

## **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 13 February 2019** at **7.00 pm**

## **AGENDA**

- 1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**
- 2 OPENING PRAYER**
- 3 APOLOGIES**
- 4 DISCLOSURES OF INTEREST**
- 5 MINUTES OF PREVIOUS MEETINGS**
  - 5.1 Minutes of the Council Meeting - 12 December 2018.....3
- 6 MAYORAL MINUTES**
  - 6.1 Mayoral Minute - Mayor's 2018 Charity Christmas Dinner .....24
- 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**
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<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**

**13/02/2019**

Item No	5.1
Subject	<b>Minutes of the Council Meeting - 12 December 2018</b>
Report by	Michael Mamo, Director City Performance
File	SF17/2831

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## **Officer Recommendation**

The Minutes of the Council meeting held on 12 December 2018 be confirmed as a true record of proceedings.

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## **Present**

Mayor, Councillor Bill Saravinovski  
Deputy Mayor, Councillor Joe Awada  
Councillor Liz Barlow  
Councillor Ron Bezic  
Councillor Christina Curry  
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 Mamo, Director City Performance  
Debra Dawson, Director City Life  
Michael McCabe, Director City Futures  
Colin Clissold, Director City Presentation  
Fausto Sut, Manager Governance & Risk  
Matthew Walker, Manager Finance  
Jeremy Morgan, Manager City Infrastructure  
Bobbi Mayne, Manager Procurement  
Liz Rog, Manager Executive Services  
Karin Targa, Major Projects Unit Director  
Benjamin Heraud, Coordinator Property  
Vincenzo Carrabs, Head of Communications & Events  
Kathy Pasalich, Development Manager  
Samia Dirani, Property Portfolio Manager  
Susan Connon, Property Portfolio Manager  
Matthew Torta, IT Support Officer  
Lauren Thomas, 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 7:11 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**

Pastor Andrew Harper, from Bay City Church, opened the meeting in prayer.

## **3 Apologies**

An apology was received from Councillor Tarek Ibrahim.

### **RESOLUTION**

Minute 2018/283

Resolved on the motion of Councillors Nagi and Tsounis

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

Councillor Tarek Ibrahim

## **4 Disclosures of Interest**

The Mayor, Councillor Saravinovski, declared a Significant Non-Pecuniary Interest in Item 8.14 on the basis that he has relatives who own property in the Rockdale CBD, although not near this address, and stated he would leave the Chamber for consideration and voting on the matter.

The Mayor, Councillor Saravinovski, declared a Significant Non-Pecuniary Interest in Item 8.15 on the basis that he has relatives who own property in the Rockdale CBD, although not near this address, and stated he would leave the Chamber for consideration and voting on the matter.

The Mayor, Councillor Saravinovski, declared a Less than Significant Non-Pecuniary Interest in Item 8.19 on the basis that the applicant met with the General Manager, Director and himself in the Mayor's Office to outline the proposal. As this was part of his civic duties and he has no personal relationship or dealings with the applicant, he considers no other action is necessary, and stated he would remain in the Chamber for consideration and voting on the matter.

Councillor Joe Awada declared a Significant Pecuniary Interest in Item 8.8 on the basis that he owns property within the precinct covered by the DCP, and stated he would leave the Chamber for consideration and voting on the matter.

Councillor Nagi declared a Significant Non-Pecuniary Interest in Item 8.8 on the basis that that he owns property in the area, and stated he would leave the Chamber for consideration and voting on the matter.

Councillor Tsounis declared a Less than Significant Non-Pecuniary Interest in Item 8.22 on the basis that he is a life member and committee member of the club operating at Lady Robinson's beach, and stated he would remain in the Chamber for consideration and voting on the matter.

## **5 Minutes of Previous Meetings**

### **5.1 Minutes of the Council Meeting - 14 November 2018**

#### **RESOLUTION**

Minute 2018/284

Resolved on the motion of Councillors Nagi and Tsounis

That the Minutes of the Council meeting held on 14 November 2018 be confirmed as a true record of proceedings.

## **Presentations**

### **A Certificate of Recognition – Kundan Tamrakar, General Secretary of Guthi Australia**

A certificate of recognition was presented to Kundan Tamrakar, Secretary of Guthi Australia, in recognition of his support for the Nepalese Community, especially those living in the Bayside Council Local Government Area.

### **B Certificate of Recognition – Joanne Fulham, Principal of Bardwell Park Infants School**

A Certificate of Recognition was to be presented to Joanne Fulham, Principal of Bardwell Park Infants School in recognition of her outstanding service and dedication to the education of the children of Bayside and the Bardwell Park Infants School community.

Unfortunately, Ms Fulham was unable to attend the Council meeting due to a previous commitment. She sent her personal thanks the Mayor for his support of, and attendance at the school on Friday 30 November, in recognition of 75 years of quality Public Education for students from Kindergarten to Year 2.

**B Certificate of Recognition – Rādhikā Ram Tevita, President, of Bardwell Park Infants School Parents and Citizens Association**

A Certificate of Recognition was presented to Rādhikā Ram Tevita, President, of Bardwell Park Infants School Parents and Citizens Association in recognition of her outstanding contribution to the Bardwell Park Infants School Community.

**B Certificate of Recognition – Shawki Moslemani**

A Certificate of Recognition was presented to Shawki Moslemani in recognition of his outstanding literary achievements, in particular, his contribution to Arabic Poetry.

**6 Mayoral Minutes**

**6.1 Mayoral Minute - Friendship Agreement - Bharatpur Metropolitan City**

The Ambassador for Nepal, Ms Lucky Sherpa, had to postpone the planned signing of the friendship agreement between Council and Bharatpur Metropolitan City, Chitwan, Nepal as she was recalled to Nepal on urgent business. The agreement will proceed in 2019 at a time when the Ambassador can attend Council and complete the formalities for the Friendship Agreement.

**RESOLUTION**

Minute 2018/285

Resolved on the motion of Councillors Nagi and McDougall

That this Mayoral Minute and the signing of the Friendship Agreement be deferred to a future meeting of Council in early 2019.

**6.2 Mayoral Minute - Sydney Airport Corporation Limited (SACL) - Rate Equivalent Payments in Lieu of Rates**

**RESOLUTION**

Minute 2018/286

Resolved on the motion of Councillors Rapisardi and Nagi

- 1 That Council notes the finalisation of the Deed of Agreement and Deed of Settlement providing certainty to both Council and Sydney Airport Corporation Limited (SACL) as to how future rate equivalent payments in lieu of rates are to be determined.
- 2 That Council authorises the General Manager to finalise and execute the Memorandum of Understanding (MOU) with SACL creating the framework for

determining projects that will be funded from the newly created Community and Environmental Projects Reserve.

## **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.

### **8.17 Proposed Lease to Bay City Church - Elizabeth Hall, 23-25 Barden Street, Arncliffe**

Pastor Andrew Harper, the applicant, spoke for the Officer Recommendation.

#### **RESOLUTION**

Minute 2018/287

Resolved on the motion of Councillors McDougall and Tsounis!

- 1 That Council endorse the grant of a two (2) year lease to Bay City Church over Elizabeth Hall, within 23-25 Barden Street, Arncliffe for operation of their food care program; and
- 2 That the Mayor and General Manager be authorised to sign, and seal where required, any documentation to finalise the lease to Bay City Church.

### **BTC18.218(b) Proposed Bus Zones in Smith Street, Near Bunnings Warehouse and in Beauchamp Road, Raised by STA's Representative, Bushara Gidies**

#### **General Business of Item 9.4 – Minutes of the Bayside Traffic Committee Meeting Held on 5 December 2018**

Ms Rhonda Bell, affected neighbour, spoke against the Officer Recommendation.

#### **RESOLUTION**

Minute 2018/288

Resolved on the motion of Councillors Curry and McDougall

- 1 That approval be given to the installation of a bus zone Beauchamp Road, Hillsdale – new 23.0m Bus Zone on northern side Beauchamp Road between Denison Street and Grace Campbell Circuit replacing existing unrestricted parking. Rear of Bus Zone from wooden ELP MA01645, west of driveway to premises number 24. Head of the Bus Zone on eastern side of driveway to premises number 26.
- 2 Council reject the proposal for Smith Street, Hillsdale – new 34.0m Bus Zone on southern side of Smith Street between Rhodes Street and Denison Street

replacing existing unrestricted parking. Opposite premises of number 40. Rear of bus zone from wooden ELP MA06075 and insist that community consultation be undertaken in relation to this proposal.

- 3 Council reject the proposal for Smith Street, Eastgardens – new 18.0m Bus Zone on northern side of Smith Street, east of Rhodes Street and Denison Street replacing existing unrestricted parking. Rear of bus zone from western side of driveway to premises number 30. Head of bus zone at wooden ELP MA06080 existing 'No Stopping' for lead into roundabout at Rhodes Street commences and insist that community consultation be undertaken in relation to this proposal.
- 4 That Council writes to all local State and Federal MPs seeking their support in this matter.

### **10.1 Notice of Motion - West Botany Netball Courts**

Mrs Lucy Smith, the applicant, spoke for the Officer Recommendation.

#### **RESOLUTION**

Minute 2018/289

Resolved on the motion of Councillors McDougall and Barlow

- 1 That Council prepares a report on the maintenance backlog at the West Botany Street netball courts, including the need for court resurfacing and subsidence issues.
- 2 That Council writes to all State and Federal MPs within the St George District seeking netball co-funding commitments to address the historic under-investment in women's sport in the St George region.

## **8 Reports**

### **8.1 Rockdale Park Masterplan, Water Feature, Amenities & Playground**

#### **RESOLUTION**

Minute 2018/290

Resolved on the motion of Councillors Nagi and Poulos

- 1 That the Masterplan for Rockdale Park as attached to this report be adopted by Council.
- 2 That the locations for the new amenities and playground as per the Masterplan are agreed and that the amenities and playground projects proceed to detailed design, documentation and tender.

- 3 That option 2 as attached to this report is selected for the water feature, and that the water feature project proceeds to detailed, design, documentation and tender based on option 2.

## **8.2 Ador Reserve Amenities Planning.**

### RESOLUTION

Minute 2018/291

Resolved on the motion of Councillors Tsounis and Macdonald

- 1 That the report be received and noted;
- 2 That Council endorses the location for the new sporting amenities building as per the plan attached to this report; and
- 3 That a report be presented to the Sport & Recreation Committee on the design prior to tendering the project.

## **8.3 AS Tanner Archer's Hall & Community Hall**

### RESOLUTION

Minute 2018/292

Resolved on the motion of Councillors Tsounis and Macdonald

- 1 That the report be received and noted.
- 2 That the architectural designs of the AS Tanner Reserve Archer's Hall and amenities as attached to this report be endorsed to proceed to tender.
- 3 That a report to Council on the outcomes of the Tender is brought to Council in 2019.

## **8.4 Tender - Wilsons Farmhouse Cottage, Rockdale**

### RESOLUTION

Minute 2018/293

Resolved on the motion of Councillors Tsounis and Barlow

- 1 That in accordance with Regulation 178 (1)(a) of the Local Government (General) Regulations 2005, Council accepts the tender from Murphy's Remedial Builders for Contract F18/647 being for the conservation building works for Wilson's Farmhouse Cottage for the amount of \$ 299,429.35 exclusive of GST.

- 2 That the attachment to this report be withheld from the press and public as it is confidential for the following reason:

With reference to Section 10A(2) (d)(i) of the Local Government Act 1993, the attachment contains 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.

## **8.5 Tender - Rowland Park Amenities & Playground**

### **RESOLUTION**

Minute 2018/294

Resolved on the motion of Councillors Morrissey and Curry

- 1 That in accordance with Regulation 178 (1)(a) of the Local Government (General) Regulations 2005, Council accepts the tender from Hibernian Contracting Pty Ltd for Contract F18/738 being for the construction works for Rowland Park Sporting Amenities, Playground and Landscape works for the amount of \$ 1,279,314.62 exclusive of GST.
- 2 That the attachment to this report be withheld from the press and public as it is confidential for the following reason:

With reference to Section 10A(2) (d)(i) of the Local Government Act 1993, the attachment contains 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.

## **8.6 Tender - Operational Minor Works**

### **RESOLUTION**

Minute 2018/295

Resolved on the motion of Councillors Tsounis and Rapisardi

- 1 That the attachment to this report be withheld from the press and public as it is confidential for the following reason:  
  
With reference to Section 10(A) (2) of the Local Government Act 1993, the attachment relates to (d) commercial information of a confidential nature that would, if disclosed: (i) prejudice the commercial position of the person who supplied it.
- 2 That Council accepts the tenders of the contractors specified in Table 3 of this report to be established under preferred supplier contracts for the provision of minor works and maintenance services for Council's assets.



## 8.7 Citizen of the Year 2019 - Panel Recommendations

### RESOLUTION

Minute 2018/296

Resolved on the motion of Councillors Rapisardi and Awada

- 1 That the attachment to this report be withheld from the press and public as the matters in this attachment are confidential, as it is considered that it is in the public interest that they not be disclosed to the public. In accordance with the Code of Conduct, the matters and the information contained within this report must not be discussed with or disclosed to any person who is not a member of the meeting or otherwise authorised(a) personnel matters concerning particular individuals (other than Councillors).
- 2 That the report be received and noted.

## 8.8 Arncliffe and Banksia Precincts Development Control Plan

Councillor Nagi had previously declared a Significant Non-Pecuniary Interest in this item, and left the chamber for consideration of, and voting on, this item.

Councillor Awada had previously declared a Significant Pecuniary Interest in this item, and left the chamber for consideration of, and voting on, this item.

### RESOLUTION

Minute 2018/297

Resolved on the motion of Councillors Tsounis and Poulos

- 1 That Council approve amendments to the *Rockdale Development Control Plan 2011* as detailed in **Attachment 4** to introduce 'Chapter 7.7 Arncliffe and Banksia'.
- 2 That Council give public notice of its decision, in a local newspaper, to approve the plan within 28 days of its decision
- 3 That Council provide a copy of the amended Development Control Plan to the Planning Secretary, in accordance with s25AB of the *Environmental Planning and Assessment Regulation 2000*.

Division called by Councillors Saravinovski and Tsounis

For: Councillors Tsounis, Saravinovski, Sedrak, Morrissey, Curry, Rapisardi, Poulos, McDougall, Macdonald, Bezic, and Barlow

The division was declared unanimously carried

**8.9 Proposed Amendment to State Environmental Planning Policy No. 70 (SEPP 70) - Affordable Housing (Revised Schemes) - State Wide Application**

RESOLUTION

Minute 2018/298

Resolved on the motion of Councillors Nagi and Tsounis

That Council delegate authority to the General Manager to make a submission to the Department of Planning and Environment in relation to State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes).

**8.10 Proposed Amendments to State Environmental Planning Policy Affordable Rental Housing 2009 (AH SEPP)**

RESOLUTION

Minute 2018/299

Resolved on the motion of Councillors Nagi and Barlow

That Council delegate authority to the General Manager to make a submission in support of the proposed amendment to the State Environmental Planning Policy Affordable Rental Housing.

**8.11 Eastlakes Shopping Centre MOD 4 - Council Submission**

RESOLUTION

Minute 2018/300

Resolved on the motion of Councillors Morrissey and Curry

That Council endorses the attached submission, in relation to MP 09\_0146 MOD 4 - Modification to Eastlakes Shopping Centre Mixed Use Development (Commercial, Retail & Residential), for consideration by the NSW Department of Planning and Environment.

**8.12 F6 Extension Stage 1 (New M5 Motorway at Arncliffe to President Avenue at Kogarah) - Environmental Impact Assessment Draft Submission**

RESOLUTION

Minute 2018/301

Resolved on the motion of Councillors Barlow and McDougall

That Council endorse **Attachment 1** as the Bayside Council submission in relation to the F6 Extension Stage 1 (New M5 Motorway at Arncliffe to President Avenue at Kogarah)

### **8.13 Planning Proposal - 119 Barton Street, Monterey: Outcome of Rezoning Review**

#### **RESOLUTION**

Minute 2018/302

Resolved on the motion of Councillors Saravinovski and Awada

- 1 That this matter be deferred.
- 2 That Council write to the Department of Planning concerning the arrangements in appointing Council's community representatives to relevant Sydney Eastern City Planning Panel meetings.

Division called by Councillors Saravinovski and Nagi

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

The division was declared unanimously carried

### **8.14 5, 9 and 9A Bryant Street, Rockdale - Property Acquisition from the Churches Of Christ Property Trust**

The Mayor, Councillor Saravinovski, had previously declared a Significant Non-Pecuniary Interest in this item, and left the chamber for consideration of, and voting on, this item. The Deputy Mayor, Councillor Awada assumed the Chair.

#### **RESOLUTION**

Minute 2018/303

Resolved on the motion of Councillors Tsounis and Poulos

- 1 That the attachment/s 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) of the Local Government Act 1993, the attachment relates to(c) 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, or (d)(ii) commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the Council. 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 endorse the acquisition of the properties at 5, 9 and 9A Bryant Street, Rockdale from the Churches of Christ Property Trust on terms outlined in Confidential Attachment 4 to this report.

- 3 That Council authorises the General Manager to finalise the commercial terms associated with the acquisition of the properties and execute all documentation to affect the purchase of the properties on the terms outlined in this report.
- 4 That Council classifies the land as operational Land in accordance with Section 31 of the Local Government Act 1993.
- 5 That Council publically notifies that 'The Council has acquired the land, subject to this report and classify the acquired land, as operational land in accordance with the local Government Act 1993.
- 6 That Council notes that a further report, to inform the Council of the outcome of the notification and recommendation on the land classification, will follow the notification period.

### **8.15 Sale of 429 Princes Highway Rockdale**

The Mayor, Councillor Saravinovski, had previously declared a Significant Non-Pecuniary Interest in this item, and left the chamber for consideration of, and voting on, this item. The Deputy Mayor remained in the Chair.

#### **RESOLUTION**

Minute 2018/304

Resolved on the motion of Councillors Nagi and Tsounis

- 1 That the attachment/s 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) of the Local Government Act 1993, the attachment relates to(c) 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 endorses direct dealings for the sale of 429 Princes Highway, Rockdale in a combined offering (sell in line) with the owner of the property at 427 Princes Highway, Rockdale (Blakeland Pty Ltd).
- 3 That Council authorises the General Manager to finalise the terms associated with the sale of the property in conjunction with the adjoining owner.
- 4 That a further report is presented to Council prior to the sale, to establish a minimum reserve or sale price for the property dependent on the appropriate sales method.
- 5 That Council appoint a probity advisor to prepare an engagement and probity plan to undertake the sale for both parties.

The Mayor returned to the Council Chamber, the Deputy Mayor vacated the Chair and the Mayor resumed the Chair.

**SUSPENSION OF STANDING ORDERS****RESOLUTION**

Minute 2018/305

Resolved on the motion of Councillors Rapisardi and Awada

That Standing Orders be suspended so that Item 8.16 can be determined in Closed Session at the end of the Council meeting to discuss the confidential attachment.

**8.18 Voluntary Planning Agreement 13-19 Baker Street Banksmeadow (post notification)****RESOLUTION**

Minute 2018/306

Resolved on the motion of Councillors Saravinovski and Tsounis

- 1 That Council endorses the completion of the draft Voluntary Planning Agreement as notified between Leda Holding and Bayside Council for 13-19 Baker Street Banksmeadow.
- 2 That the General Manager be authorised to negotiate the final terms of the agreement and execute the required documentation.

**8.19 Information & Communication Protocol - Brighton Le Sands Unsolicited Proposal incorporating Boulevard Carpark**

The Mayor, Councillor Saravinovski, had previously declared a Less-Than-Significant Non-Pecuniary Interest in this item, and remained in the chamber for consideration of, and voting on, this item.

**RESOLUTION**

Minute 2018/307

Resolved on the motion of Councillors Nagi and Tsounis

- 1 That the attachments to this report be withheld from the press and public as it is confidential for the following reason:  
  
With reference to Section 10(A) (2) of the Local Government Act 1993, the attachment relates 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 the 'Information and Communication Protocol Guidelines', as shown in draft at Attachment 1 is entered into by both parties, prior to Council engaging further with the proponent.

## **8.20 Road Pavement Rehabilitation and Renewal Program 2018-19 (Package A & B) - Award of Contract**

### **RESOLUTION**

Minute 2018/308

Resolved on the motion of Councillors Nagi and Tsounis

- 1 That Attachment A and B 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) (d) (i) of the Local Government Act 1993, the attachment contains 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 the tender from **D&M Excavation and Asphaltting Pty Ltd** to undertake Contract F18/876 Road Pavement Rehabilitation and Renewal Program 2018-2019 – Package A and B for a lump sum including provisional allowances of \$2,016,869.80 (including GST) be accepted.
- 3 That the General Manager be authorised to execute Contract F18/876 Road Pavement Rehabilitation and Renewal Program 2018-2019 – Package A and B with **D&M Excavation and Asphaltting Pty Ltd** under delegated authority.

## **SUSPENSION OF STANDING ORDERS**

### **RESOLUTION**

Minute 2018/309

Resolved on the motion of Councillors Barlow and Awada

That Standing Orders be suspended so that Item 8.21 can be determined in Closed Session at the end of the Council meeting to discuss the confidential attachment.

## **8.22 Stronger Communities Fund - Major Projects and Community Grants Programs - Round One and Two Progress Reporting**

### **RESOLUTION**

Minute 2018/310

Resolved on the motion of Councillors Awada and Tsounis

That Council approves the Stronger Communities Fund 6 monthly Major Projects report for the period from 1 July – 31 December 2018 and the Stronger Communities Fund 6 monthly Community Grants report for the period from 1 July – 31 December 2018 for reporting to the NSW Office of Local Government.

### **8.23 Engagement on Consultation for Renewal of Alcohol-Free Zones and Alcohol-Prohibited Areas**

#### **RESOLUTION**

Minute 2018/311

Resolved on the motion of Councillors Nagi and Awada

That Council endorses the proposal to re-establish/renew the four Alcohol-Free Zones and two Alcohol-Prohibited Areas identified in this report.

### **8.24 Draft Community Grants and Donations Policy 2018**

#### **RESOLUTION**

Minute 2018/312

Resolved on the motion of Councillors Tsounis and Nagi

- 1 That Council adopts the Draft Community Grants and Donations Policy 2018
- 2 That Council agrees to the increase of the Small Grant category from \$1500 to \$2000
- 3 That Council notes any revisions to internal administrative arrangements to achieve a more streamlined Grants and Donations Program
- 4 That Council agrees to the removal of the Australia Day Grants as a category from the program but allows individual submissions for a donation.

### **8.25 Review of Aged and Disability Services**

#### **RESOLUTION**

Minute 2018/313

Resolved on the motion of Councillors Nagi and Barlow

- 1 That, in accordance with Section 10A(2) of the Local Government Act 1993, the attachment be dealt with in closed session of the meeting by reason that the attachment be withheld from the media and public as it contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the council. 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 adopts Option 1 as outlined in the body of the attached report.
- 3 That Council notes that staff will continue to advance matters associated with this option outlined in the report.

- 4 That Council authorises the Mayor and General Manager to undertake any relevant actions arising from these matters.

## **8.26 Disclosure of Interest Return**

### **RESOLUTION**

Minute 2018/314

Resolved on the motion of Councillors Nagi and Bezic

That the information be received and noted.

## **8.27 Adoption of Amendments to Fees & Charges 2018/19 - Post Exhibition**

### **MOTION**

Motion moved by Councillors Barlow and Poulos

That the amendments to the current Fees & Charges 2018/19 as outlined in the table in the body of this report be adopted subject to the following amendment:

That the General Manager's discretion to waive fees for Members of Parliament be removed.

### **FORESHADOWED MOTION**

Councillors McDougall and Curry

That the amendments to the current Fees & Charges 2018/19 as outlined in the table in the body of this report be adopted.

Division called by Councillor Saravinovski

For: Councillors Tsounis, Sedrak, Nagi, Poulos, Macdonald, Barlow and Awada

Against: Councillors Saravinovski, Morrissey, Curry, Rapisardi, McDougall and Bezic

The Motion was declared carried

The Foreshadowed Motion lapsed as a result of the Motion being carried.

### **RESOLUTION**

Minute 2018/315

Resolved on the motion of Councillors Barlow and Poulos



That the amendments to the current Fees & Charges 2018/19 as outlined in the table in the body of this report be adopted subject to the following amendment:

That the General Manager's discretion to waive fees for Members of Parliament be removed.

## **8.28 Statutory Financial Report for October 2018**

### **RESOLUTION**

Minute 2018/316

Resolved on the motion of Councillors Sedrak and Tsounis

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

## **8.29 2018 National Local Roads & Transport Congress - Councillor Attendance Report**

### **RESOLUTION**

Minute 2018/317

Resolved on the motion of Councillors Poulos and Barlow

- 1 That the Conference Attendance report be received and noted.
- 2 That Councillors Nagi and Tsounis have their professional development plans updated to reflect their attendance at the "Connecting Transport Networks Now and into the Future" Congress in Alice Springs.

## **9 Minutes of Committees**

### **9.1 Minutes of the Botany Historical Trust Meeting - 5 November 2018**

#### **RESOLUTION**

Minute 2018/318

Resolved on the motion of Councillors Barlow and Nagi

That the Minutes of the Botany Historical Trust meeting held on 5 November 2018 be received and the recommendations therein be adopted.

## **9.2 Minutes of the Risk & Audit Committee Meeting - 22 November 2018**

### **RESOLUTION**

Minute 2018/319

Resolved on the motion of Councillors Barlow and Morrissey

That the Minutes of the Risk & Audit Committee meeting held on 22 November 2018 be received and the recommendations therein be adopted.

## **9.3 Minutes of the Sport & Recreation Committee Meeting - 19 November 2018**

### **RESOLUTION**

Minute 2018/320

Resolved on the motion of Councillors Macdonald and Morrissey

That the Minutes of the Sport & Recreation Committee meeting held on 19 November 2018 be received and the recommendations therein be adopted.

## **9.4 Minutes of the Bayside Traffic Committee Meeting - 5 December 2018**

### **RESOLUTION**

Minute 2018/321

Resolved on the motion of Councillors McDougall and Nagi

That the Minutes of the Bayside Traffic Committee meeting held on 5 December 2018 be received and the recommendations therein be adopted with the exception of Item BTC18.218(b) as previously decided (Minute 2018/288), and subject to the following amendment:

In relation to Item BTC18.199 - Arncliffe Street One Way Circuit Public Consultation - the first recommendation be deferred for community consultation.

## **10 Notices of Motion**

### **10.2 Notice of Motion - Arncliffe Aurora**

#### **RESOLUTION**

Minute 2018/322

Resolved on the motion of Councillors Nagi and Poulos

- 1 Council commence negotiations with Arncliffe Aurora football club to ensure that their tenure at Arncliffe Park is not jeopardised as a result of the installation of a synthetic field, due to be constructed in 2020.
- 2 The negotiations take into account the current arrangements in place for Gardiner Park, Banksia.
- 3 Council's Sport and Recreation Committee receive a report on the result of the negotiations with Arncliffe Aurora in February 2019.

## 11 Questions With Notice

There were no Questions With Notice.

## Closed Council Meeting

In accordance with Section 10A(1) of the Local Government Act 1993, the Mayor invited members of the public to make representations as to whether this part of the meeting should be closed to the public.

There were no representations.

## RESOLUTION

Minute 2018/323

Resolved on the motion of Councillors Rapisardi and Awada

- 1 That, in accordance with section 10A (1) of the Local Government Act 1993, the Council considers the following item/s in closed Council Meeting, from which the press and public are excluded, for the reason/s indicated:

### **8.16 141 Coward Street, Mascot - Leasing Campagin Update and Offers Received**

In accordance with Section 10(A) (2) (d) (i) of the Local Government Act 1993, the attachment contains 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.

### **8.21 Road Pavement Rehabilitation and Renewal Program 2018-19 (Package C & D) - Award of Contract**

With reference to Section 10(A) (2) (d) (i) of the Local Government Act 1993, the attachment contains 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 section 11 (2) and (3) of the Local Government Act 1993, the reports, correspondence and other documentation relating to these items be withheld from the press and public.

#### **8.16 141 Coward Street, Mascot - Leasing Campaign Update and Offers Received**

##### **RESOLUTION**

Minute 2018/324

Resolved on the motion of Councillors Rapisardi and Awada

- 1 That the attachment to this report be withheld from the press and public as it is confidential for the following reason:

With reference to Section 10(A) (2) (d) (i) of the Local Government Act 1993, the attachment contains 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 Council endorse further negotiations with the two parties referred to in the Confidential Annexure for a proposed lease over 141 Coward Street, Mascot, guided by the minimum terms noted in Section 3 of the Confidential Annexure.
- 3 That Council endorse further negotiations with the preferred applicant to be undertaken for a proposed licence or use agreement over 1007 Botany Road, Mascot, guided by the minimum terms noted in Section 4.2 of the Confidential Annexure.
- 4 That Council delegate to the General Manager to proceed to finalise any lease/s or licence/s, including the execution of any documentation that may be determined by the General Manager.

#### **8.21 Road Pavement Rehabilitation and Renewal Program 2018-19 (Package C & D) - Award of Contract**

##### **RESOLUTION**

Minute 2018/325

Resolved on the motion of Councillors Barlow and Awada

- 1 That Attachments A and B 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) (d) (i) of the Local Government Act 1993, the attachment contains 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 the tender from NA Group Pty Ltd to undertake Contract F18/1008 Road Pavement Rehabilitation and Renewal Program 2018-2019 – Package C and D for a lump sum including provisional allowances of \$862,550 (including GST) be accepted.
- 3 That the General Manager be authorised to execute Contract F18/1008 Road Pavement Rehabilitation and Renewal Program 2018-2019 – Package C and D with NA Group Pty Ltd under delegated authority.

## **Resumption of Open Council Meeting**

Minute 2018/326

Resolved on the motion of Councillors Barlow and Awada

That, the closed part of the meeting having concluded, the open Council Meeting resume and it be open to the press and public.

The General Manager made public the resolutions that were made during the closed part of the meeting.

## **12 Call For Rescission Motions**

There were no Rescission Motions.

The Mayor closed the meeting at 9:30 pm.

Councillor Bill Saravinovski  
**Mayor**

Meredith Wallace  
**General Manager**

## **Attachments**

Nil

**Council Meeting**

**13/02/2019**

Item No	6.1
Subject	<b>Mayoral Minute - Mayor's 2018 Charity Christmas Dinner</b>
File	F17/153

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**Motion**

That the Mayoral Minute be received and noted.

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**Mayoral Minute**

The St George Children with Disabilities Fund Inc was formed in 2005 with the aim of working with children with disabilities and their families to enhance their quality of life by providing financial support, fundraising opportunities, and assistance with transport or access to programs, equipment or facilities.

Held on Thursday 6th of December, 2018, and attended by approximately 270 people, The Annual Mayors Charity Dinner, through a combination of direct donations, raffle draws and an auction raised a total of \$9,485.00 for the St George Children with Disabilities Fund Inc.

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**Attachments**

Nil

## Council Meeting

13/02/2019

Item No	8.1
Subject	<b>Bayside Council Draft Financial Reports 2016/17 - Statement by Councillors and Management and associated information</b>
Report by	Michael Mamo, Director City Performance
File	F09/744

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## Summary

Bayside Council has prepared its draft financial statements for the period ending 30 June 2017. Despite a significant investment of time and resources by both Bayside Council and the Audit Office of NSW it was not possible to address and remediate all the issues that resulted in the disclaimer of opinion for the Former City of Botany Bay Council and therefore it has not been possible to warrant the completeness and reliability of the financial statements for this reporting period.

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## Officer Recommendation

- 1 That the Mayor, nominated Councillor, General Manager and Responsible Accounting Officer sign the Statement by Councillors and Management for the General Purpose Financial Reports.
  - 2 That the Mayor, nominated Councillor, General Manager and Responsible Accounting Officer sign the Statement by Councillors and Management for the Special Purpose Financial Reports
  - 3 That Council issues the draft financial statements, including the signed Statements by Councillors and Management on the General Purpose Financial Reports and the Special Purpose Financial Reports to Council's auditor, Audit Office of NSW.
  - 4 That Council adopts the restricted Cash and Investment balances as identified in Note 6C to the draft Bayside 2016/17 financial reports. (Attachment 6 to this Report)
  - 5 That Council ceases to recognise the Airport Business Unit as a special purpose financial reporting category business as it is a discontinued business due to the termination of contract in September 2018. Council will recognise this in future year's financial reports in its general purpose financial reports.
- 

## Background

Council officers, contractors and Audit Office of NSW have devoted considerable resources, time and effort to the preparation and preliminary audit process, of the draft financial statements for Bayside Council for the period ending 30 June 2017.

However due to the significant breakdowns in administrative, financial and governance internal controls identified in the former Council as evidenced by the NSW Independent Commission Against Corruption (ICAC) Operation Ricco, it has not been possible for the

current Bayside Council management to ensure the completeness of the financial statements as a whole. Whilst significant work has been undertaken to develop and implement a new internal control environment and to address the areas identified in Operation Ricco, this cannot correct the past failings of the former council for this reporting period.

Council's auditor, Audit Office of NSW, attended the Risk and Audit Committee meeting on 20 December 2018 and presented the committee with an update on the progress of the preliminary audit and advised that a disclaimer of opinion would be issued for the Bayside Council 2016/17 financial reports. Please refer to the Risk and Audit Committee meeting 20 December 2018 minutes for the recommendation made by the Risk and Audit Committee.

To complete and enable the finalisation of the audit process, Council will need to resolve for the nominated councillors and officers, to sign the Statement by Councillors and Management for the General Purpose Financial Reports (GPFRS) and Special Purpose Financial Reports (SPFRS) and issue these to Council's auditor, Audit Office of NSW to enable the finalisation of audit and issuing of the auditors reports.

Council will need to make a resolution on its Restricted Cash and Investment balances and it is proposed to recognise the balances disclosed in Note 6 in the draft Bayside Council general purpose financial reports for period ending 30 June 2017 (Attachment 3, pages 32 and 33).

In September 2018, Council terminated the contract service agreement for the Airport Business Unit. It is proposed to cease recognising the Airport Business Unit as a special purpose financial reporting category business and this will be recognised as a discontinued business operation in future year's general purpose financial reports.

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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

- 1 2016-17 General Purpose Councillor and Management Statement [↓](#)
- 2 2016-17 Special Purpose Financial Reports Councillor and Management Statement [↓](#)
- 3 2016-17 Bayside Council General Purpose Financial Reports (under separate cover) [⇒](#)
- 4 2016-17 Bayside Council Special Purpose Financial Reports (under separate cover) [⇒](#)
- 5 2016-17 Bayside Council Special Schedules (under separate cover) [⇒](#)
- 6 Restricted Cash and Investments Balances (Reserves) [↓](#)



## Bayside Council

### General Purpose Financial Statements

for the period 10 Sep 2016 to 30 June 2017

### Statement by Councillors and Management

made pursuant to Section 413(2)(c) of the *Local Government Act 1993 (NSW)* (as amended)

Bayside Council was formed by way of the Local Government (Bayside) Proclamation 2016 which amalgamated the former Rockdale City Council and the former City of Botany Bay Council.

The former City of Botany Bay Council final reports (2015/16) were disclaimed by the Audit Office of NSW, due to the significant breakdowns in administrative, financial and governance internal controls as evidenced by the NSW Independent Commission Against Corruption (ICAC) Operation Ricco 2016.

Whilst significant work has been undertaken to develop and implement a new internal control environment and to address the ICAC report on the former City of Botany Bay Council within Bayside Council this cannot correct the past failings, nor address the disclaimed opinion by the Audit Office of NSW.

Due to the ongoing issues with the internal control environment over this reporting period, management of Bayside Council is unable to warrant the completeness and reliability of the financial statements as a whole as covered above.

**Signed in accordance with a resolution of Council made on dd/mm/yy.**

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Bill Saravinovski  
Mayor

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Councillor  
Councillor

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Meredith Wallace  
General Manager

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Matthew Walker  
Responsible accounting officer

Financial Statements 2017

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SPFS 2017

## Bayside Council

### Special Purpose Financial Statements

for the period 10 Sep 2016 to 30 June 2017

### Statement by Councillors and Management

made pursuant to the Local Government Code of Accounting Practice and Financial Reporting

Bayside Council was formed by way of the Local Government (Bayside) Proclamation 2016 which amalgamated the former Rockdale City Council and the former City of Botany Bay Council.

The former City of Botany Bay Council final reports (2015/16) were disclaimed by the Audit Office of NSW, due to the significant breakdowns in administrative, financial and governance internal controls as evidenced by the NSW Independent Commission Against Corruption (ICAC) Operation Ricco 2016.

Whilst significant work has been undertaken to develop and implement a new internal control environment and to address the ICAC report on the former City of Botany Bay Council within Bayside Council this cannot correct the past failings, nor address the disclaimed opinion by the Audit Office of NSW.

Due to the ongoing issues with the internal control environment over this reporting period, management of Bayside Council is unable to warrant the completeness and reliability of the Special Purpose Financial Reports.

**Signed in accordance with a resolution of Council made on dd/mm/yy.**

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Bill Saravinovski  
Mayor

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Councillor  
Councillor

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Meredith Wallace  
General Manager

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Matthew Walker  
Responsible accounting officer

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Financial Statements 2017

## Bayside Council

Notes to the Financial Statements  
for the period 10 Sep 2016 to 30 June 2017

## Note 6c. Restricted cash, cash equivalents and investments – details

	2017 Actual Current	2017 Actual Non-current
<b>\$ '000</b>		
<b>Total cash, cash equivalents and investments</b>	<b>279,365</b>	<b>55,388</b>
<b>attributable to:</b>		
External restrictions (refer below)	212,783	55,388
Internal restrictions (refer below)	65,382	–
Unrestricted	1,200	–
	<b>279,365</b>	<b>55,388</b>

10/9/16 to 30/6/17	Transferred from former Councils	Transfers to restrictions	Transfers from restrictions	Closing balance
<b>\$ '000</b>				

## Details of restrictions

## External restrictions – included in liabilities

Nil

## External restrictions – other

Developer contributions – general	(D)	175,064	42,837	(5,609)	212,292
Specific purpose unexpended grants	(F)	2,137	18,830	(872)	20,095
Domestic waste management	(G)	12,181	16,254	(19,923)	8,512
Stormwater management	(G)	2,878	986	(1,188)	2,676
Local area funds		12,759	738	(233)	13,264
Infrastructure levy reserve		7,229	5,460	(3,798)	8,891
Community safety levy		530	267	(238)	559
Mascot main street		701	–	–	701
Mascot parking rate		1,181	–	–	1,181
<b>External restrictions – other</b>		<b>214,660</b>	<b>85,372</b>	<b>(31,861)</b>	<b>268,171</b>
<b>Total external restrictions</b>		<b>214,660</b>	<b>85,372</b>	<b>(31,861)</b>	<b>268,171</b>

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## Bayside Council

## Notes to the Financial Statements

for the period 10 Sep 2016 to 30 June 2017

## Note 6c. Restricted cash, cash equivalents and investments – details (continued)

10/9/16 to 30/6/17 \$ '000	Transferred from former Councils	Transfers to restrictions	Transfers from restrictions	Closing balance
<b>Internal restrictions</b>				
Infrastructure replacement	100	–	–	100
Employees leave entitlement	6,154	–	(1,287)	4,867
Carry over works	–	3,642	–	3,642
Deposits, retentions and bonds	2,000	–	–	2,000
Plant and equipment	1,050	4,500	(525)	5,025
Office equipment and it reserve	2,059	1,270	(1,472)	1,857
Open space and s94 obligations	1,508	100	–	1,608
Public liability claims	346	160	(66)	440
Workers compensation	116	–	–	116
Council election	570	140	–	710
Strategic priorities	39,212	10,766	(15,518)	34,460
Street lighting hardware	597	–	(297)	300
Brighton bath amenities building	2,421	450	–	2,871
Arncliffe youth centre	2,970	–	–	2,970
Financial Assistance Grants in Advance	–	2,960	–	2,960
Contribution to Works	–	312	–	312
Asset replacement	200	–	–	200
Church Ave road widening	200	–	–	200
Domestic waste management	122	–	–	122
Mascot oval	80	–	–	80
O'Riordan St cables	210	–	–	210
Public works	224	–	–	224
Childrens Services	108	–	–	108
<b>Total internal restrictions</b>	<b>60,247</b>	<b>24,300</b>	<b>(19,165)</b>	<b>65,382</b>
<b>TOTAL RESTRICTIONS</b>	<b>274,907</b>	<b>109,672</b>	<b>(51,026)</b>	<b>333,553</b>

**D** Development contributions which are not yet expended for the provision of services and amenities in accordance with contributions plans (refer Note 17).

**F** Grants which are not yet expended for the purposes for which the grants were obtained. (refer Note 1 (b))

**G** Water, sewerage, domestic waste management (DWM) and other special rates/levies/charges are externally restricted assets and must be applied for the purposes for which they were raised.

## Council Meeting

13/02/2019

Item No	8.2
Subject	<b>Voluntary Planning Agreement Post Exhibition 1-3 Harrow Road, Bexley</b>
Report by	Michael McCabe, Director City Futures
File	F18/1155

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## Summary

A Draft VPA was placed on public exhibition in December 2018 in relation to 1 – 3 Harrow Road, Bexley. The draft VPA offer, made to Council in April 2018 included:

- Dedication of a stratum portion of the land to Council
- Provision of public domain improvements in the form of public footpath works; and
- Widening of Albyn Lane adjoining the land sufficient for public use.

One submission was received during the public exhibition period. It is recommended that the VPA now be executed in accordance with Council delegations.

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## Officer Recommendation

That Council notes the outcomes of the exhibition of the Voluntary Planning Agreement (VPA) for 1-3 Harrow Road, Bexley and executes the VPA in accordance with Council delegations.

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## Background

In June 2017 Council received a Development Application for the demolition of an existing structure and construction of a mixed use development consisting of five levels of residential units, a ground floor commercial tenancy and a rooftop terrace at 1-3 Harrow Road, Bexley. The subject land is identified as Lot B in Deposited Plan 321614 and Lot 16 in Deposited Plan 15198 and is commonly known as 1 – 3 Harrow Road, Bexley.

In October 2017 the Proponent lodged an appeal with the Land and Environment Court against Council's deemed refusal of the Development.

In April 2018 the Court granted consent to the development, subject to the Proponent entering into a Planning Agreement with Council, prior to the issue of a Construction Certificate (see attachment 1). The draft VPA offer, made to Council in April 2018 included:

- Dedication of a stratum portion of the land to Council
- Provision of public domain improvements in the form of public footpath works; and
- Widening of Albyn Lane adjoining the land sufficient for public use.

On 18 December 2018 Council placed the draft VPA for 1-3 Harrow Road, Bexley on exhibition in accordance with the *Environmental Planning and Assessment Regulations* (see attachment 2). The exhibition period finished on 29 January 2019.

One submission (see attachment 3) was received on Councils Have Your Say website. The submission supported the VPA but identified a need for changes. However, on review of the submission, the Court Orders and the VPA it has been found that the VPA is consistent with the requirements of the Court Order in relation to the matter raised in the submission.

The issue raised relates to the requirement (refer Court Order Condition 41(ii)(b)) that *“The Albyn Lane road carriageway to be widened to accommodate 2 way traffic movement as shown in the approved architectural plans listed in Condition 2”*. The VPA is consistent with the Condition as Appendix 2, 4.3(g) states *“The Albyn Road carriageway to be widened to accommodate 2 way traffic movements as shown in the architectural plans approved under DA-2017/373.”* As such, no amendment to the VPA is required.

The General Manager has Council delegation to execute the Agreement.

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## Financial Implications

Not applicable	<input checked="" type="checkbox"/>	Council will receive a land dedication and works in kind. No monetary contribution will be received.
Included in existing approved budget	<input type="checkbox"/>	
Additional funds required	<input type="checkbox"/>	

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## Community Engagement

The Draft VPA was placed on public exhibition from 18 December 2018 to 29 January 2019 and was available to view online at the Bayside Council Have Your Say webpage and in hard copy at the Rockdale and Eastgardens Libraries.

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## Attachments

- 1 Land & Environment Court Notice of Orders - Approval 2018 - 1-3 Harrow Road Bexley [↓](#)
- 2 Final Draft VPA for Public Exhibition and Explanatory Note 1-3 Harrow Road Bexley [↓](#)
- 3 Redacted Submission - 1-3 Harrow Road, Bexley [↓](#)



**Land and Environment  
Court**  
of New South Wales

John Alexander Cole  
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Website: <http://www.lec.justice.nsw.gov.au>

ABN: 52 659 114 436

Your Ref:



D0000Z9SP2

6 April 2018

#### NOTICE OF ORDERS MADE

Case number 2017/00300153  
Case title Bexley Village Pty Limited v Bayside Council

On 6 April 2018 the following orders (and/or directions) were made:

The final orders to give effect to the parties' agreement under s34(3) of the Land and Environment Court Act 1979 are:

- (1) Leave is granted to rely upon the amended plans and documents referred to in condition 2 of Annexure "A".
- (2) The clause 4.6 written request prepared by Dickson Rothschild (as amended) dated 3 April 2018 to vary the Height of Buildings control under clause 4.3 of Rockdale Local Environmental Plan 2011 is upheld.
- (3) The applicant is to pay the Council's costs pursuant to section 8.15(3) of the Environmental Planning and Assessment Act 1979 in the agreed amount of \$8,000 within 28 days.
- (4) The Appeal is upheld.
- (5) Development application no. DA/2017/373 for demolition of existing structures and construction of a mixed use development comprising of a ground level commercial tenancy, a rooftop terrace and five levels of residential units including 1, 2 and 3 bedroom units as well as basement car parking at 1 – 3 Harrow Road, Bexley (as amended) is approved subject to the conditions set out in Annexure "A" and on the basis of the Applicant's offer to enter into a voluntary planning agreement as set out in Annexure "B".

For the Registrar



Outcome Date: 06 Apr 2018

Appeal No: 2017/300153

Annexure 'A'  
**Bexley Village Pty Ltd v Bayside Council**  
 Conditions of Consent

**GENERAL CONDITIONS**

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. The development must be implemented in accordance with the plans and documents listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan/Dwg No.	Drawn by	Dated	Received by Council
<b>ARCHITECTURAL PLANS with Job No.</b>			
DA-0-001 – Cover Sheet (Rev M)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-105 – Site Plan (Rev H)	Dickson Rothschild	08/02/2018	04/04/2018
DA-0-106 – Demolition Plan (Rev B)	Dickson Rothschild	25/01/2018	04/04/2018
DA-0-107 – Site Amalgamation Plan (Rev B)	Dickson Rothschild	25/01/2018	04/04/2018
DA-0-200 – Basement 2 (Rev L)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-201 – Basement 1 (Rev L)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-202 – Ground Floor plan (Rev N)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-203 – Level 1-3 Floor Plan (Rev JL)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-204 – Level 4 Floor Plan (Rev J)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-205 – Level 5 / Communal Open Space (Rev K)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-206 – Roof Plan (Rev H)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-301 – North Elevation (Rev J)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-302 – South Elevation (Rev I)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-303 – West Elevation (Rev I)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-304 – East Elevation (Rev J)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-401 – Section A-A	Dickson Rothschild	03/04/2018	04/04/2018

Appeal No: 2017/300153

(Rev I)			
DA-0-402 – Section B-B (Rev K)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-621 – Adaptable Unit (Rev D)	Dickson Rothschild	08/02/2018	04/04/2018
DA-0-622 – Ramp Details (Rev D)	Dickson Rothschild	03/04/2018	04/04/2018
DA-0-631 – Waste Management Details (Rev C)	Dickson Rothschild	08/02/2018	04/04/2018
DA-06-651 – Road Service Section (Rev A)	Dickson Rothschild	21/03/2018	04/04/2018
DA-0-941 – Finishes Schedule (Rev F)	Dickson Rothschild	14/03/2018	04/04/2018
<b>STRATA SUBDIVISION PLANS</b>			
Draft Stratum Subdivision Plans with Surveyor's Reference 50284 001DP (Pages 1 – 4)	Joseph Monardo	21/03/2018	22/03/2018
<b>LANDSCAPE PLANS</b>			
SS17-3492, 000 Issue E	Site Image	31/01/2018	23 March 2018
SS17-3492, 101 Issue G	Site Image	16/01/2018	23 March 2018
SS17-3492, 102 Issue E	Site Image	31/01/2018	23 March 2018
SS17-3492, 103 Issue F	Site Image	31/01/2018	23 March 2018
SS17-3492, 501 Issue A	Site Image	16/03/2018	23 March 2018
SS17-3492, 502 Issue A	Site Image	31/01/2018	23 March 2018
<b>STORMWATER PLANS – Project No. P2016-140</b>			
SW01 (Rev C) – Stormwater Services Cover Sheet (Rev )	Adcar Consulting	20/03/2018	23 March 2018
SW02 (Rev C) - Stormwater Services Basement 2	Adcar Consulting	20/03/2018	23 March 2018
SW03 – Stormwater Services Basement 1 (Rev C)	Adcar Consulting	20/03/2018	23 March 2018
SW04 – Stormwater Services Ground Floor (Rev C)	Adcar Consulting	20/03/2018	23 March 2018

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing (but not including demolition work).
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 827719M Include revised BASIX certificate Number 827719M\_02 other than superseded by any further amended consent and BASIX certificate.

**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters:

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- (a) (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.

**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled." Note: For further information please see <http://www.basix.nsw.gov.au>.

6. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes enclosing of open fire stairs, relocation of fire booster valves, inclusion of a substation, the fitting of any form of doors and/or walls
7. A separate approval is required for Strata Subdivision.
8. The roof top communal space and associated pergola / roof structures are not to be used for habitable purposes.
9. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the *Dividing Fences Act 1991*.
10. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown on the approved plans and authorised by a subsequent construction certificate.
11. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.

#### **DEVELOPMENT SPECIFIC CONDITIONS**

The following conditions are specific to the Development Application proposal.

12. **Voluntary Planning Agreement (VPA)**
  - (a) Prior to issue of any Construction Certificate for any above ground works (i.e not including any construction certificate(s) for basement construction works), the applicant is to enter into a voluntary planning agreement (**VPA**) generally in accordance with its offer set out in the letter from Mills Oakley to Bayside Council dated 5 April 2018.
  - (b) All requirements contained within the VPA that is entered into must be complied with prior to the relevant stage as specified in the VPA.
  - (c) No Construction Certificate or Occupation Certificate can be issued until any corresponding obligation in the VPA has been satisfied (but not including any construction certificate(s) for basement construction works, as allowed by condition 12(a) above).
  - (d) The obligations under the VPA shall be satisfied to the satisfaction of Council's Director of City Futures by the times specified in the VPA and prior to the issue of any occupation certificate.
13. **Roads and Maritime Services**

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The following conditions imposed by RMS in their letter dated 28 July 2017 must be complied with:

- (a) All buildings and structures (other than pedestrian footpath awnings and footpath and road dedication works) together with any improvements integral to the future use of the site shall be wholly within the existing freehold property.
- (b) The redundant driveway on the Harrow Road boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter works on Harrow Road, including at the intersection of Albyn Lane and Harrow Road, shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 8849 2495).

Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction certificate and commencement of any above ground road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

- (c) The kerb adjustment works at the intersection of Albyn Lane and Harrow Road shall be designed to cater for the swept path of the longest vehicle (including garbage trucks, building maintenance/service vehicles and removalists) to access Albyn Lane, in accordance with AUSTROADS. In this regard, a plan shall be submitted to Roads and Maritime for approval, which shows that the proposed works comply with this requirement.
- (d) The developer is to submit design drawings and documents relating to the excavation of the development site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to: Project Engineer, External Works  
Email Suppiah.Thillai@rms.nsw.gov.au Telephone 8849 2114

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- (e) Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to: Project Engineer, External Works  
Email Suppiah.Thillai@rms.nsw.gov.au

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A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114.

