice, move to dissent from the ruling of the Chairperson on a point of order. If that happens, the Chairperson must suspend the business before the meeting until a decision is made on the Motion of Dissent. A Motion of Dissent does not require a seconder.
- 3.19.2 If a Motion of Dissent is carried, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business to the agenda and proceed with it in due course.

- 3.19.3 Despite Clause 3.23, only the mover of a Motion of Dissent and the Chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

### **3.20 Petitions May be Presented to the Council**

- 3.20.1 A Councillor may present a petition to the Council.
- 3.20.2 The Chairperson must not permit discussion on the petition, unless it relates to an item on the business paper. Petitions shall be referred to the General Manager for report, reply or other appropriate action.

### **3.21 Tabled Documents**

- 3.21.1 Other than those documents referred to in Clause 3.20, documents (including correspondence) are not to be tabled during a meeting, either by a Councillor or a member of the public, in relation to a matter before that meeting except in exceptional circumstances and then only with the leave of the Chairperson whose decision will be final on the matter.
- 3.21.2 In the event that a Councillor or member of the public wishes to table a document during a meeting, that document must be given to the General Manager or nominee by 4.00 pm on the day of the meeting.
- 3.21.3 Any other documents that a Councillor or a member of the public wishes to submit to Council should be forwarded to the General Manager in the normal manner.

### **3.22 Questions May be Put to Councillors and Council Employees concerning matters on the Council Business Paper (Clause 249 of the Regulation)**

**[Note: For questions about matters not on the Business Paper Councillors should lodge a Question With Notice]**

- 3.22.1 A Councillor:
- a may, through the Chairperson, put a question to another Councillor; and
  - b may, through the Chairperson and the General Manager, put a question to a Council employee.
- 3.22.2 However, a Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.
- 3.22.3 Any such question must be put directly, succinctly, and without argument. Councillors may draw the Mayor's attention to the relevance of the questions.
- 3.22.4 The General Manager may exercise the option to take on notice a question under this clause.
- 3.22.5 The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this clause.

- 3.22.6 Nothing in this clause prevents a Councillor putting a question which is similar or related to a question put earlier at the same meeting.

### **3.23 Limitation as to Number of Speeches (Clause 250 of the Regulation)**

- 3.23.1 A Councillor who, during debate at a meeting of the Council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- 3.23.2 A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- 3.23.3 A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time. However, the Chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 3.23.4 Despite Clauses 3.23.1 and 3.23.2, if at least two (2) Councillors have spoken in favour of a motion or an amendment and at least two (2) Councillors have spoken against the motion or amendment, any Councillor may move that the matter be now put. A Councillor may also move that the matter be now put if the mover of a motion or amendment has spoken in favour of the motion or amendment and no Councillor indicates to speak against it.
- 3.23.5 The Chairperson must immediately put to the vote a motion that the matter be now put and without debate.
- 3.23.6 If a motion that the matter be now put is passed, the Chairperson must, after the mover of the motion has exercised his or her right of reply under Clause 3.23.1, immediately put the question to the vote without further debate.
- 3.23.7 If a motion that the matter be now put is rejected, the Chairperson must resume the debate on the original motion or amendment.

### **3.24 Motions Put Without Debate**

Provided there is no objection from any Councillor present, any motion or recommendation before the Council may be put to the vote without discussion or debate.

### **3.25 Voting at Council Meetings (Section 370 of the Act)**

- 3.25.1 Each Councillor is entitled to one vote.
- 3.25.2 The Chairperson has, in the event of an equality of votes, a second or casting vote and that vote shall be used at the absolute discretion of the Chairperson. Should the Chairperson fail to exercise a casting vote the motion will be lost.
- 3.25.3 A Councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

This sub clause does not apply to a Councillor who does not vote because he or she has a pecuniary interest in the subject matter of the motion.

3.25.4 If a Councillor who has voted against a motion put at a Council Meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the minutes.

3.25.5 The decision of the Chairperson as to the result of a vote is final, unless:

- a in the case where a vote has been declared on the voices, a Councillor immediately requests a show of hands; or
- b the decision is immediately challenged and not fewer than two (2) Councillors rise and demand a division.

3.25.6 When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately.

3.25.7 The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the minutes. Divisions can be taken on both amendments and motions.

3.25.8 Voting at a Council Meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in any election by Councillors for Mayor or Deputy Mayor is to be by secret ballot.

*Note: The Local Government (General) Regulation 2005 provides that a Council is to resolve whether an election by the Councillors for Mayor or Deputy Mayor is to be by preferential ballot, ordinary ballot or open voting (Clause 394 of the Regulation and Clause 3 of Schedule 7 of the Regulation). Clause 3 of Schedule 7 also makes it clear that "ballot" has its normal meaning of secret ballot.*

### **3.26 Recording of Voting on Planning Matters (Section 375A of the Act)**

3.26.1 In this Section, Planning Decision means a decision made in the exercise of a function of a Council under the Environmental Planning and Assessment Act 1979:

- a including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution under that Act; but
- b not including the making of an order under Division 2A of Part 6 of that Act.

3.26.2 The General Manager is required to keep a register containing, for each planning decision made at a meeting of Council or a Council Committee, the names of the Councillors who supported the decision and the names of any Councillors who opposed (or who are taken to have opposed) the decision.

3.26.3 For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the Council or a Council Committee.

3.26.4 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document and is to include the information required by the regulations.

3.26.5 This section extends to a meeting that is closed to the public.

### **3.27 Which Parts of a Meeting Can Be Closed to the Public?**

3.27.1 A Council, or a Committee of the Council of which all the members are Councillors, may close to the public so much of its meeting as comprises:

- a the discussion of any of the matters listed in Clause 3.27.2; or
- b the receipt or discussion of any of the information so listed.

3.27.2 The matters and information are the following:

- a personnel matters concerning particular individuals (other than Councillors);
- b the personal hardship of any resident or ratepayer;
- c information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business;
- d commercial information of a confidential nature that would, if disclosed:
  - i prejudice the commercial position of the person who supplied it; or
  - ii confer a commercial advantage on a competitor of the Council; or
  - iii reveal a trade secret;
- e information that would, if disclosed, prejudice the maintenance of law;
- f matters affecting the security of the Council, Councillors, Council staff or Council property;
- g advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege; and
- h information concerning the nature and location of a place or an item of Aboriginal significance on community land.

3.27.3 A Council, or a Committee of the Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

- 3.27.4 A Council, or a Committee of Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed (see clause 3.31).

### **3.28 Further Limitations Relating to Closure of Parts of Meetings to Public (Section 10B of the Act)**

- 3.28.1 A meeting is not to remain closed during the discussion of anything referred to in Section 10A(2) of the Act (see Sub Clause 3.27.2):
- a except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security; and
  - b if the matter concerned is a matter other than a personal matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret unless the Council or Committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.
- 3.28.2 A meeting is not to be closed during the receipt and consideration of information or advice referred to in Section 10(2)(g) of the Act (see Sub Clause 3.27.2g) unless the advice concerns legal matters that:
- a are substantial issues relating to a matter in which the Council or Committee is involved; and
  - b are clearly identified in the advice; and
  - c are fully discussed in that advice.
- 3.28.3 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in Section 10A(3) of the Act (see Clause 3.27), the consideration of the motion must not include any consideration of the matter or information to be discussed in that part of the meeting (other than consideration of whether the matter concerned is a matter referred to in Section 10A(2) of the Act (see Clause 3.27).
- 3.28.4 For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
- a a person may misinterpret or misunderstand the discussion; or
  - b the discussion of the matter may:
    - i cause embarrassment to the Council or Committee concerned, or to Councillors or to employees of the Council; or
    - ii cause a loss of confidence in the Council or Committee.
- 3.28.5 In deciding whether part of a meeting is to be closed to the public, the Council or Committee concerned must have regard to any relevant guidelines issued by the Director-General.

**3.29 Notice of Likelihood of Closure Not Required in Urgent Cases (Section 10C of the Act)**

Part of a meeting of Council, or of a Committee of Council of which all the members are Councillors, may be closed to the public while the Council or Committee considers a matter that has not been identified in the agenda for the meeting as a matter that is likely to be considered when the meeting is closed, but only if:

- a it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in Section 10A(2) of the Act (see Clause 3.27); and
- b the Council or Committee, after considering any representations made under Section 10A(4) of the Act (see Clause 3.31), resolves that further discussion of the matter:
  - i should not be deferred (because of the urgency of the matter); and
  - ii should take place in a part of the meeting that is closed to the public.

**3.30 Grounds for Closing Part of Meeting to be Specified (Section 10D of the Act)**

3.30.1 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.

3.30.2 The grounds must specify the following:

- a the relevant provision of Section 10A(2) of the Act (see Sub Clause 3.27.2);
- b the matter that is to be discussed during the closed part of the meeting; and
- c the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

**3.31 Representation by Members of the Public - Closure of Part of Meeting (Clause 252 and 264 of the Regulation)**

**[Note: For public participation in the Public Forum see Section 8].**

3.31.1 To ensure adherence with Council's objective that proceedings should be transparent and understandable to all persons participating in and observing meetings of Council the following process will occur:

- 3.31.1.1 After a motion to close part of the Council Meeting to the public has been moved or seconded, the Chairperson will ask the General Manager (or his/her representative) if there are any written representations from the public on the proposed closure.

- 3.31.1.2 The General Manager (or his/her representative) will read out any written representation.
- 3.31.1.3 The Chairperson will ask if any persons present wish to make verbal representations.
- 3.31.1.4 The opportunity to speak will be given to each person present to make verbal representations.
- 3.31.1.5 The opportunity to speak will be given to each person or representative person chosen by the public gallery on a “for” or “against” basis.
- 3.31.1.6 Each person addressing the Council will be allowed a maximum time of five (5) minutes.
- 3.31.1.7 After receiving all presentations on this matter and on a motion moved, seconded and carried that the meeting be closed under Section 10A(3) of the Act, the meeting should be closed to consider the matter in closed session.
- 3.31.1.8 The determination of the resolution in Sub Clause 3.31.7.7 will be announced by the Chairperson.
- 3.31.1.9 The grounds on which a meeting is closed must be specified in the decision to close the meeting and recorded in the minutes of the meeting.
- 3.31.1.10 A person (whether a Councillor or another person) is not entitled to be present at a meeting if expelled from the meeting by a resolution of the meeting.
- 3.31.1.11 Nothing in this clause prevents any limitation being placed on the number of members of the public admitted to a meeting of the Council or a Committee of the Council, provided such limitation is for reason of safety or security.

### **3.32 Resolutions Passed at Closed Meetings to be Made Public (Clause 253 of the Regulation)**

If a Council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the Chairperson will make the resolution public as soon as practicable after the closed part of the meeting has ended.

### **3.33 What constitutes a decision of the Council (Section 371 of the Act)**

A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council.

### **3.34 Rescinding or Altering Resolutions (Section 372 of the Act)**

- 3.34.1 A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with the regulations made under Section 360 and, if applicable, this Code of Meeting Practice.



- 3.34.2 If notice of motion to alter or rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion has been dealt with, except that, in the case of a motion of alteration, this sub section only applies to the extent that the resolution of Council would be affected by the motion of alteration, if it is carried.
- 3.34.3 If notice of motion to alter or rescind a resolution is given prior to the resolution having been carried into effect, then the resolution must not be carried into effect until after the motion has been dealt with, except that, in the case of a motion of alteration, this sub section only applies to the extent that the resolution of Council would be affected by the motion of alteration, if it is carried.
- 3.34.4 If a motion has been negated by the Council, a motion having the same effect must not be considered unless notice of it has duly been given in accordance with Council's Code of Meeting Practice.
- 3.34.5 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council, must be signed by a least three (3) Councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- 3.34.6 If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within three (3) months. This sub clause may not be evaded by substituting a motion differently worded, but in principle the same.
- 3.34.7 A motion to which this clause applies may be moved on the report of a Committee of the Council and any such report must be recorded in the minutes.
- 3.34.8 The provisions of this clause concerning negated motions do not apply to motions of adjournment.
- 3.34.9 All motions to rescind or alter a resolution received in accordance with this clause will be included in the agenda of the next available meeting of Council.
- 3.34.10 If it is proposed to move a further motion in the event that a motion to rescind a resolution is carried, the required notice must be given of the proposed further motion.
- 3.34.11 A proforma for a Notice of Motion to alter or rescind a resolution is included in the Appendix.
- 3.34.12 Notwithstanding the provisions of subclause (3.34.1) Council may, by resolution, provided that the majority of Councillors present agree, re-commit a matter for further consideration at the same meeting at which the matter has been resolved, to avoid the necessity to rescind the resolution. However re-committal will not be allowed if the meeting lapses for want of a quorum or is adjourned to another day.

*Note: The purpose of this sub-clause is to permit the Council to re-visit a decision taken, where it is realised after the vote on the matter, which because there may have been confusion or misunderstandings during debate, the decision may be inconsistent with the wishes of a majority of Councillors.*

### **3.35 Motions of Adjournment**

- 3.35.1 Debate shall not be permitted on any motion for adjournment of a meeting of the Council.
- 3.35.2 If a motion for adjournment is negated, the business of the meeting shall proceed, and it shall not be in order for any Councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being negated.
- 3.35.3 A motion for adjournment may specify the time, date and place of the adjourned meeting; however, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the Chairperson shall make a determination with respect to whichever of these has not been specified.

### **3.36 Adjournment of Council Meetings**

Notwithstanding Clause 3.35 no meeting shall be permitted to continue beyond 11.00 pm without approval of a majority of the Councillors who are present and eligible to vote. A new time limit must be established before taking a vote to extend the meeting. Any further extension must also be approved by the majority of the Councillors who are present and eligible to vote.

Any extension of time should not go beyond midnight unless the business of Council remaining can be completed in a reasonable time.

## Part 4 – Keeping order at meetings

Councillors, employees of Council and other persons at the meeting are required to observe the Code of Meeting Practice at all meetings of the Council. Failure on the part of a Councillor or an employee to observe the Code of Meeting Practice may be subject to a complaint under the Code of Conduct.

### 4.1 Questions of Order (Clause 255 of the Regulation)

- 4.1.1 The Chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the Chairperson, it is necessary to do so.
- 4.1.2 A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson by raising a “point of order” regarding the matter. A point of order does not require a seconder.
- 4.1.3 The Chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.
- 4.1.4 The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

### 4.2 Acts of Disorder (Clause 256 of the Regulation)

- 4.2.1 A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a Committee of the Council:-
  - a contravenes the Act, any regulation in force under the Act or this Code; or
  - b assaults or threatens to assault another Councillor or person present at the meeting; or
  - c moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or Committee, or addresses or attempts to address the Council or Committee on such a motion, amendment or matter; or
  - d insults or makes personal reflections on or imputes improper motives to any other Councillor; or
  - e says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt; or
  - f reads at length from any correspondence, report or other document without the leave of the Council.
- 4.2.2 The Chairperson may require a Councillor:-
  - a to apologise for an act of disorder referred to in Clause 4.2.1(a) or (b); or

- b to withdraw a motion or an amendment referred to in Clause 4.2.1(c) and, where appropriate, to apologise without reservation; or
- c to retract and apologise for an act of disorder referred to in Clause 4.2.1(d) or (e); or
- d to refrain from any further reading and apologise for the act of disorder in Clause 4.2.1(f).

4.2.3 The Council or Committee of the Council may, by resolution, expel from a meeting a Councillor who fails to comply with a requirement made under Clause 4.2.2. The expulsion of a Councillor under this sub clause does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

#### **4.3 How Disorder at a Meeting may be Dealt With (Clause 257 of the Regulation)**

4.3.1 If disorder occurs at a meeting of the Council or Committee of the Council, the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the Chair. The Council, on reassembling, must, on a question put from the Chair, decide without debate whether the business is to be proceeded with or not. This sub clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors.

4.3.2 The Council or Committee may, as provided by Section 10(2)(a) or (b) of the Act, by resolution, expel a member of the public from a Council or Committee meeting on the ground that the member is engaging in or has, at the meeting, engaged in disorderly conduct.

#### **4.4 Power to Remove Persons from Meeting after Expulsion Resolution (Clause 258 of the Regulation)**

If a Councillor or a member of the public fails to leave the place where a meeting of a Council or Committee is being held:-

- a immediately after the Council has passed a resolution expelling the Councillor or member from the meeting; or
- b where the Council has authorised the person presiding at the meeting to exercise the power of expulsion - immediately after being directed by the person presiding to leave the meeting;

a police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the Councillor or member from that place and, if necessary, restrain the Councillor or member from re-entering that place.

#### **4.5 Relevance in Debate**

4.5.1 Councillors, in the course of debate, should not introduce material that is irrelevant to the item under discussion. If a Councillor is called to order for a second time in a single speech for introducing irrelevant material, he or she shall immediately cease speaking and resume his or her seat.