- (f) The existing No Parking zone on Albyn Lane shall be changed to No Stopping. The developer must obtain approval from Bayside Traffic Committee prior to issue of any occupation certificate. Note: It is recommended that plans be submitted to the Bayside Traffic Committee early in the process to prevent delays with issue of any Occupation Certificate.
  - (g) This restriction should be implemented prior to the commencement of any demolition works relating to the proposed development. Note: the existing Bus Zone and all existing No Stopping zones on Harrow Road are to be retained.
  - (h) No Right Turn signposting shall be installed on Harrow Road at the intersection with Albyn Lane to mitigate potential impacts to traffic flow at the signalised intersection of Harrow Road/Bexley Road/Forest Road resulting from vehicles turning right from Harrow Road into Albyn Lane. A Traffic Management Plan (**TMP**) to assess the impacts of this restriction should be provided to Roads and Maritime for review and approval. The developer will be responsible for undertaking public consultation with affected residents and businesses to Roads and Maritime's satisfaction in relation to the imposition of the No Right Turn restriction.
  - (i) The developer must install regulatory Keep Clear pavement/line marking at the intersection of Harrow Road and Albyn Street in accordance with relevant standards/guidelines to the satisfaction of Roads and Maritime.
  - (j) Prior to the commencement of works on Harrow Road in relation to the above requirements ((vi) - (viii)), the applicant is to contact Roads and Maritime Network and Safety Section by email [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au) for a works instruction.
  - (k) All works and signposting associated with the subject development, including utility adjustment/relocation works, shall be at no cost to Roads and Maritime and Council.
14. The development is not to exceed any approved height referred to in any controlled activity approval pursuant to section 183 of the *Airports Act 1996* (Cth). required to carry out the development as required by these conditions of consent., The height is inclusive of all vents, chimneys, aerals, TV antennae and construction cranes etc. No permanent or temporary structure (including construction cranes, etc.) is to exceed this height without further approval from Sydney Airport Corporation Limited and approval under section 183 of the *Airports Act 1996* (Cth).

Under Section 186 of the *Airports Act 1996*, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units.

For further information on Height Restrictions please contact SACL on 9667 9246.

Separate approval must be sought under the *Airports (Protection of Airspace) Regulations 1996* for any cranes required to construct the buildings. Construction cranes may be required to operate at a height significantly higher than that of the

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proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

15. **Ausgrid**

- (a) Prior to any development being carried out, the approved plans must be submitted to Ausgrid's local customer service office for approval to determine whether the development will affect Ausgrid's network or easements and to determine whether an electricity substation is required, including written confirmation of Ausgrid's requirements for installation. (Note: if a substation is required a Section 96 Application will be required for the amended location).
- (b) The development must comply with both the Reference Levels and the precautionary requirements of the Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz – 3 kHz (ARPANSA, 2006), for development in proximity to overhead power lines.
- (c) The applicant must check the location of underground cables by using Dial Before You Dig and comply with the requirements of NS156: Working Near or Around Underground Cables (Ausgrid, 2010).

16. **Telstra**

Written confirmation from Telstra that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and the arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant / developer.

17. **Plan Details / Amendments to Plans**

Prior to issue of any Construction Certificate the following matters must be complied with:

- (a) Design of the area subject to road dedication. Plans and documentation demonstrating compliance with the following matters must be submitted to, and approved by, Certifying Authority and/or Council's Director of City Futures prior to issue of any Construction Certificate:
  - (i) The basement parking area is to be designed to support a 20T capacity Council Garbage Truck operating in Albyn Lane. Structural engineer shall be engaged to design the basement slab and wall to comply with above requirement.
  - (ii) Road service section plan issued on 21/3/2018, drawing reference number DA-0-651, revision A shall be amended by removing the 650mm high vertical basement wall under the proposed road and footpath dedication. This area shall be kept clear for future services. The amended plan must be approved by Council's Director of City Futures prior to issue of the Construction Certificate
  - (iii) The works shown in the future public domain area (i.e. the land to be dedicated to Council) in Ramp Details Plan with Drawing No.DA-0-622 prepared by Dickson Rothschild (Rev D) are subject to detailed design

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as approved by Council's Director of City Futures prior to issue of the Construction Certificate and subject to s138 of the Roads Act 1993.

- (b) Landscape Plans - the Landscape Plans must be amended to be in accordance with the approved architectural plans referred to in condition 2 and also include the following prior to issue of the Construction Certificate
  - (i) All pergolas shall have enough number of climber species to provide cover in summer months, at least two plants per pergola. The plant species shall be native: Tecomanthe hillei and/or Pandorea pandoreana, in pergolas in all levels, including the western pergola on the roof. The pergola in the roof facing south shall have a climber, this one can be an exotic deciduous climber.
  - (ii) Shrubs and groundcovers planted on slab adjacent to deep soil planting area shall have a minimum depth of 400mm. Any subsurface drainage requirements are in addition to the minimum soil depths quoted above.
  - (iii) Planter boxes with screen shrubs in loading shall be 600mm depth, to allow screen planting to develop. Planter box with Westringia fruticosa, shall be a minimum 1300mm depth. Any subsurface drainage requirements are in addition to the minimum soil depths quoted.
- (c) Any hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box with the lid/cover of the box designed to blend in with the building and all associated pipe work is to be concealed, as required by Control 19 of Part 4.7 of Rockdale DCP 2011.
- (d) Ceiling Heights
  - (i) Ceiling heights for all habitable areas for the first floor level shall be a minimum of 3.3m and ceiling heights for all habitable areas of the remaining residential floor levels shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling.
- (e) Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling. Elevator / Lift Capability & Size - All lift cars are to have minimal internal dimensions of 1840cm x 1400cm, must be capable of carrying stretchers and have lift door openings wide enough to enable bulky goods (white goods, furniture etc) to be easily transported.
- (f) Mechanical ventilation - Any mechanical ventilation system for the basement car park must comply in all respects with the requirements of Australian Standard 1668, Part 1 & 2. The vents for this system are proposed within the roof top level landscape area and must be appropriately designed and screened by landscape planting.
- (g) Mechanical ventilation for commercial tenancies - all ground floor level commercial tenancies shall be provided with mechanical ventilation which complies with the relevant Australian Standards to permit future uses for food and drink premises. The systems must vent above the roof top level.

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- (h) Intercom facilities shall be shown in the Construction Certificate plans at the following locations (at a minimum) to enable residents and tenants of the commercial premises to communicate and identify with visitors / people prior to admitting them to the development:
  - (i) vehicular driveway entry;
  - (ii) main entrance lobby;
  - (iii) rear access gate from the loading bay to ensure access is provided within the site for loading and unloading operations.
  - (iv) entry door from the rear ground level courtyard;
  - (v) all other pedestrian entry/exit points.
- (i) Air-conditioning units, including those proposed under SEPP BASIX, shall not be fixed to the external walls of the balcony or building and must be located in a position that is not easily visible from the public domain.
- (j) All plumbing, shall be concealed within the brickwork / facade of the building.

18. **Waste Collection and Deliveries**

- (a) One (1) loading bay shall be provided at ground level to accommodate a 7.5m length servicing vehicle as shown in the approved plans. The path of travel from the loading bay to the building lobby must be provided wholly within the site (following any dedication of land for road widening purposes). This will require transport of goods through the communal open space. The gate and access paths must be accessible for these purposes.
- (b) The Commercial vehicle facilities shall be designed in accordance with AS2890.2:2002.
- (c) Any vehicular path of travel to or from the loading bay for the 7.5m length servicing vehicle shall have a minimum headroom clearance of 3.5m (to the underside of services, etc.).
- (d) Proposed rear fence along the loading bay area above 1.2m in height shall be open form (with a minimum 30% transparency) to ensure driver and pedestrian safety along the Albyn Lane.
- (e) Waste collection and servicing, including removalist vans, must be carried out entirely within the site and service bay at all times. Waste collection, deliveries, removalists and / or any other servicing must not, at any time, be undertaken from the Harrow Road street frontages.
- (f) Waste may collected by a private waste contractor. A contract for waste collection must be entered into prior to issue of any Occupation Certificate for the residential component of the development, and prior to commencement of use for each of the non-residential tenancies.
- (g) Deliveries and servicing associated with the non-residential tenancies is restricted to between 7.00 am and 6.00 pm Monday to Friday and 8.00 am to



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5.00 pm on Saturdays. Deliveries associated with the commercial premises must not be undertaken on Sundays or Public Holidays.

- (h) The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

19. **Retail / Commercial Premises - Operational Conditions**

The operations of the commercial / retail premises must comply with the following:

- (a) Parking allocation must be provided in accordance with the conditions of this consent;
- (b) Materials, goods or machinery shall not be stored, placed or otherwise permitted to stand between the building line and the street alignment, or any other part of the public road at any time without Council's consent.
- (c) All loading, unloading and transfer of goods / waste to and from the loading bay and premises shall take place wholly within the property, and in accordance with any other relevant conditions of this Consent.
- (d) Display windows / glazing at the street front must not be frosted or otherwise obscured at eye level (e.g. by shelving) between the heights of 0.7m-2.1m in accordance with RDCP 2011.
- (e) Any proposed signs must, unless separately approved, comply with the requirements of the State Environmental Planning Policy (Exempt and Complying Development Code) 2008. In addition, any signage cannot have / use:
  - (i) flashing lights;
  - (ii) electronically changeable messages;
  - (iii) animated display, moving parts or simulated movement; or
  - (iv) a method and level of illumination that distracts or dazzles.
- (f) All other relevant conditions of this consent.

20. **Street Numbering**

- (a) Prior to issue of the Construction Certificate, details of street numbering and apartment numbers in accordance with the NSW addressing policy shall be submitted to Council's Director City Futures for approval.

Note: Any strata plan will need to reflect the NSW Addressing Policy for consistency.

- (b) Mail boxes must be installed in the position shown in the approved plans. The letterboxes must be lockable.
- (c) Prominent street numbers are to be displayed on each retail premises and the residential lobby, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

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21. **Parking Provision & Allocation**

- (a) A total of 34 car parking spaces, a minimum of 4 bicycle parking spaces and 3 motorcycle parking spaces, and 1 shared car wash bay / visitors space must be provided within the basement levels of the development. The parking must be allocated in accordance with the Rockdale Development Control Plan (RDCP) 2011 requirements in accordance with the minimum rates provided in the table below. This parking must be reflected in any subsequent strata subdivision of the development.

Dwelling Size / Proposed No.	Required
1 & 2 bed dwellings (15 units)	1 space / dwelling = 15 spaces
3 bedroom dwellings (5 units)	2 spaces / dwelling = 10 spaces
Visitor	1 space / 5 dwellings = 4 spaces (including 1 shared car wash bay)
Bicycle (Res. + Com.)	1/10 units + 1 / 200m2 = 4 spaces (Min.)
Motorcycle (Res + Com.)	1/15 units + 1 / 20 car spaces = 3 spaces (Min.)
Carwash Bay	1 car wash bay (shared with visitors space)
Commercial Tenancies	5 spaces allocated as follows:  - Tenancy 1 - 3 spaces - Tenancy 2 - 1 space - Tenancy 3 - 1 space  Note: The parking shortfall of 2 spaces is subject to s94 contributions.

## Notes:

- All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.
- Tandem parking spaces must only be allocated to a single residential unit. The car-wash bay must be connected to the Sydney Water sewer system in accordance with Sydney Water requirements.
- This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 4.16 (1)(a) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of

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State Environmental Planning Policy (Exempt and Complying  
Development Codes) 2008.

22. **Parking & Vehicular Access**

The design and construction of the off-street car & bicycle parking facilities shall comply with the following requirements, with details provided for the written approval of the Principal Certifying Authority prior to issue of any Construction Certificate and complied with prior to issue of any Occupation Certificate:

- (a) Comply with Australian Standards, as follows:
  - (i) AS 2890.1:2004
  - (ii) AS2890.2:2002
  - (iii) AS 2890.6:2009
- (b) Internal Height Clearance - shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
- (c) Loading and unloading within the site (loading bay at grade) shall be restricted to commercial vehicles not exceeding the size and mass description of the SRV from AS2890.2:2002. Commercial vehicles greater in size and mass than the SRV are not permitted to enter the site. The maximum size of vehicles permitted to enter the basement shall be vehicles up to 5.2m in length and maximum height of 2.2m, corresponding to a B99 Large Car under AS2890.1. This includes a 'Van size' vehicle.
- (d) Car Wash Bay - The required car wash bay must comply with Rockdale Technical Specification – Stormwater Management, in relation to the minimum width and configuration of car wash bays. Car space number 01 proposed in basement level 1 to be converted to a car wash bay. This space shall be a minimum 3.5m wide and shall be signposted and appropriately line- marked to state that this space shall be shared as a car wash bay and visitor space.
- (e) Bicycle Parking - A minimum of four (4) bicycle parking spaces must be provided for residents that are of Security Level A or B in accordance with AS2890.3:2015. Bicycle parking facilities for residents shall not be Level C facilities.
- (f) Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
- (g) All off street visitor parking, loading bays and car wash bays must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.
- (h) Headroom clearance for basement ramp, vehicular manoeuvring area throughout the basement shall be a minimum of 2.2m. Headroom above the disable car space shall be minimum 2.5m.

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- (i) Parking spaces must not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.2004.

23. **Storage**

Prior to issue of the Construction Certificate for the relevant stage of works

- (a) The plans submitted with the Construction Certificate shall demonstrate that accessible storage has been provided to all apartments in accordance with the following requirements from the Apartment Design Guide (ADG):
  - (i) The minimum storage area to be provided for each dwelling shall be:
    - Studio / 1 bed unit = 6m<sup>3</sup>
    - 2 bed unit = 8m<sup>3</sup>
    - 3 bed unit = 10m<sup>3</sup>
  - (ii) A minimum 50% of the storage space required by (b) above shall be provided in each apartment.
  - (iii) The storage areas located within the basement levels shall be of metal construction (mesh and/or solid metal) and must be provided with lock and key.
- (b) The storage areas required by (a) above must be provided in accordance with the above requirements prior to issue of any Occupation Certificate.

24. **Safer by Design**

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate, implemented prior to issue of any Occupation Certificate, and maintained for the lifetime of the development:

- (a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
- (b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
- (c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
- (d) Graffiti resistant materials shall be used to ground level external surfaces.

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- (e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
- (f) Display windows / glazing at the street front must not be frosted or otherwise obscured at eye level (e.g. by shelving) between the heights of 0.7m-2.1m in accordance with RDCP 2011.

25. **Noise Impacts & Attenuation**

The following must be complied with prior to issue of the Construction Certificate:

- (a) Plans and specifications showing details of all the constructions recommended in Section 6 of the acoustic report titled 'Aircraft Noise Impact Assessment Proposed Residential Development 1-3 Harrow Road, Bexley' prepared by Rodney Stevens Acoustics Dated 05 June 2017 Ref 160385R1 shall be submitted and approved by the Principal Certifying Authority prior to the release of the Construction Certificate.
- (b) Inter-Tenancy Acoustic Attenuation - Plans and specifications submitted with the Construction Certificate shall include all recommendations contained in an addendum or additional acoustic report prepared by a suitably qualified acoustic consultant that demonstrates compliance with the inter-tenancy floor and wall construction requirements contained in Rockdale Council Development Control Plan (RDCP 2011). The requirements are as follows:
  - (i) Flooring within the development shall achieve the following minimum equivalent Association of Australian Acoustical Consultants (AAAC) Star Rating within the below specified areas of the development:
    - (A) 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
    - (B) 4 Star for timber flooring in any area.
    - (C) 5 Star for carpet in any area.
  - (ii) Walls within the development shall be constructed to satisfy the requirements of the Building Code of Australia.
- (c) Noise from Mechanical Plant / Ventilation - A detailed acoustic assessment of all proposed mechanical services plant including fans, compressors, condensers, air-conditioning plant, basement ventilation, and exhaust systems for the commercial tenancies must be undertaken by a suitably qualified acoustic consultant prior to issue of the Construction Certificate to determine what acoustic treatments will be required to control noise emissions to achieve the noise emission levels detailed in the submitted Acoustic Report. The details shall be included in the plans and specifications submitted with the Construction Certificate.
- (d) A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership must certify that the details provided in the reports required by (b) and (c) above satisfy the requirements of this condition, with the certification to be submitted to the

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Principal Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

26. **Services**

- (a) Fire Boosters - The fire hydrant booster valves must not be relocated from the position shown in the approved plans, and shall also be screened with doors. The doors must be provided with appropriate locks and signage in accordance with AS2419.1. Any relocation of the Fire Booster location must be approved in writing by Council's Director of City Futures. A S96 application may be required.
- (b) Antenna / Satellite Dishes - The proposal may include the installation of a single master antenna for the development in accordance with Controls C1 and C2, Part 4.7 of RDCP 2011. No further antennas or satellite dishes may be installed without obtaining further approval (unless permitted as exempt development).

27. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention and pump system. The registered proprietor will:

- (i) permit stormwater to be temporarily detained by the system;
- (ii) keep the system clean and free of silt, rubbish and debris;
- (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
- (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
- (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
- (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.

28. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the traffic signal System.

29. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.

30. Noise from Mechanical Plant / Ventilation & Air Conditioning

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- (a) The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997. edo
  - (b) The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
  - (c) Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
31. Temporary dewatering of the site to enable the construction of the subsurface structure shall not be carried out unless a permit has been issued pursuant to the Water Management Act 2000, and, in the case where water is to be pumped into the public road, a permit has been issued pursuant to the Roads Act 1993. Applicant shall lodge an application for dewatering permit to Council prior to the commencement of work.
32. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
33. All existing and proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
34. (a) In order to ensure the design quality I excellence of the development is retained:
- (i) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
  - (ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
  - (iii) Evidence of the design architect's commission is to be provided to Bayside Council prior to issue of the Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
35. The approved completed landscape works shall be maintained for a period not less than 12 months.

On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal

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certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.

36. External Cladding

The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the relevant requirements of the NCC; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

37. The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2015 and the Australian Standard AS 4674 – 2004 “Design, Construction and Fit out of Food Premises”.

38. **Mechanical Ventilation Systems**

- (a) Mechanical ventilation systems must be installed for all residential habitable and other spaces in compliance with the National Construction Code (NCC Vol. 1, Part 4.5 Ventilation of Rooms) and Australian Standard AS1668.2- 2002 The use of ventilation and air-conditioning in buildings. Plans and specifications showing details of all the constructions of mechanical plants and services shall be submitted and approved by the Principal Certifying Authority prior to the release of the Construction Certificate.
- (b) A detailed acoustic assessment of all mechanical plants and services shall be undertaken by a suitably qualified and experienced acoustic consultant prior to the issue of a Construction Certificate. The acoustic report shall be submitted and approved by the Principal Certifying Authority prior to the release of the Construction Certificate.
- (c) The noise emission from all mechanical services and plants shall not give rise to an ‘offensive noise’ as defined under the Protection of the Environment Operations Act 1997.

**PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE**

The following conditions must be completed prior to the issue of any Construction Certificate.

39. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- (i) A Footpath Reserve Restoration Deposit of \$27,390.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and



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guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.

- (ii) An environmental enforcement fee of 0.25% of the cost of the works.
  - (iii) A Soil and Water Management Sign of \$18.00.
40. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
41. (i) An application for Driveway Works (Public Domain Construction – Vehicle Entrance/Driveway Application) / Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- (ii) Details also shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993 in relation to the following:
- (a) Extend existing drainage pipeline and construct 1 kerb inlet pit in Harrow Road as shown in the approved stormwater plans listed in Condition 2.
  - (b) The Albyn Lane road carriageway to be widened to accommodate 2 way traffic movement as shown in the approved architectural plans listed in Condition 2.
  - (c) Remove existing kerb and gutter along the property frontage in Albyn Lane and construct new kerb and gutter and road pavement along the Albyn Lane frontage as shown in the approved plans listed in Condition 2.
  - (d) Construct new concrete footpath along Albyn Lane property frontage. Footpath width to be a minimum of 1m as shown in the approved plans listed in Condition 2.
  - (e) Relocate existing light pole in Albyn Lane.
  - (f) All other relevant works included in the VPA.
42. **Section 94 - General**
- A Section 94 contribution of \$207,586.66 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate

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for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Open Space	\$179,456.92
Town Centre & Streetscape Improvements	\$3,560.43
Community Services & Facilities	\$9,473.32
Pollution Control	\$14,048.93
Plan Administration & Management	\$1,047.06

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

43. **Section 94 - Car Parking Deficiency**

A Section 94 contribution of \$59,795.72 shall be paid to Council. Such contribution is in lieu of providing two (2) carparking spaces within the development and is only used towards the provision or improvement of public carparking facilities in the vicinity of Bexley town centre. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges.

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

44. Prior to the issue of the relevant Construction Certificate, a Workzone Traffic Management Plan (WZTMP) prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (a) ingress and egress of vehicles to the site;
- (b) loading and unloading, including construction zones;
- (c) predicted traffic volumes, types and routes; and
- (d) pedestrian and traffic management methods.

Copy of the WZTMP shall be submitted to Council.

45. **Adaptable Units & Parking**

Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within two (2) residential units, and between these units and their allocated carparking spaces. The allocated parking space will be located in close proximity to the access points of the building. Please note that compliance with this condition requires the

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relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

**Note:** Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

46. Compliance with Council's Development Control (DCP) 2011 in relation to requirements for access. Compliance with this condition will require the design and fitout of the commercial/retail areas to be in accordance with Australian Standard 1428.1-2009.

**Note:** Compliance with Council's Development Control Plan (DCP) 2011 and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

47. All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. The applicant shall confer with Ausgrid to determine Ausgrid requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate and implemented prior to issue of any Occupation Certificate.
48. Prior to the issue of a construction certificate, the applicant is to obtain a controlled activity approval with respect to the development (including in respect of any temporary activities involving construction and use of cranes) pursuant to section 183 of the Airports Act 1996 (Cth). Alternatively, prior to the issue of the construction certificate, the applicant is to submit evidence to Council's written satisfaction demonstrating that a controlled activity approval is not required to carry out the development.
49. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap inTM online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

50. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.

51. **Geotechnical:**

Prior to the issue of any construction certificate all recommendations contained in the report prepared by Alliance Geotechnical Pty Ltd, Report Number: 2968-GR-1-1, Report Date: 30th May 2017 shall be implemented.

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A qualified and experienced Geotechnical Engineer be engaged prior to the issue of any construction to provide further input and review during the design development, including site visits during construction to verify the site conditions and provide advice where conditions vary from those assumed in this report.

Development of an appropriate inspection schedule and testing plan should be carried out in consultation with the Geotechnical Engineer. Geotechnical engineer shall provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and prepare a detailed construction methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure.

The report and certificate must be submitted with the application for a Construction Certificate for the relevant stage of works. Geotechnical engineer shall inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer. Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

52. A Construction Management Plan (**CMP**) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction. Copy of the CMP shall be submitted to Council
53. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.
  - (i) The basement ramp profile to be modified to provide a crest level to protect the basement from flooding due to street surface flow. (crest to have 100mm freeboard over the street flow level).
  - (ii) Proposed drive over bund in the basement driveway entry to be relocated within the site boundary.
54. Prior to the issue of the Construction Certificate, detailed drainage design plans generally in accordance with stormwater drainage plan listed in Condition 2 for the management of stormwater are to be submitted to Certifying Authority for assessment and approval.

Additional details shall be provided as below:

- (i) Stormwater drainage details for the loading bay and communal open area to be demonstrated. A minimum 300mm wide grated drain to be provided within the loading area to capture surface flow and this flow to be directed to the proposed belowground detention system.
- (ii) Oil separator shall be incorporated in accordance with section 7.5.4 of Rockdale Technical Specification – stormwater management.

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Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

Drainage grates shall be provided at the lowest point in the driveway access. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.

Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to: Project Engineer, External Works

Email Suppiah.Thillai@rms.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114.

**Prior to commencement of works**

The following conditions must be completed prior to the commencement of works.

55. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
56. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

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## 57. RMS - support of road during construction works

The applicant shall submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of excavation / construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works  
Email [Suppiah.Thillai@rms.nsw.gov.au](mailto:Suppiah.Thillai@rms.nsw.gov.au)  
Telephone 8849 2114

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

## 58. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.

## 59. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (i) stating that unauthorised entry to the work site is prohibited, and
- (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed.  
This condition does not apply to:
  - (iii) building work carried out inside an existing building or
  - (iv) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

## 60. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.

## 61. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.

## 62. Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government Act 1993 for a Barricade Permit is to be obtained from Council prior to commencement of work. Details of the

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barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

63. (a) A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
- (i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - (ii) building involves the enclosure of a public place,
- (b) Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.
- (c) Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:
- (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
  - (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -

- (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
  - (ii) have a clear height above the footpath of not less than 2.1m;
  - (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
  - (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa. The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids. Any such hoarding, fence or awning is to be removed when the work has been completed.
- (d) The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

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64. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
65. Prior to the commencement of work vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

The principal contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

Note: Professional engineer has the same meaning as in Clause A1.1 of the BCA. Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".

Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

**During demolition / excavation / construction**

The following conditions must be complied with during demolition, excavation and or construction.



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66. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
67. Hours of construction shall be confined to between 7.00 am and 6.30 pm Mondays to Fridays, inclusive, and between 8.00 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
68. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
- Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
69. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
70. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan prepared by Elephants Foot dated 9 June 2017.
71. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
- (i) After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - (ii) Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - (iii) Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - (iv) On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
  - (v) On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
72. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

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When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- (i) preserve and protect the building from damage and
- (ii) underpin and support the building in an approved manner, if necessary and
- (iii) give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

73. When soil conditions require it:

- (i) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
- (ii) adequate provision shall be made for drainage.

74. All contractors shall comply with the following during all stages of demolition and construction:

- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.

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- A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
75. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.
76. The following conditions are necessary to ensure minimal impacts during construction:
- (i) Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
  - (ii) Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
  - (iii) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
  - (iv) Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
  - (v) Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
  - (vi) Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
    - (a) spraying water in dry windy weather
    - (b) cover stockpiles
    - (c) fabric fences
  - (vii) Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be

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provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

An all weather drive system or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

In addition builders / demolishers are required to erect a 1.8m high fence along the whole of the street alignment other than at the two openings. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifying Authority, prior to the demolition of the existing structures and commencement of building operations.

- (viii) Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.

77. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
78. All existing trees located within the site may be removed.
79. Trees located within adjoining properties shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.

**PRIOR TO ISSUE OF OCCUPATION CERTIFICATE OR COMMENCEMENT OF USE**

The following conditions must be complied with prior to issue of any Occupation Certificate or Commencement of Use.

80. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.

81. **Voluntary Planning Agreement Obligations**

Prior to issue of any Occupation Certificate all obligations under the Voluntary Planning Agreement (VPA) that must be completed. All works must be completed in accordance with the agreed specifications and/or standards as detailed in the VPA and/or in accordance with information submitted to, and approved by, Council's Director of City Futures.

82. **Dedication to Council for Road Widening**

Prior to the issue of any Occupation Certificate, the section of road and footpath along Albyn Lane shall both be dedicated to council to have a clear property boundary as proposed in the draft Stratum Subdivision Plan prepared by Joseph Monardo, registered

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surveyor, issue date 21/3/2018, and as detailed in the approved Ground Floor Plan prepared by Dickson Rothschild (Referenced in Condition 2). The footpath shall also be dedicated to provide a clear lot boundary and less confusion with future maintenance.

Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office prior to issue of any Occupation Certificate.

This includes provision of subdivision certificate, admin sheet, utility services plan and 88b document with easement and covenants for the land dedication to Council for road widening purposes.

83. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of any Occupation Certificate.
84. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection and the issue of any Occupation Certificate.

Note: Burning on site is prohibited.

85. By-Laws

Prior to issue of any Occupation Certificate, a by-law shall be registered and maintained for the life of the development, which requires that:

- (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
- (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
- (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2. A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.
- (d) An owner of a lot that contains a landscape planter box must ensure that the planting is maintained and is in a healthy condition in accordance with the approved Landscape Plans listed in Condition 2 of this consent at all times.

Proof of registration of the By Law shall be submitted to Council prior to the issue of any Occupation Certificate.

86. Prior to the issue of any occupation certificate, ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.

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87. The two existing lots shall be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to issue of any Occupation Certificate.
88. Trading in the non-commercial premises shall not commence until a final fit out inspection has been carried out by Council's Environmental Health Officer and all conditions of consent have been complied with. Council's Environmental Health Officer shall be given 2 business days advance notice of an inspection.
89. **Landscape Completion / Certification / Ongoing Management**
- Prior to the issue of any Occupation Certificate:
- (a) All landscape works are to be carried out in accordance with the approved landscape plans, including the provision of new street trees and ground level planting within Harrow Road.
  - (b) A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
  - (c) The approved landscaping is to be maintained to the approved standard at all times.
90. Prior to issue of any Occupation Certificate, all works within the road reserve which are subject to approval pursuant to Section 138 of the Roads Act 1993 shall be completed and accepted by council.
91. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to the issue of any Occupation Certificate.
92. At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of Sydney Airport of the finished height of the building.
93. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of any Occupation Certificate.
94. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times". This condition is to be complied with prior to the issue of any occupation certificate and is ongoing for the life of the development.

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95. Prior to completion of the building works and the issue of any occupation certificate, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
96. Prior to the issue of any occupation certificate, convex mirrors shall be installed at the entry of the basement, at all sharp bends and black spots within the basement to provide increased sight distance for vehicles and pedestrians.
97. Prior to the issue of any Occupation Certificate, bollard(s) must be installed by the Developer in the shared space located adjacent to each of the accessible car parking spaces to prevent use of these areas for car parking.  
  
Bollards are to be constructed from steel pipe minimum 100mm diameter, domed at the top and filled with concrete. They are to protrude 1100 mm out of the ground, painted white, with reflectors attached. Future maintenance will be the responsibility of the owner and/or occupier.
98. Prior to the issue of any Occupation Certificate, 34 off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Certifying Authority's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
99. Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.  
  
It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.  
  
Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
100. Prior to the issue of any occupation certificate, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
101. **Noise Requirements - Compliance**
  - (a) Prior to issue of any Occupation Certificate, a Certificate of Compliance prepared by a suitably qualified and experienced acoustic consultant must be submitted to the Principal Certifying Authority (PCA) validating that:
    - (i) The proposed development must comply with the indoor sound levels criteria given in AS2021-2015 and SEPP Infrastructure 2007.
    - (ii) The acoustic treatment measures specified in the report titled 'Aircraft Noise Impact Assessment Proposed Residential Development 1-3 Harrow Road, Bexley' prepared by Rodney Stevens Acoustics Dated 05

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June 2017 Ref 160385R1, and the acoustic requirements of all additional / addendum acoustic reports required by Condition 25, have been implemented in accordance with the recommendations contained in the reports.

- (b) If Council is not the PCA, a copy of the Certificate of Compliance required by (a) above must be submitted to Council prior to issue of any Occupation Certificate.

102. **Harrow Road Street Tree & Landscape Planting**

Prior to the issue of any Occupation Certificate:

- (a) Three (3) street trees - *Corymbia maculata* - with minimum height 1.4 metres and pot size 75-100 litre, shall be installed in the Harrow Road nature strip at 8 metre centres by a qualified landscape contractor. The tree/s shall be sourced from a reputable supplier that grows to NATSPEC.
- (b) Verge plantings of low shrubs and groundcovers to Harrow Road shall be planted, with a minimum 90 x *Dianella caerulea* and 90 x *Lomandra 'Lime Tuff'* shall be installed in the Harrow Road nature strip, additional groundcovers such as *Brachyscome multifida* and *Chrysocephalum apiculatum* may also be used.
- (c) Trees shall be sourced from a reputable supplier that grows to NATSPEC.
- (d) A Dial-Before-You-Dig enquiry is required prior to all tree planting.
- (e) The trees shall be planted in an area measuring 1 metre square, backfilled with imported soil/compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of 100mm. The trees are to be staked in accordance with Council's Landscape DCP and NATSPEC recommendations.
- (f) A minimum of two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post planting.
- (g) The Applicant is required to obtain a Council inspection of new trees prior to issue of any Occupation Certificate.

103. Prior to the issue of any occupation certificate or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.

104. On completion of the installation of the mechanical ventilation systems and prior to the issue of any Occupation Certificate, a certificate of completion and performance from the design engineer shall be submitted to Council certifying that the system has been installed, inspected, commissioned, tested and performs in accordance with Australian Standards AS1668.

105. Prior to the issue of any occupation certificate a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-



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as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.

106. Prior to issue of any Occupation Certificate, the following covenants shall be created on the title:
- (i) A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
  - (ii) A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the traffic signal facility to provide for the maintenance of the facility.
  - (iii) A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the water treatment device to provide for the maintenance of the facility.

Documents giving effect to the creation of a restriction on use shall be submitted to the Council for approval prior to lodging with Land and Property Information NSW.

Bayside Council is to be named in the instruments as the only party authorised to release, vary or modify the instrument. The documents are to be prepared at the sole cost of the proponent.

107. Prior to the issue of any occupation certificate, signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".

**108. Geotechnical**

Prior to the issue of any occupation certificate, a Chartered Professional Engineer competent in geotechnics shall certify that the construction works has been constructed in accordance with the approved geotechnical and structural report and include an evaluation of the completed works. A copy of the certificate shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.

**109. Albyn Lane - Road Signage**

Prior to the issue of any occupation certificate detailed documentation shall be submitted to, and approved by, Bayside Traffic Committee for the replacement of existing 'no parking' with 'no stopping' signs. The Applicant shall contact Council's Coordinator Traffic and Road Safety for the proposed road sign changes.

**Prior to issue of subdivision certificate**

The following conditions must be complied with prior to the issue of the Subdivision Certificate or the Strata Certificate.

110. The stratum subdivision is to occur in accordance with this Consent (DA-2017/373) and any subsequent Section 96 modifications.
111. A Subdivision Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted to Council prior to lodgment with the Land and

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Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.

112. The submission and approval of a subdivision certificate application for the proposed road dedication detailed in the conditions of this consent. In this regard, a fee is payable in accordance with Council's current adopted Fees and Charges.
113. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Subdivision/Strata Certificate.

**Roads Act**

114. The following works will be required to be undertaken in the road reserve at the applicant's expense:
  - (i) construction of a concrete footpath with minimum width of 1.0m and variable in accordance with approved architectural plans listed in condition 2 along the frontage in Albyn Lane of the development site;
  - (ii) construction of two new fully constructed concrete vehicular entrances;
  - (iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - (iv) construction of kerb and gutter and road pavement along Albyn Lane;
  - (v) removal of any redundant paving.
115. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
116. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
117. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to

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Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.

118. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).
119. All works associated with the proposed development shall be at no cost to the RMS.

120. **Awning**

The following details shall be submitted to the Principal Certifying Authority (PCA) for assessment and approval pursuant to Section 138 of the Roads Act 1993, in relation to the awning over Council's footpath in Harrow Road.

- (i) Detailed design plans and specifications, including structural details; and
- (ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).

Note: Awnings are required to comply with the requirements under Rockdale Development Control Plan 2011 clause 5.3 (53 to 57). The minimum height from footpath level is 3.3m. The minimum setback from the kerb face is 600mm. Drainage from the awning shall be connected to the stormwater system for the development.

Following completion of the installation of the awning a certificate from a Chartered Professional Engineer (Structural) shall be submitted to the PCA stating that the awning has been constructed in accordance with the design plans and specifications.

Copies of the approved documents and certificates shall be submitted to Council.

121. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
- (a) choosing quiet equipment
  - (b) choosing alternatives to noisy activities
  - (c) relocating noise sources away from affected neighbours educating staff and contractors about quiet work practices informing neighbours of potentially noise activities in advance
  - (d) equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.

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122. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
123. The development is to be carried out in accordance with the Waste Management Plan prepared by Elephants Foot dated 9 June 2017.

**DEVELOPMENT CONSENT ADVICE**

- (a) Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- (b) You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- (c) Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

- (d) Telstra Advice - Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Commonwealth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800810443.

- (e) If any Section 88B/E Instrument required by these conditions contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.

Outcome Date: 06 Apr 2018

## Clause 4.6 Variation Height of Buildings

Clause 4.3 – HOB  
Rockdale Local Environmental Plan 2011

Proposed Residential Flat Building  
1 – 3 Harrow Road,  
Bexley

Project 15-100  
8 February 2018  
Revision A

Prepared by Dickson Rothschild  
65-69 Kent Street  
Millers Point NSW



Rev	Description	DATE	AUTHOR	CHECK
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**Dickson Rothschild** | Clause 4.6 Variation – 4.3 HOB | Page 2

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## 1 Introduction

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This request is part of the Statement of Environmental Effects supporting the proposed residential flat building development at 1- 3 Harrow Road, Bexley.

The maximum height of the proposed development is 20.31 m at the lift overrun of the building, resulting in a maximum non-compliance of 1310mm, an 6.8% variation to the LEP HOB control of 19m. The lift overrun is located within the central portion of the site. The lift overrun has an area of 6m<sup>2</sup> approximately with a height of 4050mm. Other areas of non-compliance occur; however, the exceedance is less. This includes:

- 330mm - 431mm exceedance at the edge of the parapet (only) on all sides of the building of Level 6.

The height non-compliance does not arise out of additional floor space as the proposed development complies with the applicable FSR control. The site also complies with the minimum frontage requirement and site areas set out in the LEP as well as all other provisions of the LEP, SEPP 65 and the ADG.

The additional height arises out of meeting the FSR control and achieving a residential density set out by Council's Residential Strategy based on the high level of accessibility of the site. The additional height is also crucial to meeting the design quality principles of SEPP 65 and the objectives, criteria and guidance of the Apartment Design Guide (ADG).

The exceedance in HOB improves the overall amenity of the building by creating an additional storey with a very high level of amenity as well as an accessible roof top garden and communal open space with necessary services (lift overrun) which contributes to the height non-compliance. The top residential level has deliberately been designed through setback and external articulation to reduce the appearance of additional height and results in minimal environmental impacts. The top floor comprises 1 x 3 bed unit, which is dual aspect, cross ventilated and receives greater than 3 hrs sunlight.

Given the strategic location of this gateway site, its high accessibility level and Council's vision to provide increased housing types and density (Rockdale City Urban Strategy 2010), it is considered acceptable and logical that a building of this type in an area earmarked for regeneration through new planning controls (ie bonus height and FSR) achieves a residential density which takes full advantage of the density control (2.5:1 - LEP 2011) for the site and achieves a better residential amenity, without increased adverse environmental impacts in comparison to a building which complied with the height limit.

A development proposal that is compliant with the HOB standard would either:

- represent an underutilisation of a site with high accessibility levels which has the potential to contribute to a high quality outcome in an urban location that achieves good amenity, protects the privacy of neighbouring properties, has high quality communal open space and an appropriate spatial arrangement; or



- represent a lower, squatter building with less amenity, less built form articulation and the like. Such a building, which would be 1-2 storeys lower, would create increased privacy impacts to neighbouring buildings to the north west and only a very negligible reduction in overshadowing impacts to buildings to the south. The taller, more articulated building results in a better built form outcome that addresses the prominent street corner.

This written request is made pursuant to Clause 4.6 of Rockdale LEP 2011, relevant judgements in the NSW Land and Environment Court, and justifies why compliance with the HOB development standard in the LEP is unreasonable in the circumstances of the case, and demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard. This request also explains how the proposal is consistent with the B4 Mixed Use Zone. And that a demonstrable public benefit is proposed in the form of land being dedicated to Council to permit road widening and a pedestrian footpath.

For the reasons set out, a minor contravention of the development standard is considered appropriate for the site, raises no matter of significance for State or regional environmental planning and there is no public benefit in maintaining the development standard in this particular case.

## 1.1 Clause 4.6

Clause 4.6 of Rockdale LEP 2012 states:

### 4.6 Exceptions to development standards

(1) *The objectives of this clause are as follows:*

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

(a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

(b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Secretary has been obtained.*

(5) *In deciding whether to grant concurrence, the Secretary must consider:*

*(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

*(b) the public benefit of maintaining the development standard, and*

*(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

(6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*

*(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

*(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

*Note. When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.*

(7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*

(8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*

*(a) a development standard for complying development,*

*(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*

*(c) clause 5.4.*

*(ca) clause 4.3 (2A), 4.4 (2A), (2B), (2C) or (2D), unless it is for a demonstrable public benefit, such as the provision of pedestrian links,*

*(cb) clause 4.3A.*

### 1.1.1 Clause 4.6 Variation Criteria

As described above, there are two key elements which must be demonstrated to justify contravening a development standard. The first element set out in Clause 4.6 (3)(a) states:

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

The planning principle set out in *Wehbe v Pittwater Council (2007)* provides an accepted method for justifying that compliance with the development standard is unreasonable or unnecessary. This method is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the numerical standard ("...development standards are not ends in themselves but means of achieving ends") is undertaken.

A description of how the proposed development meets the objectives of the HOB development standard under LEP 2011 as well as the objectives of the B4 Mixed Use Zone are provided below. This also satisfies Clause 4.6 (4)(a)(ii). The second element to be satisfied which is set out in Clause 4.6(3)(b) states:

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

After demonstrating that the proposed development meets the objectives of LEP, including objectives of the B4 Mixed Use Zone under the LEP, environmental planning grounds are set out to justify contravening the development standard. In deciding whether to grant concurrence, Council must consider whether contravention of the development standard raises any matter of significance for State or regional environmental planning, the public benefit of maintaining the development standard, and any other matters required to be taken into consideration by the Secretary before granting concurrence.

We are not aware if there are any "other matters" required to be taken into consideration under subclause (5)(c) and assume there are none. It is assumed that Council has the delegated authority of the Secretary in this regard.

Additionally, further planning principles established by the decision in *Four2Five Pty Ltd v Ashfield Council (2015)* means that merely showing that the proposed development achieves the objectives of the development standard is insufficient to justify that the proposal is unreasonable or unnecessary under an objection under Clause 4.6, (3)(a) specifically. The proposal is to demonstrate that the circumstances under which the variation is considered sufficient on environmental planning grounds is to the site. Succinctly, the proposal is to demonstrate that breach of the development standard outweighs compliance.

### 1.1.2 Standard from Which Variation is Sought

The request will address the proposed development's non-compliance to the recently adopted Rockdale Local Environmental Plan 2011(HOB) standard. The LEP adopted a HOB of 19m, the proposal has maximum HOB of 20.31m resulting in a maximum non-compliance of 1310mm. This occurs at the proposed lift overrun at the central portion of the site. The lift overrun has an area of 6m<sup>2</sup> approximately. Other areas of non-compliance occur but the exceedance is much less. This includes:

- 330mm – 431mm exceedance at the edge of the parapet on all sides of Level 6

The extent of height non-compliance varies slightly across the site due to the topography of the site. The extent of the non-compliance can be seen on Sections A-A & B-B which are reproduced below as well as a 3D axonometric diagram which indicates the areas of the building which protrude above the 19m height plane. In each figure the 19m height plane is indicated in red.

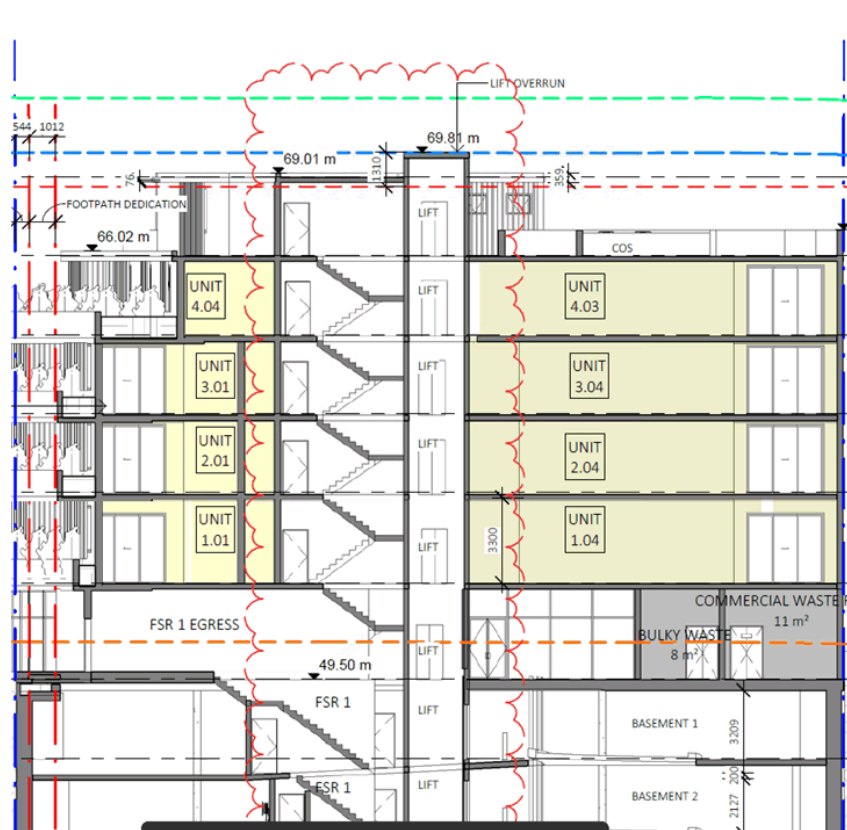


Figure 1: Excerpt Section AA (above)

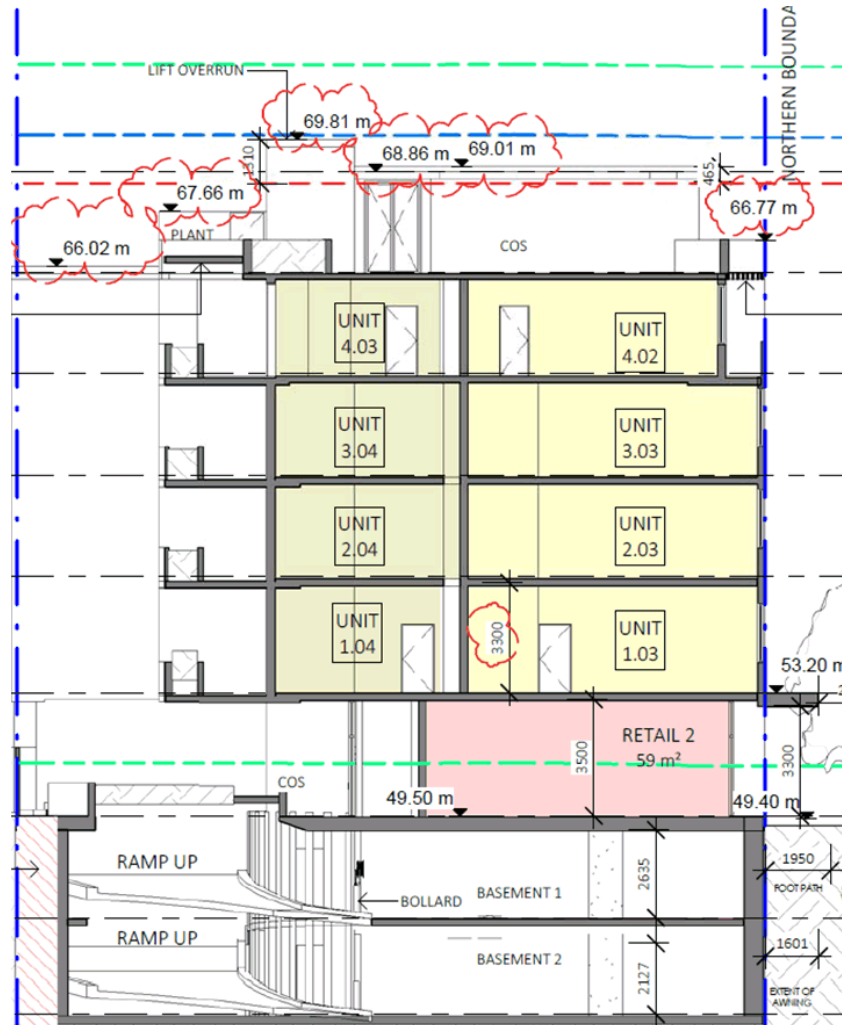
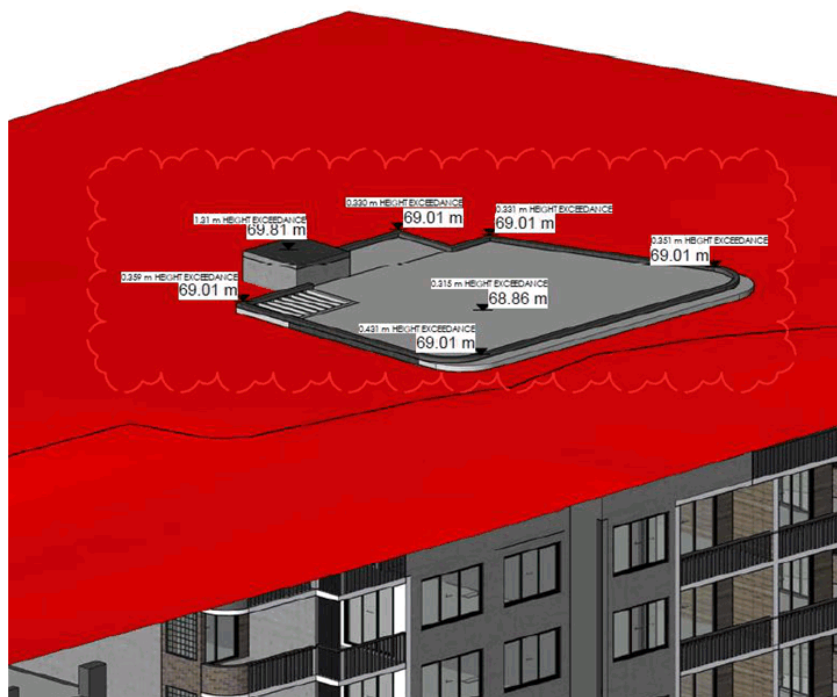


Figure 2: Section BB (above)



**Figure 3: Height Exceedance diagram, DA-951**

The exceedance occurs over the uppermost part of Level 6, a Level which is setback 11.4m from the centre of Albyn Lane, up to 13m from the rear boundary and 2m from Harrow Road. The rooftop garden is setback beyond 1000mm from the southern side boundary and Harrow Road, and in excess of 6m from the rear boundary. The height non-compliance does not arise out of additional floor space because the proposed development complies with the applicable FSR control. Thus, although the variation is at 6.8% over the small part of the site where the lift overrun occurs, the variation is less than 1.5% at the street edge of Harrow Road and Albyn Lane.

Removing the rooftop garden or the top residential unit would permit the proposal achieving the LEP HOB limit, however would remove a residential level that achieves a high level of residential amenity and provides a high quality common open space. The proposed development has been designed efficiently and achieves good amenity for each apartment. The design demonstrates that a development which complied with the height limit would be significantly below the applicable FSR, resulting in the underutilisation of the strategically located site, or would be at odds with the principles of SEPP 65. In short, the height control for the site is a major constraint on achieving an orderly and economic development on the site.

In the formulation of development controls, FSR is the fundamental factor in determining the land use density in a particular area. This is particularly the case in the Rockdale LGA where the Residential Strategy is the key document which underpinned the LEP, a strategy which is based on delivery of dwelling units and residential floor space. In the case of the subject site, it is located

within the Bexley Town Centre and 1.8km from the Rockdale Plaza Shopping Centre boundary. The site is very well located to contribute to housing supply given its high degree of accessibility and its location in a regionally significant area, earmarked for increased density. The site has been assembled through the purchase of two (2) separate allotments and achieves the minimum frontage requirements set out in the DCP for medium density residential development. Given the locational attributes of the site, it should be developed to its applicable density, contributing to housing supply and choice.

The proposed development complies with the FSR control (2.5:1) for the site and has a residential density of one dwelling per 20 m<sup>2</sup> of site area, which is appropriate to its level of accessibility.



## 2 Grounds for Clause 4.6 Variation

Justification in accordance with *Wehbe v Pittwater Council* (2007) and *Four2Five Pty Ltd v Ashfield Council* (2015) is set out below demonstrating that the proposed development achieves the objectives of the B4 Mixed Use Zone and HOB objectives. The request will demonstrate that the numerical non-compliance with the HOB Limit set out in LEP 2011 and that the proposed HOB exceedance provides a better development outcome on the site than if compliance with the HOB was achieved.

### 2.1 Meeting the Relevant Objectives of LEP 2011 (Clause 4.6(4)(a))

The LEP Clause 4.3 Height of Buildings objectives are:

- (a) *to establish the maximum limit within which buildings can be designed and floor space can be achieved,*
- (b) *to permit building heights that encourage high quality urban form,*
- (c) *to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,*
- (d) *to nominate heights that will provide an appropriate transition in built form and land use intensity.*

### 2.2 Assessment against the relevant objectives of the Development Standard – Clause 4.3 – Height of Buildings, LEP 2011

The proposal is consistent with the objectives for development within the zone as explained below:

- (a) *to establish the maximum limit within which buildings can be designed and floor space can be achieved,***

The subject site is located within an area along Harrow Road with a B4 Mixed Use zoning, height of buildings of 16m +3m (bonus) where sites exceed 600sqm in area and an FSR development standard of 2:1 + 0.5 (bonus) where sites exceed 600sqm (LEP 2011). Under the LEP the sites surrounding the area have the same zoning, base HOB and base FSR as the subject site. The predominant height non-compliance occurs at the lift overrun. This element is setback from the edge of the building and does not give rise to visual or overshadowing impacts. It is clear from the shadow diagrams which form part of the application that the overrun does not cause overshadowing. Further, it is clear from the photomontages that the overrun is not visible from the Harrow Road or Albyn Lane.