- 4.5.2 Members of the public who address Council also have an obligation to ensure relevance to the item under discussion. The Chairperson has the discretion, including action similar to Sub Clause 4.5.1, to deal with members of the public who introduce irrelevant material.

## Part 5 – Council Committees

### 5.1 Committee of the Whole (Section 373 of the Act and Clause 259 of the Regulation)

- 5.1.1 The Council may resolve itself into a Committee of the Whole to consider any matter before the Council.
- 5.1.2 All the provisions of this Code relating to meetings of the Council, so far as they are applicable, extend to and govern the proceedings of a Committee of the Whole, except the provisions:
  - a limiting the number and duration of speeches; and
  - b requiring Councillors to stand when speaking .
- 5.1.3 The General Manager is responsible for reporting to the Council proceedings in a Committee of the Whole. It is not necessary to report the proceedings in full but any recommendations of the Committee must be reported.
- 5.1.4 The Council must ensure that a report of the proceedings is recorded in the Council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed.

### 5.2 Council may establish Committees (Clause 260 of the Regulation)

- 5.2.1 The Council may, by resolution, establish such Committees as it considers necessary.
- 5.2.2 A Committee is to consist of the Mayor and such other Councillors as are elected by the Councillors or appointed by the Council.
- 5.2.3 The quorum for a meeting of a Committee is to be:-
  - a such number of members as the Council decides, or
  - b if the Council has not decided a number - a majority of the members of the Committee.
- 5.2.4 if a Committee lacks a quorum, another Councillor may be seconded to the Committee to achieve a quorum and that seconded member will have full voting rights.

### 5.3 Functions of Committees (Clause 261 of the Regulation)

The Council must specify the functions of each of its Committees when the Committee is established but may from time to time amend those functions.

### 5.4 Notice of Committee Meetings to be Given (Clause 262 of the Regulation)

- 5.4.1 The General Manager of the Council must send to each Councillor, at least three (3) days before each meeting of the Committee, a notice specifying:

- a the time and place at which and the date on which the meeting is to be held; and
- b the business proposed to be transacted at the meeting.

5.4.2 However, notice of less than three (3) days may be given of a Committee meeting called in an emergency.

5.4.3 The provisions of Sub Clause 2.3.3 apply to the agenda of Committee Meetings in the same manner as they apply to the agenda of Meetings of the Council

## **5.5 Non-members Entitled to Attend Committee Meetings (Clause 263 of the Regulation)**

5.5.1 A Councillor who is not a member of a Committee of the Council is entitled to attend, and to speak at, a meeting of the Committee.

5.5.2 Except as provided by Clause 5.2.4, a Councillor is not entitled:

- a to give notice of business for inclusion in the business paper for the meeting, or
- b to move or second a motion at the meeting, or
- c to vote at the meeting.

## **5.6 Representations by the Members of the Public - Closure of Part of Meeting (Clauses 252 and 264 of the Regulation)**

The same process will be undertaken for Committees as detailed under Clause 3.27 for Council Meetings.

## **5.7 Procedure in Committees (Clause 265)**

5.7.1 Subject to Sub Clause 5.7.3 each Committee of the Council may regulate its own procedure.

5.7.2 Without limiting Sub Clause 5.7.1, a Committee of the Council may decide that, whenever the voting on a motion put to a meeting of the Committee is equal, the Chairperson of the Committee is to have a casting vote as well as an original vote. (Note: the Council's current adopted policy on Committee functions does not provide for a casting vote in Council Committees.)

5.7.3 Voting at a Committee Meeting is to be by open means (such as on the voices or by show of hands).

## **5.8 Committee to Keep Minutes (Clause 266 of the Regulation)**

5.8.1 Each Committee of a Council must ensure that full and accurate Minutes of the proceedings of its meetings are kept. In particular, a Committee must ensure that the following matters are recorded in the Committee's Minutes:-

- a details of each motion moved at a meeting and of any amendments moved to it;

- b the names of the mover and seconder of the motion or amendment;
- c whether the motion or amendment is passed or lost.
- d All Committee Minutes are to be submitted to the next available meeting of Council.

5.8.2 As soon as the Minutes of an earlier meeting of a Committee of the Council have been confirmed at a later meeting of the Committee, the person presiding at the later meeting must sign the Minutes of the earlier meeting.

## **5.9 Chairperson and Deputy Chairperson of Committee (Clause 267 of the Regulation)**

5.9.1 The Chairperson of each Committee of the Council must be:-

- a the Mayor; or
- b if the Mayor does not wish to be the Chairperson of a Committee - a member of the Committee elected by the Council; or
- c if the Council does not elect such a member - a member of the Committee elected by the Committee.

5.9.2 A Council may elect a member of a Committee of the Council as Deputy Chairperson of the Committee. If the Council does not elect a Deputy Chairperson of such a Committee, the Committee may elect a Deputy Chairperson.

5.9.3 If neither the Chairperson nor the Deputy Chairperson of a Committee of a Council is unable or unwilling to preside at a meeting of the Committee, the Committee must elect a member of the Committee to be Acting Chairperson of the Committee.

5.9.4 The Chairperson is to preside at a meeting of a Committee of a Council. If the Chairperson is unable or unwilling to preside, the Deputy Chairperson (if any) is to preside at the meeting, but if either the Chairperson or the Deputy Chairperson is unable or unwilling to preside, the Acting Chairperson is to preside at the meeting.

5.9.5 The Mayor is, by virtue of holding that office, a member of each Committee of the Council. (Clause 260 of the Regulation).

## **5.10 Absence from Committee Meetings (Clause 268 of the Regulation)**

5.10.1 A member ceases to be a member of a Committee if the member (other than the Mayor):-

- a has been absent from three (3) consecutive meetings of the Committee without having given reasons acceptable to the Committee for the member's absences; or
- b has been absent from at least half of the meetings of the Committee held during the immediately preceding year without having given to the Committee acceptable reasons for the member's absences.



- 5.10.2 Sub Clause 5.10.1 does not apply if all of the members of the Council are members of the Committee. [Note: The expression "year" means the period beginning 1 July and ending the following 30 June. See the dictionary to the Act.]

#### **5.11 Reports of Committees (Clause 269 of the Regulation)**

- 5.11.1 If in a report of a Committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation.
- 5.11.2 The recommendations of a Committee of the Council are, so far as adopted by the Council, resolutions of the Council.
- 5.11.3 If a Committee of a Council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must:-
- a make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended; and
  - b report the resolution or recommendation to the next available meeting of the Council.

#### **5.12 Disorder in Committee Meetings (Clause 270 of the Regulation)**

The provisions of the Act, the Regulation and this Code relating to the maintenance of order in Council Meetings apply to meetings of Committees of the Council in the same way as they apply to meetings of the Council.

#### **5.13 Committee May Expel Certain Persons from its Meetings (Clause 271 of the Regulation)**

- 5.13.1 If a meeting or part of a meeting of a Committee of the Council is closed to the public in accordance with section 10A of the Act, the Committee may, by resolution, expel from the place where the meeting is being held any person who is not a Councillor.
- 5.13.2 If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from, and, if necessary, restrain the person from re-entering, that place.

## Part 6 – Task Groups and Advisory Committees

### 6.1 Task Groups

- 6.1.1 The Council may appoint a group of Councillors and staff members to investigate a specific proposal and to report to the Council or appropriate Committee.
- 6.1.2 The Council shall determine the terms of reference for the Task Group, such to clearly state:
  - a the specific issues to be addressed
  - b the time available to the Task Group to complete its investigation
- 6.1.3 The Task Group shall have the power to regulate its own procedures and need only report to the Council or Committee when a decision on policy or resources is required.
- 6.1.4 Notwithstanding 6.1.3 the minutes of Task Groups shall be reported to Council for notation.
- 6.1.5 The Task Group shall be disbanded after the terms of reference have been completed. [Note: The General Manager appoints staff member representatives on Task Groups.]

### 6.2 Advisory Committees

- 6.2.1 The Council may appoint a group of Councillors, staff and on occasions, community representatives to undertake a particular administrative responsibility.
- 6.2.2 Where possible, community representatives on Advisory Committees shall be nominated by community organisations.
- 6.2.3 The Council shall determine the terms of reference for the Advisory Committee.
- 6.2.4 The Advisory Committee shall have power to regulate its own procedures, subject to:-
  - a the Chairperson of the Advisory Committee being the Mayor of the Council or a Councillor/Officer, nominated as Chair by the Council or Advisory Committee;
  - b minutes of meetings being submitted to the next available meeting of the Council.
- 6.2.5 The Advisory Committees term of reference shall not be time limited but the Council can disband the Advisory Committee or alter its terms of reference and membership composition at any time.

## Part 7 – Dealing with conflicts of interests

*Note: The General Manager cannot give a ruling on whether a Councillor has a pecuniary or non-pecuniary interest in a particular matter. If Councillors are in doubt they should seek their own legal advice.*

### Pecuniary Interests

#### 7.1 Pecuniary interest (Section 442 of the Act)

7.1.1 For the purposes of this Part, a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

7.1.2 A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the Act.

#### 7.2 Persons who have a Pecuniary Interest

7.2.1 For the purposes of the Part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:

- a the person; or
- b another person with whom the person is associated.

7.2.2 A person is taken to have a pecuniary interest in a matter if:

- a the person's spouse or de facto partner or a relative of the person has a pecuniary interest in the matter; or
- b the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

7.2.3 However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (2):

- a if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body; or
- b just because the person is a member of, or employed by, a Council or a statutory body or is employed by the Crown; or
- c just because the person is a member of, or a delegate of a Council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

### 7.3 Interests that Need Not be Declared (Section 443 of the Act)

7.3.1 The following interests do not need to be disclosed for the purposes of this Part:

7.3.1.1 An interest as an elector.

7.3.1.2 An interest as a ratepayer or a person liable to pay a charge.

7.3.1.3 An interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public or a section of the public that includes persons who are not subject to this Part.

7.3.1.4 An interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part.

7.3.1.5 An interest as a member of a club or other organisation or association, unless the interest is as a holder of an office in the club or organisation (whether remunerated or not).

7.3.1.6 An interest of a member of a Council Committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the Committee member has been appointed to represent the organisation or group on the Committee.

7.3.1.7 An interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument, other than an instrument that effects a change of permissible uses of:

a land in which the person or a person, company or body referred to in Section 443(1)(b) or (c) has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise); or

b land adjoining, or adjacent to, or in proximity to land referred to in paragraph (a);

if the person or the other person with whom the person is associated would by reason of the propriety interest have a pecuniary interest in the proposal.

7.3.1.8 An interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights of the company.

7.3.1.9 An interest of a person arising from the proposed making by the Council of an agreement between the Council and a corporation,

association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a Director) of the corporation or is a member (but not a member of the Committee) of the association or is a partner of the partnership.

- 7.3.1.10 An interest of a person arising from the making by the Council of a contract or agreement with a relative of the person for or in relation of any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area:
- a the performance by the Council at the expense of the relative of any work or service in connection with roads or sanitation;
  - b security for damage to footpaths or roads;
  - c any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council or by or under any contract.
- 7.3.1.11 An interest relating to the payment of fees to Councillors (including the Mayor and Deputy Mayor).
- 7.3.1.12 An interest relating to the payment of expenses and the provision of facilities to Councillors (including the Mayor and Deputy Mayor) in accordance with a policy under Section 252 of the Act.
- 7.3.1.13 An interest relating to the election to the office of Mayor arising from the fact that a fee for the following 12 months has been determined for the office of Mayor.
- 7.3.1.14 An interest of a person arising from the passing of payment of a regular account for wages and salary of an employee who is a relative of the person.
- 7.3.1.15 An interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor or member of a Council Committee.
- 7.3.1.16 An interest arising from appointment of a Councillor to a body as representative or delegate of the Council, whether or not a fee or other recompense is payable to the representative or delegate.

#### **7.4 Disclosure and Participation in Meetings (Section 451 of the Act)**

- 7.4.1 A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and is present at a meeting of the Council or Committee at which the matter is being considered must disclose the interest to the meeting as soon as practicable. [Note: One of the first items on each Council and Committee Meeting Agenda is Notification of Interests].

- 7.4.2 The disclosure ideally should be in writing and describe the nature and extent of the pecuniary interest. [Note: A proforma declaration is provided in Attachment 1 in order to facilitate declarations.]
- 7.4.3 The Councillor or member must not take part in the consideration or discussion of the matter.
- 7.4.4 The Councillor or member must not be present at, or in sight of, or within earshot of the meeting of the Council or Committee:
- a at any time during which the matter is being considered or discussed by the Council or Committee, or:
  - b at any time during which the Council or Committee is voting on any question in relation to the matter.
- 7.4.5 The exclusion is from all discussions on the matter, not just discussions on a formulation motion or a resolution of the matter.
- 7.4.6 Councillors barred from taking part in a discussion because of a pecuniary interest cannot escape this by addressing the meeting as a “resident” or “ratepayer”.

## **7.5 Disclosure by Advisers (Section 456 of the Act).**

A person who, at the request or with the consent of the Council or a Council Committee, gives advice on any matter at any meeting of the Council or Committee must disclose any pecuniary interest the person has in the matter to the meeting at the time the advice is given.

## **7.6 Circumstances where Disclosure Rules are not breached (Section 457 of the Act)**

A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

## **7.7 Disclosures to be Recorded (Section 453 of the Act)**

A disclosure made at a meeting of the Council or Council Committee must be recorded in the minutes of the meeting. [Note: A register of declared interests is held by the Council's Public Officer]

## **7.8 Powers of the Council in Relation to Meetings (Section 10 of the Act)**

A Councillor or member of a Council Committee must not, if the Council or Committee so resolves, attend a meeting of the Council or Committee while it has under consideration a matter in which the Councillor or member has an interest required to be disclosed under this Part.

## **7.9 Office of Local Government - Power of Minister in relation to meetings (Section 458 of the Act)**

The Minister may, conditionally or unconditionally, allow a Councillor or a member of a Council Committee who has a pecuniary interest in a matter with which the Council

is concerned and who is present at the meeting of the Council Committee to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- a that the numbers of Councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business; or
- b that it is in the interests of the electors for the area to do so.

## **Non-Pecuniary Interests**

### **7.10 Special duty of a Councillor, member of staff and delegate**

A Councillor, member of staff or delegate must avoid and appropriately resolve any conflict or incompatibility between his or her private or personal interests and the impartial performance of his or public or professional duties.

### **7.11 Non-Pecuniary Interest**

For the purposes of this Part, non-pecuniary private or personal interests that the Council official has that do not amount to a pecuniary interest as defined in the Act, commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

### **7.12 Conflict of Interest**

7.12.1 A conflict of interest arises if it is likely that the person with the private or personal interest could be prejudicially influenced in the performance of his or her public or professional duties by that interest, or that a reasonable person would believe that the person could be so influenced.

7.12.2 A non-pecuniary conflict of interest need not mean automatic or complete exclusion from participation in discussion or decision making and a determination of how the non-pecuniary conflict of interest is to be dealt with is to be made in accordance with Council's Policy on Conflicts of Interest.

### **7.13 Disclosures and Participation in Meetings – Non-Pecuniary (Section 454 of the Act)**

7.13.1 A Councillor or a member of a Council Committee who has a non-pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the interest to the meeting as soon as is practicable.

7.13.2 The disclosure ideally should be in writing and describe the nature and extent of the pecuniary interest. [Note: A proforma declaration is provided in Attachment 1 in order to facilitate declarations.]

7.13.3 Non-pecuniary conflicts of interest must be managed in accordance with Council's Code of Conduct.

7.13.4 Where a non-pecuniary conflict of interest has been declared by a Councillor in a matter at a Council or Committee Meeting and that non-pecuniary conflict

of interest is considered by the Councillors to be significant, the Council must leave the meeting, be out of sight of the meeting and not participate in discussions or voting on the matter.

- 7.13.5 Where a non-pecuniary conflict of interest has been declared by a Councillor in a matter at a Council or Committee Meeting and that non-pecuniary interest is considered by the Councillor to be less than significant and not requiring further action, the Councillor should provide an explanation of why he/she believes the conflict requires no further action in the circumstances.



## Part 8 – Press and public

### 8.1 Public Forum

- 8.1.1 The Council shall make provision for members of the public to address the Council meeting on matters that are raised in the Business Paper.
- 8.1.2 Applications to address the Council:-
  - a must be made no later than noon on the day of the Council Meeting to the General Manager or nominee who receives applications;
  - b must state the name and address of the applicant, a contact telephone number, and general details of the nature of the address;
  - c will be listed with a copy given to the Mayor immediately prior to the commencement of the meeting. The Mayor shall give first speaking preference to those persons who have an interest in a matter before the Council that evening.
- 8.1.3 The Council shall give consideration to allowing opposing points of view to be presented prior to determining a matter.
- 8.1.4 Subject to 8.1.5, fifteen (15) minutes will be allocated for discussion on any one item, with preference given to the arrangement where one person speaks for the motion and one speaks against the motion. Groups are encouraged to nominate a representative to make the presentation to the Council on behalf of the group.
- 8.1.5 Where two speakers have registered on the one subject, five (5) minutes will be given to each speaker. Where more than two speakers have registered to speak on the same item, the Chairperson will determine the equal allocation of time between speakers.
- 8.1.6 When making a presentation:-
  - a Subject to 8.1.5, each presentation shall be limited to five (5) minutes, and the Council may extend the presentation by a further three (3) minutes if considered appropriate. The maximum time for all presentations on each subject will be limited to fifteen (15) minutes.
  - b Where it is considered that a particular matter requires further discussion, the Council may wish to resolve itself into a Committee of the Whole in accordance with clause 5.1.
  - c Speakers shall conduct themselves with due respect to the Council and observe the rules of order and meeting procedure as contained in the Code of Meeting Practice.
- 8.1.7 Councillors may, through the Chairperson, ask questions of the speakers at the conclusion of their address.

## **8.2 Committee Interviews – Public Forum**

- 8.2.1 Any person with an interest in a matter before a Committee will be given the opportunity to make a presentation to the Committee.
- 8.2.2 All requests should be referred to the General Manager or nominee who will liaise with the Chairperson and the applicant and make the necessary arrangements prior to the meeting.
- 8.2.3 The Chairperson will allow opposing views on the same issue to be put to the Committee without interruption.
- 8.2.4 As far as possible individuals with the same view should be encouraged to appoint a spokesperson to speak on their behalf.
- 8.2.5 All presenters are expected to answer questions put to them by Committee members and the Chairperson will not permit parties with opposing views to question each other.

## **8.3 Public Access to Correspondence and Reports (Section 11 of the Act)**

- 8.3.1 The Council and a Committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting. [Note: Clause 2.9 allows public access to agendas and associated business papers issued prior to the Council Meeting.]
- 8.3.2 This clause does not apply if the correspondence or reports:
  - a relate to a matter that was received or discussed; or
  - b were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.
- 8.3.3 This section does not apply if the Council or Committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in Section 10A(2) of the Act (see Sub Clause 3.27.2), are to be treated as confidential.

## Part 9 – Record of meetings

### 9.1 Minutes of Meetings (Section 375 of the Act)

- 9.1.1 The Council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council.
- 9.1.2 The minutes must when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting.
- 9.1.3 A motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of proceedings.
- 9.1.4 The temporary absences from a meeting of Council or any Committee shall not be recorded in the Minutes unless the temporary absence is during a vote on a decision.

### 9.2 Minutes – Matters required to be recorded

- 9.2.1 Details of each motion and of any amendments moved to it (Clause 254(a) of the Regulation).
- 9.2.2 The names of the mover and seconder of any motion or amendment (Clause 254(b) of the Regulation).
- 9.2.3 Whether each motion and amendment is passed or lost (Clause 254(c) of the Regulation).
- 9.2.4 The circumstances and reasons relating to the absence of a quorum together with the names of the Councillors present (Clause 233(3) of the Regulation).
- 9.2.5 The dissenting vote of a Councillor when requested (Clause 251(2) of the Regulation).
- 9.2.6 When a valid division is called, a table of the names of each Councillor and the way their vote was cast, either For or Against, is recorded in the Minutes. (Clause 251(4) of the Regulation). Note that a division is always required when a motion for a planning decision is put to a meeting of the Council (Section 375A of the Act).
- 9.2.7 A report of the proceedings of the Committee of the Whole, including any recommendations of the Committee (Clause 259(3) of the Regulation).
- 9.2.8 The grounds for closing part of the meeting to the public (Section 10D of the Act).
- 9.2.9 The report of a Council Committee leading to a rescission or alteration motion (Section 372(6) of the Act).
- 9.2.10 The disclosure to a meeting by a Councillor of a pecuniary interest (Section 453 of the Act).

## Part 10 – Miscellaneous

### 10.1 Disclosure and Misuse of Information

10.1.1 A person must not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:

- a with the consent of the person, from whom the information was obtained; or
- b in connection with the administration or execution of this Act; or
- c for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- d in accordance with a requirement imposed under the *Ombudsman Act 1974* or the *Government Information (Public Access) Act 2009*; or
- e with other lawful excuse.

10.1.2 In particular, should part of a meeting of a Council or a Committee of a Council is closed to the public in accordance with Section 10A(1) of the Act, a person must not, without the authority of the Council or the Committee, disclose (otherwise than to the Council or a Councillor of the Council) information with respect to the discussion at, or the business of, the meeting.

10.1.3 Clause 10.1.2 does not apply to:

- a the report of a Committee of a Council after it has been presented to the Council; or
- b disclosure made in any of the circumstances referred to in Clause 10.1.1; or
- c disclosure made in circumstances prescribed by the regulations; or
- d any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with Schedule 1 of the *Government Information (Public Access) Regulation 2009*.

10.1.4 A person acting in the administration or execution of this Act must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known, for the purpose of gaining either directly or indirectly a financial advantage for the person, the person's spouse or de facto partner or a relative of the person.

10.1.5 A person acting in the administration or execution of this Act, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person, influence:

- a the determination of an application for an approval; or
- b the giving of an order.

## **10.2 Inspection of the Minutes of the Council or a Committee**

- 10.2.1 Schedule 1 of the Government Information (Public Access) Regulation 2009 requires that the Minutes of the Council or a Committee are to be made publicly available for inspection. The public is entitled to inspect these documents either on Council's website or at the offices of the Council during ordinary working hours or at any other place determined by Council. Any current or previous Minutes may be inspected free of charge.
- 10.2.2 An inspection of the minutes of the Council or Committee of the Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes. [Note: The person so designated is the Manager Governance & Risk and in their absence another employee as designated by the General Manager.]
- 10.2.3 The General Manager must ensure that the minutes of the Council and any minutes of a Committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them. [Note: Schedule 1 of the Government Information (Public Access) Regulation 2009 confers a right to inspect the minutes of a Council or Committee of a Council.]

## **10.3 Access to Records**

- 10.3.1 Councillors have access to Council records under the Government Information (Public Access) Act and Regulation 2009.
- 10.3.2 Nothing in this clause derogates from the common law right of a Councillor to inspect any record of the Council which is necessary for the Councillor to exercise the office of Councillor.

## **10.4 Recording of Meeting of the Council or a Committee Prohibited Without Permission (Clause 273 of the Regulation)**

- 10.4.1 A person may use a recorder to record the proceedings of a meeting of the Council or a Committee of a Council only with the authority of the Chairperson, who will advise all other Councillors in attendance of the situation.
- 10.4.2 A person may, as provided by Section 10(2)(a) or (b) of the Act, be expelled from a meeting of a Council or a Committee of a Council for using or having used a recorder in contravention of this clause.
- 10.4.3 If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a Police Officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from the place and, if necessary, restrain that person from re-entering that place.

10.4.4 In this clause, recorder includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

10.4.5 All mobile phones in the Chamber and Public Gallery are not to be used and are to be turned off or switched to silent/vibrate. Failure to do so or use of a mobile phone may be treated as an act of disorder.

## **10.5 Audio Recording / Live streaming of Meetings by Council Staff**

### **Audio**

10.5.1 Audio recordings of a meeting of the Council or a Committee of Council may be made by Council staff for the purpose of:

- Assisting in the preparation of the Minutes;
- Ensuring decisions are accurately recorded;
- Verifying the accuracy of Minutes prior to their confirmation.

10.5.2 Audio recordings will be erased or otherwise destroyed as soon as the minutes of the meeting to which they relate have been officially confirmed or within three (3) months, whichever is the greater.

### **Live streaming**

10.5.3 The chairperson or general manager will, at the commencement of meetings, inform those in attendance that the proceedings are being recorded for the purpose of this clause of the Code of Meeting Practice and remind them that any comments should only include personal information that is relevant or necessary to the matters under consideration by the Council/Committee.

10.5.4 Web casting of a meeting of the Council or a Committee may be made at council's discretion to provide the community an option of being involved with and to view decisions of council without the need to be physically present. This provides the community another avenue of being involved in matters before Council and of interest to the Bayside Council community if they are unable to attend the meeting due to work commitments, time, weather or physical limitations.

10.5.5 A notice informing members of the public that live web casting is being undertaken will be displayed when this occurs and the chairperson or general manager will also read a statement to this effect.

Recordings of web streaming will be erased or otherwise destroyed after a period of three (3) months or as permitted by the State Records Act.

The audio and video recordings will be subject to the provisions of the Government Information (Public Access) Act 2009.

Note: Video recordings and live streaming of meetings are used to improve the open nature of meetings by making them more accessible to the community. During live streaming the public may be incidentally captured in the live web cast.

**10.6 Certain Circumstances do not invalidate Council Decisions (Section 374 of the Act)**

Proceedings at a meeting of the Council or a Council Committee are not invalidated because of:-

- a a vacancy in a civic office; or
- b a failure to give notice of the meeting to any Councillor or a Committee member; or
- c any defect in the election or appointment of a Councillor or a Committee member; or
- d a failure of a Councillor or a Committee member to disclose a pecuniary interest at a Council or a Committee Meeting; or
- e a failure to comply with this Code.

**10.7 Council Seal (Clause 400 of the Regulation)**

10.7.1 The Seal of a Council must be kept by the Mayor or the General Manager, as the Council determines.

10.7.2 The Seal of a Council may be affixed to a document only in the presence of:-

- a the Mayor and the General Manager; or
- b at least one (1) Councillor (other than the Mayor) and the General Manager; or
- c the Mayor and at least one (1) other Councillor; or
- d at least two (2) Councillors other than the Mayor.

10.7.3 The affixing of a Council Seal to a document has no effect unless the persons who were present when the Seal was affixed (being persons referred to in Clause 10.7.2) attest by their signatures that the Seal was affixed in their presence.

10.7.4 The Seal of a Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved (by resolution specifically referring to the document) that the Seal be so affixed. (The power to authorise the fixing of the Seal of Council can only be exercised by the Council. It cannot be delegated to a Committee or employee (Section 377 of the Act)).

10.7.5 For the purposes of Clause 10.8.4, a document in the nature of a reference or certificate of service for an employee of the Council does not relate to the business of the Council.

## Version history

Version	Release Date	Author	Reason for Change
1.0	14/09/2016	Bruce Cooke	New document
2.0	12/07/2017	Warren Park	Review of document
2.1	30/08/2017	Warren Park	Minor edits
3.0	16/07/2018	Cathryn Bush	Review of document



# Disclosure of Interest – Pecuniary and Non-pecuniary

In accordance with the Council's Code of Meeting Practice, Council's Code of Conduct, and the *Local Government Act 1993* and *Regulations*, I hereby disclose the following Pecuniary Interest/Non-Pecuniary Interest at the meeting and in respect of the item indicated:

<b>Date of Meeting:</b>		<b>Item No:</b>	
<b>Subject:</b>			

☐

**Pecuniary Interest** – You must comply with Section 451 of the Local Government Act and state the nature of the interest at the meeting, leave the Chamber and be out of sight of the meeting, take no part on the discussion or consideration of the matter, and not vote on the matter.

☐

**Significant Non-Pecuniary Interest** – You must comply with Council's Code of Conduct (Part 4) and state the nature of the interest at the meeting, leave the Chamber and be out of sight of the meeting, take no part on the discussion or consideration of the matter, and not vote on the matter.

☐

**Less than Significant Non-Pecuniary Interest** – In accordance with Council's Code of Conduct (Part 4), you must state the nature of the interest at the meeting and where you decide that the interest does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.

<b>Nature of Interest:</b>	

<b>Reason for no further action:</b>	<b><u>Only where Less than Significant Non-Pecuniary Interest</u></b>

Councillor: \_\_\_\_\_  
(Please print name)

\_\_\_\_\_  
(Signature)

Date: \_\_\_\_\_

# Notice of Motion to alter or rescind a resolution

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## Original Resolution

<b>Date of Meeting:</b>	
<b>Report title:</b>	
<b>Decision:</b>	

## Notice of Motion to rescind / alter

In accordance with the Council's Code of Meeting Practice, we hereby give notice that at the next available meeting of Council we intend to put the motion outlined below.

That Council rescinds the above decision. ☐

In the event that this motion to rescind is adopted,  
we put the following further motion: ☐

OR

That the Council alters the above decision as outlined below. ☐

## New Motion

<b>Further motion (if rescission adopted)</b>	That ...
<b>OR</b>	
<b>Re-worded altered motion</b>	

<b>Councillors</b>	Name	Signature	Date
	Name	Signature	Date
	Name	Signature	Date



**Bayside Council**  
Serving Our Community

# Code of Conduct

**July 2018**



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Code of Conduct

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Enquiries: Manager Governance & Risk



**Telephone Interpreter Services - 131 450**

Τηλεφωνικές Υπηρεσίες Διερμηνέων

بخدمة الترجمة الهاتفية

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## PART 1 Introduction

This Code is based on the Model Code of Conduct for Local Councils in NSW (“the Model Code of Conduct”), which is made for the purposes of section 440 of the *Local Government Act 1993* (“the Act”). Section 440 of the Act requires every Council to adopt a Code of Conduct that incorporates the provisions of the Model Code.

Councillors, administrators, members of staff of Council, independent conduct reviewers, members of Council committees including the conduct review committee and delegates of the Council (including volunteers) must comply with the applicable provisions of Council’s Code of Conduct in carrying out their functions as Council officials. It is the personal responsibility of Council officials to comply with the standards in the code and regularly review their personal circumstances with this in mind.

Failure by a Councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the Act. The Act provides for a range of penalties that may be imposed on Councillors for misconduct, including suspension or disqualification from civic office.

Failure by a member of staff to comply with Council’s Code of Conduct may give rise to disciplinary action.

Reference should also be made to Council’s Code of Conduct Procedures and to the better conduct guide that has also been developed by the Office of Local Government to assist councils to review and enhance their codes of conduct. This guide supports this code and provides further information on the provisions in this code.

## PART 2 Purpose of the Code of Conduct

This Code of Conduct sets the minimum requirements of conduct for Council officials in carrying out their functions. The Model Code, on which this Code is based, is prescribed by regulation.

The Code of Conduct assists Council officials to:

- understand the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- Act in a way that enhances public confidence in the integrity of local government.

## PART 3 General Conduct Obligations

### General conduct

You must not conduct yourself in carrying out your functions in a manner that is likely to bring the Council or holders of civic office into disrepute. Specifically, you must not act in a way that:

- a) contravenes the Act, associated regulations, Council’s relevant administrative requirements and policies

- b) is detrimental to the pursuit of the charter of a council
- c) is improper or unethical
- d) is an abuse of power or otherwise amounts to misconduct
- e) causes, comprises or involves intimidation, harassment or verbal abuse
- f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
- g) causes, comprises or involves prejudice in the provision of a service to the community. (*Schedule 6A*)

You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (*section 439*)

You must treat others with respect at all times.

### **Fairness and equity**

You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.

You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

### **Development decisions**

You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.

In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

### **Binding caucus votes**

You must not participate in binding caucus votes in relation to matters to be considered at a Council or committee meeting.

For the purposes of clause 3.9, a binding caucus vote is a process whereby a group of Councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the Council or committee irrespective of the personal views of individual members of the group on the merits of the matter before the Council or committee.

Clause 3.9 does not prohibit Councillors from discussing a matter before the Council or committee prior to considering the matter in question at a Council or committee meeting or from voluntarily holding a shared view with other Councillors on the merits of a matter.

Clause 3.9 does not apply to a decision to elect the Mayor or Deputy Mayor or to nominate a person to be a member of a Council committee.

## **PART 4    Conflict of Interests**

A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.

You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.

Any conflict of interests must be managed to uphold the probity of Council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.

Private interests can be of two types: pecuniary or non-pecuniary.

### **What is a pecuniary interest?**

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (*section 442*)

A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (*section 443*)

Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:

- a) Councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (*section 449*)
- b) Councillors and members of Council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*)
- c) designated persons immediately declare, in writing, any pecuniary interest. (*section 459*)

Designated persons are defined at section 441 of the Act, and include, but are not limited to, the General Manager and other senior staff of the Council.

Where you are a member of staff of Council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the General Manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

## What are non-pecuniary interests?

Non-pecuniary interests are private or personal interests the Council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

The political views of a Councillor do not constitute a private interest.

## Managing non-pecuniary conflict of interests

Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.

If a disclosure is made at a Council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 4.12.

How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.