In developing the subject site to its maximum FSR, housing is supplied on a site away from low density areas and within an easy walk of a strategic centre and railway station. In providing more housing on the subject site, pressure to increase densities in the surrounding low density areas

on the opposite side of Harrow Road is reduced. In permitting the additional height, this housing provides better amenity. It achieves better amenity through reduced floor plates, reduced apartment depths, increased articulation and a high quality and accessible open space on the roof.

The height exceedance is directly related to achieving the applicable FSR control of  $2.0 + 0.5:1$  which is the main arbiter of density. Delivering housing in accessible locations is the key objective of Rockdale's Residential Strategy which in turn was the underlying study which supported the LEP.

The height proposed allows for significantly better residential amenity with more building articulation, building separation and a high amenity rooftop garden with disabled access. A building which complied with the height limit would either:

- be significantly below the FSR control and represent an underutilisation of a site with high accessibility levels which has the potential to contribute to a high quality outcome in an urban location that achieves good amenity, protects the privacy of neighbouring properties, has high amenity communal open space and an appropriate spatial arrangement; or
- represent a lower, squatter building with less amenity, less built form articulation and the like. Such a building, which would be 1-2 storeys lower, would create increased privacy impacts to neighbouring buildings to the north west and only a very negligible reduction in overshadowing impacts to buildings to the south. The taller, more articulated building results in a better built form outcome that addresses the prominent street corner.

The height is directly related to achieving good amenity on a highly accessible site. The height is appropriate to the prominent corner position, pushing built form towards both Harrow Road and Albyn Lane, defining the building.

Overall, the proposed development does not hinder the attainment of this objective due to the particulars of the site including its central position within the town centre.

**(b) to permit building heights that encourage high quality urban form,**

The subject site is permitted a base building height of 16m plus an additional 3m as the amalgamated site exceeds 600sqm in area. Therefore, a maximum building height of 19m is permitted under LEP 2011. The proposed building is predominately located under the height limit of 19m, except for the lift overrun which protrudes approximately 1380mm above.

The proposed development provides a 3.3m floor to ceiling height on the ground floor and level 1, providing upper level setbacks to ensure the building relates to the existing lower scale, shop-top housing developments and single dwellings. The built form is concentrated towards the corner of Harrow Road and the laneway, defining the street corner and maximising the street level activation. The building incorporates upper level setbacks from the laneway to ensure adequate separation is provided between the residential apartments on levels 1 - 3 of the neighbouring building.

Built form is arranged in a modular, geometric arrangement to the primary glass line, creating a high level of articulation when viewed from Harrow Road. The architectural balustrade elements and planter boxes to the edge of levels 1 - 4 help to distinguish the building and establish a softer built form, reminiscent of a residential rather than commercial setting. The building takes on a curvilinear form at the edge of Harrow Road and the laneway, defining the street corner and establishing a prominence that will set a precedent for future redevelopment.

The design maximizes the available FSR and Height, however locates the top storey within the centre of the building to minimize the bulk presenting to the street.

The proposed additional height has no additional visual impact. The lift overrun is well setback from the level below. Only a small portion of the uppermost level exceeds the height limit and does not give rise to a material increase in visual impact. The additional height sought allows for the building to achieve a high degree of building articulation including recessed in the facade which breaks down bulk and scale but maintains a prominent corner address at the intersection of harrow Road and Albyn Lane. The visual quality of the proposed development is generally improved by the height non-compliance because it allows for a better distribution of floor space and thus the height contributes to a better built form outcome with a reduced visual impact on the locality. The upper storey of the proposed development has a lesser visual impact than the lower levels where people experience the building at street level. In creating additional height, the lower levels of the building have appropriate building separation and greater visual breaks.

**(c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,**

**Overshadowing and daylight**

The proposed additional height sought does not give rise to additional shadow impacts because the area of greatest non-compliance occurs at the lift overrun which is located at the centre of the

building and well setback from the level below and thus has no shadow effect. This means that overshadowing impacts arising from the non-complying part of the building is negligible.

The lift overrun does not cause overshadowing by virtue of its position at the centre of the building. The shadow cast by the lift overrun sits within the subject site. Refer to the three figures below. Note: The shadow diagrams have been updated to reflect the correct position of the north point, thus the location of the DA lodged shadow (shown in red) and the proposal (shown in green) are different. Further, the shadow cast by the revised diagrams highlight a reduction in the shadow cast onto neighbouring properties.

With regard to sky exposure and daylighting, the proposed building is located north of an existing Council Carpark and laneway which provides access to garages and the rear of shops which front Forest Road. Thus, the additional height sought will not result in a loss of daylight to buildings, key areas and the public domain.

**Figure 4: June 21, 9 a.m. shadow (excerpt DA-951) - below**

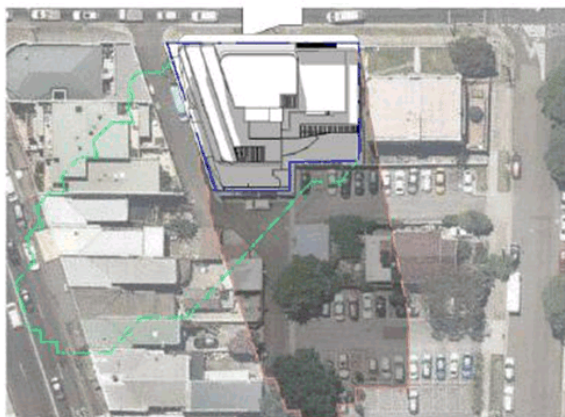


Figure 5: June 21, 12 p.m. shadow (excerpt DA-951) - below

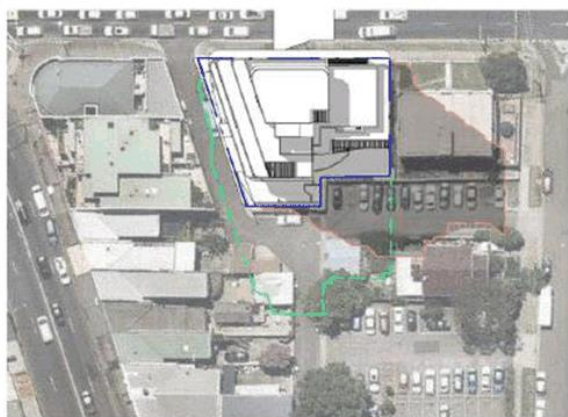


Figure 6: June 21, 3 p.m. shadow (excerpt DA-951) 0 below



(d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

In terms of intensity of development, the proposed development is fully consistent with the desired future intensity of development as set out in LEP 2011. The FSR set out in the LEP is the key control of intensity. This FSR control is underpinned by Rockdale's Residential Strategy.

The proposed height non-compliance allows the proposed built form to meet the applicable FSR control of 2.5:1 while achieving an appropriate built form outcome with a clear net community benefit. The height non-compliance arises because a rooftop common open space is proposed which is a significant amenity enhancement for the site and a type of common open space appropriate to a high density setting. This rooftop garden does not

increase the intensity of development but only enhances the amenity of the proposed development. The provision of a large roof garden also reduces demands of public open space as it provides an alternative, usable open space with excellent solar access on the site itself.

The proposed development achieves a transition in bulk and scale within the existing context by increasing building setbacks to Albyn Lane as the building rises reducing bulk and scale overall and ensuring a high level of articulation and modulation of the façade and street corner. A nil setback is provided to the southern side boundary to encourage a continuous street wall to be established once the site at 5 Harrow Road is developed. No. 5 Harrow Road is unable to take advantage of the HOB and FSR incentives 19m (16m +3m) and 2.5 (2.0:1 + 0.5:1), however is still permitted HOB of 16m and FSR of 2.0:1. The standard HOB and FSR controls of 5 Harrow Road will provide a better transition in bulk and scale to the adjacent site at no. 14 - 16 Harrow Road (currently 4 storey RFB) which is restricted to a max HOB of 14.5m and FSR of 1.0:1, than what the incentive provisions encourage.

The extent of non-compliance to the height will not result in an inconsistent built form outcome in the area. The additional storey fronting Harrow Road and Albyn Lane creates a 6-storey building rather than a 5-storey building and will make no material difference to the quality of the streetscape and the overall appearance of bulk and scale. The lift overrun gives rise to the entire numerical non-compliance and is not visible. The façade is designed to achieve a unified composition with a modular design and visually appealing proportions along with a high degree of articulation and corner address. The overall composition creates a scale of built form appropriate to the site's position and strategic location in a Mixed use zone, meeting the Objective of the Zone.

## 2.3 Assessment against the relevant objectives of the B4 Mixed Use Zone

### **B4 Mixed Use –**

The objectives of the B4 Zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposal is consistent with the objectives for development within the zone as explained below.

- *To provide a mixture of compatible land uses.*

The B4 Mixed Use is a zone suited to achieving flexible land use as it permits residential development where a quantum of commercial/business floor space is proposed. The proposal meets this objective through its use of the entire ground floor for retail purposes which can house a range of business types and employment opportunities. The proportions of the proposed built form emphasize the first two storeys of the development to achieve compatibility with the existing

adjoining development. The proposed development further achieves compatibility with the adjoining developments by offering a ground floor retail area that is similar to other mixed use developments in the same zone or similar zones nearby and provides a continuous awning to Harrow Road at an appropriate height. The proposed HOB non-compliance contributes to increasing both commercial and residential floor space offerings on the site to achieve Council's envisioned density for the land without compromising on the desired residential amenity of upper levels or the provision of adequate servicing areas at ground level. Also, the additional height allows for more units up higher which shall have better solar access than levels which were placed lower, particularly at Albyn Lane where building separation is a key constraint.

The proposed retail tenancies are of size that is conducive to a multitude of compatible business uses including specialty retail, office and light industry. It provides maximum flexibility with opportunities for people to run different types of business on the site.

The site's strategically important location, being at the nexus of important urban elements including employment lands, major centres, public transport, Forest Road and regionally significant open space areas, provides an opportunity to provide a threshold of viable residential density that will support state directives for increased residential densities near train stations and town centres.

The proposed development therefore meets the objective. The height non-compliance contributes to achieving a good level of amenity over the residential areas of the development within a mixed use zone.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

Mixed use/shop top housing developments are permissible in this zone (only through the implementation of commercial/retail uses in the proposal). The proposed development includes a number of retail uses at the ground floor which provides employment opportunities in a highly accessible location near major roads and public transport infrastructure, including the Rockdale Train Station and major bus stops along Forest Road which are within 400m of the site. As stated previously, the retail tenancies will be able to cater for a range of business uses. The proposed additional height sought is directly linked to achieving increased residential yield and amenity for the development, which in turn will contribute to public transport patronage, and thus walking and cycling to access the train station and the amenities provided within the adjacent Bexley Town Centre.

## **2.4 Development Standard is Unreasonable or Unnecessary (Clause 4.6(3)(a))**

### **2.4.1 Local and Regional Strategic Priorities**

The maximum permitted HOB under the LEP to which this Clause 4.6 variation relates to, hinders the development outcome that is aligned to the strategic vision for the site and the wider precinct.

It is noted that the zoning of the site is immediately tied to a residential strategy rather than a built form strategy. The proposed development has created a building which achieves the residential strategy objectives while addressing SEPP 65.

The site is located just a little over a 12 minutes' walk from Rockdale Train Station. It is within close proximity to major employment, health and education, and various retail centres. It also has good access to local and regional recreational open space areas. The importance of Bexley as a small, but vital Town Centre halfway between Bexley North and Rockdale, with increased housing densities has only been strengthened by the Plan for Growing Sydney which was released in 2014. If the residential site was developed below its permitted density, the development would conflict with the underlying objectives of the Plan for Growing Sydney to maximise the number of dwellings in accessible locations and to concentrate intensity in strategic centres. If the site was developed to its applicable density but under the height limit, the amenity of the proposed dwellings would be reduced.

#### **2.4.2 The Particulars of the Site**

The site is located at the northern end of the "Bexley Town Centre". This precinct is earmarked as a small mixed use commercial precinct with heights of up to 6 storeys (19m) and FSRs of up to 2.5:1. As such the area is undergoing transition.

The existing local built form character in the area is eclectic, however the predominant built form comprises mid 1900's 2-3 storey shop top housing along Forest Road, single storey dwellings and older style 3 storey residential flat buildings further south along Harrow Road. It is clearly evident that the current streetscape is yet to realise the built form prescribed within the Bexley Town Centre planning controls. That being said, the proposed building results in a minor exceedance of the 19m applicable height limit, however this is very minor and relates to the lift overrun only.

The proposal seeks to provide a six (6) storey mixed use building comprising a 3.3m high (floor to ceiling) ground floor retail space to the corner of Harrow Road and Albyn Lane, providing upper level setbacks to ensure the building relates to the existing lower scale, shop-top housing developments and single dwellings. The built form is concentrated towards the corner of Harrow Road and the lane, defining the street corner and maximising the street level activation. The building incorporates upper level setbacks from the laneway to ensure adequate separation is provided between the residential apartments on levels 1 - 3 of the neighbouring building.

Built form is arranged in a modular, geometric arrangement to the primary glass line, creating a high level of articulation when viewed from Harrow Road. The architectural balustrade elements and planter boxes to the edge of levels 1- 4 help to distinguish the building and establish a softer built form, reminiscent of a residential rather than commercial setting. The building takes on a curvilinear form at the edge of Harrow Road and the laneway, defining the street corner and establishing a prominence that will set a precedent for future redevelopment.

#### **2.4.3 Extent and Effect of Non-Compliance**

Only the parapet edge of the 6th storey exceeds the height limit, while the majority of the height non-compliance relates to the lift overrun which has no environmental or amenity impact on



surrounding areas. These height-exceeding areas add significant amenity to the development, allow a better streetscape outcome and are particularly appropriate in a high density setting.

The height non-compliance is directly related to achieving a better outcome on the site to ensure a high density residential development with a density commensurate with the applicable FSR control is achieved while also ensuring a high-quality building consistent with SEPP 65.

The HOB non-compliance is very minor, despite appearing otherwise numerically, this is because the greatest non-compliance occurs at the lift overrun which provides universal access to a high amenity common open space. The design of the building, taking into account Apartment Design Guide criteria, demonstrates that in order to achieve the applicable FSR for the site, underpinned by the Rockdale Residential Strategy, additional building height is appropriate in the circumstances of the case.

The height non-compliance occurs at the lift overrun, where no overshadowing impact arises and at the outer edges of the parapet roof within all elevations. This means that overshadowing impacts arising from the non-complying part of the building is minimised.

The proposed height non-compliance is important to the proposed development in that it allows the site to achieve a high quality common open space/roof top garden with universal access and optimal solar access while allowing an apartment mix which responds to demographic projections and individual apartments with good amenity, appropriate floor to ceiling heights, and appropriately sized internal and external areas. The proposed additional height also results in a building which achieves significantly more landscaped area and common open space than ADG standards require. This will reduce pressure on existing public open spaces and provide recreation areas in a dense urban setting.

The importance of additional height on the site is evidenced by the significantly high amenity unit on the uppermost storey with excellent solar access, natural ventilation and large open spaces.

Should a height compliant proposal be put forward, it is likely to result in a squatter looking building with reduced communal open space area and deeper, lower amenity apartments with reduced building separation.

Thus, the HOB exceedance results in an improved built form outcome on the site, and accords with the orderly and economic development of the land under the *Environmental Planning and Assessment Act, 1979*. It also provides a clear public benefit in that seeks to dedicate part of the site for the purposes of widening Albyn Lane, to provide a wider entrance to the laneway (corner of Albyn Lane and Harrow Road) and to provide a pedestrian footpath alongside Albyn Lane. The total land area proposed to be dedicated to Council is 59sqm.

## **2.5 Sufficient Planning Grounds for Justifying the Non-Compliance (Clause 4.6(3)(b))**

There are sufficient environmental planning grounds to justify contravening the development standard due to the following:

- The proposed development meets the objectives of the B4 Mixed Use Zone.

- The strategic location of the site in terms of sustainable transport, its connections to strategic centres and major employment lands, mean that the site is highly suited to a development with a relatively significant residential density which is in close proximity to expanding employment areas.
- The proposed development establishes appropriate built form outcomes as envisioned for the zones under the LEP, and provides a compatible built form to existing buildings.
- The minor height non-compliance allows for increased communal open space and significantly better apartment amenity.
- The minor height non-compliance is directly related to achieving a better quality streetscape outcome.
- The HOB non-compliance is directly related to achieving amenity on the site, without adversely impacting surrounding sites and ensuring that surrounding sites maintain appropriate privacy and solar access.
- The proposal is considered orderly and economic development of the land and there is a strategic public benefit in developing the site to its permissible development density.

### **3 Clause 4.6(4)(a) (ii) The proposed development will be in the public interest**

The proposed development as demonstrated above is considered to be consistent with the objectives of the height of buildings development standard, and objectives of the mixed use zoning.

#### **4 Clause 4.6(4)(b) and (5) Concurrence of the Secretary**

---

We have assumed that the Council has delegated authority from the Secretary to concur to this request as the development standard is numerical; the proposed variation is 10 per cent or less; the exclusions in relation to minimum lot size standards (similar to longstanding exclusions) do not apply; contravention of the development standard does not raise any matter of significance for state or regional environmental planning; and maintaining the development standard would be contrary to the public benefit.

## 5 Clause 4.6(8)(ca) Provision of a demonstrable public benefit

Subclause (8)(ca) states :

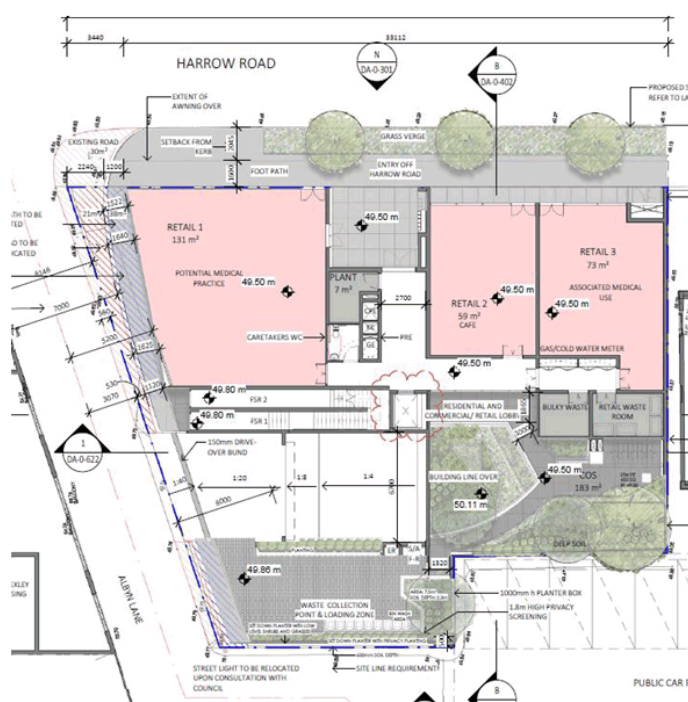
(8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*

...

(ca) *clause 4.3 (2A), 4.4 (2A), (2B), (2C) or (2D), unless it is for a demonstrable public benefit, such as the provision of pedestrian links,*

...

The proposed development seeks to dedicate part of the site for the purposes of widening Albyn Lane, to provide a wider entrance to the laneway (corner of Albyn Lane and Harrow Road) and to provide a pedestrian footpath alongside Albyn Lane. The proposed land dedication for the purposes of lane widening totals 21sqm in area and varies in width from 0.53m - 2.24m, while the land dedication to facilitate the provision of a pedestrian footpath totals 38sqm in area and has minimum width of 1.1m. Thus, a total of 59sqm of land is dedicated to Council to facilitate improved vehicle access into the laneway benefiting the existing businesses and dwellings, and providing improved pedestrian safety with a dedicated footpath for surrounding residents and members of the public, particularly those using the public carpark. See excerpt below:



## 6 Conclusion

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The proposed variation from the LEP HOB of 19m is justified as the proposed development meets the objectives and requirements of Clause 4.6. The proposed development meets the objectives of the zone notwithstanding the non-compliance. Furthermore, the additional HOB is directly related to achieving an improved urban outcome and orderly development of the land by increasing residential floor areas on a strategically located site with a high level of amenity. The proposed non-compliance arises from the particular attributes of the site and is specific to this case.

The non-compliance allows the proposal to align to the site and precinct specific vision for the land in this highly visible and key location.

For these reasons, the HOB exceedance accords with orderly and economic development of the land. The variation does not result in any unacceptable level of environmental impact; rather the variation is preferable to a development which was to fully comply specifically over the site.

The consent authority should be satisfied that the request is justified.

Outcome Date: 06 Apr 2018



## Annexure B

5 April 2018

**Mills Oakley**  
ABN: 51 493 069 734

Our ref: AJWS/SYHS3284955

The General Manager  
Bayside Council  
Rockdale Customer Service Centre, 444 - 446  
Princes Highway, Rockdale NSW 2216

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Matt Sonter +61 2 8035 7850  
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Dear General Manager,

**Offer to enter into a Voluntary Planning Agreement –s93F  
Development Application Number DA/2017/373  
1-3 Harrow Road, BEXLEY NSW 2207**

We act for Bexley Village Pty Ltd. (**Bexley Village**), the developer for the above Development Application and refer to the "without prejudice meeting" held at Council's Chambers on 14 December 2017.

The subject Development Application relates to Lot B in Deposited Plan 321614, commonly known as 1-3 Harrow Road, Bexley (**the Site**) and seeks approval for the demolition of existing structures and construction of a mixed use development comprising of a ground tenancy, a rooftop terrace, five levels of residential units and car parking.

As a public benefit associated with the development of the site we are instructed to make an offer on behalf of our client to enter into, a Voluntary Planning Agreement (**VPA**) to dedicate land, provide public domain improvements and road works to widen Albyn Lane adjoining the Site. In this regard, we note that this offer is made pursuant to (new section of Act)

The applicable planning controls and s94 plan does not provide for an obligation to dedicate the road to Council or undertake roadworks in the area.

Notwithstanding the above, our client wishes to offer to enter into a VPA, voluntarily, on its own accord in order to improve the access to the surrounding properties and street network and provide for public domain improvements. In this regard, we are instructed by our client to put forward the following offer to Council, to enter into a VPA, on the terms set out below.

**Offer to enter into a Planning Agreement**

We are writing to confirm that Bexley Village hereby formally offers to enter into a Planning Agreement with Council pursuant to sections 93F and 93I of the Act, subject to the terms set out in this letter.

We consider the following information to be relevant to Council's consideration of our client's offer, which includes the matters specified in section 93F (3) of the Act:

1. Our client offers to dedicate its land to allow for the widening Albyn Lane to the edge of the currently proposed footpath. The northern (Albyn Lane) façade of the commercial premises will then be setback to allow provision of a footpath along the Albyn Lane frontage having a variable width as shown on Drawing No. DA-0-202 Revision N dated 3 April 2018, Drawing No. DA-0-651 Revision A dated 21 March 2018 (except where amended by recommended Conditions of consent), and as shown on the draft Stratum Subdivision Plan prepared by Joseph Monardo, Sheets 1 – 4, Reference 50284 001DP (dated 21 March 2018) The widening of Albyn Lane would assist with the circulation of traffic and existing condition of the laneway.
2. Our client offers to dedicate the land, namely a laneway (limited in stratum) and footpath. The Road and footpath to be dedicated to Council are to have a clear property boundary as proposed in draft

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MILLS OAKLEY | ABN: 51 493 069 734 | info@millsOakley.com.au | www.millsOakley.com.au



DP plan with Reference 50284 001DP, prepared by Joseph Monardo, registered surveyor, issue date 21 March 2018 and as shown on Drawing No. DA-0-202 Revision N dated 3 April 2018 and Drawing No. DA-0-651 Revision A dated 21 March 2018 (except where amended by recommended Conditions of consent).

3. Our client offers this dedication in circumstances where the Development Application is approved on terms acceptable to it, including the approval of 6 storeys. The dedication can be effected through the imposition of a condition of consent, requiring a Planning Agreement to be entered into on terms consistent with this offer, pursuant to section 93(3) of the Act.
4. All design and construction work is to be undertaken by the developer, to Council's specifications, namely:
  - (a) A minimum 500mm clearance must be provided between the finished road surface level to the top of basement roof / slab for Basement Level 1. This depth is required for service conduits, pavement depth and future maintenance of road. Section A-A shown in DP draft plan to be amended to show correct basement ceiling level. (Issue: basement clearance from road surface for pavement)
  - (b) The basement parking area situated below the widened area of Albyn Lane which is to be dedicated, and is to be designed and constructed to support a 20T capacity Council Garbage Truck operating in Albyn Lane.
  - (c) The basement parking area to be legally endorsed with a Stratum Subdivision and an 88B Instrument including the dedication as Public Road for the Road Widening strip in Albyn Lane, easements for services/covenants.
  - (d) The Albyn Lane road carriageway to be widened to accommodate 2 way traffic movements as shown in the architectural plans provided to Council dated 13/2/2018.
  - (e) The Albyn Lane Footpath to be a variable width as shown on Drawing No. DA-0-202 Revision N dated 3 April 2018 and to incorporate ducts for future Public Utility Services along the Lane.
  - (f) The existing Light Pole at the south western corner of the property in Albyn Lane to be relocated to accommodate the Lane Widening but maintain a Level P4 Lighting Category. Location of the light pole will be confirmed with the frontage works application to Council.
  - (g) Prior to the issue of the construction certificate applicant shall submit to Council an Application to undertake the Public Domain Works on the Harrow Road and Albyn Lane Frontages of the Property.
  - (h) To provide for stormwater disposal from the Property the Applicant to extend Council's existing stormwater system in Harrow Road from Albyn Street to the site as proposed in the submitted stormwater drainage plan.
5. The Planning Agreement **would not** exclude the application of section 94, 94A or 94EF..
6. The Planning Agreement will contain mechanisms for the resolution of disputes and the enforcement of the agreement by the parties.

This offer now forms part of our client's Development Application and is a matter that is required to be considered by Council in the assessment of that application, pursuant to section 79C(1)(a)(iia) of the Act.

We look forward to receiving your earliest response.

If you have any questions or require further information please do not hesitate to contact Sophie Hale on (02) 88289 7872 or Matt Sonter on (02) 8035 7850

#### NOTICE

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Yours sincerely



Anthony Whealy  
**Partner**  
Accredited Specialist Local Government & Planning

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**1-3 Harrow Road, BEXLEY**

**Planning Agreement**

Under 7.4 of the *Environmental Planning and Assessment Act 1979*

**Bayside Council**

**And**

**CPD018 Pty Ltd**

**[Date to be inserted on execution]**

| 3458-7565-5434\_v.1 12 December 201812 December 201810 December 2018  
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1-3 Harrow Road, BEXLEY **Contacts Sheet****Council:**

**Name:** Bayside Council

**Address:** PO Box 21, ROCKDALE NSW 2216

**Telephone:** 1300581299

**Email:** [council@bayside.nsw.gov.au](mailto:council@bayside.nsw.gov.au)

**Representative:** Manager of Strategic Planning

**Developer:**

**Name:** CPD018 Pty Ltd (ACN 622 719 199)

**Address:** 157 Victoria rd. Gladesville, NSW 2111

**Telephone:** 1300 808 158

**Email:** [andrew@cadenceconstructions.com.au](mailto:andrew@cadenceconstructions.com.au) **Representative:** Andrew Harb

**1-3 Harrow Road, BEXLEY Parties**

**Bayside Council**  
(Council)

and

**CPD018 Pty Ltd**

(Developer)

**Background**

- A. The Developer owns the land identified as Lot B in Deposited Plan 321614 and Lot 15 in Deposited Plan 15198, commonly known as 1-3 Harrow Road, Bexley (**the Land**).
- B. The Developer or its predecessor in title lodged a development application with Council for the demolition of existing structures and construction of a mixed use development comprising of a ground tenancy, a rooftop terrace, five levels of residential units and basement car parking at the Land (**the Development**).
- C. On 5 October 2017, the Developer or its predecessor in title lodged an appeal to the Court against the Council's deemed refusal of the Development.
- D. On 6 April 2018, the Court made orders in accordance with an Agreement pursuant to s34 of the Land and Environment Court Act granting approval to the Development (**Consent**).
- E. Pursuant to condition 12 of the Consent, the Developer must enter into a Planning Agreement in accordance with section 7.4 of the Act prior to the issue of a Construction Certificate for any above ground works and generally in accordance with the letter of offer prepared by Mills Oakley to Council dated 5 April 2018.
- F. The offer made by the Developer on 5 April 2018 was essentially to dedicate a stratum portion of the Land to Council, to provide public domain improvements in the form of public footpath works, and to widen Albyn Lane adjoining the Land, to an appropriate standard sufficient for public use, (including use by heavy vehicles) and the construction of these works.

**PART 1 - Definition and Interpretations****1. Definitions and Interpretations**

- 1.1 In this Agreement the following definitions apply:

**Above Ground Construction Certificate** means the first Construction Certificate for the Development which authorises the erection of any building above ground level.

**Act** means the *Environmental Planning and Assessment Act 1979* (NSW).

**Agreement** means this Planning Agreement under which the Developer is required to make Development Contributions and includes any schedules, annexures and appendices to this Agreement.

**Bank Guarantee** means an unconditional and irrevocable undertaking issued by a major Australian trading bank in favour of Council and which is not limited in time and does not have an expiry date and is otherwise in form and substance acceptable

to Council, to pay on demand to Council the amount therein expressed in Australian currency.

**Business Days** means any day except Saturday, Sunday or any prescribed public holiday in New South Wales.

**Claim** includes a claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding or right of action.

**Consent** means the development consent issued by the Court on 6 April 2018 in proceedings 2017/00300153, being in respect of the Development, and bearing development application reference DA/2017/373.

**Construction Certificate** means a construction certificate within the meaning of 6.4 of the Act.

**Court** means the Land and Environment Court of New South Wales

**Dedicated Land** means the land to be dedicated to the Council in accordance with this Agreement.

**Defect** means a defect of any item of work which adversely affects the ordinary use of that item.

**Defects Liability Period** means the period of 12 months from the date of issue of a final Occupation Certificate.

**Developer's Obligations** means all of the Developer's obligations under this Agreement.

**Development** means the ground tenancy, a rooftop terrace, five levels of residential units and basement car parking at 1-3 Harrow Road, Bexley as permitted under the Consent.

**Development Consent** when used generically (as distinct from 'the Consent') has the same meaning as in the Act.

**Development Contribution** means each of the contributions and works listed in Schedule 3 of this Agreement, to be used for, or applied towards, the provision of Public Amenities or another Public Purpose as set out in **Schedule 3**.

**GST** has the same meaning as in the GST Law.

**GST Law** has the same meaning as in A New Tax system (Goods and Services Tax) Act 1999 (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

**Just Terms Act** means the Land Acquisition (Just Terms Compensation) Act 1991.

**LRS** means New South Wales Land Registry Services.

**Land** means the land specified and described in **Schedule 2**.

**Land Dedication** means the free dedication of the portion of the Land as detailed in Schedule 3 and as shown on the Land Dedication Plan (described on Appendix 1 of Schedule 3 as stratum lot 11) for the public purposes set out in this Agreement.

**Land Dedication Plan** means the plan at Appendix 1 of Schedule 3 being the draft stratum Subdivision Plan prepared by Joseph Monardo, Sheets 1 – 4, Reference 50284 001DP.

**Occupation Certificate** means a certificate referred to in section 6.4 of the Act.

**Party** means a party to this Agreement, including their successors, agents and assigns.

**Public Purpose** has the same meaning as in section 7.4(2) of the Act.

**Rectification Certificate** means a compliance certificate within the meaning of the Act to the effect that the work subject of a Rectification Notice has been completed in accordance with the Rectification Notice.

**Rectification Notice** means a notice in writing that identifies a Defect and requires rectification of that Defect within the Defects Liability Period.

**Registrable form** means the document is properly executed and witnessed and bears an imprint from Revenue New South Wales to the effect that all necessary duties have been paid, and is otherwise capable of immediate registration by the Registrar-General on the title of the relevant piece or parcel of land.

**Registrar-General** means the Registrar-General under the Real Property Act.

**Regulation** means the *Environmental Planning & Assessment Regulation 2000*.

**Subdivision Plan** means a plan of subdivision of the Land whereby the Dedicated Land is created as a separate legal lot with separate title.

**Works** mean all works to be performed by the Developer under this Agreement.

**Works-as-Executed Records** means a plan setting out a record of construction as completed.

1.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Agreement.

1.2.2 A reference to a Business Day means a day other than a Saturday, Sunday or bank or public holiday in Sydney.

1.2.3 If the day on which any act, matter or thing is to be done under this Agreement is not a Business Day, the act, matter or thing must be done on the next Business Day.

1.2.4 A reference to time is local time in Sydney.

1.2.5 A reference to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.

1.2.6 A reference to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.

1.2.7 A reference to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

1.2.8 A reference to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.

1.2.9 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.

- 1.2.10 An expression importing a natural person includes any company, corporation, trust, partnership, joint venture, association, unincorporated association, body corporate, statutory body, statutory authority or governmental agency.
- 1.2.11 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 1.2.12 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- 1.2.13 Reference to the word "include" or "including" are to be construed without limitation.
- 1.2.14 A reference to this Agreement includes the agreement recorded in the Agreement.
- 1.2.15 A reference to a party to this Agreement includes a reference to the personal representatives, legal representatives, agents and contractors of the party, and the party's successors and assigns.
- 1.2.16 Any schedules, appendices and attachments form part of this Agreement.
- 1.2.17 Notes appearing in the Agreement are operative provisions of this Agreement.
- 1.2.18 A reference in this Agreement to the name and number of a zone under Rockdale LEP 2011 includes a reference to an equivalent zone under any local environmental plan that supersedes LEP.

## **2. Application of this Agreement**

- 2.1 This Agreement applies to the Land and to the Development.

## **3. Status and operation of this Agreement**

- 3.1 The Parties agree that this Agreement is a planning agreement governed by Part 7, Division 7.1, Subdivision 2 of the Act.
- 3.2 The Agreement only operates when it is entered into pursuant to clause 25C(1) of the Regulation.
- 3.3 This Agreement will remain in force until:
- 3.3.1 It is terminated by operation of law; or
- 3.3.2 1 month after all of the Developer's obligations under this Agreement are performed or satisfied.

## **4. Further agreements relating to this Agreement**

- 4.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Agreement that are not inconsistent with this Agreement for the purpose of implementing this Agreement.



**5. Application of s7.11, s7.12 and s7.24 of the Act to the Development**

- 5.1 This Agreement does not exclude the application of sections s7.11, s7.12 and s7.24 of the Act in respect of the Development.
- 5.2 This Agreement will not be taken into consideration when determining development contributions under section 7.11 of the Act in respect of any Development.

**Part 2 – Land Dedication and Associated Works****6. Design and Construction of Road**

- 6.1 All design and construction work required under this Agreement is to be undertaken by the Developer to the standards and specifications set out in Schedule 3 and Schedule 4 prior to the issue of the final occupation certificate.

**7. Procedures relating to the Land Dedication**

- 7.1 (a) The Parties acknowledge and agree that as at the date of this Agreement, the Dedicated Land is not contained in a separate lot and cannot be transferred to the Council until the Land is subdivided to create the Dedicated Land as a separate legal lot capable of transfer.
- (b) The Developer must at its expense:
- (i) promptly lodge the Subdivision Plan at the Council for approval and use all reasonable endeavours to obtain such approval as soon as practicable;
  - (ii) following approval by the Council of the Subdivision Plan, promptly:
    - (A) lodge the approved Subdivision Plan at the LRS for registration;
    - (B) notify Council's Lawyers in writing of such lodgement; and
    - (C) thereafter, use all reasonable endeavours to obtain registration of the Subdivision Plan at the LRS as soon as practicable; and
  - (iii) within fourteen (14) days after registration of the Subdivision Plan at LRS:
    - (A) notify the Council's Lawyers in writing of registration of the Subdivision Plan; and
    - (B) transfer the Dedicated Land to the Council free from encumbrances;
- (c) The Developer and the Council agree and warrant that they will at the Developer's expense, do all things necessary and sign all documents required to facilitate the subdivision of the Land and the subsequent transfer of the Dedicated Land to Council.

7.2

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- (a) If the Developer does not transfer the Dedicated Land in accordance with clause 7.1, the Developer consents to the Council compulsorily acquiring the Dedicated Land for compensation of \$1 without having to follow the pre-acquisition procedure under the Just Terms Act.
- (b) Clause 7.2(a) constitutes an agreement for the purposes of section 30 of the Just Terms Act.
- (c) The Developer must promptly do all things necessary, and consent to the Council doing all things necessary, to give effect to this clause 7.2 including (without limitation):
  - (i) signing any documents or forms;
  - (ii) producing certificates of title to the Registrar General under the Real Property Act 1900;
  - (iii) paying the Council's reasonable costs arising under this clause 7.2.

#### **8. Dedication of the Land**

- 8.1 **Schedule 3 and Appendix 1** have effect in relation to the stratum of land that is to be dedicated by the Developer under this Agreement. No other portion or stratum of the Land is required to be dedicated.

### **Part 3 – Other Provisions**

#### **9. Section 7.11 Contributions**

- 9.1 The Developer agrees that the Development Contributions are not to be taken into account in determining a development contribution under Section 7.11 of the Act.

#### **10. Enforcement in a court of competent jurisdiction**

- 10.1 Without limiting any other provision of this Agreement, the Parties may enforce this Agreement in any court of competent jurisdiction.
- 10.2 For the avoidance of doubt, nothing in this Agreement prevents:
- 10.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates, or
  - 10.2.2 Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

#### **11. Collaborative Approach**

- 11.1 The parties acknowledge and agree that they will always act reasonably and co-operatively with each other in relation to this Agreement, and that they will always use all reasonable endeavours to give effect to the requirements of, and to perform their obligations under, this Agreement.

**12. Dispute resolution – mediation**

- 12.1 A dispute under this Agreement is taken to arise if one party gives another Party a notice in writing specifying particulars of the dispute.
- 12.2 If a notice is given under **clause 12.1**, the Parties are to meet within 14 days of the notice in an attempt to resolve the dispute.
- 12.3 If the dispute is not resolved within a further 28 days, the Parties must mediate the dispute in accordance with the Mediation rules of the Law Society of New South Wales published from time to time and must request the President of the law Society, or the President's nominee, to select a mediator.
- 12.4 If the dispute is not resolved by mediation within a further 28 days, or such longer period as may be reasonably necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- 12.5 This clause survives the completion or termination of this Agreement.

**13. Registration of Agreement**

- 13.1 As contemplated by section 7.6 of the Act, the Developer must, within twenty one (21) Business Days of the operation of this Agreement under **clause 3.2**, at the Developer's expense, procure the registration of this Agreement under the *Real Property Act 1900* (NSW) in the relevant folios of the Register for the Land.

**13.2 Release and discharge of Agreement by Council**

The Council must use all reasonable endeavours and do all things reasonably required to cause the release and discharge of this Agreement with respect to any part of the Land (such that the Agreement is no longer registered by the Registrar-General under section 7.4 of the Act in relation to that part of the Land) within 14 Business Days after receiving a written request to do so by the Developer, upon the Developer having provided all of the Development Contributions in accordance with this Agreement and otherwise complying with this Agreement to the satisfaction of the Council. Council's satisfaction must not be unreasonably withheld.

**14. Assignment and transfer**

- 14.1 Unless the matters specified in **clause 14.2** are satisfied, the Developer is not to do any of the following:
  - 14.1.1 if the Developer is the owner of the Land, to transfer the Land, or any part of it, to any person, or
  - 14.1.2 assign, transfer, dispose or novate to any person the Developer's rights or obligations under this Agreement.
- 14.2 The matters required to be satisfied for the purposes of **clause 14.1** are as follows:
  - 14.2.1 the Developer has, at no cost to Council, first procured the execution by the person to whom the Developer's rights or obligations under this Agreement are to be assigned or novated, of an agreement in favour of the Council on terms satisfactory to Council acting reasonably, and
  - 14.2.2 Council, by notice in writing to the Developer, has stated that evidence satisfactory to Council has been produced to show that the assignee or

novatee, is reasonably capable of performing its obligations under the Agreement,

14.2.3 the Developer is not in breach of this Agreement, and

14.2.4 Any purported dealing in breach of this **clause 14.2** is of no effect.

14.3 Clauses 14.1 and 14.2 have effect subject to clause 14.4.

14.4 Clauses 13.1 and 13.2 do not apply to, and shall have no effect whatsoever in relation to, a transfer, assignment, disposal or novation to CPD018Pty Ltd, provided that this Agreement is registered in accordance with clause 13 of this Agreement and the Developer is not in breach of this Agreement.

#### 15. Notices

15.1 Any notice, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

15.1.1 delivered or posted to that Party at its address set out in the Contacts Sheet,

15.1.2 emailed to that Party at its email address set out in the Contacts Sheet.

15.2 If a Party gives the other Party 3 Business Days notice of a change of its address or email address, any notice, information, application or request is only given or made by that other Party if it is delivered, posted or emailed to the latest address or email address.

15.3 Any notice, information, application or request is to be treated as given or made if it is;

15.3.1 delivered, when it is left at the relevant address.

15.3.2 sent by post, 2 Business Days after it is posted.

15.3.3 sent by email, as soon as the sender receives a 'delivery receipt' from the recipient.

15.4 If any notice, information, application or request is delivered, or a delivery receipt in relation to it is received, on a day that is not a Business Day, or if on a Business Day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next Business Day.

#### 16. Entire Agreement

16.1 This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with.

16.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

#### 17. Further acts

17.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Agreement and all transactions incidental to it.

**18. Governing law and jurisdiction**

- 18.1 This Agreement is governed by the law of New South Wales.
- 18.2 Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of its courts and courts of appeal from them.
- 18.3 Each party waives any right to object to the exercise of jurisdiction by those courts on any basis.

**19. Joint and individual liability and benefits**

- 19.1 Except as otherwise set out in this Agreement:
- 19.1.1 any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and
- 19.1.2 any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

**20. No fetter**

- 20.1 Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

**21. Representations and warranties**

- 21.1 Each Party represent and warrant to each other Party that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

**22. Severability**

- 22.1 If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- 22.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

**23. Modification**

- 23.1 No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

**24. Waiver**

- 24.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- 24.2 A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given.

- 24.3 It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

**25. Rights cumulative**

- 25.1 Except as expressly stated otherwise in this Agreement, the rights to a Party under this Agreement are cumulative and are in addition to any other rights of that Party.

**26. Duty**

- 26.1 The Developer as between the Parties is liable for and must pay all duty (including any fine or penalty except where it arises from default by another Party) on or relating to this Agreement, any document executed under it or any dutiable transaction evidenced or effected by it.
- 26.2 If a Party other than the Developer pays any duty (including any fine or penalty) on or relating to this Agreement, any document executed under it or any dutiable transaction evidenced or effected by it as a result of the Developer first failing to pay such duty, the Developer must pay that amount to the paying Party on demand.

**27. Effect of Schedules**

- 27.1 Each Party agree to comply with any terms contained in the Schedules to this Agreement as if those terms were included in the operative part of the Agreement.

**28. Relationship of the Parties**

- 28.1 This Agreement is not intended to create a partnership, joint venture or agency relationship between the Parties.

**29. GST**

- 29.1 In this clause:

**Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, supply and Tax Invoice** have the meaning given by the GST Law.

**GST Amount** means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.

**GST Law** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

**Input Tax Credit** has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

**Taxable Supply** has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a Supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount on GST on that Supply.

- 29.2 Subject to **clause 29.4**, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement, the Party providing the consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.

- 29.3 **Clause 29.2** does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Agreement to be GST inclusive.
- 29.4 No additional amount shall be payable by Council under **clause 29.2** unless, and only to the extent that, Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.
- 29.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Agreement by one Party to the other Party that are not subject to division 81 of the *A New Tax System (Goods and Services Tax) Act 1999*, each Party agrees:
- 29.6 to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies;
- 29.7 that any amounts payable by each Party in accordance with **clause 29.2** (as limited by **clause 29.4**) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 29.8 No payment of any amount pursuant to this **clause 29**, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.
- 29.9 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a Party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 29.10 This clause continues to apply after expiration or termination of this Agreement.

### 30. Security

- 30.1 The Developer will provide an irrevocable and unconditional Bank Guarantee for \$20,000 in favour of Council in a form acceptable to Council to secure performance of the Developer's obligation to provide the Development Contributions under this Agreement:
- (a) The Bank Guarantee should be provided to the Council simultaneously upon signing this Agreement; and
  - (b) Should the Developer fail to perform its obligations to make the Development Contributions under this Agreement then the Council is entitled to call on the Bank Guarantee to recover the value of the Development Contribution not provided in accordance with this Agreement..

### 31. Enforcement

- 31.1 If the Council reasonably considers that the Developer is in breach of any obligation under this Agreement, it may give a written notice to the Developer:
- (a) specifying the nature and extent of the breach;

- (b) requiring the Developer to:
  - (i) rectify the breach if it reasonably considers it is capable of rectification; or
  - (ii) pay compensation to the reasonable satisfaction of the Council in lieu of rectifying the breach if the breach is not reasonably capable of rectification; and
- (c) Specifying the period within which the breach is to be rectified or compensation paid, being a period that is reasonable in the circumstances.

31.2 Any costs reasonably incurred by the Council by reason of such breach may be recovered by the Council as a debt due in a court of competent jurisdiction.

31.3 For the purpose of clause 31.2, the Council's costs include, but are not limited to:

- (a) the costs of the Council's servants, agents and contractors reasonably incurred for that purpose; and
- (b) All legal costs and expenses reasonably incurred by the Council, by reason of the breach.

31.4 Nothing in this clause 31 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Agreement by the Developer, including but not limited to seeking relief in an appropriate court.

### 32. Carrying out of an Item of Work

32.1 As a part of the Development, the Developer must produce a detailed design and specification for all Works in accordance with:

32.1.1 Any reasonable lawful requirements and directions of the Council that are notified in writing to the Developer at any time before the works are approved in accordance with this Agreement, and

32.1.2 The conditions of any Consent granted in relation to an item of Work.

32.2 The Developer must carry out and complete each item of Work or engage its service provider to carry out and complete each item of Work, to the reasonable satisfaction of the Council, in accordance with:

32.2.1 The detailed design and specification approved by the Council (including the specification in Schedule 4),

32.2.2 All applicable laws, including those relating to occupational health and safety,

32.2.3 The conditions of the Consent granted in relation to the carrying out of that item of Work; and

32.2.4 The conditions of the Consent relating to the Development.

### 33. Rectification of Defects

33.1 During the Defects Liability Period, the Council may give to the Developer a Rectification Notice.



- 33.2 The Developer must comply with a Rectification Notice at its own cost.
- 33.3 The Developer must comply with the Rectification Notice within a period of time that is reasonable having regard to the practical performance of works required to be performed by the Rectification Notice.
- 33.4 When the Developer considers that rectification is complete, the Developer must give to the Council a Rectification Certificate relating to the item of work the subject of the relevant Rectification Notice and submit to the Council the Works-as-Executed Records and written notice for an item of work on which it proposes to hand-over of the item of work.
- 33.5 Council acting reasonably can, within 20 Business Days of receipt of the notice under clause 33.4:
- 33.5.1 request information (in addition to the Works-as-Executed Records) that is relevant to the completion of the item of work and delay the hand-over of the item of work until the Developer has provided the additional information requested to Council's reasonable satisfaction; or
- 33.5.2 determine that the Item of Work has not meet the design and specification approved by Council and issue a further Rectification Notice implemented as pursuant to this Clause.
- 33.6 If the Developer does not comply with a Rectification Notice within the time provided at clause 33.3, the Council may, subject to clause 33.7, do such things as are necessary to rectify the Defect and may recover, as a debt due and owing in a court of competent jurisdiction, any reasonable cost incurred by the Council in rectifying the Defect.
- 33.7 Before the Council may rectify any Defect in accordance with clause 33.6, it must:
- 33.7.1 notify the Developer in writing of its intention to exercise its right pursuant to clause 33.6;
- 33.7.2 provide the Developer a further 14 days to comply with the Rectification Notice or provide some other response in writing; and
- 33.7.3 reasonably consider the content of any other written response provided by the Developer provided in that 14 day period.

#### **34. Legal Costs**

- 34.1 The Developer must pay to the Council the Council's reasonable legal costs (assessed on an indemnity basis) in relation to of preparing, negotiating, executing, registering and stamping of this Agreement, and any document related to this Agreement within seven (7) days of a written demand by the Council.
- 34.2 The Developer must also to pay to the Council within seven (7) days of a written demand by the Council for such payment, the Council's reasonable costs (assessed on an indemnity basis) of:
- 34.2.1 monitoring performance of Developer's Obligations; and
- 34.2.2 enforcing this Agreement.

#### **35. Release and Indemnity**

- 35.1 The Developer performs this Agreement at its own risk and cost.

35.2 The Developer releases the Council from any Claim it may have against the Council arising in connection with the performance of the Developer's Obligations except if, and to the extent that, the Claim arises because of the Council's negligence or default.

35.3 The Developer indemnifies the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the performance of the Developer's Obligations except if, and to the extent that, the Claim arises because of the Council's negligence or default.

**36. Explanatory Note relating to this Agreement**

36.1 The **Appendix 2** contains the Explanatory Note relating to this Agreement required by clause 25E of the Regulation.

36.2 Pursuant to clause 25E(7) of the Regulation, each Party agrees that the Explanatory Note in the **Appendix 2** is not to be used to assist in construing this Planning Agreement.

## Execution

**Executed as a Deed**

Date:

**Executed on behalf of Council:**

Executed by **Bayside Council** by its authorised delegate in accordance with a resolution of the Council made on [INSERT].

.....  
General ManagerMEREDITH WALLACE  
Name of Witness in full.....  
Signature of Witness**Executed on behalf of CPD018 Pty Ltd LIMITED (the Developer) under s 127 of the Corporations Act 2001:**.....  
Director (sign).....  
Director/Secretary (sign).....  
Name of Director (print).....  
Name of Director/Secretary (print)

**Schedule 1 (Section 7.4 Requirements)**

<b>Provision of the Act</b>	<b>This Agreement</b>
Under section 7.4(1), the Developer has:	
(a) sought a change to an environmental planning instrument	No
(b) Made, or proposes to make, a Development Application.	Yes
(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies	No
<b>Description of the land to which this Agreement applies –</b>	The Land described in <b>Schedule 2</b> to this agreement
<b>The scope, timing and manner of delivery of Development Contributions required by this Agreement –</b> (Section 7.43(c))	See <b>Schedule 3</b> to this Agreement
<b>Applicability of Sections 7.11, 7.12 and 7.24 of the Act –</b>	See clause 5
<b>Benefits under the Agreement considered for Section 7.11 purposes –</b> (Section 7.4(3)(e)),	See clause 5
<b>Dispute Resolution –</b> (Section 7.4(3)(f))	See <b>clause 12</b>
<b>Enforcement of this Agreement –</b> (Section 7.4(3)(g))	See <b>clause 9-11</b>
<b>Registration of the Agreement –</b> (Section 7.6)	Yes, see <b>clause 13</b>

**Schedule 2 (The Land)**

(Clause 1)

**The Land**

The Land is:  
Lot B in Deposited Plan 321614 and Lot 15 in Deposited Plan 15198.

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### Schedule 3 (Development Contributions)

(Clause 7)

#### Development Contributions

##### Land Dedication

Column 1	Column 2	Column 3	Column 4
Item	Public Purpose	Contribution Value	Timing
A	The developer must dedicate its land (as a stratum lot unlimited as to height but limited as to depth to 500mm below the finished surface of Albyn Lane) to allow for the widening Albyn Lane to the edge of the currently proposed footpath. The northern (Albyn Lane) façade of the commercial premises will then be setback to allow provision of a footpath along the Albyn Lane frontage.		Prior to the issue of the Final Occupation Certificate in respect of the Development.
B	<p>All design and construction work is to be undertaken by the developer, to Council's specifications, namely:</p> <p>(a) A minimum 500mm clearance must be provided between the underside of the finished road surface level to the top of drop down basement roof / slab for Basement Level 1. This depth is required for service conduits, pavement depth and future maintenance of road. Section A-A shown in DP draft plan to be amended to show correct basement ceiling level in accordance with notation on plan A202Rev J prepared by Design Corp Architects. The area above the basement parking area situated below the widened area of Albyn Lane is to be dedicated, and is to be designed and constructed to support a 20T capacity Council Garbage Truck operating in Albyn Lane.</p> <p>(b) The basement parking area to be legally endorsed with a Stratum Subdivision and an 88B Instrument including the dedication as Public Road for the Road Widening strip in Albyn Lane, easements for services/covenants.</p>		Prior to the issue of the relevant construction certificate applicant shall submit to Council an Application to undertake the Public Domain Works on the Harrow Road and Albyn Lane Frontages of the Land.