As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:

- a) a relationship between a Council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
- b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
- c) an affiliation between the Council official and an organisation, sporting body, club, corporation or association that is particularly strong.

If you are a Council official, other than a member of staff of Council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:

- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official
- b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply.

If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.

If you are a member of staff of Council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.



Despite clause 4.16(b), a Councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate Council's decision-making role to Council staff through the General Manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not Council would be deprived of a quorum if one or more Councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 4.16(b) above.

### Reportable political donations

Councillors should note that matters before Council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.

Where a Councillor has received or knowingly benefitted from a reportable political donation:

- a) made by a major political donor in the previous four years, and
- b) where the major political donor has a matter before Council,

then the Councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 4.16(b).

For the purposes of this Part:

- a) a "reportable political donation" is a "reportable political donation" for the purposes of section 86 of the *Election Funding, Expenditure and Disclosures Act 1981*,
- b) a "major political donor" is a "major political donor" for the purposes of section 84 of the *Election Funding, Expenditure and Disclosures Act 1981*.

Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a Councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.

If a Councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 4.21, that Councillor is not prevented from participating in a decision to delegate Council's decision-making role to Council staff through the General Manager or appointing another person or body to make the decision in accordance with the law (see clause 4.19 above).

Where a majority of Councillors are precluded under this Part from consideration of a matter the Council or committee must resolve to delegate consideration of the matter in question to another person.

Where a majority of Councillors are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the Councillors may apply in writing to the Chief Executive to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interests.

The Chief Executive will only exempt a Councillor from complying with a requirement under this Part where:

- a) compliance by Councillors with a requirement under the Part in relation to a matter will result in the loss of a quorum, and
- b) the matter relates to the exercise of a function of the Council that may not be delegated under section 377 of the Act.

Where the Chief Executive exempts a Councillor from complying with a requirement under this Part, the Councillor must still disclose any interests they have in the matter the exemption applies to in accordance with the requirements of this Part.

A Councillor, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interests in the matter, is permitted to participate in consideration of the matter, if:

- a) the matter is a proposal relating to
  - i) the making of a principal environmental planning instrument applying to the whole or a significant part of the Council's area, or
  - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the Council's area, and
- b) the Councillor declares any interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part.

### **Other business or employment**

If you are a member of staff of Council considering outside employment or contract work that relates to the business of the Council or that might conflict with your Council duties, you must notify and seek the approval of the General Manager in writing. (*section 353*)

As a member of staff, you must ensure that any outside employment or business you engage in will not:

- a) conflict with your official duties
- b) involve using confidential information or Council resources obtained through your work with the Council
- c) require you to work while on Council duty
- d) discredit or disadvantage the Council.

[For further guidance refer to Council's other / secondary employment policies / procedures]

### **Personal dealings with Council**

You may have reason to deal with your Council in your personal capacity (for example, as a ratepayer, recipient of a Council service or applicant for a consent granted by Council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

## PART 5 Personal Benefit

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

### Gifts and benefits

You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the Council.

You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

### Gifts and benefits

Gifts and benefits can range from items of low value to those of significant value. They include:

- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
  - i) the discussion of official business
  - ii) Council work related events such as training, education sessions, workshops
  - iii) conferences
  - iv) Council functions or events
  - v) social functions organised by groups, such as Council committees and community organisations.
- b) invitations to and attendance at local social, cultural or sporting events
- c) gifts of single bottles of alcohol to individual Council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers
- e) prizes
- f) tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

## How are offers of gifts and benefits to be dealt with?

You must not:

- a) seek or accept a bribe or other improper inducement
- b) seek gifts or benefits of any kind
- c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty
- d) accept any gift or benefit except in special circumstances as defined in Council's Gifts and Benefits policy
- e) accept an offer of cash or a cash-like gift, regardless of the amount.

For the purposes of clause 5.5(e), a 'cash-like gift' includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.

Where you are offered a gift or benefit, it must be disclosed promptly to your supervisor, the Mayor (if the General Manager) or the General Manager, by recording it in Council's Gifts and Benefits Register. Any gift or benefit received, due to special circumstances, must be surrendered to Council.

For further guidance refer to Council's Gifts and Benefits policy / procedures.

## Improper and undue influence

You must not use your position to influence other Council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A Councillor will not be in breach of this clause where they seek to influence other Council officials through the appropriate exercise of their representative functions.

You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for Council in order to obtain a private benefit for yourself or for any other person or body.

## Bribes

If a bribe or other improper inducement is offered to you, you must immediately report the matter to the General Manager, to enable the General Manager to fulfil his/her obligations pursuant to Section 11 of the Independent Commission Against Corruption Act 1988. Such a report must be in writing and be provided to the General Manager as soon as possible following the incident.

## PART 6 Relationship between Council Officials

### Obligations of Councillors and administrators

Each Council is a body politic. The Councillors or administrator/s are the governing body of the Council. The governing body has the responsibility of directing and controlling the affairs of the Council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.

Councillors or administrators must not:

- a) direct Council staff other than by giving appropriate direction to the General Manager in the performance of Council's functions by way of Council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (*section 352*)
- b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the Council or a delegate of the Council in the exercise of the functions of the member or delegate (*Schedule 6A of the Act*)
- c) contact a member of the staff of the Council on Council related business unless in accordance with the policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the General Manager – refer to clause 6.8 below.
- d) contact or issue instructions to any of Council's contractors or tenderers, including Council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to Council's external auditors or the Chair of Council's audit committee who may be provided with any information by individual Councillors reasonably necessary for the external auditor or audit committee to effectively perform their functions.

### Obligations of staff

The General Manager is responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation of the decisions of the Council without delay.

Members of staff of Council must:

- a) give their attention to the business of Council while on duty
- b) ensure that their work is carried out efficiently, economically and effectively
- c) carry out lawful directions given by any person having authority to give such directions
- d) give effect to the lawful decisions, policies, and procedures of the Council, whether or not the staff member agrees with or approves of them
- e) ensure that any participation in political activities outside the service of the Council does not conflict with the performance of their official duties.

## Obligations during meetings

You must act in accordance with Council's Code of Meeting Practice, if Council has adopted one, and the *Local Government (General) Regulation 2005* during Council and committee meetings.

You must show respect to the chair, other Council officials and any members of the public present during Council and committee meetings or other formal proceedings of the Council.

## Inappropriate interactions

You must not engage in any of the following inappropriate interactions:

- a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
- b) Council staff approaching Councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
- c) Council staff refusing to give information that is available to other Councillors to a particular Councillor.
- d) Councillors and administrators who have lodged a development application with Council, discussing the matter with Council staff in staff-only areas of the Council.
- e) Councillors and administrators being overbearing or threatening to Council staff.
- f) Councillors and administrators making personal attacks on Council staff in a public forum.
- g) Councillors and administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make.
- h) Council staff providing ad hoc advice to Councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
- i) Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.
- j) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by Council associated with current or proposed legal proceedings unless permitted to do so by Council's General Manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.

Further to clause 6.2(c) above, and in order to undertake their civic duties, Councillors may contact the Executive, Managers and other staff nominated by the General Manager from time to time. The names, positions and contact details of such staff will be made available to Councillors and staff.

## **PART 7 Access to Information and Council Resources**

The General Manager and public officer are responsible for ensuring that members of the public, Councillors and administrators can gain access to the documents available under the *Government Information (Public Access) Act 2009*.

The General Manager must provide Councillors and administrators with information sufficient to enable them to carry out their civic office functions.

Members of staff of Council must provide full and timely information to Councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with Council procedures.

Members of staff of Council who provide any information to a particular Councillor in the performance of their civic duties must also make it available to any other Councillor who requests it and in accordance with Council procedures.

Councillors and administrators who have a private (as distinct from civic) interest in a document of Council have the same rights of access as any member of the public.

### **Councillors and administrators to properly examine and consider information**

Councillors and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with Council's charter.

### **Refusal of access to documents**

Where the General Manager and public officer determine to refuse access to a document sought by a Councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the Councillor or administrator to perform their civic duty (see clause 7.2). The General Manager or public officer must state the reasons for the decision if access is refused.

### **Use of certain Council information**

In regard to information obtained in your capacity as a Council official, you must:

- a) only access Council information needed for Council business
- b) not use that Council information for private purposes
- c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with Council
- d) only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.



## Use and security of confidential information

You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.

In addition to your general obligations relating to the use of Council information, you must:

- a) protect confidential information
- b) only release confidential information if you have authority to do so
- c) only use confidential information for the purpose it is intended to be used
- d) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- e) not use confidential information with the intention to cause harm or detriment to your Council or any other person or body
- f) not disclose any information discussed during a confidential session of a Council meeting.

## Personal information

When dealing with personal information you must comply with:

- a) *the Privacy and Personal Information Protection Act 1998*
- b) *the Health Records and Information Privacy Act 2002*
- c) the Information Protection Principles and Health Privacy Principles
- d) Council's privacy management plan
- e) the Privacy Code of Practice for Local Government

## Use of Council resources

You must use Council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.

Union delegates and consultative committee members may have reasonable access to Council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:

- a) the representation of members with respect to disciplinary matters
- b) the representation of employees with respect to grievances and disputes
- c) functions associated with the role of the local consultative committee.

You must be scrupulous in your use of Council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.

You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

You must not use Council resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.



You must not use Council letterhead, Council crests and other information that could give the appearance it is official Council material for:

- a) the purpose of assisting your election campaign or the election campaign of others, or
- b) for other non-official purposes.

You must not convert any property of the Council to your own use unless properly authorised.

You must not use Council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

[For further guidance and obligations, refer to:

- Council's Expenses and Facilities Policy]
- Council's Electronic Communications Policy]

### **Councillor access to Council buildings**

Councillors and administrators are entitled to have access to the Council chamber, committee room, Mayor's office (subject to availability), Councillors' rooms, and public areas of Council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the General Manager.

Councillors and administrators must not enter staff-only areas of Council buildings without the approval of the General Manager (or delegate) or as provided in the procedures governing the interaction of Councillors and Council staff.

Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence Council staff decisions.

## **PART 8 Maintaining the Integrity of this Code**

You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this code or its administration.

### **Complaints made for an improper purpose**

You must not make a complaint or cause a complaint to be made under this code for an improper purpose.

For the purposes of clause 8.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:

- a) to intimidate or harass another Council official
- b) to damage another Council official's reputation
- c) to obtain a political advantage
- d) to influence a Council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
- e) to influence the Council in the exercise of its functions or to prevent or disrupt the exercise of those functions
- f) to avoid disciplinary action under this code
- g) to take reprisal action against a person for making a complaint under this code except as may be otherwise specifically permitted under this code
- h) to take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this code except as may be otherwise specifically permitted under this code
- i) to prevent or disrupt the effective administration of this code.

### **Detrimental action**

You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this code except as may be otherwise specifically permitted under this code.

You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this code except as may be otherwise specifically permitted under this code.

For the purposes of clauses 8.4 and 8.5 detrimental action is an action causing, comprising or involving any of the following:

- a) injury, damage or loss
- b) intimidation or harassment
- c) discrimination, disadvantage or adverse treatment in relation to employment
- d) dismissal from, or prejudice in, employment
- e) disciplinary proceedings.

**Compliance with requirements under this code**

You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.

You must comply with a reasonable and lawful request made by a person exercising a function under this code.

You must comply with a practice ruling made by the Division of Local Government.

Where you are a Councillor or the General Manager, you must comply with any Council resolution requiring you to take action as a result of a breach of this code.

You must report breaches of this code in accordance with the reporting requirements under this code.

You must not make allegations of suspected breaches of this code at Council meetings or in other public forums.

You must not disclose information about the consideration of a matter under this code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this code.

Complaints alleging a breach of this Part (Part 8) by a Councillor, the General Manager or an administrator are to be made to the Division of Local Government.

Complaints alleging a breach of this Part by other Council officials are to be made to the General Manager.

## PART 9 Definitions

In the Code of Conduct the following definitions apply:

The Act	the <i>Local Government Act 1993</i>
Act of disorder	see the definition in clause 256 of the Local Government (General) Regulation 2005
Administrator	an administrator of a Council appointed under the Act other than an administrator appointed under section 66
Chief Executive	Chief Executive of the Office of Local Government
Committee	a Council committee
Conflict of interest	a conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
Council committee	a committee established by resolution of Council
Council committee member	a person other than a Councillor or member of staff of a Council who is a member of a Council committee
Council official	includes Councillors, members of staff of Council, administrators, Council committee members, conduct reviewers and delegates of Council
Councillor	a person elected or appointed to civic office and includes a Mayor
Delegate of Council	a person (other than a Councillor or member of staff of a Council) or body, and the individual members of that body (including Council volunteers), to whom a function of the Council is delegated
Designated person	see the definition in section 441 of the Act
Election campaign	includes Council, State and Federal election campaigns
Personal information	information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion
The Regulation	the Local Government (General) Regulation 2005

The term “you” used in the Code of Conduct refers to Council officials.

The phrase “this Code” used in the Code of Conduct refers also to the Procedures, based on the Model Procedures for the administration of the Model Code of Conduct prescribed under the Local Government (General) Regulation 2005.

## PART 10 Additional information

In addition to the responsibilities outlined elsewhere in this Code:

- *The General Manager is responsible for ensuring this Code is in place, is promoted and is applied.*
- *The Manager Executive Services and/or Governance is responsible for the maintenance of this Code and its promulgation to Council officials and the private sector.*

### Review

Council is committed to continuous improvement, including achieving higher levels of 'good governance'. This Code will be reviewed at least each elected term of Council, and each time *The Model Code of Conduct* and associated *Model Code of Conduct Procedures* are amended.

### Version Control

Version	Release Date	Author	Reason for Change
1.0	14/09/2016	Bruce Cooke	New document
2.0	18/07/2018	Cathryn Bush	Review of document

# Bayside Council

Serving Our Community

## Code of Conduct Procedures

July 2018



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Code of Conduct Procedures

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**Telephone Interpreter Services - 131 450**

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## PART 1 Introduction

These Code of Conduct Procedures are based on “the Model Code Procedures”, which are prescribed for the purposes of the administration of the Model Code of Conduct for Local Councils in NSW (“the Model Code”). The Model Code and Model Code Procedures are made under sections 440 and 440AA respectively of the *Local Government Act 1993* (“the Act”) and the *Local Government (General) Regulation 2005* (“the Regulation”).

Sections 440 and 440AA of the Act require every Council to adopt a Code of Conduct and procedures for the administration of the Code of Conduct that incorporate the provisions of the Model Code and Model Code Procedures respectively.

## PART 2 Definitions

For the purposes of the procedures, the following definitions apply:

“the Act”	the <i>Local Government Act 1993</i>
“administrator”	an administrator of a Council appointed under the Act other than an administrator appointed under section 66
“Code of Conduct”	a Code of Conduct adopted under section 440 of the Act
“Code of Conduct complaint”	a complaint that alleges conduct on the part of a Council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the Council’s Code of Conduct
“complainant”	a person who makes a Code of Conduct complaint
“complainant Councillor”	a Councillor who makes a Code of Conduct complaint
“Complaints Coordinator”	a person appointed by the General Manager under these procedures as a Complaints Coordinator
“conduct reviewer”	a person appointed under these procedures to review allegations of breaches of the Code of Conduct by Councillors or the General Manager
“Council committee”	a committee established by resolution of Council
“Council committee member”	a person other than a Councillor or member of staff of a Council who is a member of a Council committee
“Councillor”	a person elected or appointed to civic office and includes a Mayor
“Council official”	includes Councillors, members of staff of Council, administrators, Council committee members, conduct reviewers and delegates of Council



“delegate of Council”	a person (other than a Councillor or member of staff of a Council) or body and the individual members of that body (including volunteers) to whom a function of the Council is delegated
“the Office”	the Office of Local Government
“investigator”	a conduct reviewer or conduct review committee
“the Regulation”	the <i>Local Government (General) Regulation 2005</i>
“subject person”	a person whose conduct is the subject of investigation by a conduct reviewer or conduct review committee under these procedures

## PART 3 Administrative Framework

### The establishment of a panel of conduct reviewers

- 3.1 The Council must by resolution establish a panel of conduct reviewers.
- 3.2 The Council may by resolution enter into an arrangement with one or more other Councils to share a panel of conduct reviewers.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the Council’s panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a member of a panel of conduct reviewers, a person must, at a minimum, meet the following requirements:
  - a an understanding of local government, and
  - b knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
  - c knowledge and experience of one or more of the following:
    - i investigations, or
    - ii law, or
    - iii public administration, or
    - iv public sector ethics, or
    - v alternative dispute resolution, and
  - d meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not be eligible to be a member of the panel of conduct reviewers if they are:
  - a a Councillor, or
  - b a nominee for election as a Councillor, or
  - c an administrator, or
  - d an employee of a Council, or

- e a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - f a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - g a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7 A person is not precluded from being a member of the Council's panel of conduct reviewers if they are a member of another Council's panel of conduct reviewers.
- 3.8 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.9 The Council may terminate the panel of conduct reviewers at any time by resolution.
- 3.10 When the term of the conduct reviewers concludes or is terminated, the Council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.11 A person who was a member of a previous panel of conduct reviewers established by the Council may be a member of subsequent panels of conduct reviewers established by the Council.

### **The appointment of Complaints Coordinators**

- 3.12 The General Manager must appoint a member of staff of the Council to act as a Complaints Coordinator. Where practicable, the Complaints Coordinator should be a senior and suitably qualified member of staff.
- 3.13 The General Manager may appoint other members of staff to act as alternates to the Complaints Coordinator.
- 3.14 The General Manager must not undertake the role of Complaints Coordinator.
- 3.15 The person appointed as Complaints Coordinator or alternate Complaints Coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.
- 3.16 The role of the Complaints Coordinator is to:
- a coordinate the management of complaints made under the Council's Code of Conduct,
  - b liaise with and provide administrative support to a conduct reviewer or conduct review committee,
  - c liaise with the Office of Local Government, and
  - d arrange the annual reporting of Code of Conduct complaints statistics.

## **PART 4 How may Code of Conduct complaints be made?**

### **What is a “Code of Conduct complaint”?**

- 4.1 For the purpose of these procedures, a Code of Conduct complaint is a complaint that alleges conduct on the part of a Council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the Council’s Code of Conduct.
- 4.2 Only Code of Conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a “Code of Conduct complaint” are to be dealt with under Council’s routine complaints management processes.

### **When must a Code of Conduct complaint be made?**

- 4.3 A Code of Conduct complaint must be made within three months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 4.4 A complaint made after 3 months may only be accepted if the General Manager, or, in the case of a complaint about the General Manager, the Mayor, is satisfied that there are compelling grounds for the matter to be dealt with under the Code of Conduct.

### **How may a Code of Conduct complaint about a Council official other than the General Manager be made?**

- 4.5 All Code of Conduct complaints other than those relating to the General Manager are to be made to the General Manager in writing.
- 4.6 Where a Code of Conduct complaint about a Council official other than the General Manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.7 In making a Code of Conduct complaint about a Council official other than the General Manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.8 The General Manager or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant’s preferences in deciding how to deal with the complaint.
- 4.9 Notwithstanding clauses 4.5 and 4.6, where the General Manager becomes aware of a possible breach of the Council’s Code of Conduct, he or she may initiate the process for the consideration of the matter under these procedures without a written complaint.

## **How may a Code of Conduct complaint about the General Manager be made?**

- 4.10 Code of Conduct complaints about the General Manager are to be made to the Mayor in writing.
- 4.11 Where a Code of Conduct complaint about the General Manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.12 In making a Code of Conduct complaint about the General Manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.13 The Mayor or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.14 Notwithstanding clauses 4.10 and 4.11, where the Mayor becomes aware of a possible breach of the Council's Code of Conduct by the General Manager, he or she may initiate the process for the consideration of the matter under these procedures without a written complaint.

## **PART 5 How are Code of Conduct complaints to be managed?**

### **How are Code of Conduct complaints about staff (other than the General Manager) to be dealt with?**

- 5.1 The General Manager is responsible for making enquiries or causing enquiries to be made into Code of Conduct complaints about members of staff of Council and for determining the outcome of such complaints.
- 5.2 Where the General Manager decides not to make enquiries into a Code of Conduct complaint about a member of staff, the General Manager must give the complainant reasons in writing for their decision.
- 5.3 Without limiting clause 5.2, the General Manager may decide not to enquire into the matter on grounds that the complaint is trivial, frivolous, vexatious or not made in good faith.
- 5.4 Enquiries made into staff conduct that might give rise to disciplinary action must occur in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.5 Sanctions for staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

## **How are Code of Conduct complaints about delegates of Council and Council committee members to be dealt with?**

- 5.6 The General Manager is responsible for making enquiries or causing enquiries to be made into Code of Conduct complaints about delegates of Council and Council committee members and for determining the outcome of such complaints.
- 5.7 Where the General Manager decides not to make enquiries into a Code of Conduct complaint about a delegate of Council or a Council committee member, the General Manager must give the complainant reasons in writing for their decision.
- 5.8 Without limiting clause 5.7, the General Manager may decide not to enquire into the matter on grounds that the complaint is trivial, frivolous, vexatious or not made in good faith.
- 5.9 Sanctions for delegates of Council and/or members of Council committees depend on the severity, scale and importance of the breach and may include one or more of the following:
  - a censure,
  - b requiring the person to apologise to any person or organisation adversely affected by the breach,
  - c prosecution for any breach of the law,
  - d removing or restricting the person's delegation, or
  - e removing the person from membership of the relevant Council committee.
- 5.10 Prior to imposing a sanction against a delegate of Council or a Council committee member under clause 5.9, the General Manager or any person making enquiries on behalf of the General Manager must comply with the requirements of procedural fairness. In particular:
  - a the substance of the allegation (including the relevant provision/s of Council's Code of Conduct that the alleged conduct is in breach of) must be put to the person the subject of the allegation, and
  - b the person must be given an opportunity to respond to the allegation, and
  - c the General Manager must consider the person's response in deciding whether to impose a sanction under clause 5.9.

## **How are Code of Conduct complaints about conduct reviewers to be dealt with?**

- 5.11 The General Manager must refer all Code of Conduct complaints about conduct reviewers to the Office for its consideration.
- 5.12 The General Manager must notify the complainant of the referral of their complaint in writing.
- 5.13 The General Manager must implement any recommendation made by the Office as a result of its consideration of a Code of Conduct complaint about a conduct reviewer.

## **How are Code of Conduct complaints about administrators to be dealt with?**

- 5.14 The General Manager must refer all Code of Conduct complaints about administrators to the Office for its consideration.
- 5.15 The General Manager must notify the complainant of the referral of their complaint in writing.

## **How are Code of Conduct complaints about Councillors to be dealt with?**

- 5.16 The General Manager must refer the following Code of Conduct complaints about Councillors to the Office:
- a complaints alleging a breach of the pecuniary interest provisions of the Act,
  - b complaints alleging a failure to comply with a requirement under the Code of Conduct to disclose and appropriately manage conflicts of interests arising from reportable political donations (see section 328B),
  - c complaints alleging a breach of Part 8 of the Code of Conduct relating to the maintenance of the integrity of the code, and
  - d complaints the subject of a special complaints management arrangement with the Office under clause 5.40.
- 5.17 Where the General Manager refers a complaint to the Office under clause 5.16, the General Manager must notify the complainant of the referral in writing.
- 5.18 Where the General Manager considers it to be practicable and appropriate to do so, the General Manager may seek to resolve Code of Conduct complaints about Councillors, other than those requiring referral to the Office under clause 5.16, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology instead of referring them to the Complaints Coordinator under clause 5.20.
- 5.19 Where the General Manager resolves a Code of Conduct complaint under clause 5.18 to the General Manager's satisfaction, the General Manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.20 The General Manager must refer all Code of Conduct complaints about Councillors other than those referred to the Office under clause 5.16 or resolved under clause 5.18 to the Complaints Coordinator.

## **How are Code of Conduct complaints about the General Manager to be dealt with?**

- 5.21 The Mayor must refer the following Code of Conduct complaints about the General Manager to the Office:
- a complaints alleging a breach of the pecuniary interest provisions of the Act,
  - b complaints alleging a breach of Part 8 of the Code of Conduct relating to the maintenance of the integrity of the code, and
  - c complaints the subject of a special complaints management arrangement with the Office under clause 5.40.

- 5.22 Where the Mayor refers a complaint to the Office under clause 5.21, the Mayor must notify the complainant of the referral in writing.
- 5.23 Where the Mayor considers it to be practicable and appropriate to do so, he or she may seek to resolve Code of Conduct complaints about the General Manager, other than those requiring referral to the Office under clause 5.21, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology instead of referring them to the Complaints Coordinator under clause 5.25.
- 5.24 Where the Mayor resolves a Code of Conduct complaint under clause 5.23 to the Mayor's satisfaction, the Mayor must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.25 The Mayor must refer all Code of Conduct complaints about the General Manager other than those referred to the Office under clause 5.21 or resolved under clause 5.23 to the Complaints Coordinator.

### **Referral of Code of Conduct complaints to external agencies**

- 5.26 The General Manager, Mayor or a conduct reviewer or conduct review committee may, at any time, refer a Code of Conduct complaint to an external agency or body such as, but not limited to, the Office, the Independent Commission Against Corruption, the NSW Ombudsman or the Police for its consideration, where they consider such a referral is warranted.
- 5.27 Where the General Manager, Mayor, conduct reviewer or conduct review committee refers a complaint to an external agency or body under clause 5.26, they must notify the complainant of the referral in writing where it is appropriate for them to do so.
- 5.28 Referral of a matter to an external agency or body shall finalise consideration of the matter under the Code of Conduct unless the Council is subsequently advised otherwise by the referral agency or body.

### **Disclosure of the identity of complainants**

- 5.29 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- a the complainant consents in writing to the disclosure, or
  - b it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
  - c it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
  - d a conduct reviewer or conduct review committee is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
  - e it is otherwise in the public interest to do so.
- 5.30 Clause 5.29 does not apply to Code of Conduct complaints made by Councillors about other Councillors or the General Manager.

- 5.31 Where a Councillor makes a Code of Conduct complaint about another Councillor or the General Manager and the complainant Councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 5.32 A request made by a complainant Councillor under clause 5.31 must be made at the time they make a Code of Conduct complaint and must state the grounds upon which the request is made.
- 5.33 The General Manager or Mayor or, where the matter is referred, a conduct reviewer or conduct review committee must consider a request made under clause 5.31 before disclosing information that identifies or tends to identify the complainant Councillor but are not obliged to comply with the request.
- 5.34 Where a complainant Councillor makes a request under clause 5.31, the General Manager or Mayor or, where the matter is referred, a conduct reviewer or conduct review committee shall notify the Councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

### **Code of Conduct complaints made as public interest disclosures**

- 5.35 Code of Conduct complaints that are made as public interest disclosures under the *Public Interest Disclosures Act 1994* are to be managed in accordance with the requirements of that Act, the Council's internal reporting policy and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.
- 5.36 For a Code of Conduct complaint to be dealt with as a public interest disclosure, the complainant must state at the outset and in writing at the time of making the complaint that it is made as a public interest disclosure.
- 5.37 Where a Councillor makes a Code of Conduct complaint about another Councillor or the General Manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant Councillor must consent in writing to the disclosure of their identity as the complainant.
- 5.38 Where a complainant Councillor declines to consent to the disclosure of their identity as the complainant under clause 5.37, the General Manager or the Mayor must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the Public Interest Disclosures Act 1994.

### **Special complaints management arrangements**

- 5.39 The General Manager may request in writing that the Office enter into a special complaints management arrangement with the Council in relation to Code of Conduct complaints made by or about a person or persons.
- 5.40 Where the Office receives a request under clause 5.39, it may agree to enter into a special complaints management arrangement where it is satisfied that the number or nature of Code of Conduct complaints made by or about a person or persons has:
- a imposed an undue and disproportionate cost burden on the Council's administration of its Code of Conduct, or



- b impeded or disrupted the effective administration by the Council of its Code of Conduct, or
  - c impeded or disrupted the effective functioning of the Council.
- 5.41 A special complaints management arrangement must be in writing and must specify the following:
  - a the Code of Conduct complaints the arrangement relates to, and
  - b the period that the arrangement will be in force.
- 5.42 The Office may by notice in writing, amend or terminate a special complaints management arrangement at any time.
- 5.43 While a special complaints management arrangement is in force, an officer of the Office (the assessing officer) must undertake the preliminary assessment of the Code of Conduct complaints specified in the arrangement in accordance with the requirements of these procedures except as provided by clause 5.44 below.
- 5.44 Where, following a preliminary assessment, the assessing officer determines that a Code of Conduct complaint warrants investigation by a conduct reviewer or a conduct review committee, the assessing officer shall notify the Complaints Coordinator in writing of their determination and the reasons for their determination. The Complaints Coordinator must comply with the recommendation of the assessing officer.
- 5.45 Prior to the expiry of a special complaints management arrangement, the Office shall, in consultation with the General Manager, review the arrangement to determine whether it should be renewed or amended.
- 5.46 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.45.

## **PART 6 Preliminary Assessment**

### **Referral of Code of Conduct complaints to conduct reviewers**

- 6.1 The Complaints Coordinator must refer all Code of Conduct complaints about Councillors or the General Manager submitted to the Complaints Coordinator within 21 days of receipt of a complaint by the General Manager or the Mayor.
- 6.2 For the purposes of clause 6.1, the Complaints Coordinator will refer a complaint to a conduct reviewer selected from:
  - a a panel of conduct reviewers established by the Council, or
  - b a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Office.
- 6.3 In selecting a suitable conduct reviewer, the Complaints Coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers.
- 6.4 A conduct reviewer must not accept the referral of a Code of Conduct complaint where:
  - a they have a conflict of interests in relation to the matter referred to them, or

- b a reasonable apprehension of bias arises in relation to their consideration of the matter, or
  - c they or their employer has entered into one or more contracts with the Council in the 2 years preceding the referral and they or their employer have received or expect to receive payments under the contract or contracts of a cumulative value that exceeds \$100K, or
  - d at the time of the referral, they or their employer are the Council's legal service providers or are a member of a panel of legal service providers appointed by the Council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interests in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 4.1 of the Model Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 6.7 Where the Complaints Coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the Code of Conduct complaint and any other information relevant to the matter held by the Council.
- 6.8 The Complaints Coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer and advise which conduct reviewer the matter has been referred to.

### **Preliminary assessment by a conduct reviewer**

- 6.9 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the Complaints Coordinator for the purposes of determining how the complaint is to be managed.
- 6.10 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the Complaints Coordinator:
- a to take no action, or
  - b to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology, or
  - c to refer the matter back to the General Manager or, in the case of a complaint about the General Manager, the Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, or apology, or
  - d to refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, the Office or the Police, or
  - e to investigate the matter, or
  - f to recommend that the Complaints Coordinator convene a conduct review committee to investigate the matter.
- 6.11 In determining how to deal with a matter under clause 6.10, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.27.

- 6.12 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what option to exercise under clause 6.10.
- 6.13 The conduct reviewer may request the Complaints Coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what option to exercise in relation to the matter under clause 6.10. The Complaints Coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.14 The conduct reviewer must refer to the Office any complaints referred to him or her that should have been referred to the Office under clauses 5.16 and 5.21.
- 6.15 The conduct reviewer must determine to take no action on a complaint that is not a Code of Conduct complaint for the purposes of these procedures.
- 6.16 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.10, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it and this will finalise consideration of the matter under these procedures.
- 6.17 Where the conduct reviewer refers a complaint to another agency or body, they must notify the complainant of the referral in writing where it is appropriate for them to do so.
- 6.18 The conduct reviewer may only determine to investigate a matter or to recommend that a conduct review committee be convened to investigate a matter where they are satisfied as to the following:
- a that the complaint is a "Code of Conduct complaint" for the purposes of these procedures, and
  - b that the alleged conduct, on its face, is sufficiently serious to warrant investigation, and
  - c that the matter is one that could not or should not be resolved by alternative means.
- 6.19 The conduct reviewer may only determine to recommend that a conduct review committee be convened to investigate a matter after consulting with the Complaints Coordinator and where they are satisfied that it would not be practicable or appropriate for the matter to be investigated by a sole conduct reviewer.
- 6.20 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the Complaints Coordinator.
- 6.21 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint except as may be specifically required under these procedures.

### **Referral back to the General Manager or Mayor for resolution**

- 6.22 Where the conduct reviewer determines to refer a matter back to the General Manager or to the Mayor to be resolved by alternative and appropriate means, they must write to the General Manager or, in the case of a complaint about the General Manager, to the Mayor, recommending the means by which the complaint may be resolved.