	<p>(c) The Albyn Lane road carriageway to be widened to accommodate 2 way traffic movements as shown in the Civil Drawings including swept paths prepared by ACOR civil design consultants.</p> <p>(d) The Albyn Lane Footpath to be a variable width as shown on Drawing No. A202 Rev J Prepared by Design Corp Architects dated 24.10.18 and to incorporate ducts for future Public Utility Services along the Lane As shown on ACOR Drawing D4 rev K dated 13.11.18.</p> <p>(e) The existing Light Pole at the south western corner of the property in Albyn Lane to be relocated prior to the final Occupation Certificate to accommodate the Lane Widening but maintain a Level P4 Lighting Category. Location of the light pole will be confirmed with the frontage works application to Council.</p> <p>(f) Prior to the issue of the relevant construction certificate applicant shall submit to Council an Application to undertake the Public Domain Works on the Harrow Road and Albyn Lane Frontages of the Property.</p> <p>(g) To provide for stormwater disposal from the Property the Applicant to complete the stormwater works in line with ACOR design refer drawing D4 Rev k dated 13.11.18. Such works shall be carried out to Council's satisfaction prior to the issue of the Final Occupation Certificate.</p>		
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**Schedule 4 - Road Work Specifications**

**Schedule 4 – Road Work Specifications**

Generally design of roads, footpaths, pavements and other road facilities is to be undertaken in accordance with AUSTROADS, and any published RMS supplement to AUSTROADS

**1. Design****1.1 General Requirements****1.1.1 Specification for design – AUS-SPEC unless noted otherwise:**

- (a) 0021 – Site regrading;
- (b) 0041 – Geometric road layout;
- (c) 0043 – Subsurface drainage (design);
- (d) 0044 – Pathways
- (e) 0061 – Bridges and other structures;
- (f) 0074 – Stormwater drainage (design);
- (g) 0160 – Quality (design).

**1.1.2 Variation to Nominated Standards – where AUS-SPEC makes reference to the Austroads Guide to Road Design, the design shall comply with the NSW Roads and Traffic Authority Supplement to Austroads Guide to Road Design, and where AUS-SPEC makes reference to the Australian Standards, AS 1742 and AS1743, the design shall comply with the NSW Roads and Traffic Authority Supplement to Australian Standards AS1742 and AS1743.****1.1.3 Inconsistency – where an inconsistency exists between the nominated design standards the prevailing standard shall be determined by the Council's Manager – City Infrastructure.****1.1.4 Drawing coordinates shall conform to GDA94 (Geocentric Datum of Australia). Levels shall conform to AHD (Australian Height Datum).****1.1.5 Submission formats:**

- (a) Two (2) printed copies of the plans;
- (b) One (1) printed copy of the specification;
- (c) Two (2) printed copies of the Review of Environmental Factors (REF);
- (d) One (1) compact disc with electronic format of all documents as follows:
  - (i) Design drawings in DWG file format and portable document format (PDF);



- (ii) Specification and REF in portable document format(PDF).

**1.2 Limit of Works**

- 1.2.1 The limit of works shall be all works required to comply with AUS-SPEC, and shall be not less than the minimum requirements specified by any conditions of consent.

**1.3 Drawing Presentation**

- 1.3.1 The detailed design plans are to be prepared in accordance with the Rockdale Technical Guide - Computer Aided Design and Drafting. The drawings must show all necessary design details for construction by the Service Provider.

**1.4 Swept Paths**

- 1.4.1 The preparation and presentation of swept path diagrams shall be in accordance with the Rockdale Technical Guide - Computer Aided Design and Drafting. Swept paths, based on the nominated design vehicle, must be provided for all movements at intersections.

**1.5 Design Parameters - Road, Pavement and Lighting Design**

- 1.5.1 Design vehicle for swept path diagrams: design single unit bus, 12.5m long.
- 1.5.2 Equivalent Standard Axles for pavement design: 3 x 105.
- 1.5.3 Design life for road pavement: 25 years.
- 1.5.4 Lighting category: to Category P3 based on Australian Standard AS1158 - Lighting for roads and public spaces.
- 1.5.5 Kerb profiles, pram ramps, etc shall be in accordance with the Model (Road) Drawings for Kerb and Gutter (R15) issued by the NSW Roads and Traffic Authority.

**1.6 Road Alignment**

- 1.6.1 Footpath design consistent with AS1428. Attention is drawn to the provisions for minimum height clearance (2.2m); minimum clear width (1.5m); maximum grades (longitudinal and cross-fall); and kerb ramp details.
- 1.6.2 All kerb returns must be designed such that no part of the vehicle crosses the centerline.
- 1.6.3 All vehicle footpath crossing profiles are to be provided.
- 1.6.4 The design must not result in any un-drained low-points, and as far as practicable low points within the kerb return shall be avoided to eliminate the use of pits with curved lintels.

**1.7 Road Pavement**

- 1.7.1 A formal pavement design shall be prepared by a registered N.A.T.A. laboratory based on sampling and testing of the subgrade materials from the site. Details of the pavement design, results of subgrade testing (including 4 day soaked CBR's) are to be submitted with the design drawings.
- 1.7.2 Pavements should be designed using the general principles of Austroads 1992 "Pavement Design - A Guide to the Structural Design of Road Pavements".
- 1.7.3 Sandstone shall not be used in pavements. Wearing surfaces shall be asphaltic concrete (AC) only.

**1.8 Utility Services**

- 1.8.1 The development shall comply with Ausgrid Network Standards for underground supply of electricity.

**1.9 Street Lighting**

- 1.9.1 The development shall design and implement new street lighting. Pole height and light spacing as required to meet the design lighting category from AS1158.
- 1.9.2 The location of street lighting poles shall comply with RTA requirements:
  - (a) impact absorbing poles may be located not less than 1.0m from the edge of the nearest traffic lane; and
  - (b) non-impact absorbing poles may be located not less than 3.0m from the edge of the nearest traffic lane.
- 1.9.3 Design to AusGrid Network Standard - Street Lighting Design and Construction NS119.
- 1.9.4 Column footings must be designed according to the site conditions, and if standard details are being considered, the site conditions must be confirmed.

**1.10 Traffic Facilities**

- 1.10.1 The following traffic facilities shall be provided in accordance with the NSW Roads and Traffic Authority Supplement to Austroads Guide to Road Design, and NSW Roads and Traffic Authority Supplement to Australian Standards AS1742 and AS1743:
  - (a) line marking and regulatory signage;
  - (b) parking signage.

**1.11 On-Street Parking**

- 1.11.1 Where flush concrete edging is used as an edge treatment for pavement in lieu of standard kerb and gutter shapes adjacent to on-street parking spaces, wheel stops shall be designed in accordance with AS2890.3:1993.

**1.12 Landscape Details**

- 1.12.1 The landscape plan for the treatment of the road reserve must be separate to landscape treatments within the boundary of the property.

**1.13 Drainage**

- 1.13.1 The preferred drainage culverts shall be pre-cast small span or large span reinforced concrete box culverts designed to AS1597.2 and/or RTA specification R16.
- 1.13.2 Special design box culverts and cast in-situ box culverts shall be designed to applicable Australian Standards and/or RTA specifications, and certified by a NPER Structural Engineer.
- 1.13.3 Base slabs for box culverts may be either pre-cast base slabs or cast in-situ base slabs.
- 1.13.4 Link slabs are not permitted for the construction of multi-cell box culverts.
- 1.13.5 The design of cast in-situ concrete culverts must include sections at appropriate intervals and comprehensive co-ordinate and set out data to enable the design to be implemented. The specification of tolerances for the culvert construction shall be amended from the standard tolerances of AUS-SPEC to impose the highest possible level of tolerances to design dimensions and levels, to ensure that the culvert meets the hydraulic design.
- 1.13.6 Where drainage pipes are to be used the pipes shall be reinforced concrete (RC), rubber ring jointed (RRJ) pipes only.
- 1.13.7 Pit details shall be in accordance with the Model (Road) Drawings for Stormwater Drainage (R11) - Gully Pits issued by the NSW Roads and Traffic Authority.

**1.14 Subsurface Drainage**

- 1.14.1 Design of subsurface drainage shall be in accordance with 0043 - Subsurface drainage (design).
- 1.14.2 Alternatively, the Roads and Traffic Authority's Combined Stormwater and Subsurface Drainage (Drawing reference MD.R33.A08.A) can be adopted.

**1.15 Dilapidation Report**

- 1.15.1 The dilapidation report required by conditions of consent must include photos and details of surrounding public infrastructure and adjoining boundary fences.

**1.16 Certification Requirements and Quality Assurance**

- 1.16.1 Quality Management:
- (a) The consultant must have a Quality Management System for design and development, including a Quality Management Plan in accordance with AS/NZS ISO 9000:2000, and certified by a third party accredited organisation accredited under a recognised

product certification scheme in accordance with AS/NZS ISO 9001:2000.

1.16.2 Design qualification:

- (a) The design must be certified by a Professional Engineer with current registration on the National Professional Engineers Register (NPER), stating that the design meets the required standards:
  - (i) Civil Engineering area of practice for all civil plans, including drainage design;
  - (ii) Structural Engineering area of practice for all structural load carrying elements.
- (b) A certification report conforming to Annexure A of 0160 -Quality (design) must accompany the design.

1.17 Authority requirements:

- 1.17.1 Implementation of the design and specification may not occur unless a Construction Certificate has been obtained from the Council or an Accredited Certifier in accordance with the Environmental Planning and Assessment Act 1979, subject to any special requirements imposed by the Council in any applicable Works-In-Kind Agreement.
- 1.17.2 The Council or an Accredited Certifier cannot issue a permit for installation of traffic management facilities without the approval of the Rockdale Traffic Committee, under delegation by the NSW Roads and Traffic Authority in accordance with the Road Transport (Safety and Traffic Management) Act 1999.

1.17.3 The applicant shall ensure that a Traffic Control Plan is submitted to the Council at least 10 working days before any works are undertaken on any existing public assets owned, maintained or controlled by the Council. No works shall be commenced until such Traffic Control Plan has been approved by an adequately qualified person, holding a valid Roads and Traffic Authority Traffic Control at Work Sites. In addition no work shall commence on any Council assets until such time as the appropriate occupancy permission has been obtained and the appropriate fees and charges pertinent to such occupancy paid.

## 2. Specification

- 2.1 A specification is to be developed based on AUS-SPEC. The compilation of the specification shall be undertaken in accordance with the Council's Engineering Specification Guide: for works in conjunction with developments and subdivisions.
- 2.2 The specification compiler will be required to be a current subscriber to NATSPEC.
- 2.3 The specification must include the following mandatory work sections:
  - 2.3.1 0161 Quality (Construction);
  - 2.3.2 0171 General Requirements.
- 2.4 Any discrepancies arising from the preparation of the specification shall be notified to the Manager - City Infrastructure as soon as practicable.

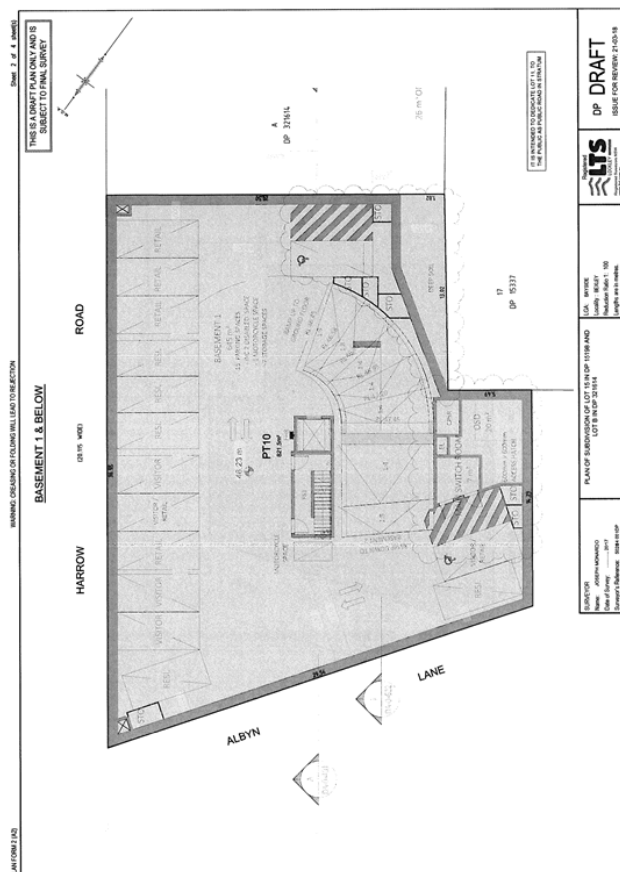
**Appendix 1 (Land Dedication Plan)**

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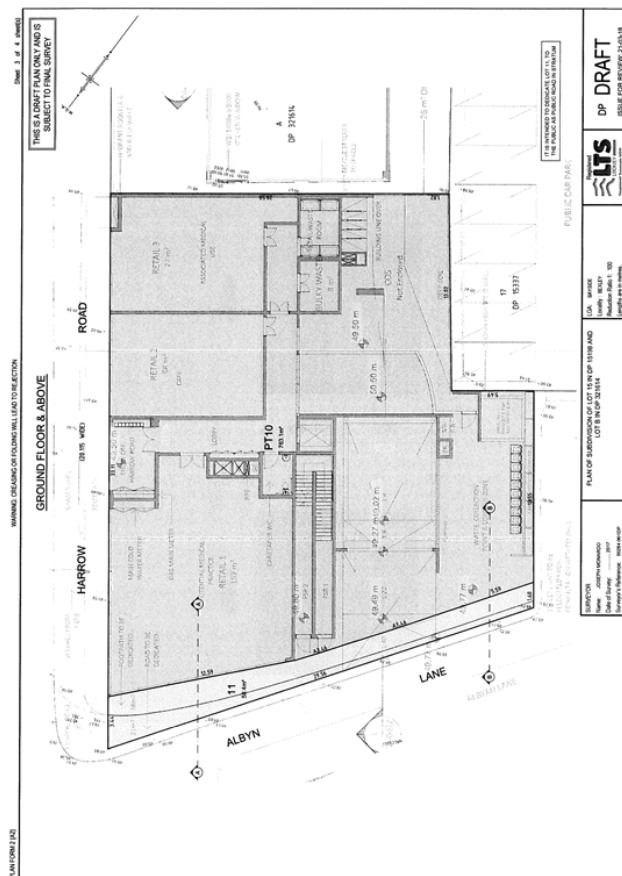
Doc ID 606346543/v1

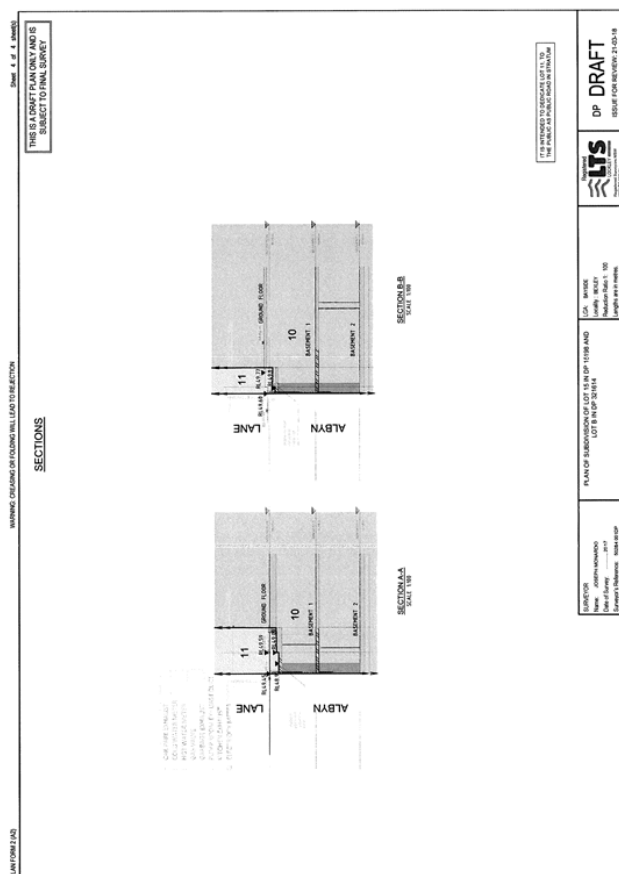
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## Appendix 2 (Explanatory Note)

(Clause 49)

*Environmental Planning and Assessment Regulation 2000*

(Clause 25E)

### Explanatory Note: Proposed Planning Agreement

Under s7.4 of the *Environmental Planning and Assessment Act 1979*

#### 1. Parties

**Bayside Council** ABN 80 690 785 443 Branch 003 of 444-446 Princes Highway, ROCKDALE NSW 2216 (**Council**)

And

**CPD018 Pty Limited** ACN 622 719 199 of 157 Victoria rd. Gladesville, NSW 2111(**Developer**)

#### 2. Description of the Land to which the proposed Planning Agreement applies

2.1 Lot 8 in Deposited Plan 321614 and Lot 15 in Deposited Plan 15198, commonly known as 1-3 Harrow Road, Bexley **Schedule 2** to the Agreement.

2.2 This Developer is the owner of the Land.

#### 3. Description of the LEP Amendment

#### 4. Summary of objectives, nature and effect of the proposed Planning Agreement

##### 4.1 Objectives of proposed Planning Agreement

4.1.1 The objectives of the proposed Planning agreement are to:

- provide Development Contributions for the benefit of the public in the form of the dedication of land free of cost and the payment of a monetary Development Contribution, as outlined below; and
- Achieve the provision of these Development Contributions with greater certainty and at less risk and less cost to Council than would be possible through the outright purchase of the land or the use of section 7.11 development contributions alone.

##### 4.2 Nature of proposed Planning Agreement

4.2.1 The Planning Agreement is a planning agreement under s7.4 of the *Environmental Planning and Assessment Act 1979 (Act)*. The Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Planning Agreement) are made by the Developer for various public purposes (as defined in s7.4(2) of the Act).

#### 4.3 Effect of proposed Planning Agreement

The Planning Agreement:

- (a) The Developer dedicates its land to allow for the widening Albyn Lane to the edge of the currently proposed footpath. The northern (Albyn Lane) façade of the commercial premises will then be setback to allow provision of a footpath along the Albyn Lane frontage having a variable width as shown on Drawing No. DA-0-202 Revision N dated 3 April 2018, drawing no. DA-0-651 Revision A dated 21 March 2018 (except where amended by recommended Conditions of consent), and as shown on the draft Stratum Subdivision Plan prepared by Joseph Monardo, Sheets 1 – 4, Reference 50284 001DP (dated 21 March 2018) The widening of Albyn Lane would assist with the circulation of traffic and existing condition of the laneway.
- (b) The Developer dedicates the land, namely a laneway (limited in stratum unlimited as to height but limited to a depth of 500mm below the finished surface of Albyn Lane) and footpath. The Road and footpath to be dedicated to Council are to have a clear property boundary as proposed in draft DP plan with Reference 50284 001DP, prepared by Joseph Monardo, registered surveyor, issue date 21 March 2018 and as shown on Drawing No. DA-0-202 Revision N dated 3 April 2018 and Drawing No. DA-0-651 Revision A dated 21 March 2018 (except where amended by recommended Conditions of consent).
- (c) All design and construction work is to be undertaken by the developer, to Council's specifications, namely:
- (d) A minimum 500mm clearance must be provided between the finished road surface level to the top of basement roof / slab for Basement Level 1. This depth is required for service conduits, pavement depth and future maintenance of road. Section A-A shown in DP draft plan to be amended to show correct basement ceiling level. (Issue: basement clearance from road surface for pavement)
- (e) The basement parking area situated below the widened area of Albyn Lane which is to be dedicated is to be designed and constructed to support a 20T capacity Council Garbage Truck operating in Albyn Lane.
- (f) The basement parking area to be legally recognised and shown with a Stratum Subdivision and an 88B Instrument including the dedication of the stratum lot for the Public Road for the Road Widening strip in Albyn Lane, along with easements for services/covenants.
- (g) The Albyn Lane road carriageway to be widened to accommodate 2 way traffic movements as shown in the architectural plans approved under DA 2017/373.
- (h) The Albyn Lane Footpath to be a variable width as shown on Drawing No. DA-0-202 Revision N dated 3 April 2018 and to incorporate ducts for future Public Utility Services along the Lane.
- (i) The existing Light Pole at the south western corner of the property in Albyn Lane to be relocated to accommodate the Lane Widening but maintain a Level P4 Lighting Category. Location of the light pole will be confirmed with the frontage works application to Council.
- (j) Prior to the issue of the construction certificate applicant shall submit to Council an Application to undertake the Public Domain Works on the Harrow Road and Albyn Lane Frontages of the Property.
- (k) To provide for stormwater disposal from the Property the Applicant to extend Council's existing stormwater system in Harrow Road from Albyn Street to the site as proposed in the submitted stormwater drainage plan.

- (l) Acknowledges that the Development Contributions are not to be taken into account in determining a development contribution under Section 7.11 of the Act.

**5. Assessment of the merits of the proposed Planning Agreement**

**5.1 The Public Purposes served by the proposed Planning Agreement**

The proposed Planning Agreement promotes the provision of and recoupment of the cost of providing public and amenities and public services.

The Planning Deed is a reasonable means for achieving that planning purpose, as it provides for the payment of a monetary development contribution to be expended on achieving that planning purpose.

**5.2 How the proposed Planning Agreement promotes the Public Interest and the objects of the Environmental Planning and Assessment Act 1979**

The Planning Deed promotes the public interest and the objects of the Act as set out in s5 (a) of the Act that is, to encourage:

(ii) The promotion and co-ordination of the orderly and economic use and development of land, and

(v) The provision and co-ordination of community services and facilities.

**5.1 How the proposed Planning Agreement promotes the Elements of the Council's Charter**

The proposed Planning Agreement promotes the elements of the Council's Charter by providing appropriate services and facilities for the local community enables the Council to carry out its functions in a way that facilitates local communities that are strong, healthy and prosperous

**5.2 How the proposed Planning Agreement promotes the objects (if any) of the Local Government Act 1993**

The proposed Planning Agreement promotes the objects of the Local Government Act 1993 by allowing Council to provide facilities appropriate to the current and future needs of the local community and the wider public and to improve and develop the resources of the area.

**5.3 Whether the proposed Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued**

The proposed Planning Agreement specifies that the Developer must have paid the monetary Development Contribution before any Construction Certificate is issued in respect of any future Development on the Land.

**5.4 Whether the proposed Planning Agreement conforms with the authority's capital works program**

The proposed Planning Agreement conforms to Council's capital works program and, furthermore, will enable the program to be advanced with greater timeliness and certainty while reducing the financial risks to Council in its implementation.

**6. Further Information****6.1 Interpretation**

Note: this explanatory note is a summary only of the proposed Planning Agreement, is not to be relied upon as a complete description of the proposed Planning Agreement, and is not to be used as an aid in construing the proposed Planning Agreement.

**6.2 Further Information**

Copies of the proposed Planning Agreement are available on the Bayside Council website, and at the offices of Bayside Council.

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## Survey Responses

18 December 2018 - 30 January 2019

## VPA 1-3 Harrow Road, Bexley

## Bayside Have Your Say

Project: Proposed Voluntary Planning Agreement : 1-3 Harrow Road, Bexley



VISITORS					
4					
CONTRIBUTORS			RESPONSES		
1			1		
0	0	1	0	0	1
Registered	Unverified	Anonymous	Registered	Unverified	Anonymous



Respondent No: 1

Login: Anonymous

Email: n/a

Responded At: Dec 22, 2018 10:34:52 am

Last Seen: Dec 22, 2018 10:34:52 am

IP Address: n/a

Q1. Do you support the proposed Voluntary  
Planning Agreement ?

Yes, but with Changes

Q2. Please comment

Under the agreement reached pursuant to s.34 of the Land and  
Environment Court Act 1979 dated 6 April 2018 in proceedings  
2017/300153, the developer also agreed to widen the lane way in  
order to allow at least two vehicles to pass through the lane way.

Q3. Please comment

not answered

Q4. First name

[REDACTED]

Q5. Surname

[REDACTED]

Q6. Please include your email if you wish to be  
updated on this project.

[REDACTED]

Q7. Age

36 - 45

Q8. Do you speak another language at home?

Arabic

Q9. Which language?

not answered

Q10. Do you identify as Aboriginal or Torres Strait  
Islander?

No

Q11. Do you identify as having a disability ?

No



## **Council Meeting**

**13/02/2019**

Item No	8.3
Subject	<b>Voluntary Planning Agreement - oOh!media Fly Pty Ltd</b>
Report by	Michael McCabe, Director City Futures
File	F18/1155

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## **Summary**

A draft Voluntary Planning Agreement (VPA) between oOh!media Fly Pty Ltd and Bayside Council was placed on public exhibition for 28 days in relation to Development Applications for the conversion or replacement of existing outdoor advertising signage with digital signage. No submissions were received.

The VPA proposes monetary contributions of \$555/m<sup>2</sup> to Council for the conversion or replacement of existing outdoor signage with digital signage in addition to 2.5% of the annual display time on digital signage to Council to advertise Council events.

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## **Officer Recommendation**

That Council notes the outcomes of the public exhibition of a Voluntary Planning Agreement (VPA) between Council and oOh!media Fly Pty Ltd in relation to Development Applications for the conversion or replacement of existing outdoor advertising signage with digital signage and the VPA be executed in accordance with Council Delegations.

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## **Background**

In some circumstances, where Council is the consent authority for outdoor advertisements Council can require public benefit contributions. State Environmental Planning Policy No.64 - Advertising and Signage (SEPP 64) and the 'Transport Corridor Outdoor Advertising and Signage Guidelines' make provision for Council to enter into a VPA so that it can collect contributions to fund a public benefit works program, which needs to be developed in partnership with Transport for NSW or RMS.

The Guidelines identify the priority areas for expenditure of advertising revenue as improvements to traffic safety for drivers, pedestrians and cyclists and may include:

- installation of flashing lights or other safety infrastructure near school zones;
- provision of cycle ways;
- provision of pedestrian refuges; or
- installation of pedestrian bridges to improve safety and traffic flow.

Council is also able to negotiate in-kind contributions such as use of the advertising structure for promotion of community programs, events, public safety programs or appropriate public purposes.

## Development Applications

Council currently has Development Applications from oOh!media Fly Pty Ltd (the Developer) for signs at:

- 40-54 Baxter Road, Mascot (DA-2017/1140)
- 40-54 Baxter Road, Mascot (DA-2017/1141)
- 40-54 Baxter Road, Mascot (DA-2017/1142)
- O'Riordan Street Bridge, Mascot (DA-2018/1135)
- Railway Bridge above Robey Street, Mascot (DA-2018/1183)

The Development Applications are limited to 6 existing signs only of a total portfolio comprising 38 existing signs, which the developer currently operates around Sydney Airport. To date Council is not in receipt of any additional Development Applications for the remaining 32 signs. The remaining signs may also be subject to impacts from the Sydney Gateway road and rail projects currently proposed by the NSW Government. (Refer Attachment 1 – Schedule 1 of the Draft VPA)

Any development consent for outdoor advertising signs will generally be capped to 15 years in accordance with SEPP 64.

## Draft VPA

Council has entered into negotiations for a VPA with the Developer to:

- make monetary contributions of \$555/m<sup>2</sup> of display area per annum within 14 days of the issue of a construction certificate for the conversion or replacement of existing outdoor signage with digital signage. (Refer Attachment 1 - Clauses 5 to 7 and Schedule 2 and 3 of the Draft VPA)
- provide 2.5% of the annual display time on digital signage to Council to advertise Council events. (Refer Attachment 1 - Clause 10 of the Draft VPA)

If development consent is granted to the current Development Applications, this VPA requires payment of the first monetary contributions within 14 days of issue of a construction certificate (respectively):

- \$220,337.66 (DA-2017/1140)
- \$37,395.46 (DA-2017/1141)
- \$101,842.95 (DA-2017/1142)
- \$73,6636.29 (DA-2018/1135)
- \$22,714.82 (DA-2018/1183)

The total display area subject to the current Development Applications is approximately 821m<sup>2</sup>. This equates to a monetary contribution of \$455,927.18. These contributions will be paid annually for the balance of time that the relevant development consent is effective and operational and increased with the Consumer Price Index.

The VPA also makes provision for Council to require like contributions for other signs in the portfolio in the event that additional Development Applications are lodged for conversion or replacement of other advertising structures (Refer Attachment 1 – Schedule 1 of the Draft VPA).

Subject to development consent and execution of the VPA, Council will commence liaison with Transport for NSW (TfNSW) and Roads & Maritime Services (RMS) for the development of a public benefit works program as funded by these contributions.

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## Financial Implications

Not applicable	<input checked="" type="checkbox"/>	Council will receive monetary contributions from oOh!media calculated by reference to the digital display area used for the display of advertisements at a rate of \$555 per square metre for the purpose of providing public benefits in accordance with clause 13(3) the SEPP No. 64
Included in existing approved budget	<input type="checkbox"/>	
Additional funds required	<input type="checkbox"/>	

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## Community Engagement

The draft Voluntary Planning Agreement relating to monetary and works in kind contributions for the replacement or conversion of outdoor advertising was on public exhibition from 18 December 2018 until 29 January 2019.

No submissions were received.

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## Attachments

- 1 Draft Voluntary Planning Agreement (Public Exhibition) [↓](#)
- 2 Draft Explanatory Note (Public Exhibition) [↓](#)

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# THOMSON GEER

LAWYERS

Level 25, 1 O'Connell Street  
Sydney NSW 2000 Australia

T +61 2 8248 5800 | F +61 2 8248 5899

## Planning Agreement

between

**oOh!media Fly Pty Limited**  
ABN 55 094 425 395  
(Developer)

and

**Bayside Council**  
ABN 80 690 785 443 Branch 003  
(Council)

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[www.tglaw.com.au](http://www.tglaw.com.au)  
Sydney | Melbourne | Brisbane | Adelaide  
ABN 21 442 367 363

**ADVICE | TRANSACTIONS | DISPUTES**  
Domestic & Cross Border

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DRAFT

This agreement is made on

2018

between **oOh!media Fly Pty Limited** ABN 55 094 425 395 of Level 2, 76 Berry Street, North Sydney NSW 2060 (**Developer**)

and **Bayside Council** ABN 80 690 785 443 Branch 003 of 444 - 446 Princes Highway, Rockdale NSW 2216 (**Council**)

### Recitals

- A The Developer is the operator of the Existing Signage situated on the Land.
- B The Developer has lodged the Current Development Applications and proposes to lodge Future Applications to develop Digital Signage on the Land.
- C By way of this Agreement, the Developer agrees to provide the Development Contributions on the terms and conditions of this Agreement pursuant to section 7.4 of the Act in relation to the Current Development Applications and the Future Applications.
- D This Agreement between the parties has been entered into for the purposes of satisfying Clause 13 of the State Environmental Planning Policy No. 64 (Advertising and Signage) and the Transport Corridor Outdoor Advertising and Signage Guidelines for the provision of the public benefit to be provided in connection with the display of the advertisements in relation to the Current Development Applications and the Future Applications.

Now it is agreed as follows:

## 1 Definitions and interpretation

### 1.1 Definitions

In this agreement:

**Act** means the *Environmental Planning and Assessment Act 1979* (NSW);

**Bank Guarantee** means the bank guarantees to be provided in accordance with Clause [18+6](#).

**Business Day** means:

- (a) for the purposes of receiving a Notice, a day which is not a Saturday, Sunday, public holiday or bank holiday in the city in which the Notice is to be received; and
- (b) for any other purposes, a day on which the banks are open for business in Sydney, New South Wales other than a Saturday, Sunday or public holiday in Sydney, New South Wales;

**Claim** includes a claim, notice, demand, action, proceeding, litigation, investigation, judgment, damage, loss, cost, expense or liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute and whether involving a third party or a party to this agreement;

**Commencement Date** means the date of execution of this Agreement.

**Construction Certificate** means has the same meaning as in section 6.4(a) of the Act;

**Consumer Price Index** means:

- (a) the All Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics; and

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- (b) if this price index is discontinued or abolished or if the items or weighting of the items whose prices are considered vary so as to change the basis of the price index, then any price index the Developer selects that, as nearly as practicable, serves the same purpose;

**Current Development Applications** means Development Application Nos. DA2017/1140, DA2017/1141, DA2017/1142, DA2018/1135 and DA2018/1183 for the Development.

**Identification Document** means the document in 5 numbered parts containing photos indicating the Land and Existing Signage contained at [Schedule 4](#).

**Development** means the development that is sought to be approved in the Current Development Applications, which includes among other things Digital Signage;

**Development Application** has the same meaning as in section 1.4 of the Act;

**Development Consent** has the same meaning as in section 1.4 of the Act;

**Development Contribution** means the monetary contribution amount required to be paid by the Developer pursuant to this Agreement.

**Digital Display Area** means the area of Signage comprising of digital technology (including but not limited to light emitting diode technology) in a screen configuration used, intended to be used or otherwise set aside for the display of advertisements or other signs, notices, content, devices or representations.

**Digital Signage** means Signage with a Digital Display Area.

**Existing Signage** means the Signage that is on the Land as at the date of this Agreement as indicated in Schedule 1 [and also indicated in the Identification Document in Schedule 4](#).

**First Payment Date** means the date being 14 days after:

- (a) a Construction Certificate is granted in relation to the Current Development Applications; and
- (a) a Construction Certificate is granted in relation to the Future Applications,

**Future Applications** means Development Applications or Modification Applications proposed to be lodged by the Developer in relation to the Land seeking Development Consent (or modification of an existing Development Consent) to convert the Existing Signage to, or replace the Existing Signage with, Digital Signage, and does not include Signage that is the subject of the Current Development Applications.

**Future Development** means the development that is sought to be approved under the Future Applications, which will include among other things Digital Signage;

**Government Agency** means any government, governmental, semi governmental, administrative, fiscal or judicial body department, commission, authority, tribunal, agency or entity;

**GST** means goods and services tax or similar value added tax levied or imposed in Australia under the GST Law or otherwise on a supply;

**GST Act** means A New Tax System (Goods and Services Tax) Act 1999 (Cth);

**GST Law** has the same meaning as in the GST Act;

**Insolvency Event** means the occurrence of any one or more of the following events regarding any party to this agreement:

- (b) a meeting has been convened, resolution proposed, petition presented or order made for the winding up of that party;



- (c) a receiver, receiver and manager, provisional liquidator, liquidator, or other officer of the Court, or other person of similar function has been appointed regarding all or any material asset of the party;
- (d) a security holder, mortgagee or chargee has taken attempted or indicated an intention to exercise its rights under any security of which the party is the security provider, mortgagor or chargor; or
- (e) an event has taken place with respect to the party which would make, or deem it to be, insolvent under any law applicable to it;

**Land** means the Land described in Schedule 1;

**Liability** means any liability or obligation (whether actual, contingent or prospective) including any Loss, irrespective of when the acts, events or things giving rise to the liability or obligation occurred;

**Loss** includes any loss, damage, cost, charge liability (including Tax liability) or expense (including legal costs and expenses);

**Modification Application** means an application to modify a development consent under section 4.55 of the Act.

**Party** means a party to this Agreement including their successors and assigns.

**Planning Agreement** has the same meaning as in section 7.1 of the Act.

**Public Purpose** means public benefit works in relation to transport and traffic matters of a public nature, including but not limited to public transport, transport safety, transport amenity improvements, pedestrian safety, improving traffic safety (road, rail, bicycle and pedestrian), providing or improving public transport services, improving or providing public amenity within or adjacent to roads, school safety infrastructure and programs, or other community benefits relating to transport, traffic, pedestrian and matters.

**Regulation** means the *Environmental Planning and Assessment Regulation 2000* (NSW);

**Signage** means a sign or infrastructure which supports a sign on which advertisements or content are displayed, and includes the Existing Signage and Digital Signage.

**Tax** means all forms of taxes, duties, imposts, charges, withholdings, rates, levies or other governmental impositions of whatever nature and by whatever authority imposed, assessed or charged together with all costs, charges, interest, penalties, fines, expenses and other additional statutory charges, incidental or related to the imposition.

**Term** means the period that:

- (a) a Development Consent granted in relation to the Current Development Applications; or
- (b) a Development Consent or modification application approval in relation to the Future Applications,

is in force for, being:

- (c) 15 years after the date on which the Development Consent becomes effective and operates in accordance with s 4.20 of the Act; or
- (d) any lesser period specified in the Development Consent.

## 1.2 Interpretation

In this agreement, unless the context otherwise requires:

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- (a) a reference to:
- (i) one gender includes the others;
  - (ii) the singular includes the plural and the plural includes the singular;
  - (iii) a recital, clause, schedule or annexure is a reference to a clause of or recital, schedule or annexure to this agreement and references to this agreement include any recital, schedule or annexure;
  - (iv) any contract (including this agreement) or other instrument includes any variation or replacement of it and as it may be assigned or novated;
  - (v) a statute, ordinance, code or other law includes subordinate legislation (including regulations) and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
  - (vi) a person or entity includes an individual, a firm, a body corporate, a trust, an unincorporated association or an authority;
  - (vii) a person includes their legal personal representatives (including executors), administrators, successors, substitutes (including by way of novation) and permitted assigns;
  - (viii) a group of persons is a reference to any two or more of them taken together and to each of them individually;
  - (ix) an entity which has been reconstituted or merged means the body as reconstituted or merged, and to an entity which has ceased to exist where its functions have been substantially taken over by another body, means that other body;
  - (x) time is a reference to legal time in Sydney, New South Wales;
  - (xi) a reference to a day or a month means a calendar day or calendar month;
  - (xii) money (including '\$', 'AUD' or 'dollars') is to Australian currency;
- (b) unless expressly stated, no party enters into this agreement as agent for any other person (or otherwise on their behalf or for their benefit);
- (c) the meaning of any general language is not restricted by any accompanying example, and the words 'includes', 'including', 'such as', 'for example' or similar words are not words of limitation;
- (d) the words 'costs' and 'expenses' include reasonable charges, expenses and legal costs on a full indemnity basis;
- (e) headings and the table of contents are for convenience only and do not form part of this agreement or affect its interpretation;
- (f) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (g) the time between two days, acts or events includes the day of occurrence or performance of the second but not the first day act or event;
- (h) if the last day for doing an act is not a Business Day, the act must be done instead on the next Business Day;

- (i) where there are two or more persons in a party each are bound jointly and severally; and
- (j) a provision of this agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this agreement or the inclusion of the provision in this agreement.

## 2 Planning Agreement under the Act

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The parties mutually acknowledge and agree that this Agreement is a planning agreement governed by Subdivision 2 of Division 7.1 of Part 7 of the Act.

## 3 Application of this Agreement

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- 3.1 This Agreement applies to the Land, the Existing Signage on the Land, the Current Development Applications, the Future Applications, the Development and to the Future Development.
- 3.2 Nothing in this Agreement affects the operation of the Development Consents that are ongoing and in force in respect of the Existing Signage. The parties agree that said Development Consents will continue to operate for the duration of the Term and are not taken to be abandoned by the Developer's use or operation of the relevant Signage as Digital Signage for the Term.

## 4 Operation of this Agreement

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This Agreement takes effects from the date this Agreement is executed by the Parties.

## 5 Development Contributions - the Current Development Applications

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- 5.1 **Schedule 2** has effect in relation to the Development Contributions to be made by the Developer under this Agreement in relation to the Current Development Applications.
- 5.2 If Development Consent is granted in relation to the Current Development Applications, and a Construction Certificate is issued, the Developer must make the Development Contributions (as set out in **Schedule 2**) to Council in accordance with this Agreement.
- 5.3 For the purposes of clause 5.2:
  - (a) The Developer acknowledges that it must lodge a Construction Certificate prior to commencement of works or use associated with the Current Development Applications (pursuant to section 6.7 of the Act);
  - (b) Council acknowledges that the Developer may elect not to take up Development Consent granted in relation to a Current Development Application;
  - (c) The Developer must immediately notify Council of the date a Construction Certificate is issued in relation to the Current Development Applications;
  - (d) If the Developer commences any construction work (or use) in relation to Digital Signage approved pursuant to the Current Development Applications without a Construction Certificate, the First Payment Date is taken to be the date of grant of development consent of the Current Development Applications and the Developer is immediately liable to pay the Development Contribution calculated from that date plus interest at a rate of 10% above the daily Reserve Bank of Australia Cash Rate from

the date that payment was due up to and including the date the overdue amount is paid.

**5.55.4** The Developer agrees to make and the Council agrees to accept, the Development Contributions in relation to the Current Development Applications, to be applied for the Public Purpose by the Council.

**5.65.5** The Developer and the Council agree that on each anniversary of the First Payment Date the Development Contribution in relation to the Current Development Applications will increase by the increase in the Consumer Price Index for the prior year.

## **6 Development Contributions - the Future Applications**

6.1 Council acknowledges that the Developer intends to lodge Future Applications to develop new Digital Signage (in addition to the Digital Signage the subject of the Current Development Applications).

6.2 **Schedule 3** has effect in relation to the Development Contributions to be made by the Developer under this Agreement in relation to the Future Applications.

6.3 If Development Consent is granted in relation to the Future Applications and a Construction Certificate is issued, the Developer must make the Development Contributions (as set out in **Schedule 3**) to Council in accordance with this Agreement.

6.4 For the purposes of clause 6.3:

- (a) The Developer acknowledges that it must lodge a Construction Certificate prior to commencement of works or use associated with the Future Applications (pursuant to section 6.7 of the Act);
- (b) Council acknowledges that the Developer may elect not to take up Development Consent granted in relation to a Future Application;
- (c) The Developer must immediately notify Council of the date a Construction Certificate is issued in relation to the Future Applications;
- (d) If the Developer commences any construction work (or use) in relation to Digital Signage approved pursuant to the Future Applications without a Construction Certificate, the First Payment Date is taken to be the date of grant of development consent of the Future Applications and the Developer is immediately liable to pay the Development Contribution calculated from that date plus interest at a rate of 10% above the daily Reserve Bank of Australia Cash Rate from the date that payment was due up to and including the date the overdue amount is paid.

6.5 The Developer agrees to make and the Council agrees to accept, the Development Contributions in relation to the Future Applications, to be applied for the Public Purpose by the Council.

6.6 The Developer and the Council agree that on each anniversary of the First Payment Date the Development Contribution in relation to the Future Applications will increase by the increase in the Consumer Price Index for the prior year.

## **7 Adjustment of Development Contribution**

7.1 If at any time the use or operation of any of the Signage by the Developer pursuant to any development consent granted to the Current Development Applications or the Future Applications permanently ceases for any reason, including as a result of the termination of a

lease or licence under which the Developer had a right to access and use the Land to operate the relevant Signage, the parties acknowledge that:

- (a) the Developer may provide written evidence to the Council to demonstrate that the use or operation of particular Signage by the Developer has permanently ceased; and
- (b) Council must give genuine consideration to any such evidence and, if satisfied (acting reasonably) that the use and operation of the particular Signage by the Developer has permanently ceased, adjust the Development Contribution to the effect that the Development Contribution in relation to the said Signage is no longer payable by the Developer. If requested by either party, the parties must promptly negotiate an amendment to this Agreement to formally record the removal of the particular Signage from the operation of this Agreement.

## 8 Late Payment

- 8.1 Where any payment of a Development Contribution is not made on or before the due date for payment, the unpaid amount will accrue interest at a rate of 2% above the daily Reserve Bank of Australia Cash Rate from the date that payment was due up to and including the date when the overdue amount is paid.
- 8.2 If the Developer has not paid Development Contributions as required for 3 consecutive months, despite the Council having issued tax invoices in accordance with this Agreement for each of those 3 months, then the Developer must cease the use of the Digital Signage.

## 9 Consolidation of payment dates

- 9.1 Without limiting the generality of Clause 21.7 of this Agreement, the parties acknowledge that they may, from time to time, negotiate and execute a variation of this Agreement so as to make provision for the date or dates on which recurrent payments of Development Contributions required by this Agreement are due to be consolidated (with appropriate adjustments) so as to make provision for a recurrent consolidated payment of the total Development Contribution payable.

## 10 Allocation of Display Time

- 10.1 In addition to the Development Contributions, subject to clause [10.29.2](#), the Developer agrees to allocate [during the Term](#) the following display time in relation to Signage which is the subject of development consent in relation to the Current Development Applications or the Future Applications:
  - (a) 2.5% of the [annual](#) display time on digital Signage to Destination NSW to advertise NSW; and
  - (b) 2.5% of the [annual](#) display time on digital Signage to Council to advertise Council events.
- 10.2 The Developer's obligation under clause [10.19.4](#) is subject to the following conditions:
  - (a) Council must comply with the Developer's standard commercial terms and conditions for the display of advertisements on advertising assets;
  - (b) Council must pay any production or service costs in connection with the display of an advertisement;
  - (c) the right to display an advertisement on digital Signage is personal to each of Destination NSW and Council and cannot be transferred or sold to another person, or exchanged for any other benefit or for cash;



- (d) if at any time during the Term either Destination NSW or Council does not use its allocation of display time on digital Signage to display an advertisement, then that unused display time is immediately forfeited to the Developer and does not accrue for future use; and
- (e) Council must ensure that any advertisement displayed does not include the logo or branding of any third party, infringe any third party's intellectual property rights or breach any law or regulation, except that Council may include the logo or branding of a third party to identify it as a sponsor of the Council event being advertised.

## 11 Council's obligations in respect of the Development

- 11.1 Subject to clause [11.210.2](#) and clause 13, Council must not erect, install, plant or otherwise place, or grant to itself or any third party any licence, consent or approval to erect, install, plant or otherwise place, any plant or equipment, vegetation, structure, object, building or work on land owned, managed or controlled by Council which has or will have the effect of obscuring or obstructing visual access to the Signage from any public road for the duration of the Term.
- 11.2 Clause [11.110.4](#) does not limit or fetter in any way Council's ability to exercise its rights and responsibilities in relation to road safety or functions as a roads authority under the Roads Act 1993 including, without limitation, the installation or display of a prescribed traffic control device pursuant to the *Road Transport Act 2013* or otherwise installing or erecting signs or devices related to traffic and pedestrian safety or the regulation of pedestrians and traffic.

## 12 Assignment and Transfer

- 12.1 Unless the matters specified in clause [12.211.2](#) are satisfied, the Developer is not to do any of the following:
  - (a) assign, transfer dispose or novate to any person the Developer's rights or obligations under this Agreement
- 12.2 The matters required to be satisfied for the purposes of clause [12.111.4](#) are as follows:
  - (a) the Developer has, at no cost to Council, first procured the execution by the person to whom the Developer's rights or obligations under this Agreement are to be assigned, transferred or novated, of an agreement in favour of the Council on terms that are no less favourable to Council than the terms of this agreement,
  - (b) Council, by notice in writing to the Developer, has stated that evidence satisfactory to Council has been produced to show that the assignee, transferee or novatee, is reasonably capable of performing its obligations under the Agreement,
  - (c) the Developer is not in breach of this Agreement, and
- 12.3 Any purported dealing in breach of this clause is of no effect.

## 13 Council's acknowledgement

- 13.1 Subject to clause 13.2, Council acknowledges and agrees that for the duration of the Term:
  - (a) the payment of the Development Contribution and the allocation of display time pursuant to clause 10 is in substitution for the payment of any other fees, rates, charges or levies (**Levy Payments**) which Council could or may seek to impose on the Developer and its successors or assigns in respect of the Existing Signage, Development and Future Development;

- (b) Council releases the Developer and its successors or assigns from all liability for Levy Payments in respect of the Existing Signage, Development and Future Development;
  - (c) Council will not seek to impose levies to the same effect of the Development Contributions.
- 13.2 Nothing in clause 13.1 limits or fetters in any way Council's power to impose fees, rates, charges or levies under any Act (including but not limited to the *Local Government Act 1993*) regulation, statutory rule or similar which the Council could or may seek to impose:
- (a) on the owner of the Land; or
  - (b) as a standard application fee, lodgement fee or other administrative or processing fee or charge that is payable to Council in connection with any Development Application, Modification application, application for a Construction Certificate or similar including in relation to any Future Application.

#### 14 No fetter

- 14.1 Nothing in this Agreement shall be construed as requiring the Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.
- 14.2 For the avoidance of doubt, nothing in this Agreement shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty in relation to
- (a) assessment and determination of the Current Development Applications or Future Applications;
  - (b) the exercise of Council's functions as a roads authority under the *Roads Act 1993*; or
  - (c) the exercise of Council's functions under the *Road Transport Act 2013* including but not limited to the installation or display of prescribed traffic control devices pursuant to that Act; or
  - (d) any other power or functions relating to installing or erecting signs or devices with respect to traffic and pedestrian safety or the regulation of traffic and pedestrians generally.

#### 15 Application of sections 7.11 and 7.12 of the Act to the Development

- 15.1 This Agreement excludes the application of Sections 7.11 and 7.12 of the Act to the Development and to the Future Development.

#### 16 No Registration of this Agreement

- 16.1 The Parties agree that this Agreement will not be registered for the purposes of section 7.6 of the Act.

#### 17 Dispute Resolution

##### 17.1 Notice of Dispute

If a party claims that a dispute has arisen under this agreement (**Claimant**), it must give written notice to the other party (**Respondent**) stating the matters in dispute and designating as its representative a person to negotiate the dispute (**Claim Notice**).

**17.2 Response to Notice**

Within 20 business days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute.

**17.3 Negotiation**

The nominated representatives must:

- (a) meet to discuss the matter in good faith within 10 business days after service by the Respondent of notice of its representative; and
- (b) use reasonable endeavours to settle or resolve the dispute within 15 business days after they have met.

**17.4 Further Notice if not Settled**

If the dispute is not resolved within 15 business days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (**Dispute Notice**).

**17.5 Mediation**

The parties agree that a dispute shall be mediated if it is the subject of a Dispute Notice, in which case:

- (a) the parties must agree the terms of reference of the mediation within 5 business days of the receipt of the Dispute Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (b) the appointment of a Mediator will be agreed between the parties, or failing agreement within 5 business days of receipt of the Dispute Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply to appoint a mediator;
- (c) the Mediator appointed pursuant to this clause [17.515.5](#) must:
  - (i) have reasonable qualifications and practical experience in the area of the dispute; and
  - (ii) have no interest or duty which conflicts or may conflict with her function as mediator, she being required to fully disclose any such interest or duty before her appointment;
- (d) the Mediator shall be required to undertake to keep confidential all matters coming to her knowledge by reason of her appointment and performance of her duties;
- (e) the parties must within 5 business days of receipt of the Dispute Notice notify each other of their representatives who will be involved in the mediation;
- (f) the parties agree to be bound by any mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement;
- (g) in relation to costs and expenses:
  - (i) each party will bear their own professional and expert costs incurred in connection with the mediation;
  - (ii) the costs of the Mediator will be shared equally by the parties unless the Mediator determines a party has engaged in vexatious or unconscionable behaviour in which case the Mediator may require the full costs of the mediation to be borne by that party.



**17.6 Litigation**

If the dispute is not finally resolved in accordance with clause [17.5](#)~~15.5~~, either party is at liberty to litigate the dispute.

**17.7 Exchange of information**

The parties acknowledge that the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this clause is to attempt to settle the dispute between the parties. No party may use any information or documents obtained through the dispute resolution process established by this clause 13 for any purpose other than an attempt to settle a dispute between the parties.

**17.8 Continue to Perform obligations**

Each party must continue to perform its obligations under this agreement, notwithstanding the existence of a dispute.

**18 Bank Guarantee**

18.1 At the time of application for the first Construction Certificate in relation to the Current Development Applications, the Developer must deliver to Council an irrevocable and unconditional Bank Guarantee in favour of Council equivalent to one quarter of the Development Contribution required to be paid under Clause 5 and Schedule 2 of this Agreement in relation to each of the Current Development Applications.

18.2 The Council must return the Bank Guarantee referred to in Clause [18.1](#)~~17.1~~ at the end of the Term of Development Consents granted in relation to the Current Development Applications. For the purposes of this clause if the Term of Development Consents granted in relation to the Current Development Applications is different, the Bank Guarantee is to be returned at the end of the Term that expires last.

18.3 If a Development Consent or Modification Application approval is granted in relation to the Future Applications, the Developer applies for a Construction Certificate in relation to that Future Application, then at the time of applying for said Construction Certificate the Developer must deliver to Council an irrevocable and unconditional Bank Guarantee in favour of Council equivalent to one quarter of the Development Contribution required to be paid under Clause 6 and Schedule 3 of this Agreement in relation to each of the Future Applications.

18.4 If the Development Contribution is adjusted in accordance with clause 7, the Developer may substitute the Bank Guarantee for the amount equivalent to one quarter of the adjusted Development Contribution.

18.5 The Council must return the Bank Guarantee referred to in Clause [18.3](#)~~17.3~~ at the end of the Term of a Development Consent granted in relation to the Future Applications.

18.6 If the Developer does not comply with its obligations under this Agreement, the Council may after 14 days' notice, call on the Bank Guarantee.

**19 No issue of Construction Certificates if this Agreement is breached**

19.1 No Construction Certificate may be issued in relation the Future Applications if a Development Contribution required to be paid by the Developer has not been paid in breach of this Agreement.

## 20 GST

### 20.1 Defined GST terms

In this clause 15, words and expressions which are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law; and

### 20.2 GST to be added to amounts payable

If GST is payable on a taxable supply made under, by reference to or in connection with this Agreement, the party providing the consideration for that Taxable Supply must also pay the GST Amount as additional consideration. This clause does not apply to the extent that the consideration for the Taxable Supply is expressly agreed to be GST inclusive, unless otherwise expressly stated, prices or other sums payable or consideration to be provided under or in accordance with this Agreement are exclusive of GST.

### 20.3 Tax invoice

If a Party is liable for GST on any payments made under this Agreement, the other Party must issue a tax invoice (or an adjustment note) to the liable Party for any GST payable under this agreement within seven days of a written request. The tax invoice (or adjustment note) must include the particulars required by the GST Law to obtain an input tax credit for that GST.

### 20.4 GST obligations to survive termination

This clause 15 will continue to apply after expiration of termination of this Agreement.

## 21 Notices

### 21.1 Service of notices

A notice, consent, approval or other communication under this agreement (**Notice**) must be:

- (a) in writing and signed by the sender or its duly authorised representative, addressed to the recipient and sent to the recipient's address specified in clause [21.319-3](#); and
- (b) delivered by personal service, sent by pre-paid mail or transmitted by facsimile or email, or any other lawful means.

### 21.2 Effect of receipt

- (a) A Notice given in accordance with this clause [20.148-4](#) is treated as having been given and received:
  - (i) if personally delivered, on delivery;
  - (ii) if sent by pre-paid mail, on the fifth clear Business Day after the date of posting (or the seventh Business Day after the date of posting if sent to or from an address outside Australia);
  - (iii) if sent by facsimile, when the sender's fax machine produces a transmission report stating that the transmission of the entire Notice was complete; and
  - (iv) **[if sent by email, at the time of transmission by the sender, unless the sender receives an automated notice generated by the sender's or the recipient's email server that the email was not delivered,]**

except that, if the delivery, receipt or transmission is after 5.00pm in the place of receipt or on a day which is not a Business Day, it is taken to have been received at 9.00am on the next Business Day.

- (b) Notices under clause [specify clauses which do not permit email Notices] must be given personally, by post or by facsimile, but not by email.

### 21.3 Addresses

- (a) The particulars for delivery of Notices are initially:

#### **oOh!media Fly Pty Limited**

Name: Christian Slater  
 Attention: Legal Counsel  
 Address: Level 2, 76 Berry Street, North Sydney NSW 2060  
 Email: christian.slater@oohmedia.com.au

#### **Bayside Council**

Name: [insert]  
 Attention: [insert]  
 Address: [insert]  
 Fax: [insert]  
 Email: [insert]

- (b) A party may change its address for the delivery of Notices by notifying that change to each other party. The notification is effective on the later of the date specified in the Notice or five Business Days after the Notice is given.

## 22 General

### 22.1 Legal costs

- (a) Except as expressly stated otherwise in this agreement, each party must pay its own legal and other costs and expenses of negotiating, preparing, executing and performing its obligations under this agreement.
- (b) The Developer must pay all legal costs (assessed on an indemnity basis) and out of pocket disbursements incurred by the Council in relation to enforcing the Developer's obligations under this Agreement.

### 22.2 Governing law and jurisdiction

- (a) This agreement is governed by and is to be construed in accordance with the laws applicable in New South Wales, Australia.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

**22.3 Severability**

- (a) Subject to clause ~~22.3(b)~~~~20.3(b)~~, if a provision of this agreement is illegal or unenforceable in any relevant jurisdiction, it may be severed for the purposes of that jurisdiction without affecting the enforceability of the other provisions of this agreement.
- (b) Clause ~~22.3(a)~~~~20.3(a)~~ does not apply if severing the provision:
  - (i) materially alters the:
    - (A) scope and nature of this agreement; or
    - (B) the relative commercial or financial positions of the parties; or
  - (ii) would be contrary to public policy.

**22.4 Rights cumulative**

Except as expressly stated otherwise in this agreement, the rights of a party under this agreement are cumulative and are in addition to any other rights of that party.

**22.5 Waiver and exercise of rights**

- (a) A single or partial exercise or waiver by a party of a right relating to this agreement does not prevent any other exercise of that right or the exercise of any other right.
- (b) A party is not liable for any loss, cost or expense of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

**22.6 Survival**

The rights and obligations of the parties do not merge on:

- (a) completion of any transaction under this agreement; or
- (b) termination or expiration of the agreement.

**22.7 Amendment**

This agreement may only be varied or replaced by an agreement executed by the parties.

**22.8 Assignment**

- (a) The Developer must not assign or deal with its rights under this agreement without the prior written consent of Council.

**22.9 Counterparts**

This agreement may consist of a number of counterparts and, if so, the counterparts taken together constitute one agreement.

**22.10 Entire understanding**

- (a) This agreement contains the entire understanding between the parties as to the subject matter of this agreement.
- (b) All previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of this agreement are merged in and superseded by this agreement and are of no effect. No party is liable to any other party in respect of those matters.

- (c) No oral explanation or information provided by any party to another:
  - (i) affects the meaning or interpretation of this agreement; or
  - (ii) constitutes any collateral agreement, warranty or understanding between any of the parties.

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**Executed** as an agreement

**Executed by oOh!media Fly Pty Limited** ABN  
55 094 425 395 in accordance with section 127  
of the *Corporations Act 2001* (Cth):

\_\_\_\_\_  
Director

\_\_\_\_\_  
\*Director/\*Company Secretary

\_\_\_\_\_  
Name of Director  
BLOCK LETTERS

\_\_\_\_\_  
Name of \*Director/\*Company Secretary  
BLOCK LETTERS  
\*please strike out as appropriate

**Executed by Bayside Council** ABN 80 690  
785 443 BRANCH 003 in the presence of:

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
Name of Witness  
BLOCK LETTERS

\_\_\_\_\_  
Meredith Wallace  
BLOCK LETTERS  
\*please strike out as appropriate

**1 The Land**

Land	Registered Dealing Number of leasehold interest in Land (if applicable)	Signage reference within Figure 1
Lot 54 in DP1097375	AG34627 (as varied)	JDE-PACK comprising 3 signs
Lot 52 in DP1097377	AG34626 (as varied)	JDV-O, JDV-I, BEP-O, BE-I, JDW5-I, JDW4-O, JDW3-I, JDW2-O, JDW1-I
Lot 401 in DP1215182	AG342625 (as varied)	BR-O, GN-O, GS-IA,B,C Trivision
Lot 58 in DP648872 and Lot 201 in DP777213	AG342624 (as varied)	NS-1, NS-2, NS-3
Lot 57 in DP648872	Licence agreement	RN-I, RN-O
Lot 9 in DP747022	Unregistered lease	QDV-O, QDV-I, 2020-SAS2 comprising 4 signs
Lot 11 in DP213317		2020-SAS1 comprising 4 signs, QDW8, 2020-SASS1 comprising 3 signs, QDW6, QDW3, QDW2, QDW1
Lot 6 in DP209847, Lot 95 in DP1157632 and Lot 17 in DP217443, being part of Lot 20 in DP747023		No signs as at the date of this Agreement



Land	Registered Dealing Number of leasehold interest in Land (if applicable)	Signage reference within Figure 1	Reference to Identification Document
Lot 54 in DP1097375	AG34627 (as varied)	JDE-PACK comprising 3 signs	5
Lot 52 in DP1097377	AG34626 (as varied)	JDV-O, JDV-I, BEP-O, BE-I, JDW5-I, JDW4-O, JDW3-I, JDW2-O, JDW1-I	4 BE-I is the sign the subject of DA2017/1140 BEP-O is the sign the subject of DA2017/1141 JDV-I and JDV-O are the signs the subject of DA2017/1142
Lot 401 in DP1215182	AG342625 (as varied)	BR-O, GN-O, GS-IA,B,C Trivision	3 GN-O is the sign the subject of modification application no. DA2018/1135
Lot 58 in DP648872 and Lot 201 in DP777213	AG342624 (as varied)	NS-1, NS-2, NS-3	3
Lot 57 in DP648872	Licence agreement	RN-I, RN-O	3 RN-I is the sign the subject of modification application no. DA2018/1183
Lot 9 in DP747022	Unregistered lease	QDV-O, QDV-I, 2020-SAS2 comprising 4 signs	2
Lot 11 in DP213317		2020-SAS1 comprising 4 signs, QDW8, 2020-SAS1 comprising 3 signs, QDW6, QDW3, QDW2, QDW1	1

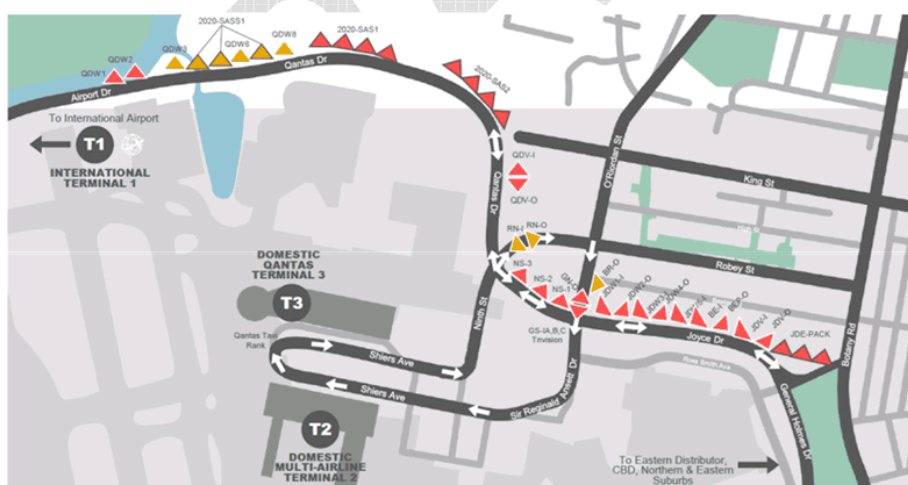


Figure 1: Map depicting the Signage



## 2 Development Contributions - the Current Development Applications

Column 1	Column 2	Column 3	Column 4
Development Application	Signage details	Monetary Contribution (per annum for the duration of the Term) <sup>1</sup>	Timing of payment
DA 2017/1142	Signage Reference Number:  Dimensions:  JDV 0 1 and JDV - 0  JDV 0 1: 17.92 x 5.12m  JDV - 0: 17.92 x 5.12m  Total area of Digital Display Area under DA 2017/1142:  183.5008 square metres	\$101,842.95  <u>(increased in accordance with cl 5.5)</u>	Provided that Council has issued a <del>tax</del> -invoice to the Developer for the amount payable, the Developer must pay the Monetary Contribution in relation to DA 2017/1142 in advance in equal monthly instalments, as follows:  (a) by the First Payment Date for the first month of the Term; and  (b) for each subsequent month for the balance of the Term.
DA 2017/1140	Sign Reference Number:  BE - I  Dimensions:  38.77 x 10.24m  Total area of Digital Display Area under DA 2017/1140:  397.0048 square metres	\$220,337.66  <u>(increased in accordance with cl 5.5)</u>	Provided that Council has issued a <del>tax</del> -invoice to the Developer for the amount payable, the Developer must pay the Monetary Contribution in relation to DA 2017/1140 in advance in equal monthly instalments, as follows:  (a) by the First Payment Date for the first month of the Term; and  (b) for each subsequent month for the balance of the Term.

<sup>1</sup> Calculated at the rate of \$555 per physical square metre of the Digital Display Area

DA 2017/1141	<p>Sign Reference Number:</p> <p>BEP - O</p> <p>Digital Display Area: Dimensions:</p> <p>x 10.24m</p> <p>Total area of Digital Display Area under DA 2017/ 1141:</p> <p>67.3792 square metres</p>	<p>\$37,395.46</p> <p><a href="#">(increased in accordance with cl 5.5)</a></p>	<p>Provided that Council has issued a <del>tax</del>-invoice to the Developer for the amount payable, the Developer must pay the Monetary Contribution in relation to DA 2017/1141 in advance in equal monthly instalments, as follows:</p> <p>(a) by the First Payment Date for the first month of the Term; and</p> <p>(b) for each subsequent month for the balance of the Term.</p>
DA 2018/1135	<p>Signage Reference Number:</p> <p>GN - O</p> <p>Dimensions:</p> <p>22.68 x 5.85m</p> <p>Total area of Digital Display Area under DA 2018/1135:</p> <p>132.678 square metres</p>	<p>\$73,636.29</p> <p><a href="#">(increased in accordance with cl 5.5)</a></p>	<p>Provided that Council has issued a <del>tax</del>-invoice to the Developer for the amount payable, the Developer must pay the Monetary Contribution in relation to DA 2017/1135 in advance in equal monthly instalments, as follows:</p> <p>(a) by the First Payment Date for the first month of the Term; and</p> <p>(b) for each subsequent month for the balance of the Term.</p>
DA 2018/1183	<p>Signage Reference Number:</p> <p>RN - I</p> <p>Dimensions:</p> <p>12.44 x 3.29m</p> <p>Total area of Digital Display Area under DA 2018/1183:</p> <p>40.9276</p>	<p>\$22,714.82</p> <p><a href="#">(increased in accordance with cl 5.5)</a></p>	<p>Provided that Council has issued a <del>tax</del>-invoice to the Developer for the amount payable, the Developer must pay the Monetary Contribution in relation to DA 2017/1183 in advance in equal monthly instalments, as follows:</p> <p>(a) by the First Payment Date for the first month of the Term; and</p> <p>(b) for each subsequent month for the balance of</p>

			the Term.
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### 3 Development Contributions - the Future Applications

Column 1	Column 2	Column 3	Column 4
Development Application or Modification Application	Signage details	Monetary Contribution (per annum for the duration of the Term) <sup>2</sup>	Timing
The Future Applications	The Signage details including Digital Display Area will be as described or indicated in plan form in any Development Consent or Modification Application approval that is granted in relation to the Future Applications.	<p>The Monetary Contribution is to be calculated by multiplying:</p> <p>(a) the Digital Display Area in square metres<sup>3</sup>;</p> <p>by</p> <p>(b) the rate of \$555 indexed annually from the date of this Agreement by the increase in the Consumer Price Index during the prior year.</p> <p><u>(increased in accordance with cl 6.6)</u></p>	<p>Provided that Council has issued a <del>tax</del> invoice to the Developer for the amount payable, the Developer must pay the Monetary Contribution in relation to the Future Applications in advance in equal monthly instalments, as follows:</p> <p>(a) on the First Payment Date for the first month of the Term; and</p> <p>(b) each subsequent month for the balance of the Term.</p>

<sup>2</sup> Calculated at the rate of \$555 per physical square metre of Digital Display Area.

<sup>3</sup> As described or indicated in plan form in any Development Consent or modification approval that is granted in relation to the Future Applications.

**4 Identification Document**

INSERT - in 5 Numbered Parts

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## Explanatory Note

pursuant to clause 25E of the *Environmental Planning and Assessment Regulation 2000*

### 1 Introduction

#### 1.1 Purpose

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of the proposed planning agreement (**Planning Agreement**) prepared in accordance with Subdivision 2, Division 7.1, Part 7 of the *Environmental Planning and Assessment Act 1979* (**Act**).

#### 1.2 Preparation

This Explanatory Note has been prepared jointly by the Parties to the Planning Agreement in accordance with clause 25E(3) of the *Environmental Planning and Assessment Regulation 2000* (**Regulation**).

### 2 Parties to the Planning Agreement

oOh!media Fly Pty Limited

ABN 55 094 425 395

(**Developer**)

and

Bayside Council

ABN 80 690 785 443

(**Council**)

### 3 Description of the Subject Land

The Planning Agreement applies to the Land Described in Table 1.

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- 2 -

Land	Registered Dealing Number of leasehold interest in Land (if applicable)	Signage reference within Figure 1	Reference to Identification Document
Lot 54 in DP1097375	AG34627 (as varied)	JDE-PACK comprising 3 signs	5
Lot 52 in DP1097377	AG34626 (as varied)	JDV-O, JDV-I, BEP-O, BE-I, JDW5-I, JDW4-O, JDW3-I, JDW2-O, JDW1-I	4 BE-I is the sign the subject of DA2017/1140 BEP-O is the sign the subject of DA2017/1141 JDV-I and JDV-O are the signs the subject of DA2017/1142
Lot 401 in DP1215182	AG342625 (as varied)	BR-O, GN-O, GS-IA,B,C Trivision	3 GN-O is the sign the subject of modification application no. DA2018/1135
Lot 58 in DP648872 and Lot 201 in DP777213	AG342624 (as varied)	NS-1, NS-2, NS-3	3
Lot 57 in DP648872	Licence agreement	RN-I, RN-O	3 RN-I is the sign the subject of modification application no. DA2018/1183
Lot 9 in DP747022	Unregistered lease	QDV-O, QDV-I, 2020-SAS2 comprising 4 signs	2
Lot 11 in DP213317		2020-SAS1 comprising 4 signs, QDW8, 2020-SAS51 comprising 3 signs, QDW6, QDW3, QDW2, QDW1	1

Land	Registered Dealing Number of leasehold interest in Land (if applicable)	Signage reference within Figure 1
Lot 54 in DP1097375	AG34627 (as varied)	JDE-PACK comprising 3 signs
Lot 52 in DP1097377	AG34626 (as varied)	JDV-O, JDV-I, BEP-O, BE-I, JDW5-I, JDW4-O, JDW3-I, JDW2-O, JDW1-I
Lot 401 in DP1215182	AG342625 (as varied)	BR-O, GN-O, GS-IA,B,C Trivision
Lot 58 in DP648872 and Lot 201 in DP777213	AG342624 (as varied)	NS-1, NS-2, NS-3
Lot 57 in DP648872	Licence agreement	RN-I, RN-O

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2		
Lot 9 in DP74702	Unregistered lease	QDV-O, QDV-I, 2020-SAS2 comprising 4 signs
Lot 11 in DP21331		2020-SAS1 comprising 4 signs, QDW8, 2020-SAS1 comprising 3 signs, QDW6, QDW3, QDW2, QDW1
Lot 6 in DP20984		No signs as at the date of this Agreement
7, Lot 95 in DP11576		
32 and Lot 17 in DP21744		
3, being part of Lot 20 in DP74702		
3		

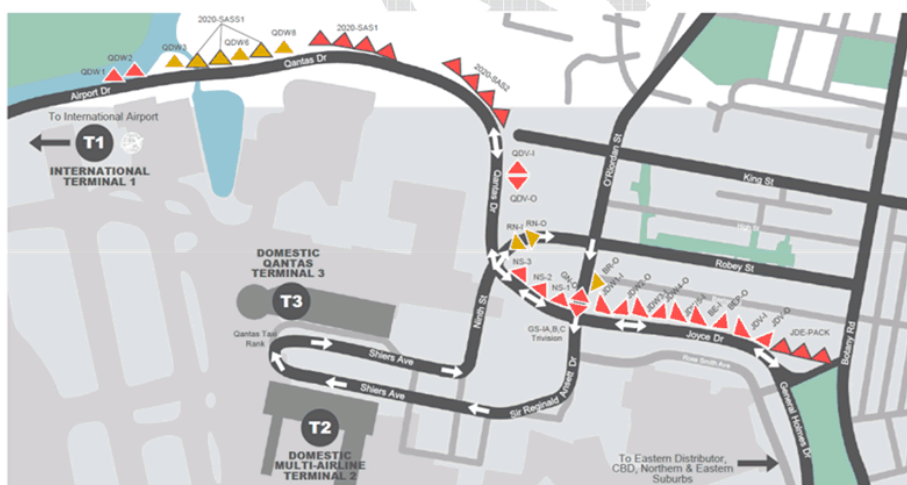


Figure 1: Map depicting the Signage

Photographs of the existing signs are located at Attachment A of this explanatory note.

#### 4 Description of the Development Applications

The Planning Agreement applies to existing signage on the Land, Development Application Nos. DA2017/1140, DA2017/1141, DA2017/1142, DA2018/1135 and DA2018/1183 (**Development**

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**Applications**) and to future development applications or modification applications proposed to be lodged by the developer (**Future Development Applications**).

The Development Applications seek to convert existing static signage to digital signage. The Future Development Applications will seek to convert or replace existing signage with digital signage.

## 5 Summary of Objectives, Nature and Effect of the Draft Planning Agreement

The objective of the Planning Agreement is to record the terms of the offer made by the Developer and its obligation to provide public benefits in connection with the display of the advertisements in accordance with clause 13(3) of *State Environmental Planning Policy No. 64 – Advertising and Signage* and the Department of Planning and Environment 'Transport Corridor Outdoor Advertising and Signage Guidelines'.

The Planning Agreement provides that the Developer is to make monetary contributions to Council calculated by reference to the digital display area used for the display of advertisements and the like at a rate of \$555 per square metre.

If development consent is granted to the Development Applications the Planning Agreement requires payment of the first monetary contribution within 14 days of issue of a construction certificate, as follows:

- DA 2017/ 1142: \$101,842.95
- DA 2017/1140: \$220,337.66
- DA 2017/1141: \$37,395.46
- DA 2018/1135: \$73,636.29
- DA 2018/1183: \$22,714.82

This above monetary contributions for the Development Applications are to be paid for the balance of the time that the relevant development consent is effective and operational (usually 15 years though this may be decreased), increased in accordance with the Consumer Price Index.

The Planning Agreement also contemplates that the Developer may lodge development applications or modification applications in relation to the signs indicated on the plan above other than the signs that are the subject of the Development Applications that have already been lodged.

In those circumstances, this Agreement provides that if development consent or a modification application approval is granted, then within 14 days of issue of a construction certificate, the Developer will make monetary contributions to Council calculated by reference to the digital display area used for the display of advertisements and the like at a rate of \$555 per square metre (indexed in accordance with the Consumer Price Index).

The above monetary contributions for the Future Applications are to be paid for the balance of the time that the relevant development consent is effective and operational (usually 15 years though this may be decreased), increased in accordance with the Consumer Price Index.

The money received by Council is to be applied towards the public purpose of public benefit works in relation to transport and traffic matters of a public nature, including but not limited to public transport, transport safety, transport amenity improvements, pedestrian safety, improving traffic safety (road, rail, bicycle and pedestrian), providing or improving public transport services, improving or providing public amenity with or adjacent to roads, school safety infrastructure and programs, or other community benefits relating to transport, traffic and pedestrian and matters.

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**6 Assessment of Merits and Purpose of the Planning Agreement**

The Planning Agreement serves the public purpose and promotes object (a) of the *Environmental Planning and Assessment Act 1979 (Act)* by securing the provision of Development Contributions in the nature of monetary payments for the purposes of public benefit works in relation to transport and traffic matters of a public nature, including but not limited to public transport, transport safety, transport amenity improvements, pedestrian safety, improving traffic safety (road, rail, bicycle and pedestrian), providing or improving public transport services, improving or providing public amenity within or adjacent to roads, school safety infrastructure and programs, or other community benefits relating to transport, traffic and pedestrian and matters.

**7 How the Planning Agreement promotes one or more of the objects of the Local Government Act 1993**

The Planning Agreement promotes the principles of local government under the *Local Government Act 1993* (see former section 8 of the *Local Government Act 1993*) by

- providing appropriate services and facilities for the community in the form funding for such service as a result of the monetary contributions;
- providing for the needs of children by providing funding for school safety infrastructure and programs;
- properly managing, restoring and enhancing the environment of the area in a manner that is consistent with and promotes the principles of ecologically sustainable development through the provision of funding for improving or providing public amenity within or adjacent to roads; and
- enhancing the existing road network.

**8 Planning Purposes served by the Planning Agreement**

The planning purpose of the Planning Agreement is to provide funds to the Council for the purposes of public benefit works in relation to transport and traffic matters of a public nature, including but not limited to public transport, transport safety, transport amenity improvements, pedestrian safety, improving traffic safety (road, rail, bicycle and pedestrian), providing or improving public transport services, improving or providing public amenity within or adjacent to roads, school safety infrastructure and programs, or other community benefits relating to transport, traffic and pedestrian and matters. The Planning Agreement provides for a reasonable means of achieving that purpose.

**9 The Council's capital works program**

The proposed Planning Agreement confirms-conforms with Council's capital works program and, furthermore, will enable the program to be advanced with greater timeliness and certainty while reducing the financial risks to Council in its implementation. **[Draft - Council to confirm]**

**10 Requirements prior to the issue of construction, occupation or subdivision certificates**

The Planning Agreement provides that no Construction Certificate may be issued in relation to the Future Applications if a Development Contribution required to be paid by the Developer has not been paid in breach of the Agreement.

**11 Interpretation of Planning Agreement**

This Explanatory Note is not intended to be used to assist in construing the Planning Agreement.

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**Annexure A: – Identification Document - Photographs of Existing Signage**

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## **Council Meeting**

**13/02/2019**

Item No	8.4
Subject	<b>Planning Proposal - 119 Barton Street, Monterey: Rezoning Review</b>
Report by	Michael McCabe, Director City Futures
File	F17/902

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## **Summary**

A Planning Proposal relating to 119 Barton Street, Monterey was reported to Council on 11 July 2018. The Planning Proposal proposed the following amendments to the Rockdale Local Environmental Plan 2011 (RLEP):

- Rezone the land from RE2 Private Recreation to R3 Medium Density Residential;
- Introduce a Floor Space Ratio control of 0.6:1;
- Introduce a Height of Building control of 8.5m; and
- Introduce a Minimum Lot Size of 450sq.m.

The report to Council recommended that the Planning Proposal proceed to a Gateway Determination. However, Council resolved not to support this recommendation.

Following Council's resolution, the proponent lodged a request with the Department of Planning and Environment (the DPE) for a Rezoning Review. The matter was referred to the Sydney Eastern City Planning Panel for the Rezoning Review on 8 November 2018. The Panel unanimously decided that the proposal had strategic and site-specific planning merit and should be submitted for a Gateway Determination.

The DPE notified Council of the Panel's decision on 9 November 2018. In its letter, the DPE invited Council to continue to be the Planning Proposal Authority (PPA) for the Planning Proposal. This was reported to Council on 12 December 2018, when Council made the following resolution:

1. That this matter be deferred;
2. That Council write to the Department of Planning concerning the arrangements in appointing Council's community representatives to relevant Sydney Eastern City Planning Panel meetings.

This report follows on from Council's resolution of 12 December 2018 and provides a further update on matters.

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## **Officer Recommendation**

That Council resolves to retain its role as the Planning Proposal Authority for the Planning Proposal at 119 Barton Street, Monterey.

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## Background

### The Site

The site is located on the eastern section of Barton Street, approximately 125m from its intersection with The Grand Parade. It has a battle-axe shape with a total area of 7218sqm, and a frontage along Barton Street of approximately 35m. The site currently accommodates a single-storey building on its southern boundary, two bowling greens along both the western and northern boundaries, and a car park along the eastern boundary.

The site was once the location of the Francis Drake Bowling Club, which has since closed. Currently the land is occupied by the St Pope Kyrillos VI and St Habib Girgis Coptic Orthodox Church.

The land is currently zoned as RE2 Private Recreation, and is privately owned by Monterey Equity Pty Ltd. The surrounding land is zoned RE3 Medium Density Residential.

### The Planning Proposal

‘On 10 August 2017, a Planning Proposal was lodged, proposing the following amendments to the RLEP 2011:

- Rezoning the subject site from RE2 Private Recreation to R3 Medium Density Residential;
- Introducing a Floor Space Ratio control of 0.6:1;
- Introducing a Height of Building control of 8.5m; and
- Introducing a Minimum Lot Size of 450sq.m.

The proposed zoning and development standards are consistent with those already applicable in the immediate surrounding area.

On 13 June 2018, the Planning Proposal was reported to Council for the first time. On this occasion, it was deferred to allow it to be presented to a General Manager’s Briefing on 4 July 2018. The proposal was then presented again to Council on 11 July 2018. On this occasion, Council resolved not to support the Planning Proposal for a Gateway Determination.

### The Rezoning Review

Following Council’s resolution, the proponent lodged a request with the DPE for a Rezoning Review. A Rezoning Review is a mechanism by which the proponent can request that a Planning Proposal be reviewed by an independent body if Council has confirmed that it does not support the Planning Proposal.

The matter was referred to the Sydney Eastern City Planning Panel (as the independent body) on 8 November 2018. The Panel unanimously decided that the proposal should be submitted for a Gateway Determination. The Panel found that:

*‘... The proposal has strategic merit as it contributes to housing supply and diversity in an area supported by social infrastructure and public transport.’*

*‘As a medium-density development, it is appropriately located within an area similarly zoned for R3 and also intended for medium-density development.’*

### Invitation to be the Planning Proposal Authority

The DPE notified Council of the Panel's decision on 9 November 2018. In its letter, the DPE invited Council to continue to be the PPA for the Planning Proposal.

Remaining as the PPA would allow Council to continue to influence the outcome of the Planning Proposal. Council can also enter into negotiations in relation to a Voluntary Planning Agreement (VPA) to secure some form of public benefit from the proposal.

Remaining as the PPA would also allow Council to undertake the public exhibition process to obtain the opinions of the community on the Planning Proposal. The outcome of the public exhibition would be reported back to Council at an appropriate time, when Council could, having due regard to the responses received from the community and any relevant Government agencies, decide whether it will or will not support the Planning Proposal.

If Council confirms that it does not want to continue to be the PPA for the Planning Proposal, then an alternate PPA (most likely the Sydney Eastern City Planning Panel) will be appointed in its place. The responsibilities as PPA would then be removed from Council, including the ability to negotiate a VPA.

### Council's Resolution of 12 December 2018

Council considered the decision of the Panel and the implications of remaining as PPA in the report to Council of 12 December 2018 (see **Attachment 1**). In response to this report, Council made the following resolution:

1. That this matter be deferred;
2. That Council writes to the Department of Planning concerning the arrangements in appointing Council's community representatives to relevant Sydney Eastern City Planning Panel meetings.

On 19 December 2018, Council wrote to the DPE Planning Panel's Secretariat (see **Attachment 2**) stating the following:

*'It is understood that community representatives were not notified of the Rezoning Review, and therefore were not in attendance to participate in the Rezoning Review. Council requests that the Planning Panels Secretariat's arrangements for notifying Council's community representatives of Rezoning Reviews are confirmed with our Governance team, in writing. Council needs to have a complete understanding of the notification procedures and requirements, to ensure that community representatives are invited to any future Rezoning Reviews.'*

On 18 January 2018, the DPE wrote back to Council's Governance team (see **Attachment 3**) and confirmed the following:

- On receipt of an application for a Rezoning Review, Council is notified within 3 days of the application;
- The DPE will also request at that stage that Council reviews the application to confirm it is the same Planning Proposal considered by Council;
- At this point, Council can check that its members are not conflicted in accordance with the Planning Panels Code of Conduct; and
- Once the Panel meeting date is scheduled, panel members are invited. This is usually around three weeks prior to the meeting.

**Next Steps**

Following the resolution of Council to defer the matter, Council was not able to provide the DPE with a decision within the 42 day deadline on whether Council wished to remain as the PPA for the Planning Proposal. However, the DPE has facilitated additional time for this further report. Council needs to respond to the DPE as soon possible following this meeting to provide confirmation as to whether or not it wishes to remain as PPA for the Planning Proposal.

**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**

- 1 Report to Council with attachments - 12.12.18 [↓](#)
- 2 Letter to DPE Panels Secretariat - 19.12.18 [↓](#)
- 3 Correspondence from DPE Panels Secretariat - 18.01.19 [↓](#)

**Council Meeting****12/12/2018**

Item No	8.13
Subject	<b>Planning Proposal - 119 Barton Street, Monterey: Outcome of Rezoning Review</b>
Report by	Michael McCabe, Director City Futures
File	F17/902

**Summary**

A Planning Proposal relating to 119 Barton Street, Monterey was reported to Council on 11 July 2018. The Planning Proposal proposed the following amendments to the Rockdale Local Environmental Plan 2011 (RLEP):

- Rezone the land from RE2 Private Recreation to R3 Medium Density Residential;
- Introduce a Floor Space Ratio control of 0.6:1;
- Introduce a Height of Building control of 8.5m; and
- Introduce a Minimum Lot Size of 450sq.m.

The report to Council recommended that the Planning Proposal proceed to a Gateway Determination. Council resolved not to support this recommendation.

Following Council's resolution, the proponent lodged a request with the Department of Planning and Environment (the DPE) for a Rezoning Review. The matter was referred to the Sydney Region Eastern Planning Panel for the Rezoning Review on 8 November 2018. The Panel unanimously decided that the proposal should be submitted for a Gateway Determination.

The DPE notified Council of the Panel's decision on 9 November 2018. In its letter, the DPE invited Council to continue to be the Relevant Planning Authority (RPA) for the Planning Proposal. This report examines issues relevant to Council retaining the role of RPA for the Planning Proposal.

**Officer Recommendation**

That Council resolve to retain its role as the Relevant Planning Authority for the Planning Proposal at 119 Barton Street, Monterey, subsequent to the decision of the Sydney Region Eastern Planning Panel that the Planning Proposal be submitted for a Gateway Determination.



## Background

### The Site

The site is located on the eastern section of Barton Street, approximately 125m from its intersection with The Grand Parade. It has a battle-axe shape with a total area of 7218sq.m. and a frontage along Barton Street of approximately 35m. The site currently accommodates a single-storey building on its southern boundary, two bowling greens along both the western and northern boundaries, and a car park along the eastern boundary. The site was once the location of the Francis Drake Bowling Club, which has since closed. Currently the land is occupied by the St Pope Kyrillos VI and St Habib Girgis Coptic Orthodox Church.

The land is currently zoned as RE2 Private Recreation and is privately owned by Monterey Equity Pty Ltd. The surrounding land is zoned RE3 Medium Density Residential.

### The Planning Proposal

On 10 August 2017, a Planning Proposal (see **Attachment 1**) was lodged, proposing the following amendments to the RLEP 2011:

- Rezoning the subject site from RE2 Private Recreation to R3 Medium Density Residential;
- Introducing a Floor Space Ratio control of 0.6:1;
- Introducing a Height of Building control of 8.5m; and
- Introducing a Minimum Lot Size of 450sq.m.

The proposed zoning and development standards are consistent with those already applicable in the immediate surrounding area.

On 13 June 2018, the Planning Proposal was reported to Council for the first time. On this occasion, it was deferred to allow it to be presented to a General Manager's Briefing on 4 July 2018. The proposal was then presented again to Council on 11 July 2018 (see **Attachment 2**). On this occasion, Council resolved not to support the Planning Proposal for a Gateway Determination (see **Attachment 3**).

### The Rezoning Review

Following Council's resolution, the proponent lodged a request with the DPE for a Rezoning Review. A Rezoning Review is a mechanism by which the proponent can request that a Planning Proposal be reviewed by an independent body if Council has confirmed that it does not support the Planning Proposal.

The matter was referred to the Sydney Region Eastern Planning Panel (as the independent body) on 8 November 2018. The Panel unanimously decided that the proposal should be submitted for a Gateway Determination (see **Attachment 4**). The Panel found that:

*'... the proposal has strategic merit as it contributes to housing supply and diversity in an area supported by social infrastructure and public transport.'*

Council Meeting

12/12/2018

*'As a medium-density development, it is appropriately located within an area similarly zoned for R3 and also intended for medium-density development.'*

#### Invitation to be the Relevant Planning Authority

The DPE notified Council of the Panel's decision on 9 November 2018. In its letter, the DPE invited Council to continue to be the RPA for the Planning Proposal.

Remaining as RPA would allow Council to continue to influence the outcome of the Planning Proposal. Council can also enter into negotiations in relation to a Voluntary Planning Agreement (VPA) to secure some form of public benefit from the proposal. Remaining as RPA would also allow Council to undertake the public exhibition process to obtain the opinions of the community on the Planning Proposal. The outcome of the public exhibition would be reported back to Council at an appropriate time, where Council could once again decide whether it will or will not support the planning proposal.

If Council confirms that it does not want to continue to be the RPA for the Planning Proposal, then the Sydney Region East Planning Panel will be appointed in its place. The responsibilities as RPA would then be removed from Council, including the ability to negotiate a VPA.

#### Next Steps

Council has until 21 December 2018 to confirm its intention to remain as RPA. Should Council endorse the recommendation to remain as RPA for the Planning Proposal, officers will then immediately advise the Planning Panels Secretariat of Council's desire to remain as RPA. Council will then have a further 42 days to submit the Planning Proposal for a Gateway Determination.

#### Financial Implications

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

#### Community Engagement

Not applicable

#### Attachments

- 1 Planning Proposal - August 2017 [1](#)
- 2 Council Report - 11.07.18 [2](#)
- 3 Minutes of Council Meeting - 11.07.18 [3](#)
- 4 Rezoning Review Decision - 08.11.18 [4](#)

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*Planning Proposal – Rezoning of land at 119 Barton St, Monterey for medium density residential*

## Planning Proposal

### Rockdale Local Environmental Plan 2011

### Rezoning of land at 119 Barton Street, Monterey to R3, Medium Residential Density



August 2017

Record number (trim file)

1

Item 8.13 – Attachment 1

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<b>Appendix 4</b>	Rockdale Development Control Plan 2011

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<b>[Version]</b>	

### Introduction

This Planning Proposal explains the intended effect of, and justification, for the proposed amendment to *Rockdale Local Environmental Plan 2011 (Rockdale LEP 2011)*. It has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment guides, including 'A Guide to Preparing Local Environment Plans' and 'A Guide to Preparing Planning Proposals'.

### Background

Comprising the former Francis Drake Bowling Club, the site is a large battle axe lot at 119 Barton Street, Monterey. With a northern frontage of approximately 35 metres to Barton Street, the site has a total area of 7,218 sqm.

The site is proximate to commercial centres at Brighton-Le-Sands, 1.6km to the north, Ramsgate commercial centre 1.2km to the south and Kogarah commercial centre 1.5km to the north west. It is also 1.5km from the St George Hospital precinct which has been designated for major education/health development with employment of up to 10,000.

A site-specific zoning of RE2 Private Recreation applies to the subject land. However, the land lies within an R3 Medium Density Residential zone that surrounds it on all four sides.

This Planning Proposal seeks to amend the current zoning under RLEP 2011 from Private Recreation (RE2) to Medium Density Residential (R3) to make permissible the redevelopment of the subject land at 119 Barton Street.

Planning Proposal will be achieved by:

- Amending the Rockdale LEP 2011 Land Use Map for the former Sir Francis Drake Lawn Bowls Club at 119 Barton Street in accordance with Part 4 of this report.
- Establishing a Building Height that is consistent with the existing land uses of the subject area, i.e. 8.5m.
- Establishing an FSR that is the same as the surrounding area, currently 0.6:1 in the Rockdale LEP 2011.

An analytical study conducted by Rothelowman has produced a model for potential development yield and building typology. By way of example, this concept illustrates the capacity of the subject site to accommodate 28 two and three-bedroom townhouses under a fully compliant proposal with Council current guidelines for R3.

Rezoning of the site will not deprive the community of open space. The site was a private open space with its use limited to club members. Additionally, there is considerable open space 400m to the west at Scarborough Park, and 150m to the east, at Cook Park on the bay front.

The objective of the current scheme is to increase the number and diversity of dwellings in the subject area which is within proximity to an identified strategic centre. The relevant objectives of the Planning Proposal are as follows:

- *To provide increased housing consistent with the surrounding residential zoning of the locality*
- *To provide quality housing choices that are consistent with the existing zoning of the neighbourhood.*
- *Provide a feasible and sustainable economic use of the subject site.*

The proposal is compliant with all relevant SEPPs and the Minister's s117 Directions under the EPA Act.

### Part 1 - Objectives and Intended Outcomes

Currently, the subject site is underutilised and does not meet its full development potential. Located on the site is a redundant lawn bowls facility with a low capacity for improvement. Changes to the land use zoning and development standards identified below, will allow the site to potentially accommodate a residential development of high quality design. It is intended that the Planning Proposal form a site-specific amendment to the RLEP 2011.

The intended outcomes of the Planning Proposal are to amend *Rockdale LEP 2011* as follows:

- **Rezone the subject land to R3 Medium Density Residential (as is the land surrounding the site to all sides);**
- **Establish a site-specific maximum building height of 8.5 m (as is the land surrounding the site to all sides); and**
- **Establish a site-specific maximum floor space ratio (FSR) of 0.6:1 (as is the land surrounding the site to all sides).**

A site-specific zoning of RE2 Private Recreation applies to the subject land. However, the land lies within a R3 Medium Density Residential zone that surrounds it on all four sides.

Census statistics shows that houses in Monterey are dwellings primarily occupied by older people who are likely to be empty nesters remaining in family homes which are now larger than their needs in terms of bedroom numbers.

Regarding accessibility to modes of public transport for residents, the subject land lies within easy walking distance of bus services along Chuter Ave (270m west) and the Grand Parade (130m east). The Grand Parade is serviced by bus routes travelling north, Route 303 (Sans Souci to Circular Quay), and south, Route 478 (Ramsgate to Rockdale). An express service, Route X03, operates between Sans Souci and Circular Quay during peak periods Monday to Friday providing access to the city (Central Station) within 30 mins. Chuter Ave is serviced by Route 947 (operated by Transdev NSW), which runs between Hurstville to Kogarah.

The draft District Plans support the increase of housing across the Bayside LGA by monitoring the delivery of the five-year housing target of 10,150 dwellings while recognising significant growth in infill areas. Housing diversity and affordability are also major considerations in the strategic direction of LGAs located in the Central District. An increase in the proportion of people that are ageing and/or disabled has highlighted a need for the delivery of diverse housing which includes smaller homes, group homes, adaptable homes and aged care facilities.

*A Plan for Growing Sydney* (the Plan) anticipates that 664,000 new homes will be needed by 2031. The Plan highlights the importance of facilitating the movement of Sydney residents between their homes, their jobs, commercial centres and open spaces.

The proposal is consistent with the Plan as it will accelerate the delivery of housing to contribute to the State Government target of 664,000 homes by 2031 (direction 2.1). These homes will be provided within established centres supported by public transport, utilities, social infrastructure and employment opportunities within the Kogarah strategic centre, which lies approximately 1.6km from the subject site. The Kogarah priority health and education precinct is planned to provide at least 10,000 jobs (direction 2.2). The proposal will permit infill medium density development to meet the needs of growing number of small households within a locality otherwise dominated by detached dwelling houses (direction 2.3).

The proposal will provide an opportunity to revitalise an existing suburb through the redevelopment of a disused facility to create an improved streetscape (direction 3.1). Redevelopment of the site has the potential to encourage a healthy community through the provision of communal open space, sustainable design and end of journey facilities that encourage cycling in this relatively flat area (direction 3.3).

### Section 117 Directions

#### Direction 3.1 Residential Zones

The first relevant s117 Direction is 3.1 – Residential Zones whose objectives are:

- (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,
- (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- (c) to minimise the impact of residential development on the environment and resource lands.

The development of townhouses on the subject site will be consistent with the planning for the area which seeks medium density housing, will increase the choice of housing which is currently and predominantly single dwellings, and will make good use of existing open space and public transport infrastructure. Services such as water, sewerage and electricity are available in the street. No adverse impact on the environment at large will result from the infilling of residential development on the subject site.

#### Direction 3.4 Integrating land use and transport

The objective of Direction 3.4 is to:

*ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:*

- (a) improving access to housing, jobs and services by walking, cycling and public transport, and
- (b) increasing the choice of available transport and reducing dependence on cars, and
- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight. Where this direction applies

A planning proposal must include provisions that are consistent with the principles of *Improving Transport Choice – Guidelines for planning and development (DUAP 2001)*, and *The Right Place for Business and Services – Planning Policy*<sup>1</sup>.

As mentioned above, the subject site is serviced by a number of bus services, along Chute Avenue and the Grand Parade. The proposal satisfies the objectives of Direction 3.4.

Though the planning proposal does change the existing RE2 – Private Recreation zoning to R3 – Residential, it will provide an increased and diverse supply of housing within approximately 2km of the Kogarah Strategic Health Centre. The proposal makes use of existing transport infrastructure and, therefore, it is consistent with the policy.

#### Direction 7.1 Implementation of A Plan for Growing Sydney

Direction 7.1 applies to land within the former local government area of Rockdale. Its objective is to:

*give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.*

Refer to discussion regarding consistency with strategic direction under Part 3-B below.

<sup>1</sup> Department of Planning and Environment. Policy Directions for Plan Making. (Page 17)

## Part 2 - Explanation of Provisions

### A – Provisions that are shown on control maps

#### 2.1 – land use zoning

The subject site is zoned RE2 Private Recreation under the Rockdale Local Environmental Plan 2011, the objectives of the RE2 Zone are as follows:

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

Permissible and prohibited uses within the zone are summarised in Table 2 below. The former Francis Drake Bowling Club constituted development for the purpose of a registered club (outdoor). Residential development is prohibited within the RE2 zone.

CONTROL	PROPOSAL
<b>Clause 2</b> Permitted without consent	Roads
<b>Clause 3</b> Permitted with consent	Boat launching ramps; Building identification signs; Business identification signs; <b>Community facilities</b> ; Environmental facilities; Environmental protection works; Jetties; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Water supply systems
<b>Clause 4</b> Prohibited	Any development not specified in item 2 or 3

As mentioned above, the subject site is currently zoned RE2 – Private Recreation with the surrounding area being R3 – Medium Density Residential. Residential development under the current zoning is prohibited. Notwithstanding, this Planning Proposal is for the change in land use zoning from RE2 to R3, which is justified as it is consistent with the surrounding zoning and will accommodate a townhouse-style development such as the neighbouring site at 125 Barton Street.

#### 2.2 – Height of Building

Building height for the subject site is not currently prescribed under clause 4.3 in the RLEP 2011. Though the site is excluded from the Height of Buildings Map, the immediate area has a maximum height of 8.5m. The objectives of this clause are as follows:

- to establish the maximum limit within which buildings can be designed and floor space can be achieved,
- to permit building heights that encourage high quality urban form,
- to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,
- to nominate heights that will provide an appropriate transition in built form and land use intensity



The Planning Proposal will establish a maximum building height of 8.5m, which is consistent with the prevailing height limit for the subject area. Amending the map referred to in clause 4.3 to include the subject site meets the above objectives.

### 2.3 – Floor Space Ratio (FSR)

FSR for the subject site is not currently prescribed under clause 4.4 in the RLEP 2011. Though the site is excluded from the FSR Map, the immediate area has a maximum FSR of 0.6:1. The objectives of this clause are as follows:

- (a) to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,
- (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties,
- (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.

Currently, the subject site is exempt from the RLEP 2011 Floor Space Ratio map (see figure 6). Amending the FSR of the site to a density that is consistent with the surrounding area will have no unreasonable adverse impact on the amenity, extent of overshadowing or privacy of the adjoining properties.

## B – All provisions

Development standards applicable to the subject land are summarised in Table 3 below.

TABLE 2: DEVELOPMENT STANDARDS UNDER ROCKDALE LOCAL ENVIRONMENTAL PLAN 2011	
CONTROL	PROPOSAL
<b>Clause 4.1</b> Minimum subdivision lot size	<b>Not relevant.</b> No amendment of Clause 4.1 is proposed.
<b>Clause 4.3</b> Building Height	<b>Not applicable.</b> The subject land is not identified on the Floor Space Ratio Map (Sheet HOB_005).  A site-specific maximum building height of 8.5m, consistent with that permissible within the surrounding R3 medium density zone, is proposed to be applied to the subject land. Refer section 4 Mapping below.
<b>Clause 4.4</b> FSR	<b>Not applicable.</b> The subject land is not identified on the Floor Space Ratio Map (Sheet FSR_005).  A site-specific maximum floor space ratio of 0.6:1, consistent with that permissible within the surrounding R3 medium density zone, is proposed to be applied to the subject land. Refer section 4 Mapping below.
<b>Clause 5.9</b> Preservation of trees or vegetation	<b>Not relevant.</b> No amendment of Clause 5.9 is proposed.

TABLE 2: DEVELOPMENT STANDARDS UNDER ROCKDALE LOCAL ENVIRONMENTAL PLAN 2011	
CONTROL	PROPOSAL
<b>Clause 5.10</b> Heritage conservation	No amendment of Clause 5.10 is proposed.  Subject land is not identified as a heritage item under this instrument nor does it lie within a conservation area identified on the RLEP 2011 Heritage Map (Sheet HER_005). The subject land does, however, lie within 150 metres of Cook Park along the Grand Parade to the east, which is identified as an item of local heritage significance (I168) under schedule 5 of RLEP 2011.
<b>Part 6</b> Additional Local Provisions	<b>Not relevant.</b> No amendment of Part 6 is proposed.

### Control Maps

Tile 005 of *Rockdale LEP 2011* control maps shows land use zoning, FSR and Height of Building for the subject site. Proposed changes and the amended development control maps are provided under Part 4 'Mapping' below.

### Part 3 - Justification

#### A Need for the planning proposal

##### A1 Is the planning proposal a result of any strategic study or report?

As noted below, the proposal meets many strategic objectives but the site is too small to have been featured in any strategic plans for the area.

#### Cook Park Plan of Management and Masterplan 2010

Cook Park is a large public recreation area that spans approximately 8 kilometers along the Botany Bay foreshore from the Cooks River to the mouth of the Georges River. Due to its size and local significance, Cook Park is the focal point for a number of suburbs on the western shore of Botany Bay. The Cook Park Plan of Management and Masterplan sets out the strategic direction for the park and minimising impacts from surrounding areas.

Part 5 of the Plan outlines the strategy for conserving the park's environment, heritage and character. This is relevant to the proposal as views of Botany Bay, through the park, are available along Barton Street. The proposed change of use will be consistent with the values of this section which outline the conservation of heritage, social and natural value, visual quality, and recreational space.

As a part of this proposal, the site will have a maximum building height of 8.5m with an FSR of 0.6:1. Strategies identified in the Plan, such as establishing green links and maintaining view corridors, have been recognised and are encompassed in the objectives, **Section 4.1**, below.



Figure 1: Extract – Cook Park – Plan of Management and Masterplan

**Open Space & Recreation Strategy 2010**

In 2010, Rockdale City Council released a strategy to enhance the quality of open space and recreational areas. The Open Space & Recreation Strategy set goals that are consistent with the key strategic direction of The Rockdale City Plan 2009-2018. These goals are:

- A City with a Sense of Pride
- A Liveable City with Lifestyle Qualities
- A Connected and Accessible City
- A City with Viable Business and Employment Opportunities

**A2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Due to the very restrictive nature of the current zoning, RE2 Private Recreation, there is no other way to achieve economic and orderly use of the site other than by a rezoning.

**B Relationship to strategic planning framework****B1 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)?**

There are no detail strategies of sufficient detail to state that the proposal has been brought into existence following the adoption of such strategies. However, all of the more generalised strategies, such as the exhibited draft district plans, support a conversion of the subject site into a minor residential development (potentially 28 dwellings). It is completely consistent with surrounding zoning.

**Draft District Plans**

The draft District Plans were put on exhibition by the Greater Sydney Commission (GSC) in November 2016 and follow the direction set by *A Plan for Growing Sydney*. Goals set out by the GSC have included the strategy of providing integrated and effective land use, transport and infrastructure over the next 20 years. The draft plans will also act as an intermediary plan between state and local policies. More specifically, the draft plans aim to manage the growth of the region by enhancing the local liveability and productivity of the six districts. Provisions for Bayside Council are outlined in the draft Central District Plan, which includes targets for housing and employment.

For the Central District, opportunities for job growth should be supported by facilitating the needs of innovative and creative industries. Consideration should be given to the full spectrum of economic activity including small start-ups which should incorporate efficient working arrangements that are in close proximity to home<sup>2</sup>.