- 6.23 The conduct reviewer must consult with the General Manager or Mayor prior to referring a matter back to them under clause 6.22.
- 6.24 The General Manager or Mayor may decline to accept the conduct reviewer's recommendation. Where the General Manager or Mayor declines to do so, the conduct reviewer may determine to deal with the complaint by other means under clause 6.10.
- 6.25 Where the conduct reviewer refers a matter back to the General Manager or Mayor under clause 6.22, the General Manager or, in the case of a complaint about the General Manager, the Mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 6.26 Where the conduct reviewer refers a matter back to the General Manager or Mayor under clause 6.22, the General Manager, or, in the case of a complaint about the General Manager, the Mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

### **Complaints assessment criteria**

- 6.27 In undertaking the preliminary assessment of a complaint, the conduct reviewer may have regard to the following considerations:
- a whether the complaint is a "Code of Conduct complaint",
  - b whether the complaint is trivial, frivolous, vexatious or not made in good faith,
  - c whether the complaint discloses prima facie evidence of a breach of the code,
  - d whether the complaint raises issues that would be more appropriately dealt with by another agency or body,
  - e whether there is or was an alternative and satisfactory means of redress available to the complainant in relation to the conduct complained of,
  - f whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation or apology,
  - g whether the issue/s giving rise to the complaint have previously been addressed or resolved,
  - h whether the conduct complained of forms part of a pattern of conduct,
  - i whether there were mitigating circumstances giving rise to the conduct complained of,
  - j the seriousness of the alleged conduct,
  - k the significance of the conduct or the impact of the conduct for the Council,
  - l how much time has passed since the alleged conduct occurred, or
  - m such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

## **PART 7 Operations of Conduct Review Committees**

- 7.1 Where a conduct reviewer recommends that the Complaints Coordinator convene a conduct review committee to investigate a matter, the conduct reviewer must notify

the Complaints Coordinator of their recommendation and the reasons for their recommendation in writing.

- 7.2 The Complaints Coordinator must convene a conduct review committee comprising three conduct reviewers selected from:
- a a panel of conduct reviewers established by the Council, or
  - b a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Office.
- 7.3 In selecting suitable conduct reviewers for membership of a conduct review committee convened under clause 7.2, the Complaints Coordinator may have regard to the following:
- a the qualifications and experience of members of the panel of conduct reviewers, and
  - b any recommendation made by the conduct reviewer about the membership of the committee.
- 7.4 The conduct reviewer who made the preliminary assessment of the complaint must not be a member of a conduct review committee convened under clause 7.2.
- 7.5 A member of a panel of conduct reviewers may not be appointed to a conduct review committee where they would otherwise be precluded from accepting a referral of the matter to be considered by the committee under clause 6.4.
- 7.6 Where the Complaints Coordinator convenes a conduct review committee, they will advise the complainant in writing that the committee has been convened and the membership of the committee.
- 7.7 Where, after a conduct review committee has been convened, a member of the committee becomes unavailable to participate in further consideration of the matter, the Complaints Coordinator may appoint another person from a panel of conduct reviewers to replace them.
- 7.8 Meetings of a conduct review committee may be conducted in person or by teleconference.
- 7.9 The members of the conduct review committee must elect a chairperson of the committee.
- 7.10 A quorum for a meeting of the conduct review committee is two members.
- 7.11 Business is not to be conducted at any meeting of the conduct review committee unless a quorum is present.
- 7.12 If a quorum is not present at a meeting of the conduct review committee, it must be adjourned to a time and date that is specified.
- 7.13 Each member of the conduct review committee is entitled to one vote in relation to a matter. In the event of an equality of votes being cast, the chairperson will have a casting vote.
- 7.14 If the vote on a matter is not unanimous, then this should be noted in the report of the conduct review committee in which it makes its determination in relation to the matter.

- 7.15 The chairperson may make a ruling on questions of procedure and the chairperson's ruling is to be final.
- 7.16 The conduct review committee may only conduct business in the absence of the public.
- 7.17 The conduct review committee must maintain proper records of its proceedings.
- 7.18 The Complaints Coordinator shall undertake the following functions in support of a conduct review committee:
- a provide procedural advice where required,
  - b ensure adequate resources are provided including secretarial support,
  - c attend meetings of the conduct review committee in an advisory capacity, and
  - d provide advice about Council's processes where requested.
- 7.19 The Complaints Coordinator must not be present at, or in sight of a meeting of, the conduct review committee where it makes its final determination in relation to the matter.
- 7.20 The conduct review committee may adopt procedures governing the conduct of its meetings that supplement these procedures. However any procedures adopted by the committee must not be inconsistent with these procedures.

## **PART 8 Investigations**

### **What matters may a conduct reviewer or conduct review committee investigate?**

- 8.1 A conduct reviewer or conduct review committee (hereafter referred to as an "investigator") may investigate a Code of Conduct complaint that has been referred to them by the Complaints Coordinator and any matters related to or arising from that complaint.
- 8.2 Where an investigator identifies further separate possible breaches of the Code of Conduct that are not related to or arise from the Code of Conduct complaint that has been referred to them, they are to report the matters separately in writing to the General Manager, or, in the case of alleged conduct on the part of the General Manager, to the Mayor.
- 8.3 The General Manager or the Mayor is to deal with a matter reported to them by an investigator under clause 8.2 as if it were a new Code of Conduct complaint in accordance with these procedures.

### **How are investigations to be commenced?**

- 8.4 The investigator must at the outset of their investigation provide a written notice of investigation to the subject person. The notice of investigation must:
- a disclose the substance of the allegations against the subject person, and
  - b advise of the relevant provisions of the Code of Conduct that apply to the alleged conduct, and
  - c advise of the process to be followed in investigating the matter, and

- d invite the subject person to make a written submission in relation to the matter within 28 days or such other reasonable period specified by the investigator in the notice, and
  - e provide the subject person the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 8.5 The subject person may within 14 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the subject person to identify the substance of the allegation against them.
- 8.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the subject person in relation to the matter referred to them.
- 8.7 Where an investigator issues an amended notice of investigation, they will provide the subject person with a further opportunity to make a written submission in response to the amended notice of investigation within 28 days or such other reasonable period specified by the investigator in the amended notice.
- 8.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the Complaints Coordinator and the General Manager, or in the case of a complaint about the General Manager, to the Mayor. The notice must:
  - a advise them of the matter the investigator is investigating, and
  - b in the case of the notice to the complainant, invite them to make a written submission in relation to the matter within 28 days or such other reasonable period specified by the investigator in the notice.

## Written and oral submissions

- 8.9 Where the subject person or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 8.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 8.11 Prior to preparing a draft report, the investigator must give the subject person an opportunity to address the investigator on the matter being investigated. The subject person may do so in person or by telephone.
- 8.12 Where the subject person fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the subject person.
- 8.13 Where the subject person accepts the opportunity to address the investigator in person, they may have a support person or legal advisor in attendance. The support person or legal advisor will act in an advisory or support role to the subject person only. They must not speak on behalf of the subject person or otherwise interfere with or disrupt proceedings.

- 8.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

### **How are investigations to be conducted?**

- 8.15 Investigations are to be undertaken without undue delay.
- 8.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 8.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 8.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 8.19 An investigator may request that the Complaints Coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The Complaints Coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

### **Referral or resolution of a matter after the commencement of an investigation**

- 8.20 At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:
- a resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology, or
  - b refer the matter to the General Manager, or, in the case of a complaint about the General Manager, to the Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology, or
  - c refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, the Office or the Police.
- 8.21 Where an investigator determines to exercise any of the options under clause 8.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 8.22 Where an investigator determines to exercise any of the options under clause 8.20 after the commencement of an investigation, they may by written notice to the subject person, the complainant, the Complaints Coordinator and the General Manager, or in the case of a complaint about the General Manager, the Mayor, discontinue their investigation of the matter.
- 8.23 Where the investigator discontinues their investigation of a matter under clause 8.22, this shall finalise the consideration of the matter under these procedures.
- 8.24 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 8.20 or to discontinue their investigation except as may be specifically required under these procedures.



## Draft investigation reports

- 8.25 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 8.26 The investigator must provide their draft report to the subject person and invite them to make a written submission in relation to it within 28 days or such other reasonable period specified by the investigator.
- 8.27 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within 28 days or such other reasonable period specified by the investigator.
- 8.28 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 8.29 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. Where as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the subject person or an affected person, they must provide the subject person or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 8.30 Where the subject person or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 8.31 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

## Final investigation reports

- 8.32 Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 8.22.
- 8.33 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 8.34 The investigator's final report must:
- a make findings of fact in relation to the matter investigated, and,
  - b make a determination that the conduct investigated either,
    - i constitutes a breach of the Code of Conduct, or
    - ii does not constitute a breach of the Code of Conduct, and
  - c provide reasons for the determination.

- 8.35 Where the investigator determines that the conduct investigated constitutes a breach of the Code of Conduct, the investigator may make one or more of the following recommendations:
- a that the Council revise any of its policies or procedures,
  - b that the subject person undertake any training or other education relevant to the conduct giving rise to the breach,
  - c that the subject person be counselled for their conduct,
  - d that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation,
  - e that findings of inappropriate conduct be made public,
  - f in the case of a breach by the General Manager, that action be taken under the General Manager's contract for the breach,
  - g in the case of a breach by a Councillor, that the Councillor be formally censured for the breach under section 440G of the Act,
  - h in the case of a breach by a Councillor, that the Council resolves as follows:
    - i that the Councillor be formally censured for the breach under section 440G of the Act, and
    - ii that the matter be referred to the Office for further action under the misconduct provisions of the Act.
- 8.36 Where the investigator determines that the conduct investigated does not constitute a breach of the Code of Conduct, the investigator may make one or more of the following recommendations:
- a that the Council revise any of its policies or procedures,
  - b that a person or persons undertake any training or other education.
- 8.37 In making a recommendation under clause 8.35, the investigator may have regard to the following:
- a the seriousness of the breach,
  - b whether the breach can be easily remedied or rectified,
  - c whether the subject person has remedied or rectified their conduct,
  - d whether the subject person has expressed contrition,
  - e whether there were any mitigating circumstances,
  - f the age, physical or mental health or special infirmity of the subject person,
  - g whether the breach is technical or trivial only,
  - h any previous breaches,
  - i whether the breach forms part of a pattern of conduct,
  - j the degree of reckless intention or negligence of the subject person,
  - k the extent to which the breach has affected other parties or the Council as a whole,
  - l the harm or potential harm to the reputation of the Council or local government arising from the conduct,
  - m whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny,
  - n whether an educative approach would be more appropriate than a punitive one,
  - o the relative costs and benefits of taking formal enforcement action as opposed to taking no action or taking informal action,
  - p what action or remedy would be in the public interest.

- 8.38 At a minimum, the investigator's final report must contain the following information:
- a a description of the allegations against the subject person,
  - b the relevant provisions of the Code of Conduct that apply to the alleged conduct investigated,
  - c a statement of reasons as to why the conduct reviewer considered that the matter warranted investigation,
  - d a statement of reasons as to why the conduct reviewer considered that the matter was one that could not or should not be resolved by alternative means,
  - e where the matter is investigated by a conduct review committee, a statement as to why the matter was one that warranted investigation by a conduct review committee instead of a sole conduct reviewer,
  - f a description of any attempts made to resolve the matter by use of alternative means,
  - g the steps taken to investigate the matter,
  - h the facts of the matter,
  - i the investigator's findings in relation to the facts of the matter and the reasons for those findings,
  - j the investigator's determination and the reasons for that determination,
  - k any recommendations.
- 8.39 The investigator must provide a copy of their report to the Complaints Coordinator, the subject person and the complainant.
- 8.40 Where the investigator has determined that there has not been a breach of the Code of Conduct, the Complaints Coordinator must provide a copy of the investigator's report to the General Manager or, where the report relates to the General Manager's conduct, to the Mayor and this will finalise consideration of the matter under these procedures.
- 8.41 Where the investigator has determined that there has been a breach of the Code of Conduct and makes a recommendation or recommendations under clause 8.35, paragraph (a), the Complaints Coordinator must provide a copy of the investigator's report to the General Manager. Where the General Manager agrees with the recommendation/s, the General Manager is responsible for implementing the recommendation/s.
- 8.42 Where the investigator has determined that there has been a breach of the Code of Conduct and makes a recommendation or recommendations under clause 8.35, paragraphs (b) or (c), the Complaints Coordinator must provide a copy of the investigator's report to the General Manager or, where the report relates to the General Manager's conduct, to the Mayor. The General Manager is responsible for arranging the implementation of the recommendation/s where the report relates to a Councillor's conduct. The Mayor is responsible for arranging the implementation of the recommendation/s where the report relates to the General Manager's conduct.
- 8.43 Where the investigator has determined that there has been a breach of the Code of Conduct and makes a recommendation or recommendations under clause 8.35, paragraphs (d) to (h), the Complaints Coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary Council meeting for the Council's consideration unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary Council meeting following the election.

## Consideration of the final investigation report by Council

- 8.44 The role of the Council in relation to a final investigation report is to impose a sanction where an investigator determines that there has been a breach of the Code of Conduct and makes a recommendation in their final report under clause 8.35, paragraphs (d) to (h).
- 8.45 The Council is to close its meeting to the public to consider the final investigation report where it is permitted to do so under section 10A of the Act.
- 8.46 Where the complainant is a Councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant Councillor may absent themselves without making any disclosure of interests in relation to the matter unless otherwise required to do so under the Act or the Model Code.
- 8.47 Prior to imposing a sanction, the Council must provide the subject person with an opportunity to make an oral submission to the Council. The subject person is to confine their submission to addressing the investigator's recommendation/s.
- 8.48 Once the subject person has completed their oral submission they must absent themselves from the meeting and, where they are a Councillor, take no part in any discussion or voting on the matter.
- 8.49 The Council must not invite oral submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.
- 8.50 Prior to imposing a sanction, the Council may by resolution:
- a request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
  - b seek an opinion by the Office in relation to the report.
- 8.51 The Council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.
- 8.52 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 8.53 Where the investigator prepares a supplementary report, they must provide copies to the Complaints Coordinator who shall provide a copy each to the Council, the subject person and the complainant.
- 8.54 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the Complaints Coordinator.
- 8.55 The Council is only required to provide the subject person a further opportunity to address it on a supplementary report where the supplementary report contains new information that is adverse to them.
- 8.56 A Council may by resolution impose one or more of the following sanctions on a subject person:
- a that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the resolution,
  - b that findings of inappropriate conduct be made public,

- c in the case of a breach by the General Manager, that action be taken under the General Manager's contract for the breach,
  - d in the case of a breach by a Councillor, that the Councillor be formally censured for the breach under section 440G of the Act,
  - e in the case of a breach by a Councillor:
    - i that the Councillor be formally censured for the breach under section 440G of the Act, and
    - ii that the matter be referred to the Office for further action under the misconduct provisions of the Act.
- 8.57 The Council is not obliged to adopt the investigator's recommendation/s. Where the Council does not adopt the investigator's recommendation/s, the Council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.
- 8.58 The Council may, by resolution, impose a sanction on the subject person under clause 8.56 different to the sanction recommended by the investigator in their final report.
- 8.59 Where the Council resolves not to adopt the investigator's recommendation/s, the Complaints Coordinator must notify the Office of the Council's decision and the reasons for it.

## **PART 9 Rights of Review**

### **Failure to comply with a requirement under these procedures**

- 9.1 Where any person believes that a person has failed to comply with a requirement prescribed under these procedures, they may, at any time prior to the Council's consideration of an investigator's final report, raise their concerns in writing with the Office.

### **Practice rulings**

- 9.2 Where a subject person and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Office to make a ruling on a question of procedure (a practice ruling).
- 9.3 Where the Office receives a request in writing for a practice ruling, the Office may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 9.4 Where the Office makes a practice ruling, all parties are to comply with it.
- 9.5 The Office may decline to make a practice ruling. Where the Office declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

### **Requests for review**

- 9.6 A person the subject of a sanction imposed under Part 8 of these procedures other than one imposed under clause 8.56, paragraph (e), may, within 28 days of the

sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.

- 9.7 A review under clause 9.6 may be sought on the following grounds:
- a that the investigator has failed to comply with a requirement under these procedures, or
  - b that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the Code of Conduct, or
  - c that the Council has failed to comply with a requirement under these procedures in imposing a sanction.
- 9.8 A request for a review made under clause 9.6 must be made in writing and must specify the grounds upon which the person believes the investigator or the Council has erred.
- 9.9 The Office may decline to conduct a review, where the grounds upon which the review is sought are not sufficiently specified.
- 9.10 The Office may undertake a review of a matter without receiving a request under clause 9.6.
- 9.11 The Office will undertake a review of the matter on the papers. However, the Office may request that the Complaints Coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The Complaints Coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 9.12 Where a person requests a review under clause 9.6, the Office may direct the Council to defer any action to implement a sanction. The Council must comply with a direction to defer action by the Office.
- 9.13 The Office must notify the person who requested the review and the Complaints Coordinator of the outcome of the Office's review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.
- 9.14 Where the Office considers that the investigator or the Council has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed.
- 9.15 In the case of a sanction implemented by the General Manager or Mayor under clause 8.42, where the Office recommends that the decision to impose a sanction be reviewed:
- a the Complaints Coordinator must provide a copy of the Office's determination in relation to the matter to the General Manager or the Mayor, and
  - b the General Manager or Mayor must review any action taken by them to implement the sanction, and
  - c the General Manager or Mayor must consider the Office's recommendation in doing so.
- 9.16 In the case of a sanction imposed by the Council by resolution under clause 8.56, where the Office recommends that the decision to impose a sanction be reviewed:
- a the Complaints Coordinator must, where practicable, arrange for the Office's determination to be tabled at the next ordinary Council meeting unless the

meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary Council meeting following the election, and

- b the Council must:
  - i review its decision to impose the sanction, and
  - ii consider the Office's recommendation in doing so, and
  - iii resolve to either rescind or reaffirm its previous resolution in relation to the matter.