Though Monterey is located within the Central District, it is situated approximately 1.5 km east of Kogarah which lies within the South District. The Kogarah strategic centre has been identified in the South District Plan as a health and education super precinct (Action P1 – South District)<sup>3</sup>. Development in Kogarah,

<sup>2</sup> Greater Sydney Commission. Draft Central District Plan (p. 42-55, Rep.)

<sup>3</sup> Greater Sydney Commission. Draft South District Plan (p. 47-49, Rep.)

according to the draft plan, is apparently more important for Monterey than development further north around Sydney Airport. Objectives for managing the growth of the health and education precinct are as follows:

- *promote synergies between the St George Hospital and other health and education related activities*
- ***encourage land use that will support the growth of the Kogarah health and education super precinct and will cater for specialised housing demands from staff, students and health visitors*** (our emphasis)

The draft District Plans support the increase of housing across the Bayside LGA by monitoring the delivery of the five-year housing target of 10,150 dwellings while recognising significant growth in infill areas. Housing diversity and affordability are also major considerations in the strategic direction of LGAs located in the Central District. An increase in the proportion of people that are ageing and/or disabled has highlighted a need for the delivery of diverse housing which includes smaller homes, group homes, adaptable homes and aged care facilities.

#### **A Plan for Growing Sydney**

*A Plan for Growing Sydney* (the Plan) anticipates that 664,000 new homes will be needed by 2031. The Plan highlights the importance of facilitating the movement of Sydney residents between their homes, their jobs, commercial centres and open spaces. Goals established by the Plan include the following (emphasis added):

- *A competitive economy with world-class services and transport;*
- *A city of housing choice with homes that meet our needs and lifestyles;*
- *A great place to live with communities that are strong, healthy and well connected; and*
- *A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.*

The proposal is consistent with the Plan as it will accelerate the delivery of housing to contribute to the State Government target of 664,000 homes by 2031 (direction 2.1). These homes will be provided within established centres supported by public transport, utilities, social infrastructure and employment opportunities within the Kogarah strategic centre, which lies approximately 1.6km from the subject site. The Kogarah priority health and education precinct is planned to provide at least 10,000 jobs (direction 2.2). The proposal will permit infill medium density development to meet the needs of growing number of small households within a locality otherwise dominated by detached dwelling houses (direction 2.3).

The proposal will provide an opportunity to revitalise an existing suburb through the redevelopment of a disused facility to create an improved streetscape (direction 3.1). Redevelopment of the site has the potential to encourage a healthy community through the provision of communal open space, sustainable design and end of journey facilities that encourage cycling in this relatively flat area (direction 3.3).

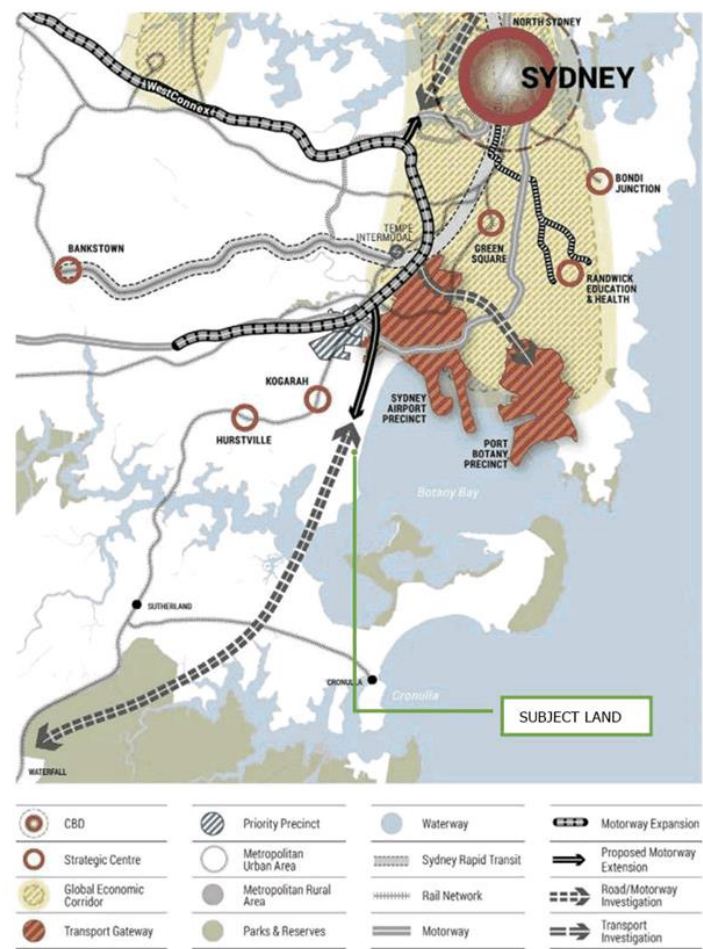


Figure 2: Extract from NSW Department of Planning's Sydney Metropolitan Strategy: A Plan for Growing Sydney 2015 (p. 58).

**B2 Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?**

To the extent possible for such a minor proposal, it is consistent with the former Rockdale's local strategy under which all of the surrounding land has been zoned Residential, R3, as is proposed in this case. There is no reason to believe that the strategy has changed following amalgamation of the Rockdale and Botany Bay City Councils into the Bayside Council.

**Community Strategic Plan 2013-2025**

The Community Strategic Plan's aim is to guide growth in the Rockdale LGA over a 12-year span. It will provide a strategic planning framework for a number of community outcomes that have been identified as council aspirations. The plan also provides a vision for how Rockdale City will encourage diverse development with effective housing choice and enhance opportunities for business growth.

*Outcome 2 - Quality natural and built environment*

TABLE 3 – Rockdale Community Strategic Plan 2013-2025		
STRATEGY	PROPOSAL	COMPLIANCE
2.1.1 Protect, preserve and promote the City's natural resources	The proposal and related development will be consistent with the existing features of the subject area and complement significant City resources such as the foreshore and Cook Park.	<b>Complies</b>
2.1.2 Demonstrate leadership in responding to climate change through action and adaptation	Rezoning of the site has the potential to accommodate 28 townhouse units which will include an efficient design, compliant with building sustainability requirements.	<b>Complies</b>
2.2.1 Ensure planning enables the provision of quality affordable housing	Does not apply to the subject development. Not proposed	<b>N/A</b>
2.2.2 Promote high quality, well designed and sustainable development and places that enhance the City	Proposed design of the dwellings will respond to contemporary SEPP 65 principles even though the project does not fall under SEPP 65. Design of the dwellings will be provided at a later DA stage.	<b>Complies</b>
2.3.1 Ensure waste minimisation to reduce the impact on the environment	Waste management plan will be provided at DA stage.	<b>Can comply</b>
2.4.1 Ensure that Rockdale's natural and built heritage and history is respected, protected and well maintained reflecting the rich and diverse past of both Aboriginal and European settlement	The subject site has not been identified as a heritage item and is not situated in a conservation area. The closest heritage item is Cook Park (1168), which is located approximately 200m to the west.	<b>N/A</b>
2.5.1 Ensure that the City's transport networks and infrastructure are well planned, integrated and maintained	As mentioned in section 2.3, the subject area is serviced by a number of bus routes along Chuter Ave toward the CBD and is situated approximately 2 km from Kogarah train station. Public transport is currently underutilized in the Monterey locality as 62.5% of residents use private vehicle as a mode of transportation.	<b>Can comply</b>

TABLE 3 – Rockdale Community Strategic Plan 2013-2025

STRATEGY	PROPOSAL	COMPLIANCE
2.5.2 Ensure sustainable current and future transport needs of the community providing access to services and facilities and enabling active living.	As above.	N/A

**B3 Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?**

No SEPPs are contradicted by the planning proposal for the rezoning of the subject land that is totally encompassed by the existing low density residential development designated for conversion to medium density development. There is no inconsistency with the SEPPs.

Consistency with the State Environmental Planning Policies is provided in Table 4, below.

Table 4 - Consistency with State Environmental Planning Policies

No.	Title	Consistency with Planning Proposal
1	Development Standards	(Repealed by RLEP 2011)
14	Coastal Wetlands	Not Applicable
15	Rural Landsharing Communities	Not Applicable
19	Bushland in Urban Areas	Not Applicable
21	Caravan Parks	Not Applicable
22	Shops and Commercial Premises	Not Applicable
26	Littoral Rainforests	Not Applicable
29	Western Sydney Recreation Area	Not Applicable
30	Intensive Aquaculture	Not Applicable
32	Urban Consolidation (Redevelopment of Urban Land)	(Repealed)
33	Hazardous and Offensive Development	Not Applicable
36	Manufactured Home Estates	Not Applicable
39	Spit Island Bird Habitat	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 proposal will be assessed at the DA stage as there is no indication that site requires remediation.
59	Central Western Sydney Regional Open Space and Residential	Not Applicable
60	Exempt and Complying Development	(Repealed by RLEP 2011)
62	Sustainable Aquaculture	Not Applicable
64	Advertising and Signage	Not Applicable
65	Design Quality of Residential Flat Development	Not Applicable
70	Affordable Housing (Revised Schemes)	Not Applicable
71	Coastal Protection	Not Applicable
	(Affordable Rental Housing) 2009	Not Applicable
	(Building Sustainability Index: BASIX) 2004	The proposal will comply with the relevant



		requirements at the DA stage.
	(Exempt and Complying Development Codes) 2008	Not Applicable
	(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
	(Major Development) 2005	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
	(SEPP 53 Transitional Provisions) 2011	Not Applicable
	(State and Regional Development) 2011	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

See Table 5 below which reviews the consistency with the formerly named State Regional Environmental Plans, now identified as deemed SEPPs.

Table 5 - Consistency with deemed State Environmental Planning Policies		
No.	Title	Consistency with Planning Proposal
8	(Central Coast Plateau Areas)	Not Applicable
9	Extractive Industry (No 2 – 1995)	Not Applicable
16	Walsh Bay	Not Applicable
18	Public Transport Corridors	Not Applicable
19	Rouse Hill Development Area	Not Applicable
20	Hawkesbury-Nepean River (No.2 – 1997)	Not Applicable
24	Homebush Bay Area	Not Applicable
26	City West	Not Applicable
30	St Marys	Not Applicable
33	Cooks Cove	Not Applicable
	(Sydney Harbour Catchment) 2005	Not Applicable

#### B4 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The first relevant s117 Direction is 3.1 – Residential Zones whose objectives are:

- (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,
- (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- (c) to minimise the impact of residential development on the environment and resource lands.

As noted above, the rezoning of the subject site to R3:

- will be consistent with the planning for area which seeks medium density housing,
- will increase the choice of housing which is currently and predominantly single dwellings, and
- will make good use of existing open space and public transport infrastructure.

Services such as water, sewerage and electricity are available in the street. No adverse impact on the environment at large will result from the infilling of residential development on the subject site.

The objectives of Direction 3.4, Integrating Land Use and Transport, are to:

*ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:*

- (a) improving access to housing, jobs and services by walking, cycling and public transport, and*
- (b) increasing the choice of available transport and reducing dependence on cars, and*
- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- (d) supporting the efficient and viable operation of public transport services, and*
- (e) providing for the efficient movement of freight. Where this direction applies*

Through changing the existing RE2 – Private Recreation zoning to R3 - Residential, the proposal will provide an increased and diverse supply of housing within approximately 2km of the Kogarah Strategic Health Centre. As mentioned above, the subject site is well serviced by a number of bus routes, close to the site, along Chute Avenue and the Grand Parade. The proposal satisfies the objectives of Direction 3.4

Direction 7.1 - Implementation of A Plan for Growing Sydney, applies to land within the former local government area of Rockdale. Its objective is to:

*give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.*

As noted elsewhere in this report, the proposal is entirely consistent with the strategic direction sought for its locality.

See Table 6 below which reviews the consistency with the Ministerial Directions for LEPs under section 117 of the *Environmental Planning and Assessment Act 1979*.

**Table 6** - Consistency with applicable Ministerial Directions

**1. Employment and Resources**

No.	Title	Consistency with Planning Proposal
1.1	Business and Industrial Zones	Not Applicable
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

**2. Environment and Heritage**

No.	Title	Consistency with Planning Proposal
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

**3. Housing, Infrastructure and Urban Development**

No.	Title	Consistency with Planning Proposal
3.1	Residential Zones	It is consistent, see above.
3.2	Caravan Parks and Manufactured Home Estates	Not Applicable
3.3	Home Occupations	Not Applicable
3.4	Integrating land use and Transport	It is consistent, see above.
3.5	Development near Licensed Aerodromes	Not Applicable
3.6	Shooting ranges	Not Applicable

**4. Hazard and Risk**

No.	Title	Consistency with Planning Proposal
4.1	Acid Sulfate Soils	Not Applicable
4.2	Mine Subsidence and Unstable Land	Not Applicable
4.3	Flood Prone Land	Not Applicable
4.4	Planning for Bushfire Protection	Not Applicable

**5. Regional Planning**

No.	Title	Consistency with Planning Proposal
5.1	Implementation of Regional Strategies	Not Applicable
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 Eillalong...	Not Applicable
5.6	Sydney to Canberra Corridor	Not Applicable
5.7	Central Coast	Not Applicable
5.8	Second Sydney Airport: Badgerys Creek	Not Applicable

**6. Local Plan Making**

No.	Title	Consistency with Planning Proposal
6.1	Approval and Referral Requirements	Not Applicable
6.2	Reserving land for Public Purposes	Not Applicable
6.3	Site Specific Provisions	It is consistent, see above.

**7. Metropolitan Planning**

No.	Title	Consistency with Planning Proposal
7.1	Implementation of A Plan for Growing Sydney	It is consistent, see above.

**C Environmental, social and economic impact****C1 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 site is fully developed and does not accommodate any critical habitat, threatened species, etc.

**C2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No other environmental effects, other than those reported above, have been identified.

**C3 How has the planning proposal adequately addressed any social and economic effects?**

No other social or economic effects, other than those reported above, have been identified.

**D State and Commonwealth interests****D1 Is there adequate public infrastructure for the planning proposal?**

As noted above, the locality is rich in public infrastructure, especially public transport and open space.

**D2 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

State and Commonwealth public authorities have not yet been consulted.

**E Conclusions**

**E1 Economic and orderly use of the site**

The objectives of the EPA Act include, at S5(a)(ii),

*the promotion and co-ordination of the orderly and economic use and development of land ...*

Formerly used as a bowling club which included a registered club encompassing the service of alcohol and a small number of gambling machines, the site use never-the-less fell into financial difficulties due to changing community preferences. This situation has been repeated in many locations throughout both Sydney and the nation as old pastimes give way to new and different choices. If the site could not make an economic return, even with its associated registered club, it is clear that no other similar use (tennis courts, croquet, etc) will be more successful.

If the economic and orderly use of the site is to be achieved, a rezoning to some other use than private recreation is required. The most obvious use is one that is the same as the area surrounding the site, Residential R3 with the same Building Height and FSR.

As noted above, there is strategic planning support for the provision of housing in the general area of the now Bayside City (formerly Rockdale City) and this site meets the necessary strategic imperatives of proximity to transport and the designated growth centres.

**E2 Impact of the proposal**

As may be seen from the proposal's architectural drawings, the very acceptable and not unreasonable impact of the proposal will fall upon those surrounding houses which have enjoyed the twin benefits of adjoining private open space and lack (thus far) of medium density redevelopment for which the locality has been designated. Development of the site as currently proposed may create minor privacy impacts, from the upper bedroom storeys of the proposed townhouses (subject to detailed design). Such an impact is within the range of that expected in any transition to medium density development. It will be no worse than if new development occurred next door rather than behind the existing houses.

Distances between windows of the proposed new and the existing will exceed the old AMCORD standard of 9m and the equivalent under the Apartment Design Guide of SEPP 65 (which itself is not applicable to the development). Adopting the development standards of the surrounding area will make all medium density housing in the area equal in impact and within the bounds framed by the zoning controls.

Based on the potential concept design, overshadowing will not be a general issue due to the favourable orientation of the site, the separation distances between new and proposed buildings and the limited building height of 8.5m.

**E3 Summary conclusions**

- The proposal aligns exactly with the zoning surrounding the subject site on all four sides in terms of land use, density expressed in FSR, building height.
- Rezoning of the site will not deprive the community of open space. The site was a private open space with its use limited to club members. Additionally, there is considerable open space 400m to west at Scarborough Park, and 150m to the east, at Cook Park on the bay front.
- Demonstrably, as shown in the proposed architectural plans appended, development of the site is possible in accordance with all planning controls contained in the Rockdale LEP and DCP. This means that the impact of the proposal is within the acceptable bounds prescribed in the LEP and DCP.
- Development of the site will not give rise to unacceptable or unreasonable impacts on surrounding housing which is slated for redevelopment as medium density residential.
- Located between Chuter Avenue and The Grand Parade, the site is well served by bus routes. It is also proximate to the St George Hospital precinct which has been designated as a major health/education precinct under A Plan for Growing Sydney.
- The proposal is compliant with all relevant SEPPs and the Minister's s117 Directions under the EPA Act.

Part 4 – Mapping

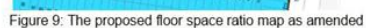
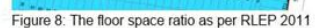
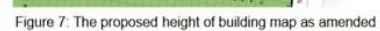
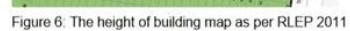
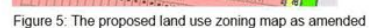
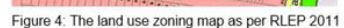
To assist the community in understanding the proposed amendment(s), the following maps are provided as part of this application:

- Site context map – this should identify the site(s) subject to the Planning Proposal;



Figure 3: Site and its surrounds. Extract from 'Urban Design Analysis' report prepared by Rothe Lowman, January 2016.

Figures 4 to 9 below illustrate the current control maps as well as proposed controls. The control maps that need to be amended subject to this planning proposal are land use zoning, height of building and floor space ratio.





*Planning Proposal – Rezoning of land at 119 Barton St, Monterey for medium density residential*

### Part 5 - Community Consultation

Community consultation process will be defined post submission in consultation with Council's 'Place Outcomes' team.

### Part 6 – Project Timeline

The project timeline will be completed in consultation with Council's 'Place Outcomes' team after submission of the Planning Proposal.

The table below provides a proposed timeframe for the project.

**Table 7**– Approximate Project Timeline

Task	Timing
Date of Gateway determination	Will be discussed post submission
Anticipated timeframe for the completion of required technical information	Will be discussed post submission
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	Will be discussed post submission
Commencement and completion dates for public exhibition period	Will be discussed post submission
Dates for public hearing (if required)	Will be discussed post submission
Timeframe for consideration of submissions	Will be discussed post submission
Timeframe for the consideration of a PP following exhibition	Will be discussed post submission
Consideration of PP by Council (Council Meeting)	Will be discussed post submission
Date of submission to the department to finalise the LEP	Will be discussed post submission
Anticipated date RPA will make the plan (if delegated) or Anticipated date RPA will forward to the department for notification	Will be discussed post submission
Anticipated publication date	Will be discussed post submission

Record number (trim file)

1



### Appendix 1 - Supporting environmental assessment, design and engineering studies

The Planning Proposal is supported by the urban design study and the following schematic master plan drawings prepared by Rothelowman:

Drawing No.	Issue/Rev	Description	Date
SK00.02	P2	Ground floor / level 1 masterplan	21/01/2016
SK00.03	P2	Level 2 masterplan	21/01/2016
SK00.04	P1	Solar analysis – Mar, Sep, Dec	21/01/2016
SK00.05	P1	Solar analysis – June	21/01/2016
SK01.01	P2	Townhouse Type A – Floor plans	21/01/2016
SK01.02	P2	Townhouse Type B – Floor plans	21/01/2016

The following relevant documents are appended to this Proposal:

- Survey plan prepared by Project Surveyors dated 26 August, 2015;
- Geotechnical assessment report prepared by Douglas Partners dated 4 March, 2016;
- Stormwater management overview report and drawings prepared by ADG dated 9 March 2016;
- Traffic impact assessment prepared by Colston Budd Rogers & Kafes Pty Ltd dated February 2016

Appendix 2 – Subject site, locality and regional context

2.1 Site description

The subject land, comprising the former Francis Drake Bowling Club, is a large battle axe lot known as 119 Barton Street, Monterey. It has the legal description of Lot 2 DP 857520. With a northern frontage of approximately 35 metres to Barton Street, the site has an eastern (side) boundary shared with the part one- part two-storey 'Oak Flats' townhouse development at 121 Barton Street. The irregular western (side) boundary measures approximately 155 metres and adjoins the rear yards of residential development at Nos. 107-115 Barton Street and Nos. 2-10 Jones Avenue. The southern (rear) boundary, approximately 95 metres in length, abuts the rear yards of residential development at 13-29 Scarborough Street. The total area of the site is approximately 7,218 sqm. The location and context of the site are shown in the aerial photograph below.



**Legend**  
Subject land, 119 Barton Street  
Cook Park, The Grand Parade (I168)  
Adjoining medium-density residential development

The Francis Drake Bowling Club ceased operations on March 23, 2015. Remaining on the site is a single-storey building comprising club/event space. Also on the site are two bowling greens and an at-grade parking area accommodating 53 parking spaces as well as a loading zone. Soft landscaping within the site is limited, confined for the most part to the south west corner of the site. There are no significant trees existing on the site. The property is currently occupied by St Pope Kyrillos VI & St Habib Girgis Coptic Orthodox Church.

The land is zoned **RE2 Private Recreation** under the *Rockdale Local Environmental Plan 2011 (RLEP 2011)*. It is not identified as a heritage item under this instrument nor does it lie within a conservation area identified on the RLEP 2011 Heritage Map (Sheet HER\_005). The subject land does, however, lie within proximity of Cook Park along the Grand Parade 150 metres to the east, which is identified as an item of local heritage significance (I168) under schedule 5 of RLEP 2011.

2.2 Surrounding development and land uses

A site-specific zoning of RE2 Private Recreation applies to the subject land. However, the land lies within a R3 Medium Density Residential zone that surrounds it on all four sides. Surrounding the R3 zone is an area zoned R2 Low Density Residential. In spite of the R3 zoning, residential development in the immediate context of the subject land is dominated by single and two-storey detached dwellings with the exception of medium density developments at 123 Barton Street and 125 Barton Street, east of the subject site, comprising the Oaks Flats townhouse development and a seven-villa development, respectively. There are some newer houses on Grand Parade but those in the streets away from the bay front are generally older and less changed.

150m to the east of the subject land is Cook Park, which provides accessible public green space adjoining Lady Robinsons Beach and the foreshore of Botany Bay. Public open space is also located 400m to the west at Scarborough Park and the AS Tanner Reserve. The latter parks surround Scarborough Ponds and the Toomevara Lane Chinese Market Gardens.

Nearby commercial centres include the Brighton-Le-Sands commercial centre 1.6km to the north, Ramsgate commercial centre 1.2km to the south and Kogarah commercial centre 1.5km to the north west. Isolated commercial uses such as cafes and other eateries are scattered along Chuter Avenue and the Grand Parade.



2.2.1 Development typical of the locality



Two-storey dwelling at 115 Barton St, Image: Googlemaps



Single-storey dwelling at 126 Barton St, Image: Googlemaps



Townhouse development at 121 Barton St, Image: Googlemaps

## 2.3 Regional context and transport

### 2.3.1 Population and census statistics

Monterey is a small suburb in southern Sydney, 15 km south of the Sydney CBD in the local government area of Bayside City and is part of the St George area. Monterey extends to President Avenue in the north and Emmaline Street to the south. The mostly residential suburb is bounded by the shores of Botany Bay to the east and Scarborough Park to the west. Commercial uses are scattered along Chuter Avenue and the Grand Parade. At the time of the 2011 census, Monterey had a population of 4,344 persons with a median age of 40 years compared to a median age of 35 years in the metropolitan region<sup>4</sup>.

At 2011, Monterey contained a total of 1,943 dwellings with an average household size of 2.43 persons compared to 2.7 persons across Metropolitan Sydney (as per ABS, Sydney – Significant Urban Area). There is a greater proportion of single person households in Monterey relative to New South Wales, 28.2% and 22.3% respectively (refer TABLE 1 below). Notwithstanding, Monterey has less than half the number of single-bedroom dwellings compared with Greater Sydney.

**TABLE 8: COMPARISON OF HOUSEHOLD COMPOSITION (MONTEREY/ METRO SYDNEY)**

HOUSEHOLD COMPOSITION	MONTEREY %	METRO SYDNEY %
Family households	68.8	73.2
Single person households	28.2	22.3
Group households	2.9	4.5

**TABLE 9: COMPARISON OF DWELLING COMPOSITION (MONTEREY/ METRO SYDNEY)**

DWELLING COMPOSITION	MONTEREY %	METRO SYDNEY %
0 bedroom (includes bedsitters)	0.9	1.0
1 bedroom	2.6	7.0
2 bedroom	41.1	25.9
3 bedroom	34.4	36.2
4 bedroom	19.1	28.0
Not stated	1.9	1.8

The conclusion we draw from the statistics and the characteristics of the houses in Monterey is that dwellings tend to be occupied by older people who are likely to be empty nesters remaining in family homes which are now larger than their needs in terms of bedroom numbers.

### 2.3.2 Transport

The subject land lies 2.4 km from Kogarah Railway Station to the north west, well outside of the 800m (ten minute) pedestrian catchment relevant for considerations of modal split<sup>5</sup>.

However, the subject land lies within easy walking distance of bus services along Chuter Ave (270m west) and the Grand Parade (130m east). The Grand Parade is serviced by bus routes travelling north, Route 303 (Sans Souci to Circular Quay), and south, Route 478 (Ramsgate to Rockdale). An

<sup>4</sup> Australian Bureau of Statistics, 2011 Census QuickStats: Monterey (NSW), accessed 07 Oct, 2015, at [http://www.censusdata.abs.gov.au/census\\_services/getproduct/census/2011/quickstat/SSC11578?opendocument&navpos=220](http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/quickstat/SSC11578?opendocument&navpos=220)  
<sup>5</sup> NSW Department of Planning, 2004, *Planning Guidelines for Walking and Cycling*, accessed [http://www.planning.nsw.gov.au/plansforaction/pdf/guide\\_pages.pdf](http://www.planning.nsw.gov.au/plansforaction/pdf/guide_pages.pdf)

express service, Route X03, operates between Sans Souci and the Circular Quay during peak periods Monday to Friday providing access to the city (Central Station) within 30 mins. Chuter Ave is serviced by Route 947 (operated by Transdev NSW), which runs between Hurstville to Kogarah.

At the 2011 Census, the most common method of travel to work for employed residents of Monterey was by car, 62.5% as driver and 5.2% as passenger. The location of bus and train services, as discussed above, is not reflected in greater usage by Monterey residents of bus services in combination with train services compared with Metropolitan Sydney as a whole (refer figure 3 below). 15.5% of employed people in Monterey travelled to work on public transport compared with 21.4% across the Sydney region.

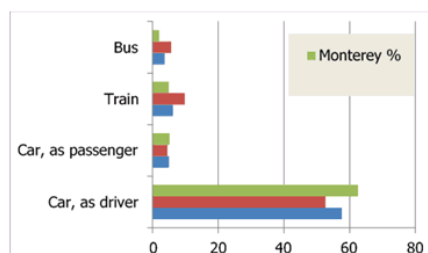


Figure 3: Comparison of journey to work modal split – Monterey, Metro Sydney and NSW



### Appendix 3 – 3D study model

An analytical study conducted by Rothelowman has produced a model for development yield and building typology. This concept illustrates the capacity of the subject site to accommodate 28 two and three-bedroom townhouses, as shown in Figures 10 and 11 below.



Figure 10 – 3D study model, looking south – north



Figure 11 – 3D study model, looking north – south

## Appendix 4 – Rockdale Development Control Plan 2011

TABLE 10 – Rockdale Development Control Plan 2011		
CONTROL	PROPOSAL	COMPLIANCE
<p>4.3.1 (8) Landscape Area Landscaped areas, as defined in Rockdale LEP, must be provided at the following rates: Low and medium density residential – 25% of site area</p> <p>Required: 3 Bedroom dwellings – 219 sqm x 0.25 = 56 sqm 2 Bedroom dwellings – 121.5 sqm x 0.25 = 30.4 sqm</p>	<p>Proposed landscaped areas have been provided in accordance with the relevant requirements for two and three bedroom dwellings under the Rockdale DCP. 2 bedroom dwellings will have a minimum of 40.5 sqm per unit, while 3 bedroom dwellings will provide a generous minimum of 108 sqm per unit.</p>	<b>Complies</b>
<p>4.3.2 Private Open Space Each dwelling must be provided with a minimum private open space area as specified in the following table: Multi Dwelling Housing 2 bedroom – 40m<sup>2</sup> 3 bedroom – 50m<sup>2</sup></p>	<p>Private open space, in accordance with the requirements of this section, is considered for the proposed new dwellings on the subject site.</p> <p>See drawing SK00.02 of proposed schematic masterplan by Rothelowman architects.</p>	<b>Complies</b>
<p>4.3.3 Communal Open Space The development must provide a communal area for the benefits of its residents at the rate of 5m<sup>2</sup> for each dwelling within the development. 28 dwellings x 5m<sup>2</sup>/dwelling = 140m<sup>2</sup></p>	<p>A recreation area, located adjacent to the visitor car parking, is proposed to provide approximately 175m<sup>2</sup> of communal open space.</p>	<b>Complies</b>
<p>4.6 Car parking, access and movement</p> <p>Parking Rates Development is to provide on-site parking in accordance with the following rates:</p> <ul style="list-style-type: none"> <li>• 1 space/studio, 1 and 2 bedrooms apartments – 15 x 1 = 15 spaces</li> <li>• 2 spaces/3 bedrooms apartments or more - 13 x 2 = 26 spaces</li> <li>• Visitor parking: 1 space/5 Dwellings – 41/5 = 8.2 spaces</li> </ul> <p>Total spaces required: 49.2</p>	<p>Provision of car parking per dwelling is compliant with DCP requirements.</p> <p>Visitor car parking is non-compliant by 2 spaces.</p> <p>6 visitor spaces provided 8 visitor spaces required</p>	<p><b>Complies</b></p> <p><b>Does not comply</b></p>



**Council Meeting****11/07/2018**

Item No	8.2
Subject	<b>Planning Proposal - 119 Barton Street, Monterey</b>
Report by	Michael McCabe, Director City Futures
File	F17/902

**Summary**

Council resolved on 13 June 2018 to defer the consideration of this matter until a General Manager's Briefing had taken place. Now that this Briefing has occurred, the matter is once again before Council for consideration.

This report seeks a Council resolution to submit a draft Planning Proposal for 119 Barton Street, Monterey to the Department of Planning and Environment for a Gateway Determination.

The draft Planning Proposal seeks to:

- Rezone the subject site from RE2 Private Recreation Zone to R3 Medium Density Residential Zone; and
- Introduce Development standards as follows:
  - apply a maximum Floor Space Ratio (FSR) development standard of 0.6:1;
  - apply a maximum Height of Building (HOB) development standard of 8.5m; and
  - Apply a Minimum Lot Size (LSZ) development standard of 450sq.m. for the subject land.

The draft Planning Proposal seeks the application of the same planning controls as apply to the surrounding lots which are currently zoned R3 Medium Density. The subject site currently has no FSR, Height of Building or Minimum Lot Size controls in the Local Environmental Plan.

On 1 May 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. The Bayside Planning Panel is of the view that the proposed rezoning will allow for development in character with the adjoining residential area.

If Council supports the Planning Proposal and the Department of Planning and Environment issue a Gateway Determination the Planning Proposal will be placed on public exhibition for community feedback.

**Officer Recommendation**

- 1 That Council endorse the Planning Proposal for Gateway Determination based on the recommendation of the Bayside Planning Panel dated 1 May 2018.

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- 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).

#### Background

<b>Applicant:</b>	City Planning Works
<b>Proponent:</b>	Monterey Equity Pty Ltd
<b>Owner:</b>	Monterey Equity Pty Ltd
<b>Allotments subject to Planning Proposal:</b>	Lot 2 DP 857520

The subject site previously accommodated the Sir Francis Drake Bowling Club. The site incorporates a total land area of approximately 7,218m<sup>2</sup>. An aerial photo (Figure 1) and relevant *Rockdale Local Environmental Plan 2011* extracts (Figures 2-5) for the site describe the current planning controls. The subject site is outlined in red.



Figure 1 – Aerial Photo of Subject site



Figure 2 – RLEP 2011: Zoning (RE2 Private Recreation)

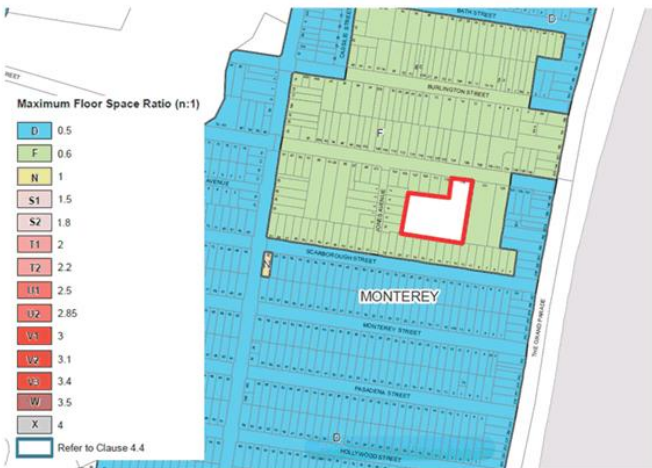


Figure 3 – RLEP 2011: Floor Space Ratio (N/A)

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Figure 4 – RLEP 2011: Height of Building (N/A)



Figure 5 – RLEP Minimum Lot Size: (N/A)

Site Description

The subject site is legally known as Lot 2 DP 857520 and is located on the southern side of Barton Street, between Jones Avenue to the west and The Grand Parade to the east. The

7218sq.m. site is a battle axe shape with the handle frontage to Barton Street being approximately 34 metres.

#### **Surrounding Land Uses**

Adjoining the site to the east are strata townhouse developments at 121 and 125 Barton Street, as well as similar townhouse developments at 89 – 95 Barton Street. Surrounding development is characterised predominately of detached single and couple storey dwellings.

#### **Planning Proposal Summary**

The Planning Proposal (**Attachment 1**) seeks the following amendment to the *Rockdale Local Environmental Plan 2011*:

- Rezone the site from RE2 Private Recreation to R3 Medium Density Residential zone;
- Apply a maximum Floor Space Ratio (FSR) development standard of 0.6:1;
- Apply a maximum Height of Building (HOB) development standard of 8.5m; and
- Apply a Minimum Lot Size (LSZ) development standard of 450sq.m for the subject land.

Table 1 identifies a comparison of the current, proposed and surrounding zoning and development standards for the site, based on the provisions of the Rockdale LEP 2011:

Development Standard	Existing	Proposed	Surrounding
<b>Zoning</b>	RE2 Private Recreation	R3 Medium Density Residential	R3 Medium Density Residential
<b>Height of Building</b>	N/A	8.5m	8.5m
<b>Floor Space Ratio</b>	N/A	0.6:1	0.6:1
<b>Minimum Lot Size</b>	N/A	450m <sup>2</sup>	450m <sup>2</sup>

Table 1: Proposed changes to development standards

#### **Planning Proposal Assessment**

The site was formerly used as a bowling club, for private recreation purposes. Under the current RE2 Private Recreation zoning, there are no development standards that apply in relation to building height, floor space ratio or minimum lot size. The site is no longer used as a bowling club, and the Planning Proposal provides an opportunity to amend the zoning and development standards to enable consistency with the surrounding R3 Medium Density Residential zone, under the Rockdale LEP 2011.

#### **Traffic and Vehicular Access**

An independent traffic consultant (Bitzios) reviewed the Traffic Report submitted with the Planning Proposal (**Attachment 2**) and raised no concerns about the impact a potential Development Application could have on the surrounding road network.

The report concluded that there are no traffic or transport issues identified that would preclude the consideration of a Development Application resulting from the Planning Proposal.

#### ***Environmental Planning & Assessment Act 1979***

The NSW Department of Planning & Environment's *A Guide to Preparing Planning Proposals* - issued under s3.3 (3) of the *Environmental Planning and Assessment Act 1979* - 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***

Section 9.1 Ministerial directions (Section 9.1 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:

Ministerial Direction	Planning Proposal Consistency with Direction	Consistent
<b>3.1 Residential Zones</b>	<p><b>What a RPA must do:</b></p> <p>The RPA must include provisions that broaden the choice of building types, encourage the provision of housing that will make more efficient use of existing infrastructure and services.</p> <p><u>Comment:</u></p> <p>The Planning Proposal seeks to include provisions that will facilitate medium density in close proximity of existing transport infrastructure, open/recreation space, and nearby services.</p>	YES
<b>3.4 Integrating Land Use and Transport</b>	<p><b>What a RPA must do:</b></p> <p>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></p> <p>The subject site is serviced by several bus services along Chuter Street and the Grand Parade, with connection to larger transport hubs such as Rockdale, and Kogarah as well as direct busses to the Sydney CBD.</p>	YES



Ministerial Direction	Planning Proposal Consistency with Direction	Consistent
<b>7.1 Implementation of A Plan for Growing Sydney</b>	<p><b>What a RPA must do:</b></p> <p>A RPA must ensure that a Planning Proposal is consistent with A Plan for Growing Sydney.</p> <p><u>Comment:</u></p> <p><b>Direction 2.1:</b> Aims to provide more housing and a diverse choice of housing as population growth accelerates.</p> <p><b>Direction 2.2:</b> Aims to facilitate urban infill projects, and urban renewal around transport corridors providing diverse housing close to jobs.</p> <p><b>Direction 2.3:</b> Aims to improve the choice of housing, as the needs of the population changes.</p> <p>Rezoning the subject site from RE2 to R3, reflecting the surrounding zone is considered consistent with Directions 2.1 and 2.3, as the proposal to seek medium density residential development has the potential to provide diversity in the local housing stock. The Planning Proposal enables development for medium density town houses to be considered.</p> <p>The Planning Proposal is consistent with Direction 2.2 as the current use of the site has been exhausted, the planning proposal will enable infill development, providing diverse housing stock within close proximity of public transport and the Kogarah Priority Health and Education Precinct.</p>	YES

Table 2: Planning Proposal consistency with S9.1 directions

**State Environmental Planning Policies (SEPPs)**

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

Name of SEPP	Compliance of Planning Proposal with SEPP	Complies Y/ N
<b>State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)</b>	<p>(1) <b>Clause 6 Contamination and remediation to be considered in zoning or rezoning proposal</b></p> <p>(2) (1) In preparing an environmental planning instrument, a planning authority is not to include in a particular zone (within the meaning of the instrument) any land specified in subclause (4) if the inclusion of the land in that zone would permit a change of use of the land, unless:</p>	YES

Name of SEPP	Compliance of Planning Proposal with SEPP	Complies Y/ N
	<p>(3) (a) the planning authority has considered whether the land is contaminated, and</p> <p>(4) (b) if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</p> <p>(5) (c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.</p> <p><u>Comment:</u> The Planning Proposal included a Contamination Assessment (<b>Attachment 3</b>) which was assessed by Council staff. The assessment raised no objections to the rezoning of the land from RE2 Private Recreation to R3 Medium Density, subject to appropriate Phase 2 Detailed Site Assessment, RAP and Validation being required as part of any DA for development of the site, including at grade construction.</p>	

Table 3: Planning Proposal consistency with applicable SEPPs

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 Proposal's consistency with the relevant strategic plans is provided in Table 4 below:

Name of Strategic Plan	Directions, priorities, objectives and actions	Consistency – Yes/No
<b>Regional Plans</b>		
A Plan for Growing Sydney	Refer to the assessment under the heading 'S9.1 directions', above	<b>YES</b>
Subregional Plans – A Plan for Growing	Refer to the assessment under the heading 'S9.1 directions', above	<b>YES</b>



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Name of Strategic Plan	Directions, priorities, objectives and actions	Consistency – Yes/No
Sydney - Central Subregion		
Greater Sydney Region Plan	<p><i>Objective 10:</i> Aims to have greater housing supply.</p> <p><i>Objective 11:</i> Aims to offer more diverse and affordable housing stock</p> <p><u>Comment:</u> The Planning Proposal is consistent with the Greater Sydney Regional Plan, as it would enable the consideration of medium density developments increasing the housing stocks, and allowing for more diverse housing stock.</p>	YES
<b>District Plans</b>		
Eastern City District Plan	<p><i>Planning Priority E5</i> Aims to increase housing stock, and offer great choice in housing.</p> <p><u>Comment:</u> As mentioned above; The Planning Proposal is consistent with the Eastern City District Plan, as it would enable the consideration of medium density developments increasing the housing stocks, and allowing for more diverse housing stock.</p>	YES
<b>Local Strategies</b>		
Rockdale Urban Strategy	<p><u>Strategy Principles:</u></p> <p><i>Residential Character:</i> Aims to ensure that precincts and streets are developed in ways that are consistent with and reinforce the overall character of their neighbourhood.</p> <p><u>Comment:</u> The locality is currently characterised by villa style medium density development, as well as detached single and double storey dwellings. The Planning Proposal is an opportunity to create consistency, and enforce the existing character on a site that has exhausted its previous use.</p>	YES
Rockdale Development Control Plan 2011 (DCP)	The Planning Proposal is consistent and compatible with the Rockdale Development Control Plan 2011. The Planning Proposal will not preclude any potential Development Application from complying with the controls set out in the DCP.	

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Name of Strategic Plan	Directions, priorities, objectives and actions	Consistency – Yes/No
	<p><u>4.2 Streetscape and Site Context</u></p> <p><i>Comment:</i> The RDCP promotes a positive interrelationship between the building and the street. The objectives of the DCP are to ensure development respond to and relate to existing streetscape character. While this is a consideration for DA stage, the DCP will ensure the development is integrated, and complementary to the existing character of the locality.</p> <p><u>4.3 Open Space and Landscape Design</u></p> <p><i>Comment:</i> The site is compatible with the DCP controls relating to the use of appropriate landscaping to both provide privacy and enhance the streetscape.</p> <p><u>4.4.2 Solar Access</u></p> <p><i>Comment:</i> The planning Proposal would facilitate similar medium density developments as to what is surrounding the site. The FSR and Height controls, along with the DCP would facilitate adequate solar access both for neighbouring dwellings and any future development.</p> <p><u>4.6 Car Parking, Access and Movement</u></p> <p><i>Comment:</i> The DCP will provide any future development application with controls to provide appropriate parking. The Planning Proposal is to reflect the surrounding zoning, height and FSR and is an appropriate size to allow accommodation of the required amount of parking and access.</p> <p><u>5.1 Low and Medium Density Residential</u></p> <p><i>Comment:</i> The Planning Proposal, will enable a medium density residential development. While the site only has a small street frontage, any development will be able to provide appropriate setbacks from the street.</p>	

Table 4: Strategic Planning Framework

**Urban Context and Evaluation**

An Urban Design Report has been prepared (**Attachment 4**) for the subject Planning Proposal. The mass modelling included in the Urban Design Report includes an indicative *maximum* building envelope and massing study (see Figure 6 below). The built form that is illustrated is indicative of what could be achieved if the proposed controls are introduced.

Councils' planning and design staff have reviewed the Urban Design Report and believe that the proposed controls can be used to manage and implement built form outcomes which will not have adverse amenity impacts on adjacent properties and neighbourhood character.

The developer is still required to submit a separate Development Application to provide more site specific detail about the development, which will be subject to further community consultation.



Figure 6 – Indicative Massing Study

**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.

#### Attachments

- 1 Planning Proposal (under separate cover)
- 2 Traffic Report (under separate cover)
- 3 Contamination Assessment (under separate cover)
- 4 Urban Design Report (under separate cover) [\[link\]](#)

**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.



**Planning  
Panels**

**REZONING REVIEW  
RECORD OF DECISION  
SYDNEY EASTERN CITY PLANNING PANEL**

<b>DATE OF DECISION</b>	Thursday 8 November 2018
<b>PANEL MEMBERS</b>	Carl Scully (Chair), John Roseth, Sue Francis
<b>APOLOGIES</b>	Ron Bezic
<b>DECLARATIONS OF INTEREST</b>	Ed McDougall, Michael Nagi, Joe Awada and Andrew Tsounis were all conflicted on this matter having voted on the proposal at a council meeting on 11 July 2018.

**REZONING REVIEW**

2018SCL069 – Bayside – RR\_2018\_BSIDE\_001\_00 at 119 Barton Street Monterey (AS DESCRIBED IN SCHEDULE 1)

**Reason for Review:**

- ☒ The council has notified the proponent that the request to prepare a planning proposal has not been supported
- ☐ The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

**PANEL CONSIDERATION AND DECISION**

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:

- ☒ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- ☐ **should not** be submitted for a Gateway determination because the proposal has
  - ☐ not demonstrated strategic merit
  - ☐ has demonstrated strategic merit but not site specific merit




The decision was unanimous.

**REASONS FOR THE DECISION**

In the Panel's view, the proposal has strategic merit as it contributes to housing supply and diversity in a location supported by social infrastructure and public transport. As a medium-density development, it is appropriately located within an area similarly zoned R3 and also intended for medium-density development.

The proposal also has site-specific merit as the proposed controls are consistent with those in other areas zoned for medium density in the Rockdale Local Environmental Plan 2011 and specifically the adjoining land. Based on the urban design analysis of the supporting schematic design, the proposal's impact on surrounding land will be reasonable.

The Panel notes that the council's planning officers and the Bayside Local Planning Panel recommended that the proposal be submitted to the Department for Gateway determination. The Panel also notes that the elected council's refusal to proceed with the planning proposal was based on a general reluctance to lose any land zoned for private recreation rather than on any strategic or site-specific considerations.

PANEL MEMBERS	
 Carl Sully (Chair)	 John Roseth
 Sue Francis	



SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	2018SCL069 – Bayside – RR_2018_BSIDE_001_00 119 Barton Street Monterey
2	LEP TO BE AMENDED	Rockdale Local Environmental Plan 2012
3	PROPOSED INSTRUMENT	The proposal seeks to rezone from RE2 Private Recreation to R3 Medium Density Residential and introduce a maximum floor space ratio, a maximum building height and a minimum lot size control for the site.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Rezoning review request documentation</li> <li>Briefing report from Department of Planning and Environment</li> </ul>
5	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li><b>Site inspection &amp; Briefing with Department of Planning and Environment (DPE):</b> 8 November 2018 at 9.30am <ul style="list-style-type: none"> <li>Panel members in attendance: Carl Scully (Chair), John Roseth, Sue Francis</li> <li>Department of Planning and Environment (DPE) staff in attendance: Laura Locke, Alexander Galea, Lewis Demerezi</li> </ul> </li> <li><b>Briefing with Council &amp; Proponent:</b> 8 November 2018 at 11.30am <ul style="list-style-type: none"> <li>Panel members in attendance: Carl Scully (Chair), John Roseth, Sue Francis</li> <li>Department of Planning and Environment (DPE) staff in attendance: Laura Locke, Alexander Galea, Lewis Demerezi</li> <li>Council representatives in attendance: Clare Harley</li> <li>Proponent representatives in attendance: Kate Bartlett, Shari Lowe</li> </ul> </li> </ul>



19 December 2018

Our Ref: F17/902

Contact: Josh Ford 9562 1634

Stuart Withington  
Manager Planning Panels Secretariat  
NSW Department of Planning & Environment  
GPO Box 39  
SYDNEY NSW 2001

Dear Mr Withington

**Re: Planning Proposal for 119 Barton Street, Monterey - Outcome of Rezoning Review & Invitation to Remain as Planning Proposal Authority**

On 8 November 2018, the Planning Panels Secretariat wrote to Bayside Council, regarding the outcome of the Rezoning Review for a Planning Proposal at 119 Barton Street, Monterey. The letter (Your Ref: 2018SCL069 – RR\_2018\_BSIDE\_001\_00) outlined that the Sydney Eastern City Planning Panel had determined that the Planning Proposal should proceed to Gateway determination stage.

Background

Council staff prepared a report for Council's consideration at the 12 December 2018 meeting to:

- (i) inform Council of the outcome of the Rezoning Review for the Planning Proposal at 119 Barton Street, Monterey; and
- (ii) to identify that Council had been invited to remain as the Planning Proposal Authority for the Planning Proposal.

Council resolved at the meeting of 12 December 2018:

1. *That this matter be deferred.*
2. *That Council write to the Department of Planning concerning the arrangements in appointing Council's community representatives to relevant Sydney Eastern City Planning Panel meetings.*

Please refer to the Council report, attachments and resolution at: <https://www.bayside.nsw.gov.au>, located under *Council Meetings and Minutes* (<https://www.bayside.nsw.gov.au/your-council/council-and-committee-meetings/council-meetings>).

Invitation to Remain as Planning Proposal Authority

It is noted that Council has until 21 December 2018 to inform the Department of Planning and Environment (DPE) of its decision, which is the conclusion of the 42 day timeframe that the DPE

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provides Council to respond. The resolution to defer the matter means that Council has not yet made a decision on whether it wishes to remain as the Planning Proposal Authority.

Notification Arrangements for Sydney Eastern City Planning Panel Meetings

Council's resolution included a request to write to the DPE (Planning Panels Secretariat), due to concerns with arrangements surrounding the appointment of community representatives to the Sydney Eastern City Planning Panel.

It is understood that community representatives were not notified of the Rezoning Review, and therefore were not in attendance to participate in the Rezoning Review. Council requests that the Planning Panels Secretariat's arrangements for notifying Council's community representatives of Rezoning Reviews are confirmed with our Governance team, in writing. Council needs to have a complete understanding of the notification procedures and requirements, to ensure that community representatives are invited to any future Rezoning Reviews.

Should you require any further information regarding this matter, please do not hesitate to contact Josh Ford on 9562 1634 or [josh.ford@bayside.nsw.gov.au](mailto:josh.ford@bayside.nsw.gov.au).

Yours sincerely



**Michael McCabe**  
Director City Futures

**John McNally**

---

**From:** Stuart Withington <Stuart.Withington@planning.nsw.gov.au>  
**Sent:** Friday, 18 January 2019 1:41 PM  
**To:** Fausto Sut  
**Cc:** Kim Holt; Angela Kenna; Alexandra Hafner  
**Subject:** RE: Panel Notifications

Hi Fausto

On receipt of an application for a Rezoning Review Council is notified within 3 days of the application and requested to review the application to ensure it is the same proposal considered by Council initially. It is at this point that Council can check that its members are not conflicted in accordance with the Planning Panels Code of Conduct. Once the Panel meeting date is scheduled members are invited, this is usually around 3 weeks prior to the meeting although I understand in the case of 119 Barton only 10 days, the invitation will remind members to ensure that they have checked again for conflicts.

Happy to discuss

Kind regards

**Stuart Withington**

Manager

Planning Panels Secretariat

320 Pitt Street, Sydney | PO Box 39 Sydney NSW 2001

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**Planning  
Panels**

## **Council Meeting**

**13/02/2019**

Item No	8.5
Subject	<b>Planning Proposal - 8 Princess Street, Brighton-Le-Sands</b>
Report by	Michael McCabe, Director City Futures
File	F18/395

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## **Summary**

A Planning Proposal relating to 8 Princess Street, Brighton-Le-Sands was reported to Council on 12 September 2018. The Draft Planning Proposal sought to rezone the site from SP3 Tourist to B4 Mixed Use in the Rockdale Local Environmental Plan 2011 (the RLEP 2011). Council resolved not to support the Planning Proposal for Gateway Determination.

Following Council's resolution, the proponent lodged a request with the Department of Planning and Environment (the DPE) for a Rezoning Review on 5 October 2018. The matter was referred to the Sydney Eastern City Planning Panel (the Panel) for the Rezoning Review on 19 December 2018. The Sydney Eastern City Planning Panel unanimously decided that the proposal should be submitted for a Gateway Determination.

The DPE notified Council of the Panel's decision on 20 December 2018. In its letter, DPE invited Council to continue to be the Planning Proposal Authority (PPA) for the Draft Planning Proposal. This report advises Council on retaining the role of PPA for the Draft Planning Proposal.

---

## **Officer Recommendation**

That Council resolves to retain its role as the Planning Proposal Authority for the Draft Planning Proposal at 8 Princess Street, Brighton-Le-Sands.