9.17 Where having reviewed its previous decision in relation to a matter under clause 9.16 the Council resolves to reaffirm its previous decision, the Council must state in its resolution its reasons for doing so.

## **PART 10 Procedural Irregularities**

10.1 A failure to comply with these procedures does not, on its own, constitute a breach of the Code of Conduct except as may be otherwise specifically provided under the Code of Conduct.

10.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:

- a the non-compliance is isolated and/or minor in nature, or
- b reasonable steps are taken to correct the non-compliance, or
- c reasonable steps are taken to address the consequences of the non-compliance.

## **PART 11 Practice Directions**

11.1 The Office may at any time issue a practice direction in relation to the application of these procedures.

11.2 The Office will issue practice directions in writing, by circular to all Councils.

11.3 All persons performing a function prescribed under these procedures must consider the Office's practice directions when performing the function.

## **PART 12 Reporting on Complaints Statistics**

12.1 The Complaints Coordinator must arrange for the following statistics to be reported to the Council within 3 months of the end of September of each year:

- a the total number of Code of Conduct complaints made about Councillors and the General Manager under the Code of Conduct in the year to September,
- b the number of Code of Conduct complaints referred to a conduct reviewer,
- c the number of Code of Conduct complaints finalised by a conduct reviewer at the preliminary assessment stage and the outcome of those complaints,
- d the number of Code of Conduct complaints investigated by a conduct reviewer,
- e the number of Code of Conduct complaints investigated by a conduct review committee,

- f without identifying particular matters, the outcome of Code of Conduct complaints investigated by a conduct reviewer or conduct review committee under these procedures,
- g the number of matter reviewed by the Office and, without identifying particular matters, the outcome of the reviews, and
- h The total cost of dealing with Code of Conduct complaints made about Councillors and the General Manager in the year to September, including staff costs.

12.2 The Council is to provide the Office with a report containing the statistics referred to in clause 12.1 within 3 months of the end of September of each year.

## PART 13 Confidentiality

13.1 Information about Code of Conduct complaints and the management and investigation of Code of Conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.

## PART 14 Additional information

### Policy responsibilities

In addition to the responsibilities outlined elsewhere in this Code:

- The General Manager is responsible for ensuring these Procedures are in place, is promoted and are applied.
- The Manager Governance & Risk is responsible for the maintenance of these Procedures and their promulgation to Council officials.

### Related documents

These procedures relate to:

- *Local Government Act 1993*
- *The Model Code of Conduct – March 2013*
- *The Model Code of Conduct Procedures – March 2013*
- *Council's Code of Conduct.*

### Review

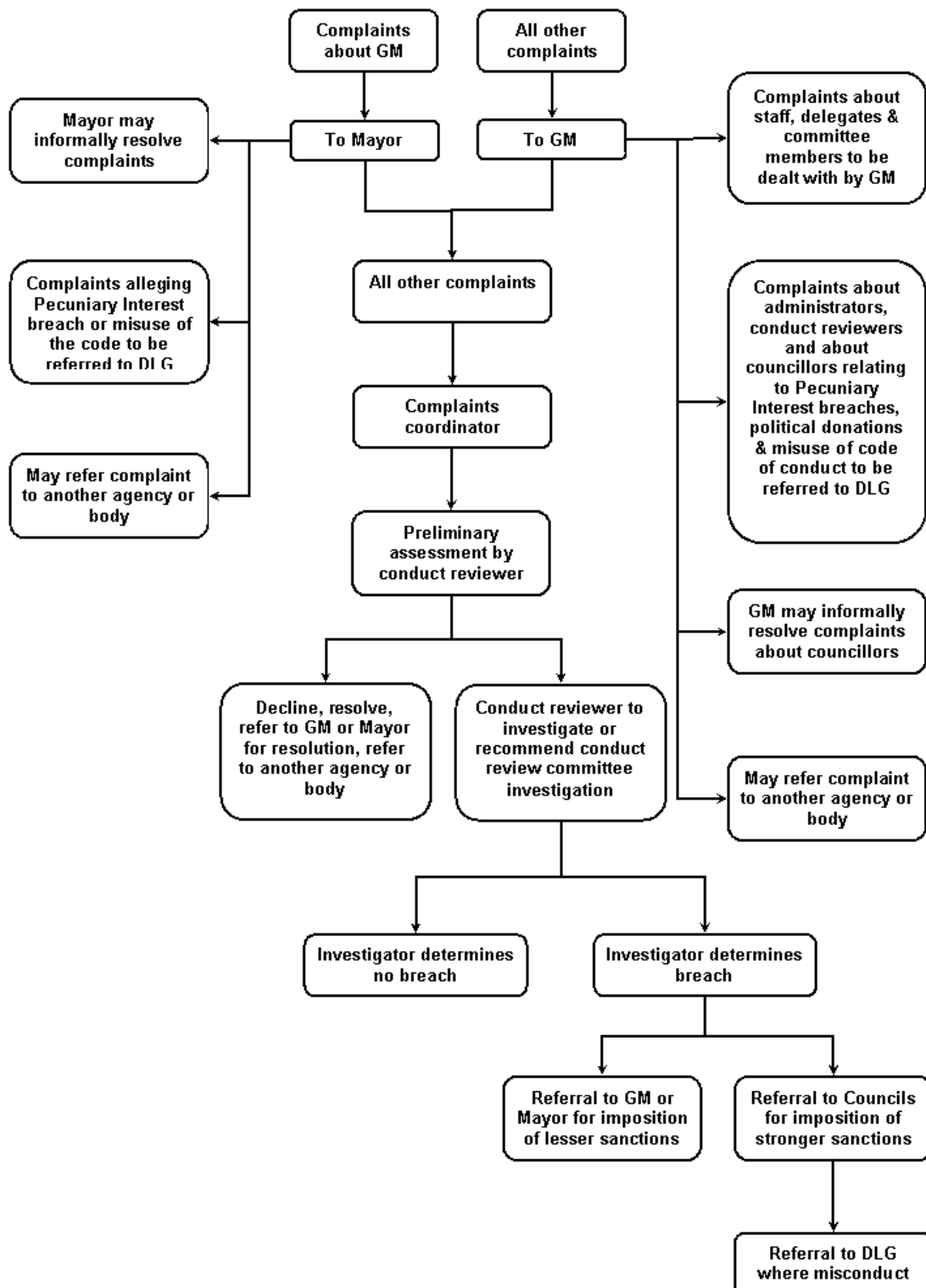
Council is committed to continuous improvement, including achieving higher levels of 'good governance'. These Procedures will be reviewed at least each elected term of Council, and each time *The Model Code of Conduct* and associated *Model Code of Conduct Procedures* are amended.



**Version Control**

<b>Version</b>	<b>Release Date</b>	<b>Author</b>	<b>Reason for Change</b>
1.0	07/12/2016	Bruce Cooke	Harmonised document from former Councils
2.0		Cathryn Bush	Review of document

## Appendix I – Model Code Procedure Flowchart



## Council Meeting

8/08/2018

Item No	8.14
Subject	<b>Disclosure of Interest Return</b>
Report by	Michael Mamo, Director City Performance
File	SC17/164

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## Summary

The Local Government Act 1993 details the statutory requirements in respect of the lodgement of Disclosure of Pecuniary Interest and Other Matters Returns by Councillors and Designated Persons. It requires any Returns of Interest lodged with the General Manager to be tabled at the first meeting of Council held after the last day of lodgement of the return (which is three months after the start date of the Designated Person).

This report provides information regarding the Return recently lodged with the General Manager by a Designated Person.

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## Officer Recommendation

That the information be received and noted.

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## Background

Section 450A of the Local Government Act, 1993 relates to register of Pecuniary Interest Returns and the tabling of this Return, which has been lodged by a Designated Person.

Section 450A of the Act is as follows:

### ***450A Register and tabling of Returns:***

- 1 The general manager must keep a register of returns required to be lodged with the general manager under section 449.***
- 2 Returns required to be lodged with the general manager under section 449 must be tabled at a meeting of the council, being:***
  - (a) in the case of a return lodged in accordance with section 449(1) – the first meeting held after the last day for lodgement under that subsection, or***
  - (b) in the case of a return in accordance with section 449(3) – the first meeting held after the last day for lodgement under that subsection, or***
  - (c) in the case of a return otherwise lodged with the general manager – the first meeting after lodgement.***

With regard to Section 450(1), a register of all Returns lodged by Councillors and Designated Persons in accordance with Section 449 of the Act is currently kept by Council as required by this part of the Act.

With regard to Section 450(2)(a), all Returns lodged by a Designated Persons under Section 449(1) of the Act, (ie. their first Return) must be tabled at a Council Meeting within three months of being a Designated Person.

In accordance with Section 450A(2)(a) the following Section 449(1) return has been lodged:

POSITION	RETURN DATE	DATE LODGED
Senior Development Assessment Planner	30/04/2018	25/07/2018
Development Assessment Planner	30/04/2018	27/07/2018
Senior Development Assessment Planner	07/05/2018	19/07/2018

The returns are now tabled in accordance with Section 450A(2)(a) of the Act and is available for inspection if required.

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### Financial Implications

Not applicable



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### Community Engagement

The issue raised in this report do not require community consultation under Council's Community Engagement Policy.

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### Attachments

Nil

## **Council Meeting**

**8/08/2018**

Item No	8.15
Subject	<b>Community Representatives - Sydney East Planning Panel and Bayside Local Planning Panel</b>
Report by	Michael Mamo, Director City Performance
File	F09/9

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## **Summary**

To ensure that Council has representation on the Sydney East Planning Panel when any of the appointed Councillors delegates to the Panel have a conflict of interest, Council should nominate non-councillor representatives whether from the community or qualified senior staff. The alternate members will act in the place of regular Council members when required. As Council has recently finalised an expression of interest (EOI) process to supplement its Local Planning Panel, it is considered that there is sufficient expertise within that panel list to choose its two non-councillor representatives to the Sydney East Planning Panel.

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## **Officer Recommendation**

That Council nominate two non-councillor members as alternate members to the Sydney East Planning Panel from the panel of community representatives members on the Bayside Local Planning Panel.

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## **Background**

The Sydney East Planning Panel is strengthening its requirements to ensure that there can be no perception of a Conflict of Interest where a Councillor who has previously voted on a Planning Proposal and/or VPA (at Council in their role as a Councillor) could then subsequently consider a DA for the same site in their role as a representative on a regional Planning Panel (in respect of Bayside Council the Sydney East Planning Panel)

In that instance, under the Code of Conduct for Panel members, the Councillor must declare a conflict of interest and exclude themselves from the Planning Panel. The Planning Panel Code of Conduct anticipates that Council will have alternative representatives who are not Councillors and who can sit on the panel in those circumstances.

To ensure Council adheres to these requirements Council will need to review its representatives to include non-Councillors. Potentially Council could nominate qualified senior staff or community representatives from the current list including those recently appointed through an EOI process or undertake a fresh process.

Should Council wish to appoint from the current panel of community representatives then arrangements will be put in place to ensure that those two representatives do not sit on Bayside Local Planning Panel meetings that would also be considered by the Sydney East Planning Panel eg planning proposals. To assist Council, a confidential supplementary report will be issued separately outlining the current community representatives' members

(following a recent EOI process) on the Bayside Local Planning Panel and the recommended members based on an officer evaluation.

It should be noted that there is a requirement that at least one council member has expertise in one or more of the following areas: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.

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### **Financial Implications**

Not applicable	<input type="checkbox"/>
Included in existing approved budget	<input checked="" type="checkbox"/>
Additional funds required	<input type="checkbox"/>

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### **Community Engagement**

Not applicable

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### **Attachments**

Nil

## **Council Meeting**

**8/08/2018**

Item No                9.1  
Subject                **Minutes of the Sport & Recreation Committee Meeting - 16 July 2018**  
Report by             Debra Dawson, Director City Life  
File                    SF17/2775

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## **Officer Recommendation**

That the Minutes of the Sport & Recreation Committee meeting held on 16 July 2018 be received and the recommendations therein be adopted.

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## **Summary**

The minutes include the following substantial recommendations:

### **5.3 Proposed Licence to St George Football Association - Ador Avenue Reserve**

1. That the Committee endorses the proposed licence conditions for St George Football Association's winter use of Ador Avenue Reserve ensuring that the local clubs are named in the agreement to ensure equitable use by all local sporting clubs.
2. That the conditions are established by Council's Property Department, and reported back to Sport & Recreation Committee for endorsement.

### **5.4 Angelo Anestis Aquatic Centre - Review of Fees & Charges**

That the Sport & Recreation Committee supports the BlueFit proposed increase to Fees and Charges in line with the Angelo Anestis Aquatic Centre Management Agreement's Guidelines.

### **5.6 Greater Sydney Sports Facility Grants**

That the Sport & Recreation Committee supports the proposed projects for the Greater Sydney Sports Facility Funds being (in order of preference):-

1. Botany Aquatic Centre
  2. Upgrade to L'Estrange Amenities
  3. Upgrades to Hensley Athletics and Football Fields
  4. Upgrades to Tennis Courts across the LGA
  5. Upgrades to Rowland Park Amenities
  6. Angelo Anestis Aquatic Centre Carpark
-

## **Present**

Councillor James Macdonald  
Councillor Scott Morrissey  
Councillor Andrew Tsounis  
Councillor Michael Nagi

## **Also Present**

Meredith Wallace, General Manager  
Debra Dawson, Director City Life  
Hayla Doris, Manager Recreation & Community  
Jeremy Morgan, Manager City Infrastructure  
Maritza Abra, Coordinator Infrastructure Projects  
Ted Pirola, Senior Project Landscape Architect  
Ben Heraud, Coordinator Property  
Samantha Urquhart, Property Manager  
Sue Matthew, Coordinator Sport and Recreation

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The Chairperson opened the meeting in the Meeting Room, Botany Town Hall at 6:30 pm.

### **1 Acknowledgement of Traditional Owners**

The Chairperson affirmed that Bayside Council respects the traditional custodians of the land, elders past and present and future leaders, on which this meeting takes place, and acknowledges the Gadigal and Bidjigal Clans of the Eora Nation.

### **2 Apologies**

Apologies were received from the Mayor - Councillor Bill Saravinovski, Councillor Christina Curry and Councillor Liz Barlow.

### **3 Disclosures of Interest**

There were no disclosures of interest.

### **4 Minutes of Previous Meetings**

#### **4.1 Minutes of the Sport & Recreation Committee Meeting - 14 May 2018**

##### **Committee Recommendation**

That the Minutes of the Sport & Recreation Committee meeting held on 14 May 2018 were adopted by Council on 11 July 2018.



## **5 Reports**

### **5.1 Scarborough Park Masterplan - Field Layout**

#### **Committee Recommendation**

1. That the Committee endorses the proposed field layouts at Scarborough Park in principle to allow for further consultation with sports clubs and associations regarding the range of options.
2. That the results of the consultation be reported back to the Sport and Recreation Committee in September – October 2018.

### **5.2 Fry's Reserve Cricket Net Upgrade**

#### **Committee Recommendation**

1. That the Committee recommends further consultation to look at alternative locations for cricket practice nets such as Cahill Park or Tonbridge Reserve.
2. That, as an alternative, the Committee considers other potential improvements such as a table tennis table, BBQs, lighting and picnic shelters instead of a Cricket Net at Fry's Reserve.

### **5.3 Proposed Licence to St George Football Association - Ador Avenue Reserve**

#### **Committee Recommendation**

3. That the committee endorses the proposed licence conditions for St George Football Association's winter use of Ador Avenue Reserve ensuring that the local clubs are named in the agreement to ensure equitable use by all local sporting clubs.
4. That the conditions are established by Council's Property Department, and reported back to Sport and Recreation Committee for endorsement.

### **5.4 Angelo Anestis Aquatic Centre - Review of Fees & Charges**

#### **Committee Recommendation**

That the Sport and Recreation Committee supports the BlueFit proposed increase to Fees and Charges in line with the Angelo Anestis Aquatic Centre Management Agreement's Guidelines.

## **5.5 Circus - New Locations**

### **Committee Recommendation**

- 1 That the Sport and Recreation Committee asks Council to consider supporting a circus being held in the local area.
- 2 That, if the Council agrees in principle to the Circus being held in the LGA, a site visit is to be organised to Stardust Circus in order to make an informed decision on their treatment of animals.

## **5.6 Greater Sydney Sports Facility Grants**

### **Committee Recommendation**

That the Sport & Recreation Committee supports the proposed projects for the Greater Sydney Sports Facility Funds being (in order of preference):-

7. Botany Aquatic Centre
8. Upgrade to L'Estrange Amenities
9. Upgrades to Hensley Athletics and Football Fields
10. Upgrades to Tennis Courts across the LGA
11. Upgrades to Rowland Park Amenities
12. Angelo Anestis Aquatic Centre Carpark

## **6 General Business**

### **6.1 Letter From Member for Heffron**

Meredith Wallace, General Manager, briefed the Committee on the letter received.

The Committee discussed the issue and recommended that the Sport and Recreation Committee advise the Mayor that the officers had provided truthful and accurate responses in relation to the question posed by Councillor Curry and notes that Councillor Curry is not the Chair of the Sport and Recreation Committee.

### **6.2 14 Stars Foundation – Use of Arncliffe Park**

Councillor Nagi, briefed the Committee on the issue of 14 Stars Foundation holding a fundraising event at Arncliffe Park.

### **6.3 Angela Anestis Aquatic Centre**

Councillor Tsounis, briefed the Committee on various issues raised in regards to Angelo Anestis Aquatic Centre.

1. Fees for School Carnivals

Can the fee scale for school carnivals be discussed with BlueFit to investigate if a charge for smaller schools can be introduced?

2. Updates on AAAC

The committee requested updates at each regular meeting on the centre including patronage numbers.

3 Maintenance Issues

The committee raised the following issues and asked for them to be investigated and rectified:-

Capping on fencing in parking lot failing.

Additional drill holes and painting required on side of building to address water issues.

Signage at the bottom of the stairs to the outdoor pool is dangerous and needs to be moved.

Fans installed in gym are too heavy and wall is in danger of falling.

Sunshade ripping. Design issue. Please investigate and advise if larger sunshade can be installed.

Timber around the Speedo Time Clock needs to be painted.

Investigate if additional seating can be installed at the heated pool end of the outdoor pool for timekeepers etc.

Update on whether the louvres for the heated pool can be manually overridden. The entrance to the carpark is dangerous and the Committee requested that this issue be raised at the Bayside Traffic Committee to discuss alternative arrangements to avoid accident or injury.

The signage to the car park has fallen off and needs to be fixed.

Investigate if additional garden furniture can be installed on the grass area.

### **6.4 Bexley Tennis Courts DA Update**

Councillor MacDonald, requested an update on the outstanding DA for Bexley Tennis Courts.

Hayla Doris advised that the DA was currently with the RMS awaiting response. Once a response was received this matter can be progressed to the Bayside Planning Panel for assessment.

## **6.5 Basketball Courts**

Councillor MacDonald, requested the Committee provide an update on the installation of Basketball Courts or half courts as previously discussed.

The Committee discussed the issue and an update will be provided at the next meeting.

## **6.6 Lighting / Seating DA Ador Reserve**

Councillor MacDonald requested an update on the DA for the lighting and seating at Ador Reserve. Council Officers advised the Committee that the DA was in progress and regular updates would be provided at the upcoming meetings.

## **6.7 Official Opening Jellicoe and Booralee Park**

The Committee discussed the Official Opening of both Jellicoe and Booralee Park to be held on 18 August 2018. Councillors will be taken by Bus to Booralee at 9:00 am and then to Jellicoe at approximately 10:30 am. At approximately 12 noon, the Councillors will then be invited to inspect the newly refurbished Aquatic Centre at Petersham – Fanny Durack.

## **6.8 Official Opening Ador Reserve Synthetic Field**

The St George Football Association has requested use of Ador Reserve for Finals and Grand Finals starting in late August 2018. In line with this request, the General Manager suggested that the Grand Finals should be in conjunction with the Official Opening. This matter is to be discussed with Events and Major Projects.

## **6.9 Upgrade Lighting Barton Park Training Fields**

The Committee recommended the proposed upgrade of the lighting at Barton Park be progressed at a cost of \$38,000.

This issue was raised by St George Football Club due to safety concerns relating to lighting issues in the training fields at Barton Park.

## **6.10 Bexley Bowling Club Update**

The Committee requested a regular update on Bexley Bowling Club. Ben Heraud provided a brief update at the meeting.

**6.11 Rockdale PCYC Update**

The Committee requested a regular update on Rockdale PCYC. Ben Heraud provided a brief update at the meeting advising that this matter will be addressed at the GM briefing session this week.

**7 Next Meeting**

That the next meeting be held in the Meeting Room, Botany Town Hall at 6.30pm on Monday, 27 August 2018.

The Chairperson closed the meeting at 9:12 pm.

**Attachments**

Nil

## **Council Meeting**

**8/08/2018**

Item No	9.2
Subject	<b>Minutes of the Finance &amp; Asset Management Committee Meeting - 30 July 2018</b>
Report by	Michael Mamo, Director City Performance
File	SF17/2775

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## **Officer Recommendation**

That the Minutes of the Finance & Asset Management Committee meeting held on 30 July 2018 be received and the recommendations therein be adopted.

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## **Summary**

The minutes include a recommendation that Council adopts the Resourcing Strategy incorporating a Long Term Financial Plan, Asset Management Strategy and Strategic Workforce Plan.

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## **Present**

Councillor Scott Morrissey (Chair)  
Councillor Michael Nagi  
Councillor Liz Barlow

## **Also present**

Councillor Dorothy Rapisardi  
Councillor Andrew Tsounis  
Meredith Wallace, General Manager  
Michael Mamo, Director City Performance  
Matthew Walker, Manager Finance  
Fausto Sut, Manager Governance & Risk  
Jeremy Morgan, Manager City Infrastructure

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The Chairperson opened the meeting in the Botany Town Hall at 6.30 pm.

## **1 Acknowledgement of Traditional Owners**

The Chairperson affirmed that Bayside Council respects the traditional custodians of the land, elders past and present and future leaders, on which this meeting takes place, and acknowledges the Gadigal and Bidjigal Clans of the Eora Nation.

## **2 Apologies**

The following apologies were received:

Councillor Christina Curry  
Councillor James Macdonald

## **3 Disclosures of Interest**

There were no disclosures of interest.

## **4 Minutes of Previous Meetings**

### **4.1 Minutes of the Finance & Asset Management Committee Meeting - 16 May 2018**

Committee recommendation

That the Minutes of the Finance & Asset Management Committee meeting held on 16 May 2018 be confirmed as a true record of proceedings.

## **5 Reports**

### **5.1 Draft Bayside Council Resourcing Strategy 2018-2030**

Committee recommendation

- 1 That the Finance & Asset Management Committee receive and note this report.
- 2 That the Finance & Asset Management Committee recommend to Council the adoption of the draft Resourcing Strategy incorporating the draft Long Term Financial Plan (2018-2030), draft Bayside Asset Management Strategy (2018-2030) and draft Strategic Workforce Plan.

### **5.2 CONFIDENTIAL - Recovery Action - Progress Report**

Committee recommendation

That the report be received and noted.

## **6 General Business**

### **6.1 Tantallon Avenue Walkway - Update**

Committee recommendation

That Councillors be provided with an update on the proposed walkway for Tantallon Avenue, Arncliffe.

## **7 Next Meeting**

The next meeting will be held in the Meeting Room, Botany Town Hall at 6.30pm on Monday, 29 October 2018.

The Chairperson closed the meeting at 8.13pm

## **Attachments**

Nil



## **Council Meeting**

**8/08/2018**

Item No	9.3
Subject	<b>Minutes of the Bayside Traffic Committee Meeting - 1 August 2018</b>
Report by	Michael McCabe, Director City Futures
File	SF17/2775

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## **Officer Recommendation**

That the Minutes of the Bayside Traffic Committee meeting held on 1 August 2018 be received and the recommendations therein be adopted.

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## **Present**

Councillor Ed McDougall (Convener)  
Senior Constable Tony Santangelo, St George Local Area Command,  
Senior Constable Alexander Weissel, Botany Bay Police,  
James Suprain, representing Roads and Maritime Services,  
Les Crompton, representing State Member for Kogarah,  
George Perivolarellis, representing State Members for Rockdale and Heffron,

## **Also Present**

Jeremy Morgan, Manager City Infrastructure, Bayside Council (10.35am),  
Pintara Lay, Coordinator Traffic and Road Safety, Bayside Council,  
Lyn Moore, NSW Pedestrian Council,  
Rabih Bekdache, Transit Systems,  
Glen McKeachie, Coordinator Regulations, Bayside Council,  
Agasteena Patel, Traffic Engineer, Bayside Council,  
Malik Almuhanha, Traffic Engineer, Bayside Council,  
Pat Hill, Traffic Committee Administration Officer, Bayside Council,  
Robbie Allen, Transport Planner, Bayside Council (Item BTC18.119 Joffrey Street - 10.15am)

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The Convenor opened the meeting in the Rockdale Town Hall, Pindari Room Level 1, 448 Princes Highway, Rockdale at 9.21am and affirmed that Bayside Council respects the traditional custodians of the land, elders past and present and future leaders, on which this meeting takes place, and acknowledges the Gadigal and Bidjigal Clans of the Eora Nation.

## **1 Apologies**

The following apologies were received:

Peter Hannett, St George Bicycle User Group,  
Joe Scarpignato, St George Cabs,  
David Carroll, Senior Parking Patrol Officer, Bayside Council

## 2 Disclosures of Interest

There were no disclosures of interest.

## 3 Minutes of Previous Meetings

### **BTC18.112 Minutes of the Bayside Traffic Committee Meeting - 4 July 2018**

#### Committee Recommendation

That the Minutes of the Bayside Traffic Committee meeting held on 4 July 2018 be confirmed as a true record of proceedings.

## 4 Reports

### **BTC18.113 Bay Street west of The Grand Parade, Brighton Le Sands - Proposed 'No Right Turn' between 8pm and 5am, on summer week-end nights between Friday 5 October 2018 and Monday 1 April 2019.**

#### Committee Recommendation

- 1 That concurrence be given to the proposed installation of "No Right Turn, 8 pm – 5 am, Fri, Sat and Sun" restrictions for the summer weekend nights Friday 5 October 2018 and Monday 1 April 2019 to prevent the right turn movement from Bay Street into The Grand Parade, Brighton Le Sands.
- 2 That the above concurrence be forwarded to Roads and Maritime Services for approval, supply, installation and maintenance of the three gates, locks and associated signs in Bay Street, and The Grand Parade, Brighton Le Sands to prevent the right turn movement from Bay Street into The Grand Parade, Brighton Le Sands.
- 3 That subsequent to recommendation 2, Council undertake to close the gates at Bay Street, Brighton Le Sands from 8 pm and open the gates by 5 am between Friday 5 October 2018 and Monday 1 April 2019.
- 4 That the State Transit Authority, St George Cabs, affected private bus companies and public authorities be advised of Council's decision.
- 5 That the St George Police be advised of Council's decision.

**BTC18.114 Charles Street at the rear of 108 Princes Highway, Wolli Creek - proposed modification to the median island and speed hump**

**Committee Recommendation**

That this matter be deferred for an onsite meeting with interested members and reported back to the next Traffic Committee

**BTC18.115 200 Coward Street East of O'Riordan Street Mascot - Proposed signposting 'No Stopping' restrictions across 7m and 9m driveways**

**Committee Recommendation**

- 1 That the approval be given for signposting 'No Stopping' signs across 7m and 9m driveways outside 200 Coward Street, Mascot. The cost of the supply and installation will be borne by the Applicant.
- 2 That the bus zone east of 200 Coward Street be extended to cover the driveway of 182 Coward Street to prevent vehicles from parking across this driveway.

**BTC18.116 Crofts Lane between George Street and King Lane, Rockdale - proposed 'No Stopping' restriction and centre line and speed humps.**

**Committee Recommendation**

That approval be given to the installation of a traffic safety scheme in Crofts Lane between George Street and King Lane as follows:

- 1 Paint the broken centre line, type S1, for 30m long at the crest
- 2 Paint 'Yellow No Stopping' lines on both sides except the existing 'Loading Zone' and 20m of 'No Parking' at the rear of Bizzos club.
- 3 Consultation with affected residents regarding the proposed installation of rubber cushion pads on both sides of the crest.

**BTC18.117 15-19 Edgehill Avenue, Botany - Extension of 'No Stopping' zone near a newly constructed median strip**

**Committee Recommendation**

That the 'No Stopping' restriction outside 12 Edgehill Avenue, Botany, be extended to 6m east of the eastern end of the newly constructed median strip.

**BTC18.118 Harrow Road eastern kerb line south of Catherine Street, Kogarah - proposed 'No Parking, Motorbikes Excepted' restriction**

**Committee Recommendation**

That approval be given to the installation of a 'No Parking, Motorbikes Excepted' restriction along the eastern kerb line of Harrow Road, south of Catherine Street, Kogarah, as follows:

- \* From 0m to a point at 16m – retain existing 'No Stopping' restriction
- \* From 16m to 20m – proposed 'No Parking, Motorbikes Excepted' zone
- \* From 20m southward – retain existing parking.

**BTC18.119 16 Joffre Crescent, Daceyville - Proposed 1P Parking Restriction in front 16 Joffre Crescent and 'No Parking' Restriction across walkway**

**Committee Recommendation**

The approval be given to the installation of 6m of 'No Parking' restriction across the walkway east of the existing 'No Stopping' restriction to extend outside of No. 16 Joffre Crescent, Daceyville.

**BTC18.120 Lloyd Lane between President Avenue and President Lane - proposed change 'No Parking' to 'No Stopping' restriction**

**Committee Recommendation**

- 1 That approval be given to the proposed change 12m 'No Parking' restriction to 'No Stopping' restriction along the eastern kerb line of Lloyd Lane south of President Lane, Brighton Le Sands.
- 2 That two white lines be provided at the front and the back of the five parking spaces in Lloyd Lane.

**BTC18.121 Mawson Street between Hannam Street and Wentworth Street, Bardwell Valley - Proposed signposting statutory 10m 'No Stopping' restrictions**

**Committee Recommendation**

That approval be given for the installation of 'No Stopping' signs to reinforce the 10m statutory 'No Stopping' zones in Mawson Street at its intersections with Hannam and Wentworth Streets, Bardwell Valley.

**BTC18.122 Preddy's Road at the driveway to Angelo Anestis Aquatic Centre - proposed on site meeting****Committee Recommendation**

That on-site meeting at the driveway of Angelo Anestis Aquatic Centre with Preddy's Road, Bexley, be organised with interested Traffic Committee Members and Councillors to investigate further traffic safety measures.

**BTC18.123 Princes Street, west of Forest Road, Bardwell Valley - Proposal extension of 1P (8am-10pm) restriction by 12m west of its original location****Committee Recommendation**

That the current 1P (8 am - 10 pm) restriction along the northern kerb line of Princes Street, west of Forest Road, be extended by 12 meters to allow for two extra car spaces.

**BTC18.124 Special Events - Ilinden Sports Centre - 468 West Botany Street****Committee Recommendation**

That the event organiser be reminded of their obligations as an event organiser to make adequate provision for traffic and transport planning and consult with the NSW Police and Council.

**BTC18.125 Westfield Drive, Pagewood, between Banks Avenue and Bunnerong Road, road related area - proposed 'No Stopping'****Committee Recommendation**

- 1 That consideration be given in principle to install 'No Stopping' in conjunction with the yellow lines on both sides of Westfield Drive, Pagewood, except the bus zones.
- 2 That detailed drawings provided by Westfield, showing the localities of the signs/stems be submitted to the Committee for further consideration.

**BTC18.126 Wilson Street West of Ermington Street, Botany - Proposed signposting statutory 10m 'No Stopping' restrictions and change of linemarking**

**Committee Recommendation**

- 1 That the approval be given for the installation of 'No Stopping' signs to reinforce the 10m statutory 'No Stopping' zones at two corners of the intersection of Wilson Street with Ermington Street, Botany.
- 2 That the existing 26m unbroken barrier lines, type BB, be changed to broken centre line type S1 line, along Wilson Street south of Ermington Street to allow vehicles to cross the centre line, if it is safe to do so and provide four (4) parking spaces along the western kerb line of Wilson Street south of Ermington Street.

**BTC18.127 Anti-Social Driving Behaviour**

**Committee Recommendation**

There were no Anti-Social Driving Behaviours raised.

**BTC18.128 Matters referred to the Bayside Traffic Committee by the Chair**

**Committee Recommendation**

There were no matters referred to the Bayside Traffic Committee by the Chair.

**BTC18.129 General Business**

**Committee Recommendation**

There were no additional items raised.

**5 General Business**

The Convenor closed the meeting at 10:34 am.

**Attachments**

Nil