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## **Background**

### **The Site**

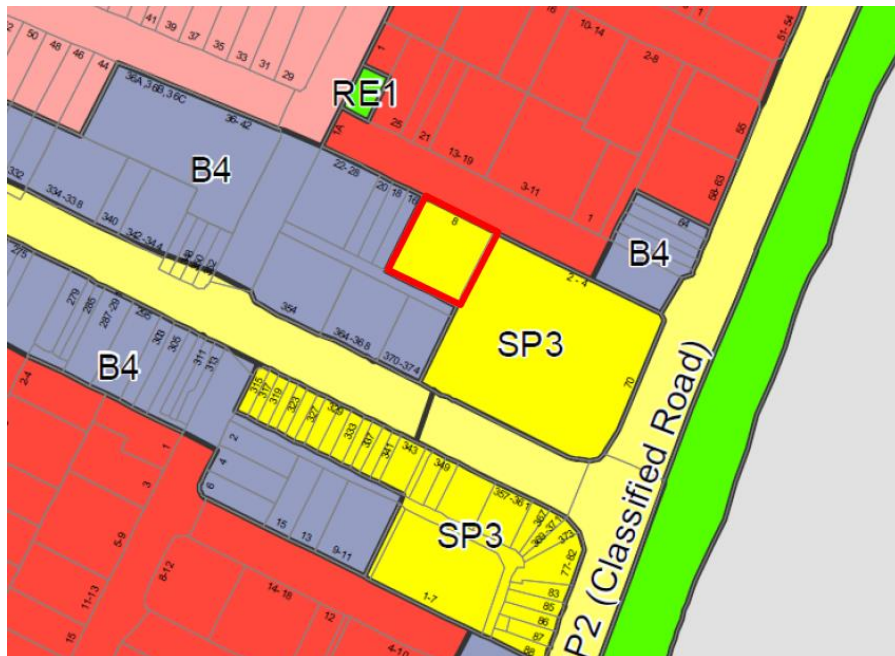
The Draft Planning Proposal relates to 8 Princess Street, Brighton-Le-Sands, and is legally described as Lot 4, Lot 5 and Lot 70 within SP92060. The subject site within which these lots are located has a total area of approximately 1,505sqm (see **Figure 1** below):





(Figure 1 – Location of 8 Princess Street)

The site currently has a zoning of SP3 Tourist which matches the zoning of the Novotel Hotel to the east and land on the south-east corner of Bay Street. The surrounding area is zoned B4 Mixed Use to the south and west, and R4 High Density Residential to the north on the opposite side Princess Street and beyond to the north (see **Figure 2** below):



(Figure 2 – Existing zoning)

### The Draft Planning Proposal

A Draft Planning Proposal for the site was received by Bayside Council in April 2018 (see **Attachment 1**). The proposal seeks to amend the zone from SP3 Tourist to B4 Mixed Use in the Land Zoning Map of the RLEP 2011. No other changes to the development standards in the RLEP 2011 are sought. The intention of the Planning Proposal is to allow the three

inactive commercial tenancies located on the ground floor to be converted to residential floorspace.

The Planning Proposal was reported to the Bayside Local Planning Panel (the BLPP) on 26 June 2018, with Council officers recommending that it be submitted for a Gateway Determination. The report found that, despite several marketing campaigns, the tenancies have laid vacant due to poor locational attributes. The report contended that the rezoning of the site to allow for ground floor residential tenancies would contribute to activity, and improve passive surveillance, along the street. The BLPP voted unanimously in favour of the Planning Proposal, stating that: *'The Panel is satisfied that the adjoining B4 zone could be extended over the subject site and this is not contrary to the strategic planning for the area.'*

The proposal was then reported to Council on 8 August 2018. Councillors resolved that the matter be referred back to the panel due to concerns that the matter of a clause 4.6 variation attached to the original Development Application (DA-2012/325) had not been reported to the BPP.

On 28 August 2018, the Planning Proposal was again reported to the BLPP allowing it to review the information pertaining to the clause 4.6 variation (see **Attachment 2**). The BLPP again unanimously decided to support the proposal.

On 12 September 2018, the Planning Proposal was reported back to Council (see **Attachment 3**). On this occasion, Council resolved not to support the Planning Proposal, stating that the *'site be reviewed during the development of the new Bayside Local Environmental Plan'*.

### The Rezoning Review

Following Council's resolution, the proponent lodged a request with the DPE on 5 October 2018 for a Rezoning Review. A Rezoning Review is a mechanism by which the proponent can request that a Planning Proposal be reviewed by an independent body if Council has confirmed it does not support the proposal. The matter was referred to the Sydney Eastern City Planning Panel (the Panel) on 19 December 2018, with the following members of the Panel in attendance:

- Carl Scully (Chair);
- Sue Francis (State Member);
- John Roseth (State Member);
- Paul Pappas (as community representative Member for Bayside); and
- Michael Sheils (as community representative Member for Bayside).

The Panel unanimously ruled that the proposal should be submitted for a Gateway Determination (see **Attachment 4**) stating that:

*'While this has no great strategic significance, it has no strategic drawbacks, so the Panel considers it to have strategic merit. The use of the ground floor as residential is in line with other sites on Princess Street, where the ground floor use is either residential or parking. The proposal can therefore be considered to have site-specific merit.'*

### Invitation to be the Planning Proposal Authority

The DPE notified Council of the Panel's decision in a letter dated 20 December 2018 (see **Attachment 5**). In its letter, the DPE invited Council to continue to be the Planning Proposal Authority (PPA) for the Planning Proposal.

Remaining as the PPA would allow Council to continue to influence the outcome of the Planning Proposal. As the PPA, Council will be able to undertake the public exhibition process to obtain the opinions of the community on the Planning Proposal. The outcome of the public exhibition would then be reported back to Council within the relevant timeframe. At that stage, having due regard to any responses received from the community and any government agencies during the public exhibition, Council is then able to decide again whether or not it will support the planning proposal.

If Council confirms that it does not want to continue to be the PPA for the Planning Proposal, then an alternate PPA (most likely the Sydney Eastern City Planning Panel) will be appointed in its place. The responsibilities as PPA would then be removed from Council.

### Next Steps

Council initially had until 31 January 2019 to confirm its intention to remain as the PPA. However, as this period included a time when Council did not meet, the Department of Planning and Environment has facilitated an extension to this timeframe.

Should Council support the recommendation to remain as PPA for the Planning Proposal, officers will then immediately advise the Planning Panel's Secretariat of Council's decision. Council will then have a further 42 days to submit the Planning Proposal for a Gateway Determination.

### Financial Implications

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

---

### Community Engagement

Not applicable

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### Attachments

- 1 Draft Planning Proposal [↓](#)
- 2 Bayside Planning Panel Report - 28.08.18 [↓](#)
- 3 Council Report - 12.09.18 [↓](#)
- 4 Rezoning Review - Panel Decision - 19.12.18 [↓](#)
- 5 Rezoning Review - Letter to Council advising of Panel Decision - 20.12.18 [↓](#)



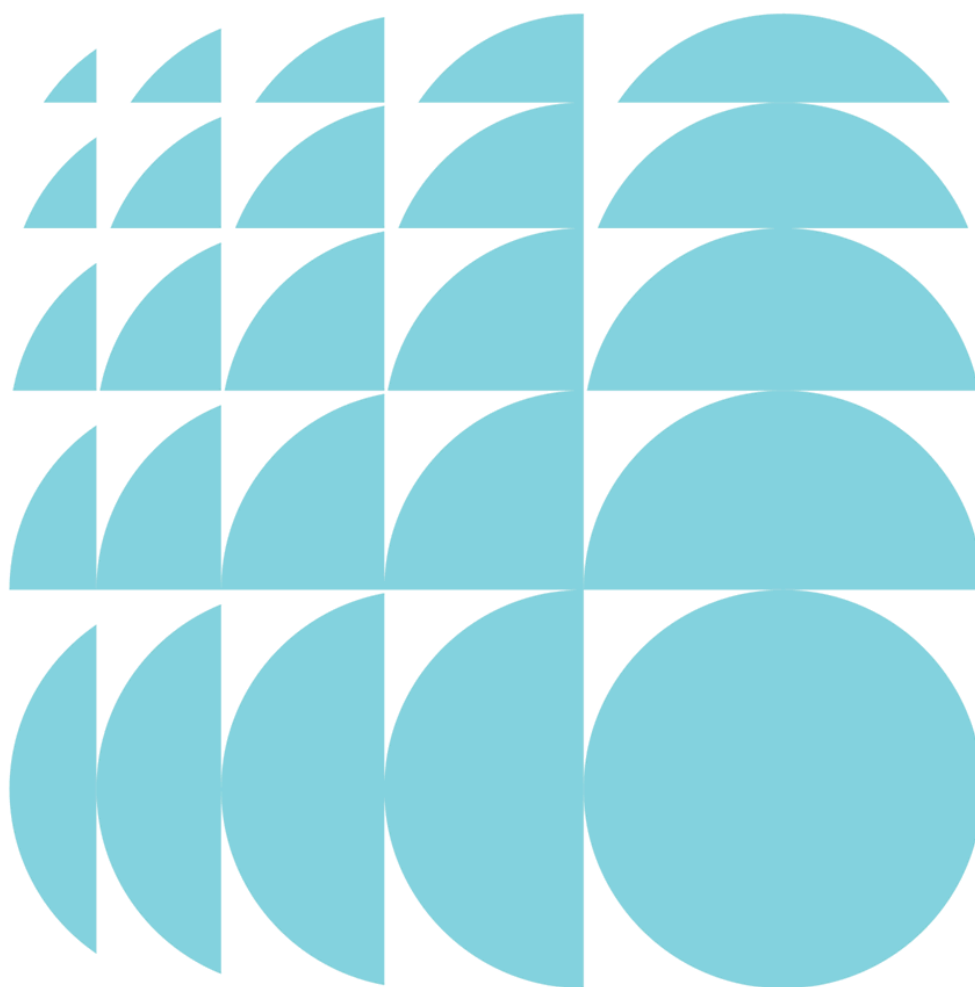
# ETHOS URBAN

## 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

This document has been reviewed by:



Ben Craig

26/03/2018

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

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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.

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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

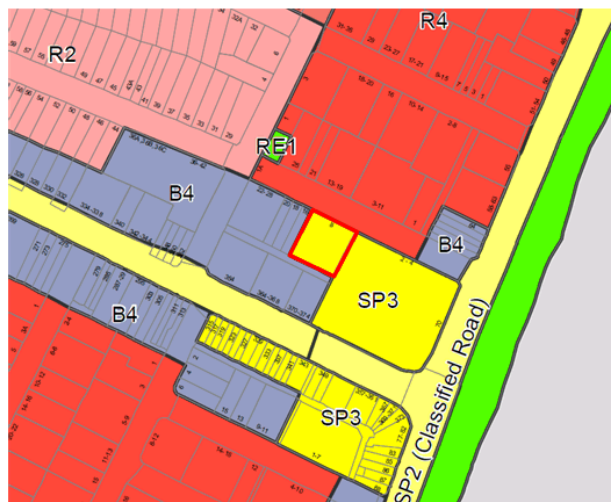
The key objective and intended outcome of the planning proposal is to amend the *Rockdale LEP 2011* to enable the infill redevelopment of three vacant non-residential tenancies at the subject site. The infill of these three non-residential tenancies will allow for the delivery of two residential apartments.

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:

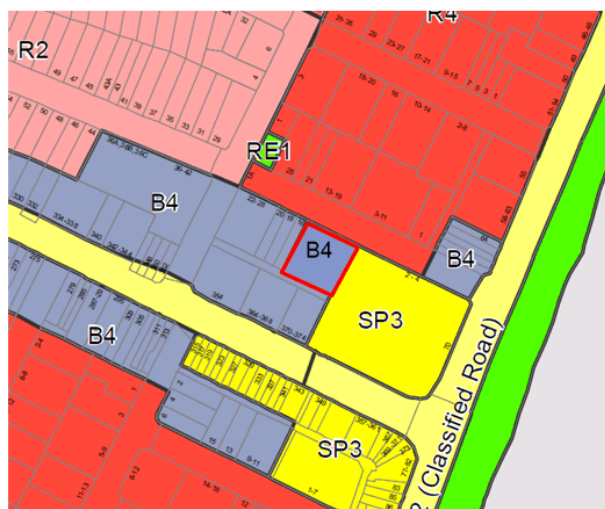


**Figure 2 Existing Zoning Map**

Source: Rockdale LEP 2011



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**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.



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

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.

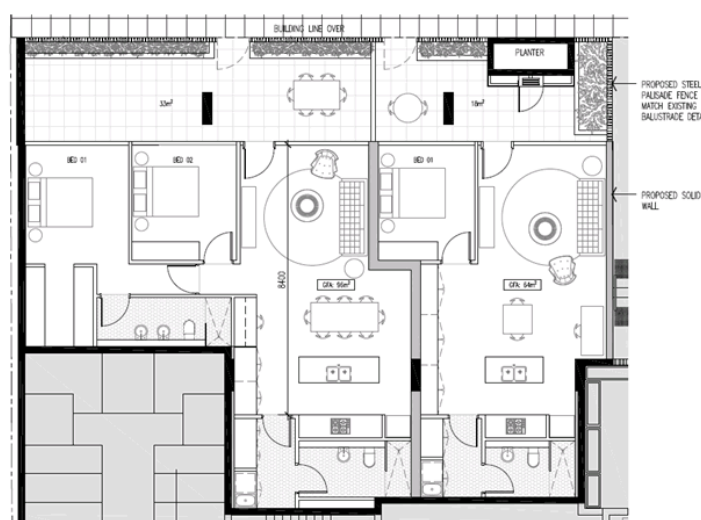
#### 4.3.2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

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)

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Design Criteria		Proposal												
<b>3E Deep Soil Zones</b>														
<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: <table border="1"> <thead> <tr> <th>Site Area</th><th>Min. Dimensions</th><th>Deep Soil Zone*</th></tr> </thead> <tbody> <tr> <td>Less than 650m<sup>2</sup></td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m<sup>2</sup> – 1,500m<sup>2</sup></td><td>3m</td></tr> <tr> <td>Greater than 1,500m<sup>2</sup></td><td>6m</td></tr> <tr> <td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</td></tr> </tbody> </table> * % of site area		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	✓
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													
<b>3F Visual Privacy</b>														
<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: <table border="1"> <thead> <tr> <th>Building Height</th><th>Habitable Rooms &amp; Balconies</th><th>Non-habitable Rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table>		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	✓
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												
<b>3K Bicycle and Car Parking</b>														
<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.		✓												
<b>Part 4 Designing the Buildings</b>														
<b>4A Solar and Daylight access</b>														
<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**Design Criteria

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.

Objective

Apartment layouts are designed to accommodate a variety of household activities and needs

✓

Design CriteriaMaster 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**Objectives

Apartments provide appropriately sized private open space and balconies to enhance residential amenity

✓

Design Criteria

All apartments are required to have primary balconies as follows:

✓

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

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**Objective

Common circulation spaces achieve good amenity and properly service the number of apartments

N/A

Design Criteria

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**Objective

Adequate, well designed storage is provided in each apartment

✓

Design Criteria

In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:

✓

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>

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.

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## 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

**Bayside Local Planning Panel**
**28/08/2018**

Item No	5.1
Subject	<b>Planning Proposal 8 Princess Street, Brighton-Le-Sands</b>
Report by	Michael McCabe, Director City Futures
File	F18/395

**Summary**

Council has received a draft Planning Proposal in relation to land at 8 Princess Street, Brighton-Le-Sands (subject site). The site is currently zoned SP3 – Tourist and is located immediately to the north-west of the Novotel Hotel and was formerly part of the Novotel landholdings. The properties to the north-west and south of the site are zoned B4 Mixed Use.

The draft Planning Proposal seeks to rezone the land from SP3 Tourist to B4 Mixed Use. Subsequent to the development of the hotel the site was developed for residential apartments, however, the zoning of the subject site was not amended to B4 Mixed Use. In order for the apartment building to accommodate residential apartments on the ground floor and be consistent with the adjacent residential flat buildings a change in zone to B4 Mixed Use is sought. No other changes to the development standards in the Rockdale Local Environmental Plan 2011 are sought.

The intended outcome of the draft Planning Proposal is to enable three inactive commercial tenancies located at the ground floor of an existing 9-storey shop top housing development to be used for the purposes of residential apartments. A review of why the tenancies have remained vacant indicates that it has relatively poor locational attributes, in summary:

- Competition from existing food-based retailing;
- Minimal levels of pedestrian traffic and no direct sight lines to highly trafficked areas;
- Visibility to passing traffic given the low levels of vehicle traffic in Princess Street;
- There are no other significant attractors to the subject site; and
- 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.

On the 26 June 2108, the draft Planning Proposal was considered by the Bayside Local Planning Panel (Panel). The Panel made the following recommendation to Council:

*"1 That pursuant to section 3.34 of the Environmental Planning & Assessment Act 1979 (EPAA) 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."*

The Panel noted the following reason for their recommendation:

*"The Panel is satisfied that the adjoining B4 zone could be extended over the subject*

---

Bayside Local Planning Panel

28/08/2018

*site and this is not contrary to the strategic planning for the area.”*

At the Council meeting of 8<sup>th</sup> August 2018, Council considered the draft Planning Proposal, including the Panel's recommendations, and resolved:

*“That this matter be referred back to the Bayside Local Planning Panel and all the information pertaining to the previous Development Application for this property be made available to the Panel; including the breach of height and FSR controls that required a Clause 4.6 Variation.”*

Council noted that DA-2012/325 was supported by:

- (i) two written requests under Clause 4.6 Exceptions to development standards of the *Rockdale Local Environmental Plan 2011* (Rockdale LEP) to vary the height of buildings and floor space ratio (FSR) development standards; and
- (ii) written justification to reduce the provision of retail floor space required by the Rockdale DCP 2011.

In accordance with Council's resolution of 8<sup>th</sup> August 2018, all the information pertaining to the previous development application DA-2012/325, is contained in **Attachment 1** and includes:

- The development assessment report and attachments presented to the ordinary meeting of Council on 5<sup>th</sup> December 2012;
- The clause 4.6 written requests in relation to building height and floor space ratio (FSR); and
- The applicant's justification for the variation to the amount of retail floor space required under the Rockdale DCP 2011.

A summary of the Clause 4.6 Exceptions to development standards and the justification for the reduced retail floor space is provided under the heading 'Planning History' of this report.

---

**Officer Recommendation**

- 1 That Bayside Local Planning Panel recommend to Council that pursuant to section 3.34 of the *Environmental Planning & Assessment Act 1979* (EPAA) 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.
  - 2 That Bayside Local Planning Panel recommend to Council 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.
-

Bayside Local Planning Panel

28/08/2018

## 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 1505sqm 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** (subject site outlined in red); 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:

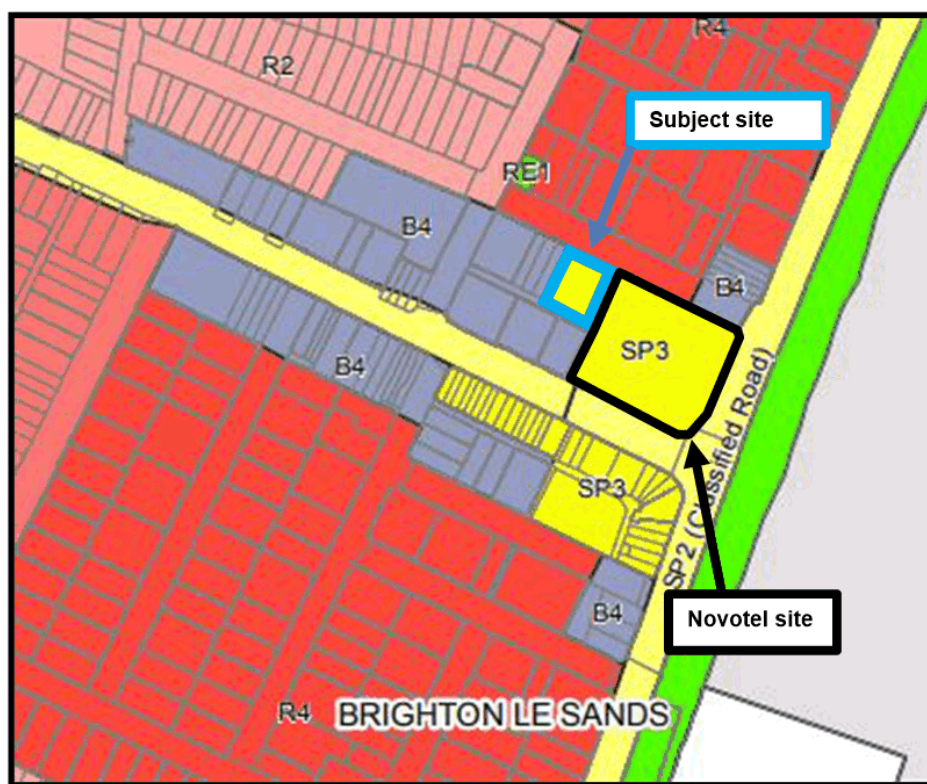


**Figure 3:** Site context map  
(Source: Land & Property Information [www.maps.six.nsw.gov.au](http://www.maps.six.nsw.gov.au))

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

In 1988, Council granted consent to the construction of the 15 storey Novotel Hotel Brighton Le Sands Parade, Brighton Le Sands adjacent to the subject site. In 2007, the owners of the Novotel Hotel purchased Nos 8-14 Princess Street (commonly known as 8 Princess Street, Brighton Le Sands).

Between early 2008 and early 2011, the owners of the site held a series of meeting with the former Rockdale City Council to discuss a possible extension of the existing Novotel Hotel onto the adjoining Princess Street site. During this time, discussions were also held with the then Department of Planning and Infrastructure (now the Department of Planning and Environment) 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 project to which the former Part 3A of the *Environmental Planning and Assessment Act 1979* (EPAA) applied, and the then Minister for Planning authorised the preparation of a Concept Plan.

A major development application (MP08\_0239 – Tourism (Hotel) Development) under the former Part 3A of the *Environmental Planning Assessment Act 1979* (EPAA) 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. However,

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the proposed hotel expansion did not proceed and the Part 3A declaration for the project was revoked.

In September 2011, a formal Pre-DA Meeting was held at Council to discuss the proposed redevelopment at the subject site for a mixed use development. At this time, Rockdale Local Environmental Plan 2000 was still in force and the proposed 'shop-top housing' development was prohibited in the 2(c) zone that applied to the site. However, the development concept for the site had been prepared based on the provision of draft Rockdale Local Environmental Plan 2011 and draft Rockdale Development Control Plan 2011, under which 'shop-top housing' would be permissible.

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, including 3 non-residential tenancies at ground floor, under DA2012/325, which was approved by the former Rockdale Council at its ordinary meeting of 5<sup>th</sup> December 2012.

As part of the development application, the applicant sought Clause 4.6 variations to the *Rockdale Local Environmental Plan 2011* (Rockdale LEP 2011) in relation to height of building and floor space ratio (FSR).

In relation to the variation to the height of buildings development standard, the development application sought a 1.05 metre variation to the 28 metre maximum height standard with a proposed maximum height of 29.05 metres. The variation was supported given that the non-compliance is contained wholly to the two (2) lift overruns positioned centrally on the roof of the building.

In relation to the variation to the floor space ratio development standard, the applicant sought a floor space ratio of 3.17:1, which exceeds the 3:1 statutory maximum by 262m<sup>2</sup> (5.1%). The variation was supported given that the development outcome was considered consistent with the established character of the areas, and meets the underlying FSR and height objectives and which preserve the amenity of existing surrounding residents and future occupants to the building.

The Development Application also sought to vary the retail floor space controls set out in the *Rockdale Development Control Plan 2011* (Rockdale DCP). The DCP requires a minimum 10% of the gross floor area of mixed use developments to be provided for retail and/ or commercial uses. The development did not achieve the minimum 10% retail floor space required, providing only 5.2%. The variation to the control was considered to result in an acceptable outcome as it was considered the proposal would still be able to satisfy the overarching objectives for Mixed Use Development:

- It will foster growth and improvement in the existing centre by providing a new high quality retail product that represents a viable leasing option for a wider section of the retail market;
- It will promote a range of employment uses and increase retail diversity;
- It will better contribute to the vitality and economic viability of Brighton Le Sands by providing a retail product that has a wider market appeal and is more likely to be occupied by tenants in the short term;
- It supports the creation of a safe and amenable public domain through the creation of a continuous active façade for the full width of the site;

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- It supports the creation of an active interface between ground floor level of the site and Princess Street;
- It helps clearly define the extent of the public domain; and
- It maximises the flexibility and adaptability of the building to meet current and future demands.

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.

## **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 4**.

### **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. The site is not subject to *Rockdale Local Environmental Plan 2011* clause 6.11 Active Street Frontage and Residential Flat Buildings are permitted with consent in the B4 Zone.

#### **Urban Context & 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.

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Council staff have reviewed the Planning Proposal and supporting Design Report (refer **Attachment 5**) and the following comments are provided:

- 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 (EPAA)

The NSW Department of Planning & Environment's *A Guide to Preparing Planning Proposals* - issued under s3.33 (3) of the EPAA - 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 Directions by the Minister

Section 9.1 Directions by the Minister (s9.1 directions) set out what a Relevant Planning Authority (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 draft 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> <p>(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),</p>	YES

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	<p>(b) Retain the areas and locations of existing business and industrial zones,</p> <p>(c) Not reduce the total potential floor space area for employment uses and related public services in business zones,</p> <p>(d) Not reduce the total potential floor space area for industrial uses in industrial zones, and</p> <p>(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>	<b>YES</b>
<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>	<b>YES</b>
<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>	<b>YES</b>
<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>	<b>YES</b>
<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></p>	<b>NO - Inconsistency justified.</b>

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	<p>The Rockdale LEP 2011 Acid Sulfate Soils Map identifies the site as having Class 4 acid sulfate soils.</p> <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><b>Comment:</b>          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><b>Comment:</b>  <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><b>Comment:</b>          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 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</li> </ul>	<b>YES</b>

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	environment and protect productive rural land on the urban fringe.	
	No inconsistencies with the terms of the direction were identified.	

- 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.

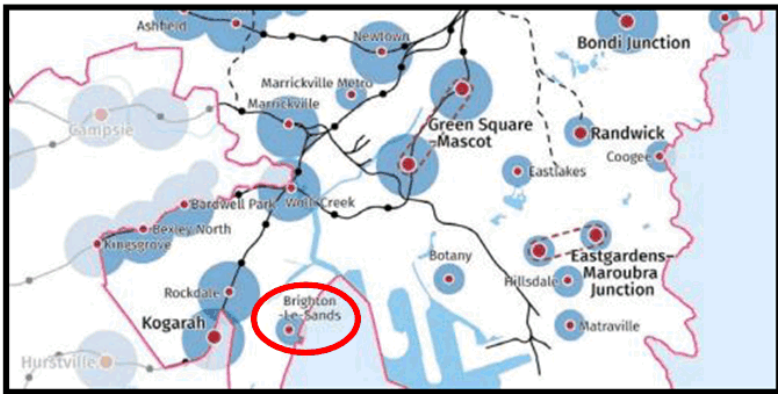
**Table 4:** Strategic Planning Framework

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



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	<i>housing in and around centres to create walkable, cycle-friendly neighbourhoods."</i>		
<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).</p> <p>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>
 <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></p>			

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(Source: Eastern City District Plan)			
Local plans			
Rockdale Community Strategic Plan (adopted 15 June 2011)	<u>Villages and Local Centres</u> <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>  <u>Rockdale Tomorrow:</u> <i>Future growth is likely to occur in the centres of Rockdale, Wollie 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>	<u>Comment:</u> The Planning Proposal is generally consistent with the Plan to increase residential densities in close proximity to public transport.	YES

### 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 (refer **Attachment 6**) submitted with the Planning Proposal indicates that the ground floor of the development could potentially accommodate 1 x 1 bedroom apartment and 1 x 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.

### Conclusion

The current SP3 Tourist zoning for the site was informed by a major development application under the former Part 3A of the *Environmental Planning and Assessment Act 1979* 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

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the permissible land uses in the SP3 Tourist zone. The existing development on the site has three commercial 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 Planning Proposal and supporting reports submitted with the Planning Proposal.

The vacant tenancies have resulted in an inactive streetscape and the Planning Proposal seeks to rectify this unintended outcome by rezoning the site to B4 Mixed Use. It is anticipated that this will enable residential development at ground floor, which will provide casual surveillance and activation of the streetscape whilst retaining a zoning consistent with the primary function of the Brighton-Le-Sands local centre.

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### Community Engagement

Should the Planning Proposal proceed through Gateway, community consultation will be undertaken in accordance with section 3.34 of the EPAA. 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 DA-2012 325 Report & Attachments [↓](#)
- 2 Sales & Marketing Overview Letter [↓](#)
- 3 Shop Tenancy Assessment [↓](#)
- 4 Planning Proposal [↓](#)
- 5 Design Report [↓](#)
- 6 Floor Plan [↓](#)

**Council Meeting****12/09/2018**

Item No	8.7
Subject	<b>Planning Proposal - 8 Princess St, Brighton Le Sands</b>
Report by	Michael McCabe, Director City Futures
File	F18/395

**Summary**

Council received a draft Planning Proposal in relation to land at 8 Princess Street, Brighton-Le-Sands (subject site). The site is currently zoned SP3 – Tourist and is located immediately to the north-west of the Novotel Hotel and was formerly part of the Novotel landholdings. The properties to the north-west and south of the site are zoned B4 Mixed Use.

On the 28<sup>th</sup> August 2018, the Bayside Local Planning Panel considered the draft Planning Proposal and additional information requested by Council at the Council meeting of 8<sup>th</sup> August 2018. The recommendation of the Bayside Local Planning Panel from 28 August 2018 is included below, being the same recommendation as made by the Bayside Local Planning Panel at its meeting of 26 June 2018 for the same matter:

- 1 *That Bayside Local Planning Panel recommends to Council that, pursuant to Section 3.34 of the Environmental Planning & Assessment Act 1979 (EPAA), 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.*
- 2 *That Bayside Local Planning Panel recommends to Council 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.*

The Panel's reason for the recommendation was:

*The Panel is satisfied that, with the benefit of having reviewed the assessment report for the existing development approved for the site, this does not change the circumstances. The Panel's position remains the same as previously indicated: that is, it recommends to the Council that it may proceed with the planning proposal.*

The draft Planning Proposal seeks to rezone the land from SP3 Tourist to B4 Mixed Use. Subsequent to the development of the hotel the site was developed for residential apartments, however, the zoning of the subject site was not amended to B4 Mixed Use. In order for the apartment building to accommodate residential apartments on the ground floor and be consistent with the adjacent residential flat buildings a change in zone to B4 Mixed Use is sought. No other changes to the development standards in the Rockdale Local Environmental Plan 2011 are sought.

The intended outcome of the draft Planning Proposal is to enable three inactive commercial tenancies located at the ground floor of an existing 9-storey shop top housing development to be used for the purposes of residential apartments. A review of why the tenancies have remained vacant indicates that it has relatively poor locational attributes, in summary:

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- Competition from existing food-based retailing;
- Minimal levels of pedestrian traffic and no direct sight lines to highly trafficked areas;
- Visibility to passing traffic given the low levels of vehicle traffic in Princess Street;
- There are no other significant attractors to the subject site; and
- 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.

On the 26 June 2018, the draft Planning Proposal was considered by the Bayside Planning Panel (Panel). The Panel made the following recommendation to Council:

- 1 *That pursuant to section 3.34 of the Environmental Planning & Assessment Act 1979 (EPAA) 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."*

The Panel noted the following reason for their recommendation:

*"The Panel is satisfied that the adjoining B4 zone could be extended over the subject site and this is not contrary to the strategic planning for the area."*

At the Council meeting of 8<sup>th</sup> August 2018, Council considered the draft Planning Proposal, including the Panel's recommendations, and resolved:

*"That this matter be referred back to the Bayside Planning Panel and all the information pertaining to the previous Development Application for this property be made available to the Panel; including the breach of height and FSR controls that required a Clause 4.6 Variation."*

Council noted that DA-2012/325 was supported by:

- two written requests under Clause 4.6 Exceptions to development standards of the *Rockdale Local Environmental Plan 2011* (Rockdale LEP) to vary the height of buildings and floor space ratio (FSR) development standards; and
- written justification to reduce the provision of retail floor space required by the Rockdale DCP 2011.

In accordance with Council's resolution of 8<sup>th</sup> August 2018, all the information pertaining to the previous development application DA-2012/325, is contained in **Attachment 1** and includes:

- The development assessment report and attachments presented to the ordinary meeting of Council on 5<sup>th</sup> December 2012;
- The clause 4.6 written requests in relation to building height and floor space ratio (FSR); and
- The applicant's justification for the variation to the amount of retail floor space required under the Rockdale DCP 2011.

A summary of the Clause 4.6 Exceptions to development standards and the justification for the reduced retail floor space is provided under the heading 'Planning History' of this report.

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### Officer Recommendation

- 1 That, pursuant to section 3.34 of the *Environmental Planning & Assessment Act 1979* (EPAA), 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.
- 2 That, should a Gateway determination be issued by the NSW Department of Planning & Environment, 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.

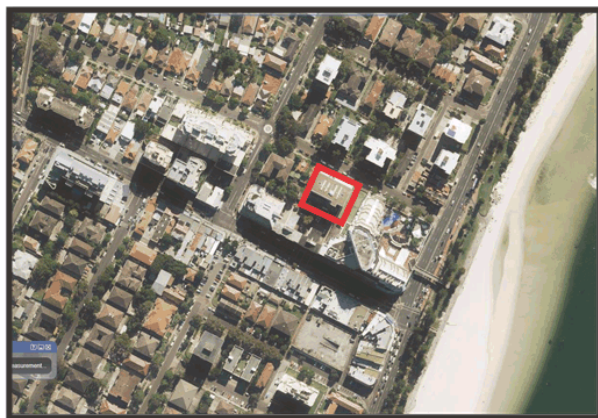
#### Site description:

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 1505sqm 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** (subject site outlined in red); 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.

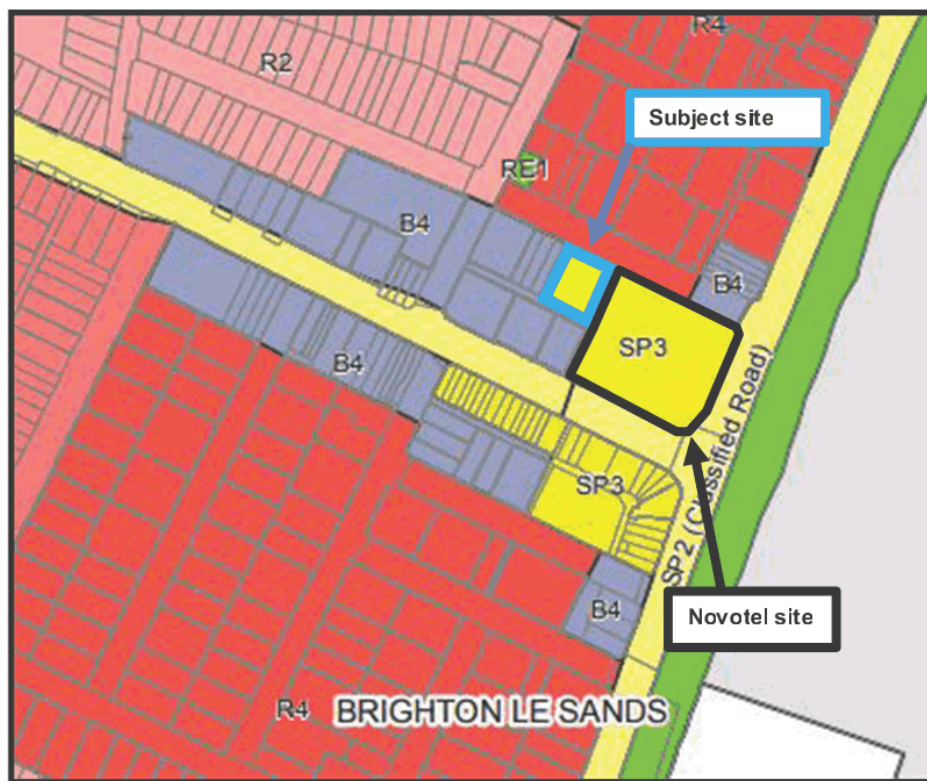
A context map for the site is provided in **Figure 3**, below:



**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

In 1988, Council granted consent to the construction of the 15 storey Novotel Hotel Brighton Le Sands Parade, Brighton Le Sands adjacent to the subject site. In 2007, the owners of the Novotel Hotel purchased Nos 8-14 Princess Street (commonly known as 8 Princess Street, Brighton Le Sands).

Between early 2008 and early 2011, the owners of the site held a series of meeting with the former Rockdale City Council to discuss a possible extension of the existing Novotel Hotel onto the adjoining Princess Street site. During this time, discussions were also held with the then Department of Planning and Infrastructure (now the Department of Planning and Environment) 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 project to which the former Part 3A of the *Environmental Planning and Assessment Act 1979* (EPAA) applied, and the then Minister for Planning authorised the preparation of a Concept Plan.

A major development application (MP08\_0239 – Tourism (Hotel) Development) under the former Part 3A of the *Environmental Planning Assessment Act 1979* (EPAA) 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. However,



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the proposed hotel expansion did not proceed and the Part 3A declaration for the project was revoked.

In September 2011, a formal Pre-DA Meeting was held at Council to discuss the proposed redevelopment at the subject site for a mixed use development. At this time, Rockdale Local Environmental Plan 2000 was still in force and the proposed 'shop-top housing' development was prohibited in the 2(c) zone that applied to the site. However, the development concept for the site had been prepared based on the provision of draft Rockdale Local Environmental Plan 2011 and draft Rockdale Development Control Plan 2011, under which 'shop-top housing' would be permissible.

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, including 3 non-residential tenancies at ground floor, under DA2012/325, which was approved by the former Rockdale Council at its ordinary meeting of 5<sup>th</sup> December 2012.

As part of the development application, the applicant sought Clause 4.6 variations to the *Rockdale Local Environmental Plan 2011* (Rockdale LEP 2011) in relation to height of building and floor space ratio (FSR).

In relation to the variation to the height of buildings development standard, the development application sought a 1.05 metre variation to the 28 metre maximum height standard with a proposed maximum height of 29.05 metres. The variation was supported given that the non-compliance is contained wholly to the two (2) lift overruns positioned centrally on the roof of the building.

In relation to the variation to the floor space ratio development standard, the applicant sought a floor space ratio of 3.17:1, which exceeds the 3:1 statutory maximum by 262m<sup>2</sup> (5.1%). The variation was supported given that the development outcome was considered consistent with the established character of the areas, and meets the underlying FSR and height objectives and which preserve the amenity of existing surrounding residents and future occupants to the building.

The Development Application also sought to vary the retail floor space controls set out in the *Rockdale Development Control Plan 2011* (Rockdale DCP). The DCP requires a minimum 10% of the gross floor area of mixed use developments to be provided for retail and/ or commercial uses. The development did not achieve the minimum 10% retail floor space required, providing only 5.2%. The variation to the control was considered to result in an acceptable outcome as it was considered the proposal would still be able to satisfy the overarching objectives for Mixed Use Development:

- It will foster growth and improvement in the existing centre by providing a new high quality retail product that represents a viable leasing option for a wider section of the retail market;
- It will promote a range of employment uses and increase retail diversity;
- It will better contribute to the vitality and economic viability of Brighton Le Sands by providing a retail product that has a wider market appeal and is more likely to be occupied by tenants in the short term;
- It supports the creation of a safe and amenable public domain through the creation of a continuous active façade for the full width of the site;

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- It supports the creation of an active interface between ground floor level of the site and Princess Street;
- It helps clearly define the extent of the public domain; and
- It maximises the flexibility and adaptability of the building to meet current and future demands.

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.

## 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 4**.

### 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. The site is not subject to *Rockdale Local Environmental Plan 2011* clause 6.11 Active Street Frontage and Residential Flat Buildings are permitted with consent in the B4 Zone.

#### Urban Context & 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.

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Council staff have reviewed the Planning Proposal and supporting Design Report (refer **Attachment 5**) and the following comments are provided:

- *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 (EPAA)

The NSW Department of Planning & Environment's *A Guide to Preparing Planning Proposals* - issued under s3.33 (3) of the EPAA - 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 Directions by the Minister

Section 9.1 Directions by the Minister (s9.1 directions) set out what a Relevant Planning Authority (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 draft 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> <p>(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),</p> <p>(b) Retain the areas and locations of existing business and industrial zones,</p>	YES

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	<p>(c) Not reduce the total potential floor space area for employment uses and related public services in business zones,</p> <p>(d) Not reduce the total potential floor space area for industrial uses in industrial zones, and</p> <p>(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.

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	<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>	YES
<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 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.</li> </ul> <p>No inconsistencies with the terms of the direction were identified.</p>	YES



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

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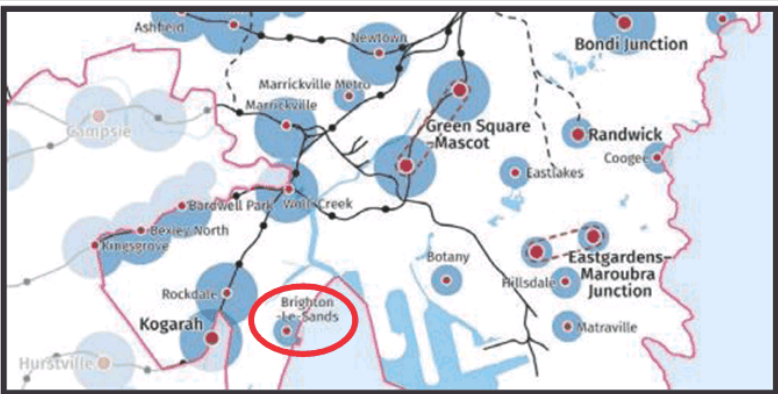
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District Plans			
Eastern City District Plan (ECDP)	<ul style="list-style-type: none"> <li>Planning Priority E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport.</li> <li>Planning Priority E6: 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 Figure 5, below).</p> <p>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>	YES



— District Boundary      ● 400m walking catchment      - - - Light Rail

● Metropolitan Centre      ● 800m walking catchment

● Strategic Centre      ● Waterways

● Local Centre      — Railway

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.

**Figure 5: Eastern City District – centres**  
(Source: Eastern City District Plan)

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Local plans			
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, Wollie 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>	YES

### 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 (refer **Attachment 6**) submitted with the Planning Proposal indicates that the ground floor of the development could potentially accommodate 1 x 1 bedroom apartment and 1 x 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.

### Conclusion

The current SP3 Tourist zoning for the site was informed by a major development application under the former Part 3A of the *Environmental Planning and Assessment Act 1979* 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 commercial tenancies at ground floor.

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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 Planning Proposal and supporting reports submitted with the Planning Proposal.

The vacant tenancies have resulted in an inactive streetscape and the Planning Proposal seeks to rectify this unintended outcome by rezoning the site to B4 Mixed Use. It is anticipated that this will enable residential development at ground floor, which will provide casual surveillance and activation of the streetscape whilst retaining a zoning consistent with the primary function of the Brighton-Le-Sands local centre.

On the 28<sup>th</sup> August 2018, the Bayside Local Planning Panel considered the draft Planning Proposal and additional information requested by Council at the Council meeting of 8<sup>th</sup> August 2018. The recommendation of the Bayside Local Planning Panel from 28 August 2018 was the same recommendation as made by the Bayside Local Planning Panel at its meeting of 26 June 2018 for the same matter.

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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

Should the Planning Proposal proceed through Gateway, community consultation will be undertaken in accordance with section 3.34 of the EPAA. 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 Council Report DA-2012/325 [↓](#)
- 2 Sales & Marketing Overview Letter [↓](#)
- 3 Shop Tenancy Assessment [↓](#)
- 4 Draft Planning Proposal [↓](#)
- 5 Design Report [↓](#)
- 6 Indicative Floor Plan [↓](#)

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## Planning Panels

### REZONING REVIEW RECORD OF DECISION SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DECISION	Wednesday 19 December 2018
PANEL MEMBERS	Carl Scully (Chair), Sue Francis, John Roseth, Paul Pappas, Michael Sheils
APOLOGIES	None
DECLARATIONS OF INTEREST	<p>Ed McDougall, Michael Nagi, Ron Bexic and Andrew Tsounis are conflicted on this matter having voted on the proposal at council meeting.</p> <p>Paul Pappas stated that he was involved in preparing a concept design for the joint submission with Thakral Holdings circa 2009 for previous owners. Panel Chair declared that this did not exclude him from participating on the Panel.</p>

#### REZONING REVIEW

2018ECI004 – Bayside - RR\_2018\_BSIDE\_002\_00 at 8 Princess Street Brighton Le Sands (AS DESCRIBED IN SCHEDULE 1)

#### Reason for Review:

- ☒ The council has notified the proponent that the request to prepare a planning proposal has not been supported
- ☐ The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

#### PANEL CONSIDERATION AND DECISION

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:






- ☒ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- ☐ **should not** be submitted for a Gateway determination because the proposal has
- ☐ not demonstrated strategic merit
  - ☐ has demonstrated strategic merit but not site specific merit

The decision was unanimous.

#### REASONS FOR THE DECISION

The effect of this planning proposal will be to convert the unused commercial floor space on the ground floor of the existing building on the site to residential use. While this has no great strategic significance, it has no strategic drawbacks, so the Panel considers it to have strategic merit.

The use of the ground floor as residential is in line with other sites on Princess Street, where the ground floor use is either residential or parking. The proposal can therefore be considered to have site-specific merit.

PANEL MEMBERS	
 Carl Scully (Chair)	 Sue Francis
 John Roseth	 Paul Pappas
 Michael Sheils	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	2018ECI004 – Bayside - RR_2018_BSIDE_002_00 at 8 Princess Street Brighton Le Sands
2	LEP TO BE AMENDED	Rockdale Local Environmental Plan 2011
3	PROPOSED INSTRUMENT	The proposal seeks to amend the Rockdale Local Environmental Plan 2011 to rezone 8 Princess Street Brighton Le-Sands from SP3 Tourist to B4 Mixed Use.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Rezoning review request documentation</li> <li>Briefing report from Department of Planning and Environment</li> </ul>
5	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li><b>Site inspection: 19 December 2018</b> <ul style="list-style-type: none"> <li>Panel members in attendance: Carl Scully (Chair), Sue Francis, John Roseth, Paul Pappas, Michael Sheils</li> <li>Department of Planning and Environment (DPE) staff in attendance: Alexander Galea, Kris Walsh</li> </ul> </li> <li><b>Briefing with Department of Planning and Environment (DPE): 19 December 2018 at 9.00am</b> <ul style="list-style-type: none"> <li>Panel members in attendance: Carl Scully (Chair), Sue Francis, John Roseth, Paul Pappas, Michael Sheils</li> <li>Department of Planning and Environment (DPE) staff in attendance: Alexander Galea, Kris Walsh</li> </ul> </li> <li><b>Briefing with Council &amp; Proponent: 19 December 2018 at 11am</b> <ul style="list-style-type: none"> <li>Panel members in attendance: Carl Scully (Chair), Sue Francis, John Roseth, Paul Pappas, Michael Sheils</li> <li>Department of Planning and Environment (DPE) staff in attendance: Alexander Galea, Kris Walsh</li> <li>Council representatives in attendance: John McNally, Michael McCabe</li> <li>Proponent representatives in attendance: James McBride, Henry Huynh</li> </ul> </li> </ul>



Meredith Wallace  
General Manager  
Bayside Council  
[Meredith.wallace@bayside.nsw.gov.au](mailto:Meredith.wallace@bayside.nsw.gov.au)

Attn: Alison Phillips (Acting Co-ordinator Statutory Planning)

20 December 2018

Dear Meredith

**Request for a Rezoning Review – 2018ECI004 - RR\_2018\_BSIDE\_002\_00**

I refer to the request for a Rezoning Review for a proposal at 8 Princess Street Brighton Le-Sands to amend the Rockdale Local Environmental Plan 2011 to rezone the site from SP3 Tourist to B4 Mixed Use.

The Eastern City Planning Panel Planning Panel (Planning Panel) has determined that the proposal should proceed to Gateway determination stage. In making this decision, the Planning Panel considered the request and advice provided by Council. A copy of the Panel's decision is attached.

Consequently, Council is invited to be the Planning Proposal Authority (PPA) for this proposal and to advise the Planning Panels Secretariat within 42 days of the date of this letter whether it will accept the role of PPA for this proposal. Should Council agree to be the PPA, it will need to prepare a planning proposal under section 3.33 (formerly section 55) of the *Environmental Planning and Assessment Act 1979*, and submit it for a Gateway determination within 42 days after accepting this role.

If Council does not wish to progress this matter, the Planning Panel will be appointed as the PPA to prepare the planning proposal.

If you have any queries on this matter, please contact Stuart Withington, Manager, Planning Panels Secretariat on (02) 8217 2062 or via email to [stuart.withington@planning.nsw.gov.au](mailto:stuart.withington@planning.nsw.gov.au)

Yours sincerely

A handwritten signature in blue ink, appearing to read 'C. Scully'.

**Carl Scully**  
**Chair, Sydney Eastern City Planning Panel**

encl. Rezoning Review Record of Decision

**Planning Panels Secretariat**

320 Pitt Street Sydney | GPO Box 39 Sydney NSW 2001 | T 02 8217 2060 | [www.planningpanels.nsw.gov.au](http://www.planningpanels.nsw.gov.au)

## **Council Meeting**

**13/02/2019**

Item No	8.6
Subject	<b>Extension of Moratorium for Low Rise Medium Density Housing Code</b>
Report by	Michael McCabe, Director City Futures
File	F18/591

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## **Summary**

The Low Rise Medium Density Housing (LRMDH) Code allows specific categories (terrace houses, manor houses and dual occupancies) of medium density development to be built as Complying Development. This Code came in force across NSW on July 2018.

On 13 June 2018 Council resolved to seek a 12 month moratorium on the commencement of State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Low Rise Medium Density Housing) 2017. The moratorium was sought so Council could review and fully understand the potential impacts of the Code. The moratorium was approved by NSW Department of Planning and Environment.

Council has subsequently undertaken preliminary investigation and identified issues that need to be addressed before the Code is applied to the Bayside LGA area. A review is still being completed to fully understand the impacts. It is anticipated that issues will be resolved as part of Council's development of the Bayside Local Environmental Plan and Development Control Plan.

It is recommended that Council seek an extended moratorium period from the State Government until the Bayside Local Environmental Plan and Bayside Development Control Plan are approved by the NSW Department Planning of Environment, expected by the end of 2020.

## **Officer Recommendation**

That Bayside Council seeks to extend the moratorium on the commencement of the State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Low Rise Medium Density Housing) until the Bayside Local Environmental Plan and Bayside Development Control Plan are approved by the NSW Department Planning of Environment, expected by the end of 2020.

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## **Background**

In July 2018 the NSW Government introduced the Low Rise Medium Density Housing Code to allow specific categories (terrace houses, manor houses and dual occupancies) of medium density development to be built as Complying Development. The requirement for these developments to be assessed by Council as a Development Application was removed as a result of the introduction of the Code.

However, Bayside Council sought and was granted a moratorium on the application of the Code in the LGA for a period of 12 months. If the Code is introduced Bayside Council's



specific controls (set backs, height, landscaping etc.) do not apply to developments subject to the Code. However, developments are required to comply with the state wide design criteria contained within the Low Rise Medium Density Housing Code. These developments can be assessed and approved by either Council certifiers or a Private Certifying Authority.

A review of the potential impact of the Code is being progressed by Council staff. The main areas of concern that have been identified to date are:

- The amount of Floor Space Ratio allocated to dual occupancies by the Code is significantly in excess of that permitted by Council's controls. This raises concerns with regard to impact upon neighbouring properties and consistency with neighbourhood character (such as presentation of building bulk and the extent of landscaping) This will be reviewed further as part of the development of Council's Local Environmental Plan and Development Control Plan.
- Bayside LGA consists of a very diverse housing stock. In some areas the building forms generated by the Low Rise Medium Density Housing Code will fit with the character of the neighbourhood. In other areas, however, the potential two storey forms generated by the Low Rise Medium Density Housing Code will be inconsistent with the predominant and desired character of the neighbourhood. Council is reviewing a number of such neighbourhoods so that the controls within the new, consolidated Bayside Local Environmental Plan and Development Control Plan are appropriate to place and community aspirations.

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## Financial Implications

Not applicable	<input checked="" type="checkbox"/>	
Included in existing approved budget	<input type="checkbox"/>	<<Enter comment if required or delete>>
Additional funds required	<input type="checkbox"/>	<<Enter comment if required or delete>>

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## Community Engagement

Not applicable

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## Attachments

Nil

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## Council Meeting

13/02/2019

Item No	8.7
Subject	<b>Cahill Park Amenities &amp; Cafe Options</b>
Report by	Meredith Wallace, General Manager
File	18/42695

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## Summary

The 2018 /2019, City Projects Program includes funding for the design and documentation of the Cahill Park Café/Restaurant and amenities building.

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## Officer Recommendation

- 1 That Council resolves to proceed to detailed design and Development Application (DA) submission of Option 2, a cafe with the potential for an indoor/outdoor seating area being explored during the detailed design stage.
  - 2 That the detailed design be presented to a GM briefing session prior to the DA being submitted.
- 

## Background

The Cahill Park Masterplan was endorsed by Council on 14 March 2018.

The Cahill Park playground was completed and opened in September 2017 and has proven to be a huge success increasing the number of residents frequenting the park.

The masterplan implementation works included the demolition of the old amenities building which has been closed for many years and was located adjacent to the Princes Hwy. The only other toilet facilities in Cahill Park are located at the southern end of the park, which service the oval. These facilities are approximately 300 metres away from the playground. The endorsed masterplan nominates a location adjacent to the playground for a new amenities/café building.

Three options for the café were prepared for Council to consider, all of these options included an amenities component.

### Amenities component of building – 102sqm

The proposal is for:

- 1 x accessible unisex toilet with baby change;
- 1 x family toilet with baby change facility;
- 1 x ambulant unisex toilet;
- 5 x individual cubicles (signage to be Male/Female);
- Service corridor; and
- External hand wash and bubblers.



Option 1

This option includes:

- Enclosed area – 37sqm;
- Covered outdoor seating – 56sqm;
- Outdoor seating and circulation – 128sqm;

Option 2

This option includes:

- Enclosed area – 47sqm;
- Covered outdoor seating – 102sqm;
- Outdoor seating and circulation – 200sqm;

Based on the feedback received at the GM briefing session (30 January 2019) for the café to be able to serve meals and to provide an enclosed seating area; the covered outdoor seating area could be enclosed. This can be further explored during the detailed design and documentation stage. An indoor seating area of up to 150 m2 could be created leaving an outdoor seating area of 200 m2.

Option 3

This option includes:

- Enclosed area including internal seating – 309sqm;
- Outdoor seating and circulation – 240sqm;

Option 3 has a much larger kitchen area.

Building Design

The tenanted component of the building is proposed to be constructed to a 'cold shell' level, allowing the tenant to fit out the café/restaurant, as they desire. The building will include ventilation suitable for a commercial kitchen, grease trap and connection points for sewer, water and power that accommodates the requirements of a commercial kitchen in all three options.

The concept design uses robust materials that allow a lightness to the building. A combination of glazed bricks and concrete, softened with greenery suitable to the style of the park.

The building has been designed to have flexibility which future proofs the building, as it could become a flexible space that can be hired out for community use.

**High Level Considerations of the three options**Option 1Advantages

- Low capital investment;
- Synergy with patrons who use the reserve and adjoining playground;

Disadvantages

- Lack of structured seating;
- Smaller commercial footprint increasing the payback period;
- Difficult to repurpose; and
- Lack of indoor space limited use in bad/cold weather.

Option 2Advantages

- Low capital investment;
- Synergy with patrons who use the reserve and adjoining playground;
- Structured covered seating providing more use even in bad weather; and
- Can be more easily re-purposed.

Disadvantages

- Seating area not enclosed (this can be addressed as part of the detailed design stage).

Option 3Advantages

- Lower provision of restaurants in the area;
- Large commercial foot print with indoor seating and improved amenity; and
- Lower payback period.

Disadvantages

- Higher capital input – increases Council's risk;
- Takes up a large component of the open space;
- May not cater to the demographic of the area; and
- Difficult to re-purpose (large kitchen component).

**Projects Next Steps:**

- GM Briefing Session – 30 January 2019;
- Report to Council – 13 February 2019;
- Detailed design and documentation – 10 weeks;
- Submit Development Application – April 2019;
- Determination of Development Application 6-12 months;
- Tender and construction documentation – 12 weeks.

---

## Financial Implications

High-level costings of the three options have been prepared. The costings have been split into public amenities which can be funded through Special Rate Variation funding (SRV) and the commercial component of the project, which is proposed to be funding through a loan from the Strategic Priorities Reserve.

<b>Kiosk and Amenities</b>	
Kiosk component	\$890,000.00
Amenities component	\$780,000.00
<b>Total</b>	<b>\$1,670,000.00</b>
<b>Café and Amenities</b>	
Café component	\$1,320,000.00
Amenities component	\$780,000.00

<b>Total</b>	<b>\$2,100,000.00</b>
<b>Restaurant and Amenities</b>	
Restaurant component	\$2,620,000.00
Amenities component	\$780,000.00
<b>Total</b>	<b>\$3,400,000.00</b>
All prices exclude kitchen fit out and are based on a cold shell only	

## Financial Considerations

### Payback Period

Option 1 approximately 18.5 - 23 years

Option 2 approximately 20.75- 24.7 years

Option 3 approximately 18.4 – 23.6 years

Not applicable

☐

Included in existing approved budget

☐

Additional funds required

☒

Construction funding in future financial years

---

## Community Engagement

Community consultation will occur at the time of Development Application (DA).

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## Attachments

Cahill Park Presentation of three concept options [↓](#)

2019.01.30

# CAHILL PARK PAVILION

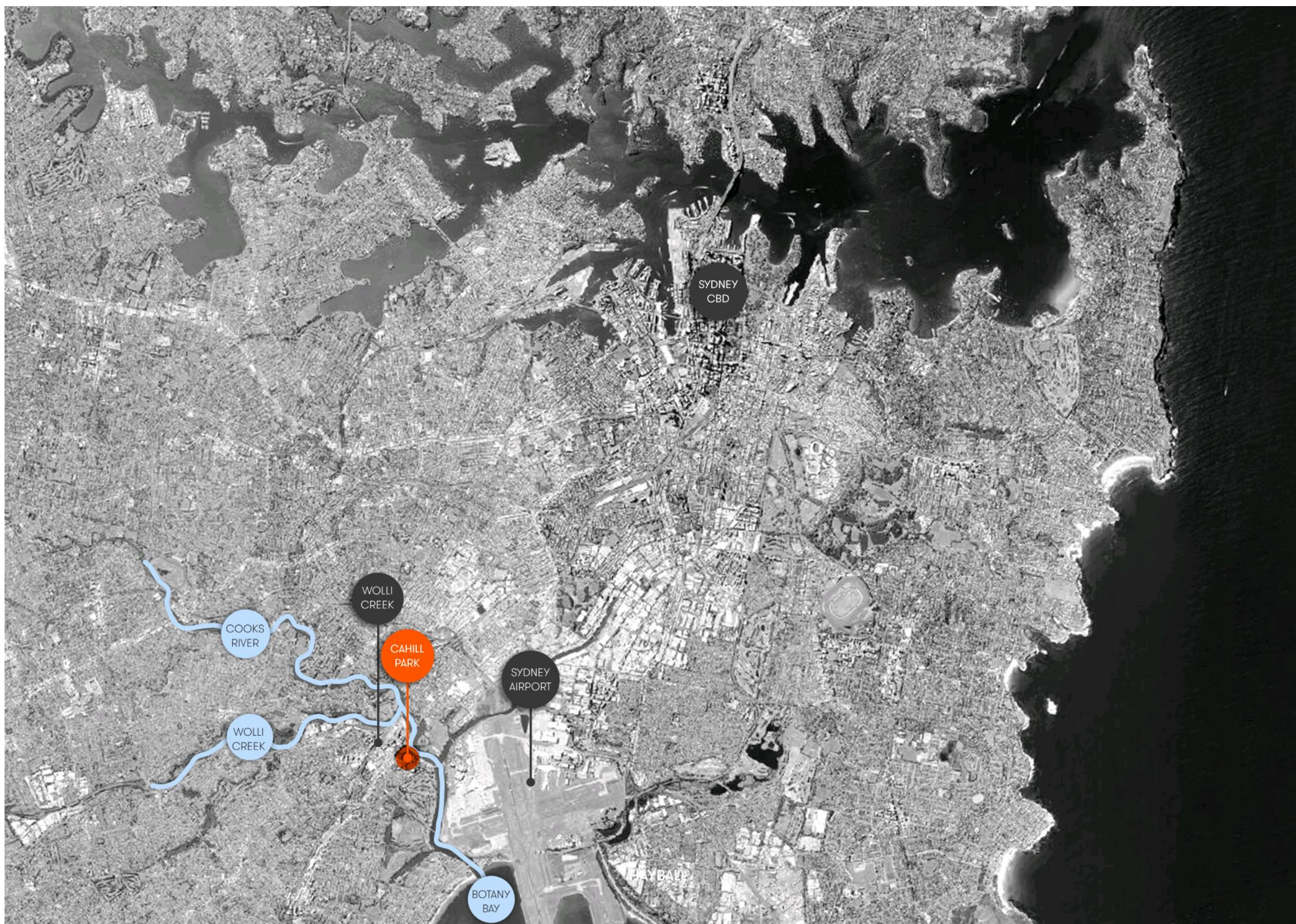
Wolli Creek

HAYBALL

The Precinct

HAYBALL



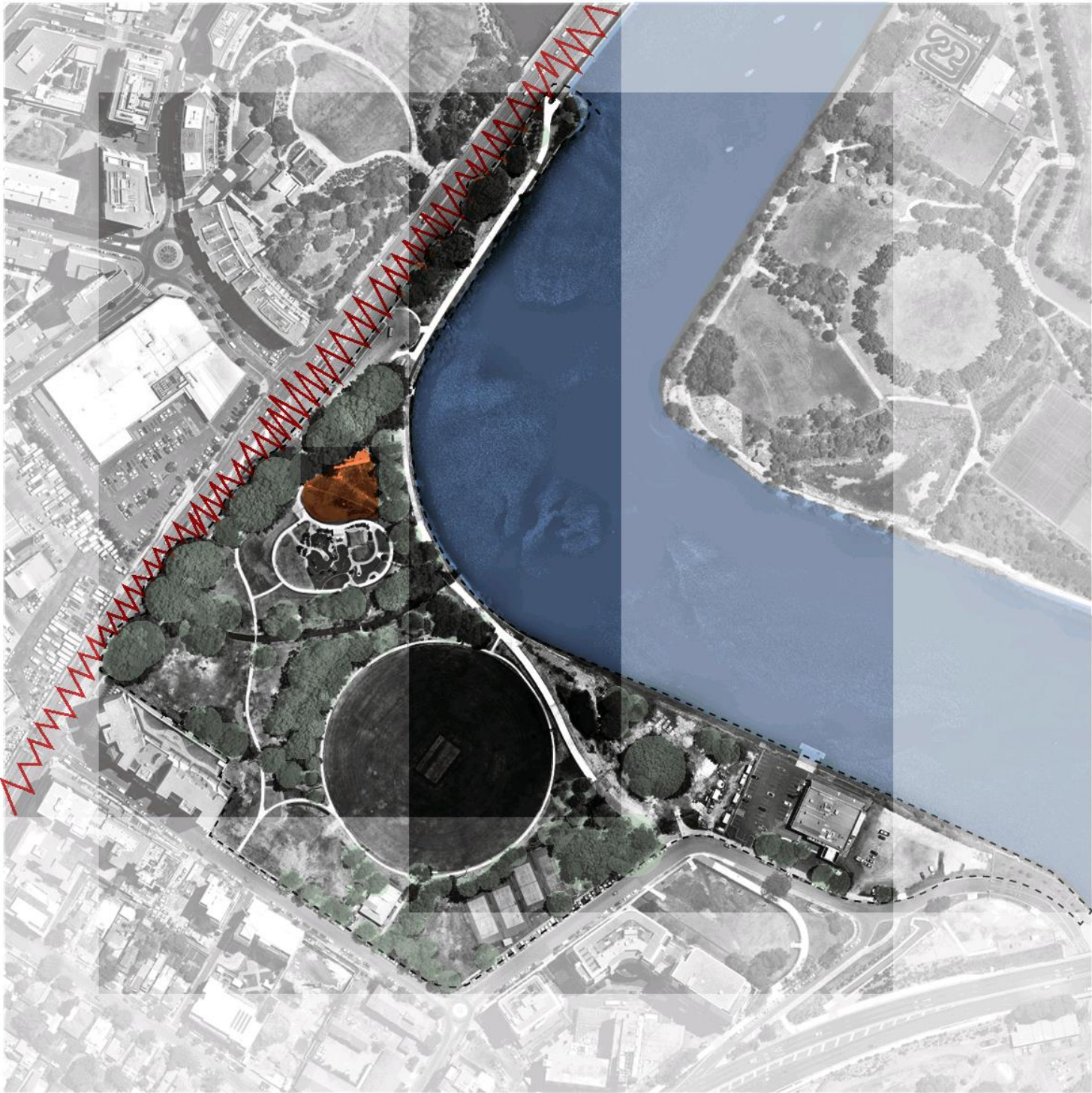








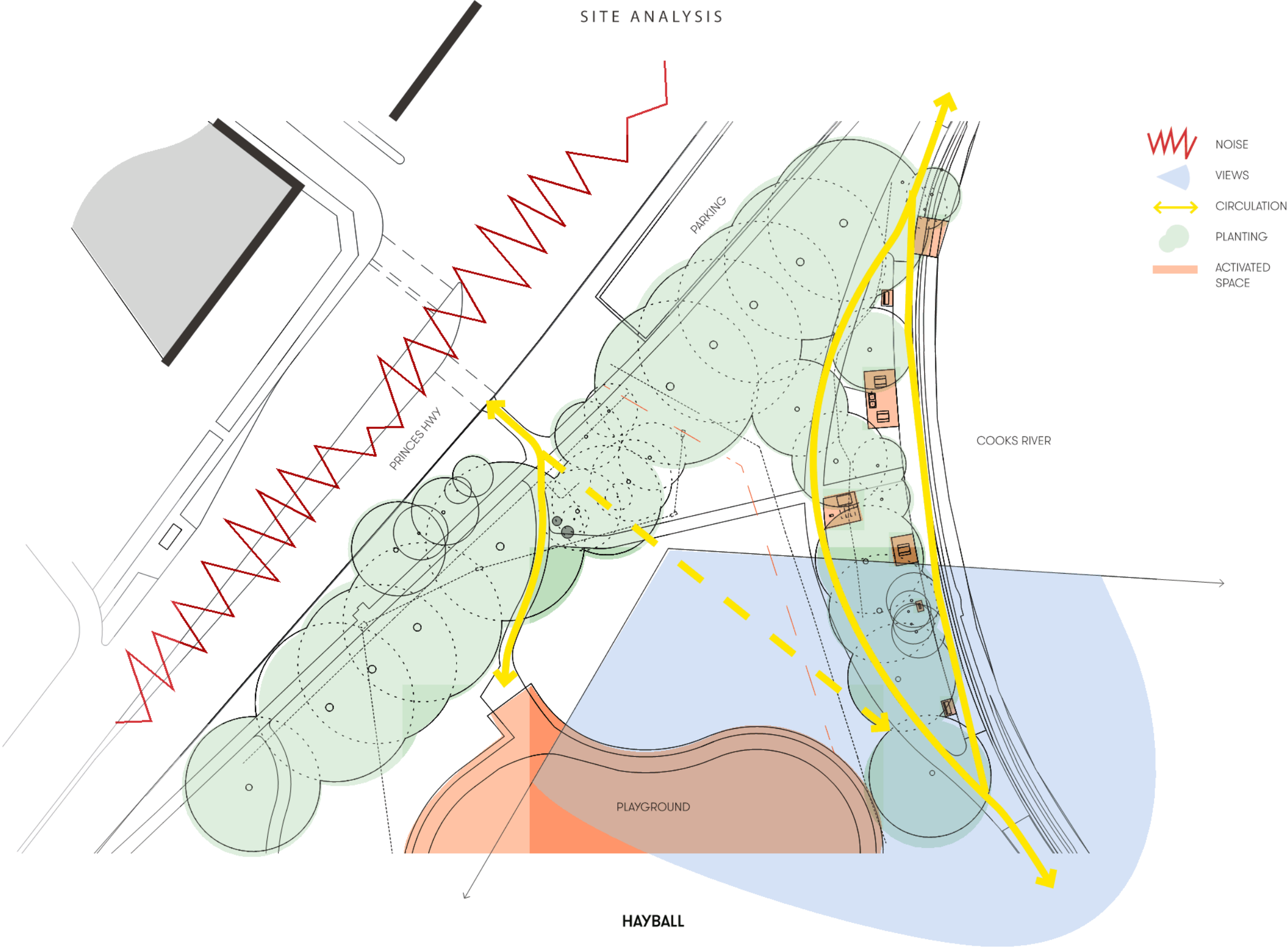
SITE ANALYSIS



-  PRINCES HIGHWAY
-  COOKS RIVER
-  SITE

HAYBALL







MATURE TREE LINE



HAYBALL



PLAY



HAYBALL



ACTIVE RIVERFRONT



HAYBALL



VISTA



HAYBALL



OPPORTUNITIES



HAYBALL



URBAN TO OASIS



?



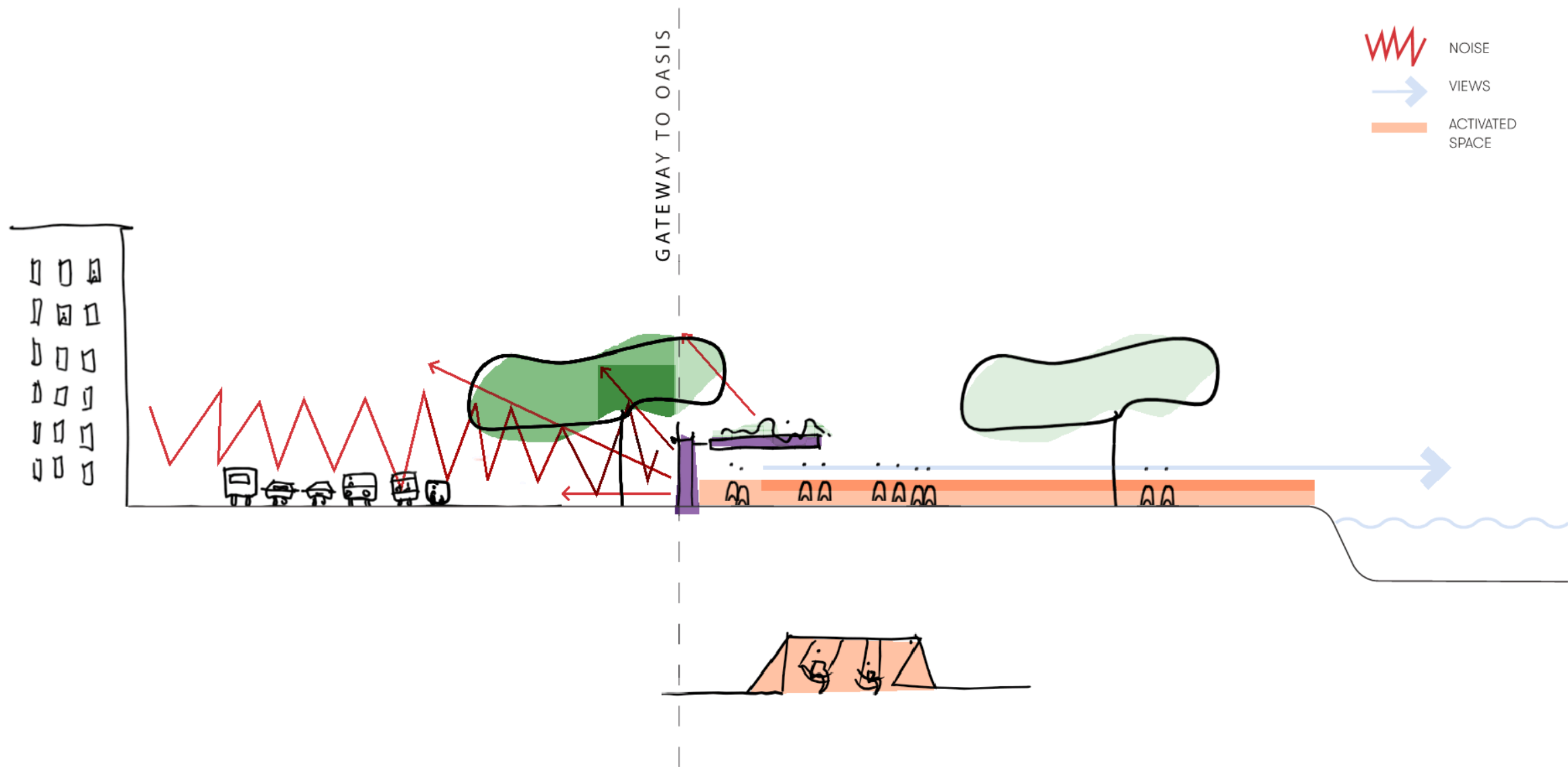
HAYBALL

# Design Principles

HAYBALL



PLACE MAKING



HAYBALL

DESIRE LINE : ACTIVATION & CASUAL SURVEILLANCE

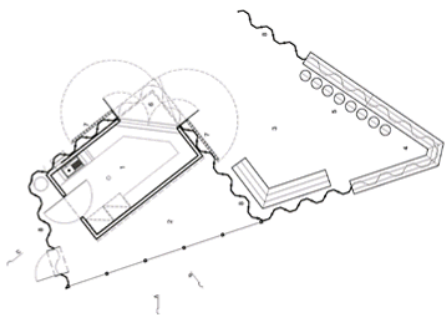


## Accommodation Summary

HAYBALL

PRECEDENTS

Third Wave Kiosk - Torquay



Area Use

Kitchen - 11m2  
Serving & Cashier - 5m2  
Bin Store - 1m2  
Delivery Area - 5.7m2  
External Seating - 40m2

Total = 62.7m2 approximate

Tamarama Beach Cafe And Amenities - Tamarama

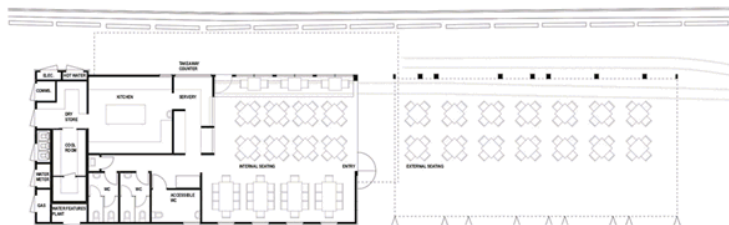


Area Use

Kitchen - 23m2  
Serving & Cashier - 18m2  
Bin Store - 4.8m2  
Dry Store - 5.5m2  
Entry/Circulation - 3m2  
External Seating - ~80m2

Total = 134.3m2 approximate

Armory Wharf Cafe - Olympic Park



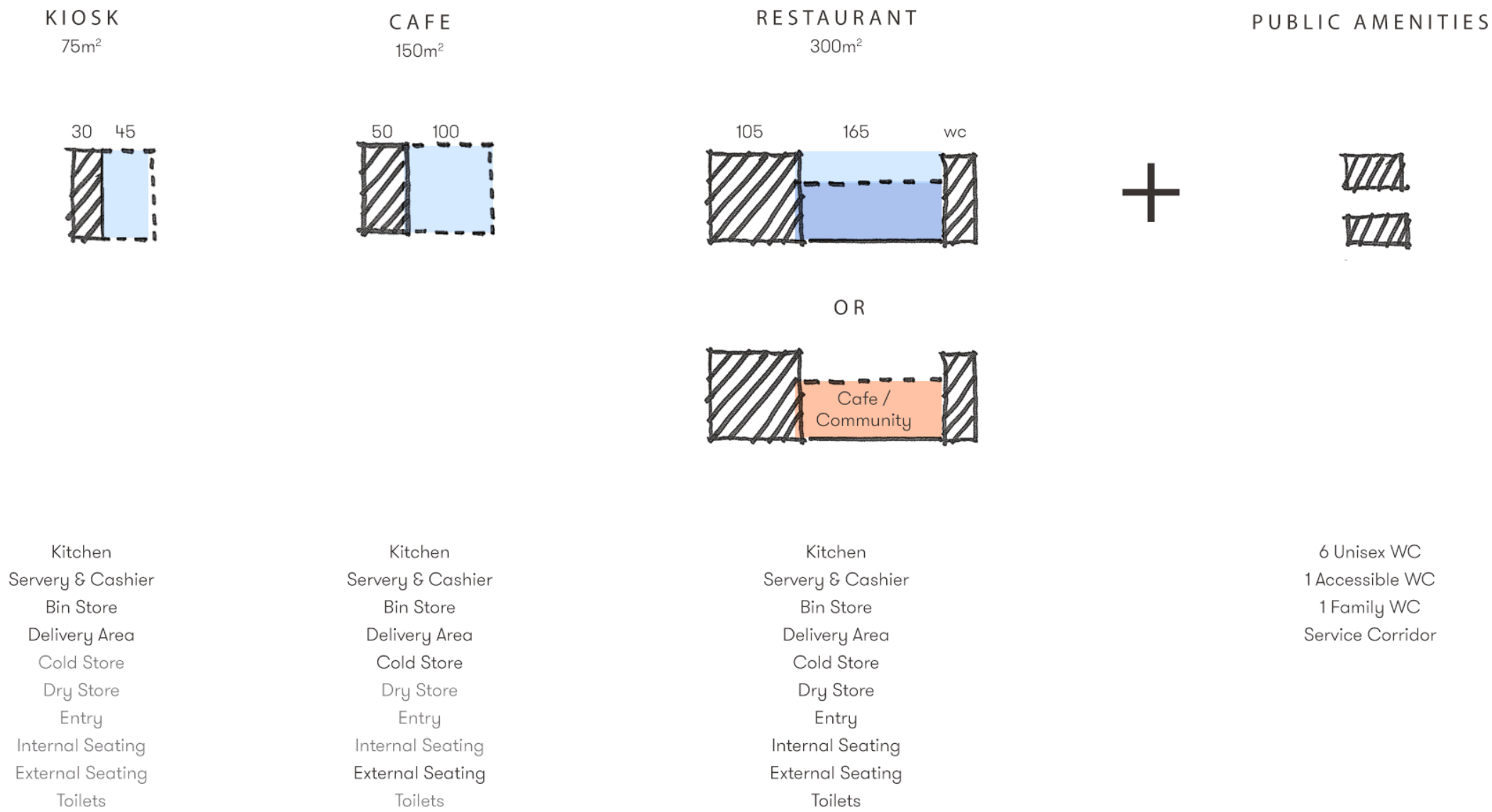
Area Use

Kitchen - 25m2  
Serving & Cashier - 11.5m2  
Bin Store - 2m2  
Cold Store - 9m2  
Dry Store - 7m2  
Entry - 20m2  
Internal Seating - 83m2  
External Seating - 150m2  
Toilets - 30m2  
Utilities - 8.8m2

Total = 346m2 approximate

HAYBALL

ACCOMMODATION SCHEDULE



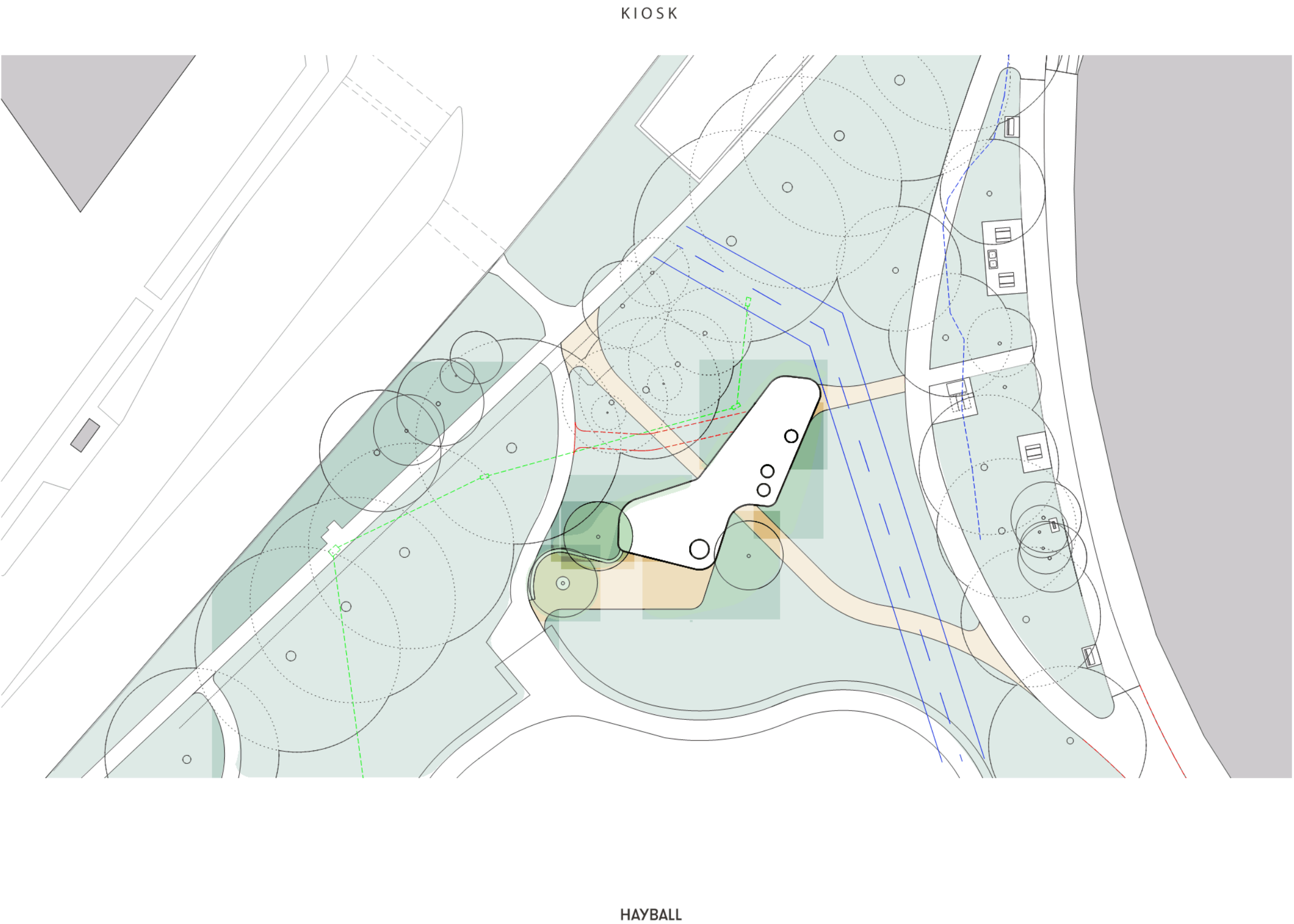
\* Areas based on Council brief and precedents. To be confirmed by kitchen consultant.

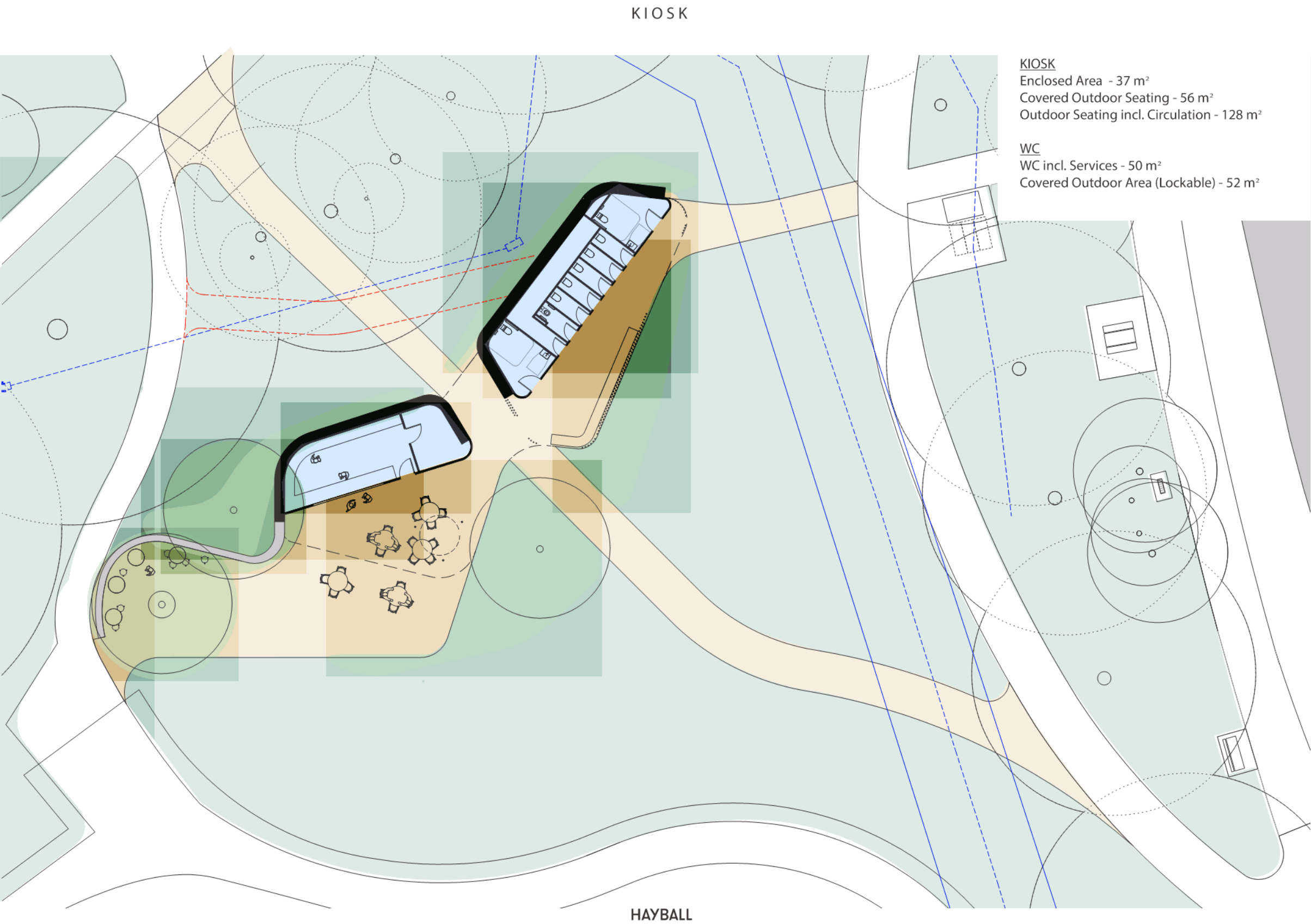
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KIOSK

HAYBALL









KIOSK

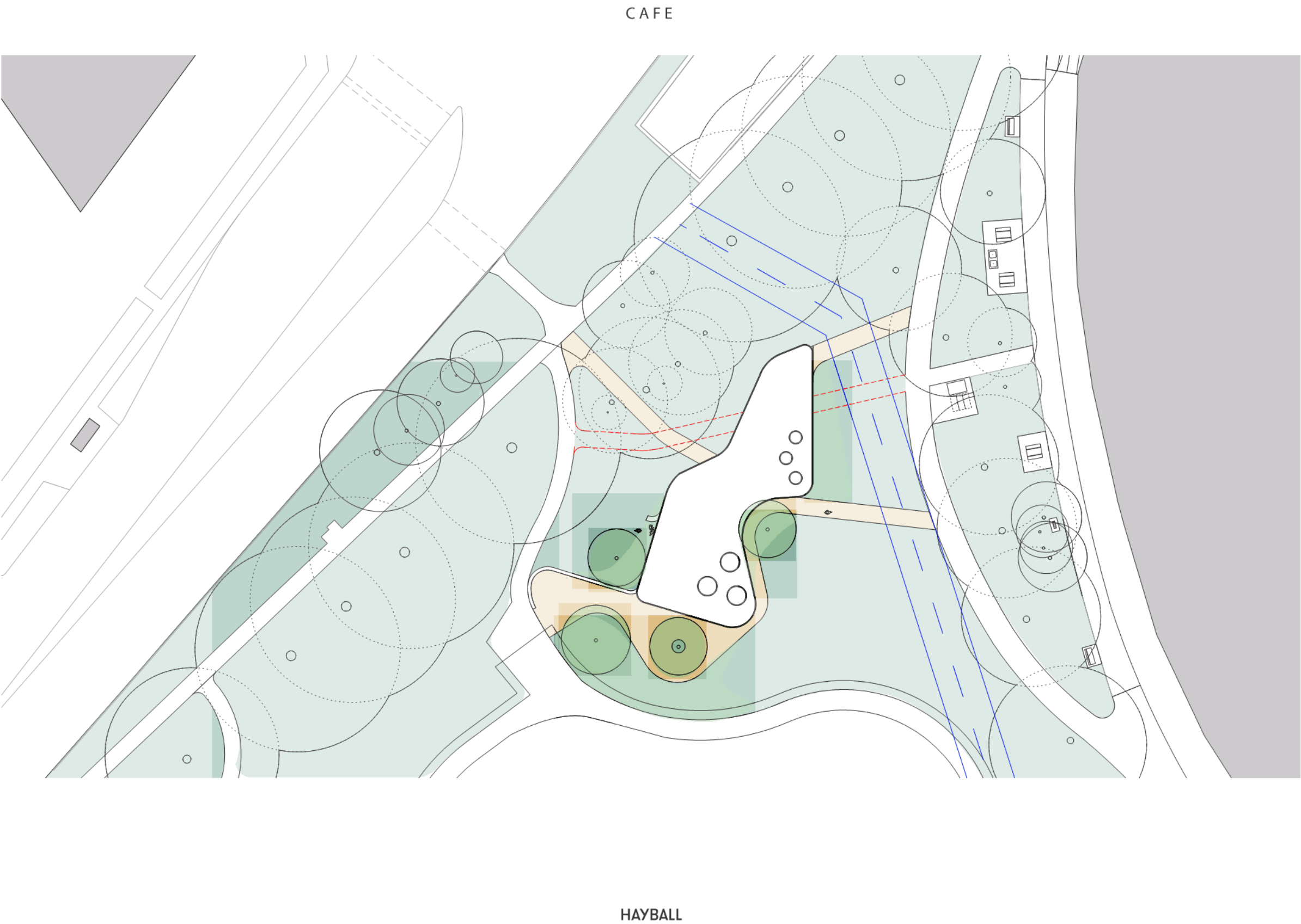


HAYBALL



CAFE

HAYBALL







CAFE



HAYBALL



RESTAURANT

HAYBALL

RESTAURANT

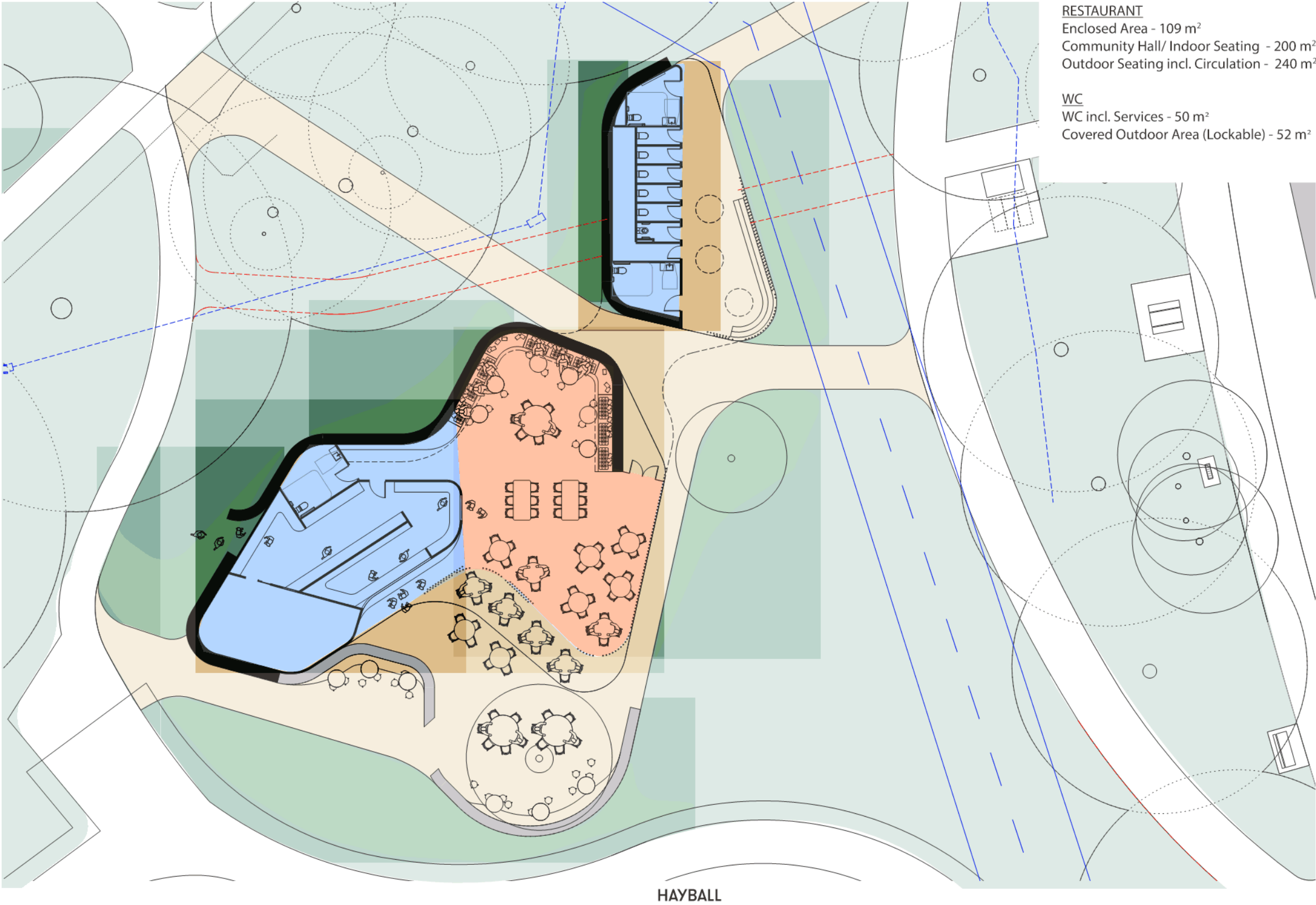


HAYBALL





RESTAURANT . COMMUNITY HALL MODE





RESTAURANT . OPTION 1



HAYBALL



MATERIALITY

HAYBALL

ROBUST . LIGHTNESS



HAYBALL

GREEN ROOF . GREEN WALL . RAIN GARDEN

Natural graffiti deterrent  
Environmental benefits  
End user amenity  
Natural buffer for place making

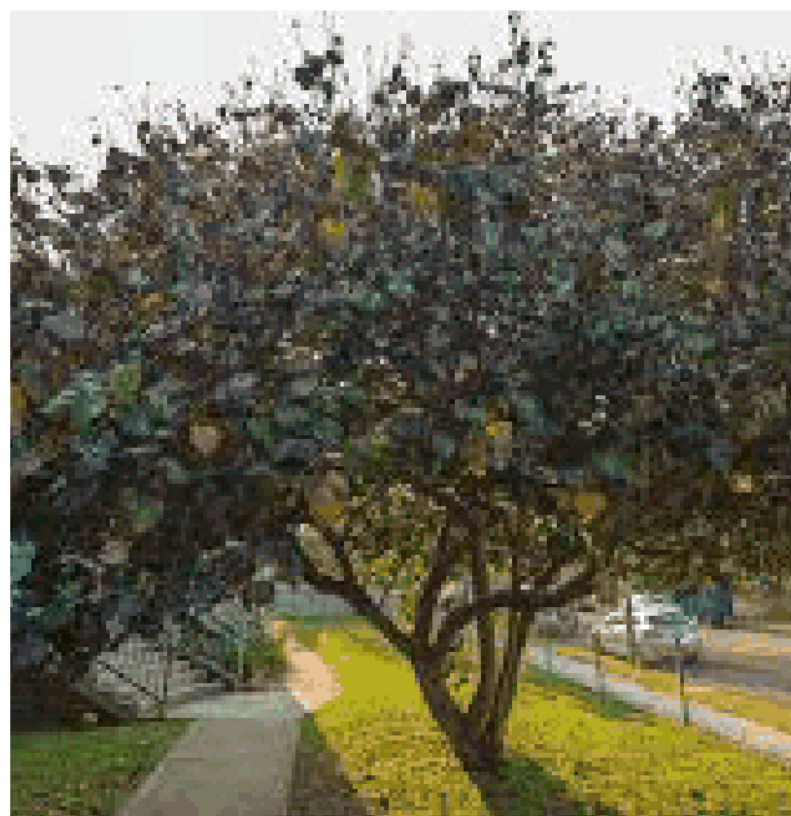


HAYBALL



## PLANTING PALETTE

Consistent with playground planting for coherence  
Planting to support local flora & fauna



## HAYBALL

## ENVIRONMENTAL BENEFITS

Slowing & cleaning storm water runoff from buildings  
Supporting local biodiversity



Cooks River Alliance



HAYBALL



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[Hayball@hayball.com.au](mailto:Hayball@hayball.com.au)



## Council Meeting

13/02/2019

Item No	8.8
Subject	<b>Tender - Demolition of 925 Botany Road &amp; Scout Hall, Lever Street Reserve</b>
Report by	Meredith Wallace, General Manager
File	F18/768

---

## Summary

Lever Street Reserve is listed in the Section 94 Development Contributions Plan for embellishment. Section 94 funding has been allocated in the city projects program for the demolition of two buildings and park embellishment in the Reserve.

A landscape masterplan was endorsed by Council in July 2018. A Development Application for the building demolition works was approved by Council in December 2018.

The Lever Street Reserve Masterplan seeks to enhance and expand the Public Open Space offered.

This report deals with the tender to demolish these buildings as proposed in the endorsed Masterplan.

---

## Officer Recommendation

- 1 That the attachment to this report be withheld from the press and public as it is confidential for the following reason:  
  
With reference to Section 10(A) (2) (d)(i) of the Local Government Act 1993, the attachment relates to 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 from Beasy Pty Ltd for Contract F18/768 being for the demolition of 925 Botany Road and the scout hall located in Lever Street Reserve for the amount of \$ 169,442.00 exclusive of GST.
- 

## Background

925 Botany Road is located at the Eastern end of the Reserve and is owned by Bayside Council. Demolition of 925 Botany Road will create a connecting corridor through the Reserve to Botany Road. Demolition of the disused Scout Hall in the Reserve will further increase available recreation space. The delivery of the Lever Street Reserve Masterplan including the demolition of these buildings is funded in the 2018/19 financial year City Projects Program.

## The Tender Process

Council invited open tenders for the demolition of 925 Botany Road and the Scout Hall in Lever Street Reserve on 18<sup>th</sup> December 2018. The tender period stipulated in the documents was a 4 week tender period. The Tender closed at 10 am on 15<sup>th</sup> January 2019.

Tender Submissions were received , as follows (in alphabetical order):

- AMJ Demolition
- Beasy
- Mann Group
- Drumderg Services
- RMA Contracting

### ***Directors of the Companies That Provided Tender Submissions***

AMJ Demolition	Michael Antoun
Beasy	Bret Baker
Mann Group	Anthony Manassa
Drumderg Services	Kevin Daley Michael Rogers
RMA Contracting	George Jabbour Andrew Mayes Tony McMahon Phil Gillespie

### **Late Tenders**

No late tenders were received.

### **Assessment Methodology**

The tender submission assessment and scoring is outlined in the confidential supporting attachment 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 Beasy Pty Ltd was comprehensive and included a detailed methodology and a detailed program.

### **Financial Assessment of Beasy Pty Ltd**

Corporate Scorecard was engaged to undertake a Detailed Financial and Performance Assessment to assess the financial viability, capacity and risk of Beasy Pty Ltd in relation to the demolition of 925 Botany Road, and the Scout Hall in Lever Street Reserve. Details on the assessment are included in the confidential supporting document.

### **Tender Recommendation**

References, Contractor Reference Checks (from State Government Bodies) and Phone referees were provided in the Tender response from Beasy Pty Ltd. All written references and Reference checks aligned with the demonstrated past performance on recent Council projects. Beasy Pty Ltd has proven to be a reputable demolition contractor that delivers high quality work. Beasy Pty Ltd have successfully delivered 6 demolition projects over the last 2-3 years for Bayside Council.

Based upon the assessment criteria, the tender assessment panel recommends acceptance of the tender from Beasy Pty Ltd for an amount of \$ 169,442.00 (exclusive of GST).

Beasy Pty Ltd has in place insurances of \$20 Million Public Liability and they have the statutory workers compensation policy in place. Beasy Pty Ltd have an Integrated Management System in compliance with ISO 9001:2015, ISO 14001:2015 and AS/NZS 4801:2001 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

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### Attachments

Confidential attachment Lever Street demolition tender. (confidential)

## **Council Meeting**

**13/02/2019**

Item No	8.9
Subject	<b>Request for Financial Support - St Catherine Greek Orthodox Church - Easter Service and Procession</b>
Report by	Meredith Wallace, General Manager
File	F17/1220

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## **Summary**

The Greek Orthodox Parish of Saint Catherine Mascot and District seek the support of Bayside Council for their 26 April Good Friday Service and Procession and Sunday 28 April for their Resurrection Service. The request is referred to Council in accordance with the Financial Assistance Policy.

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## **Officer Recommendation**

That Council provides \$6000 in resources and labour to support the Saint Catherine Greek Orthodox Church Easter Services and Procession, under Council's Financial Assistance Policy.

---

## **Background**

The Greek Orthodox Parish of Saint Catherine Mascot and District is seeking support for its Easter activities including evening services requiring road closures and traffic management.

Specifically:

### **Friday 26 April – Good Friday Service and Procession.**

The service will commence at approximately 6.30pm with the expectation that over 2000 people will attend. The Service will be followed by a Procession which will commence from the Church premises at approximately 9.15pm and will continue via:

Oliver Street – Southward  
Forster street – Eastward  
Aloha Street – Northward  
Coward Street – Westward

The Procession and Service is anticipated to end at approximately 10.30pm.

### **Saturday April 27/Sunday April 28 – Resurrection Service**

The Service will commence at approximately 11.00pm and more than 2000 people are expected to attend. The Service is expected to end at approximately 2.30am. The crowds stipulated cannot all be accommodated within the Church premises and accordingly many will be obliged to stand outside on the street. Council has supported this event for a number of years and supplies traffic controllers and vehicles. Additional security requirements again this year mean that heavy vehicles and drivers will be required.

To support the church to hold their services Council will need to provide \$6000 in resources.

### **Friday 26 April - Good Friday**

2 x Utes mounted with VMS boards  
2 x heavy vehicles with drivers 7.00pm to 11.00pm  
4 x Traffic Controllers for road closures 7.00pm to 11.00pm  
1 x Traffic Controller to manage the car park and egress of vehicles 7.00pm to 11.00pm  
1 x Council Supervisor to liaise with Police and Traffic Control 6.30pm to 11.00pm  
10 x road barricades for blocking of "No Parking" zones for emergency services  
10 x road barricades for "Road Closure" night vision sign attached  
10 x Traffic cones

### **Saturday 27/Sunday 28 April –**

1 x Ute mounted with VMS Board  
2 x Traffic Controllers for road closure from 10.30pm to 3.00am  
1 x Traffic Controller to manage car park and egress of vehicles 10.30pm to 3.00am  
10 x road barricades for blocking off "No Parking" for emergency services  
10 x road barricades for "Road Closures" night vision sign attached  
10 x Traffic cones

In addition to Council's support the cost to the NSW Police Force to support the event is approximately \$6000.

Specifically in relation to donations the Bayside Council Financial Assistance Policy states:

*"Financial Assistance includes grants, donations, subsidies, in-kind support or other allocation of Council funds to individuals or organisations in accordance with s356 of the Local Government Act 1993 ... concessions (including the waiving of fees) for certain categories of community organisations that apply for short-term permits (such as bookings of Council's facilities) are set by Council's annually adopted Fees and Charges, and may include a subsidy of 50 percent for charities and not-for-profit community organisations. Any additional concessions sought are subject to a "general donation" application to Council."*

### **Donations**

A donation is the provision of a one-off monetary contribution to a cause, community organisation or individual that may or may not be part of an ongoing program. Generally there are no conditions attached to the provision of a donation by Council.

Council recognises that there are situations where it is appropriate to respond to requests for a one-off donation to individual a person, a charitable community organisation or a not-for-profit community organisation for a general or a specific purpose.

Ideally ad-hoc requests for donations are held over and dealt with as part of the Community Grants program. However some requests that are time sensitive may be considered on an individual criteria:

### **General Donations**

- Demonstrate a significant contribution to the social, economic and/or environmental well-being of the Bayside Community, or

- Meet needs of people affected by a national or international event that caused human suffering

It is recommended that Council provide resources of \$6000 to the Greek Orthodox Parish of Saint Catherine Mascot and District.

---

### 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

13/02/2019

Item No 8.10  
Subject **ANZAC Day - Liquor Approval**  
Report by Meredith Wallace, General Manager  
File F17/1231

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## Summary

Bayside Council will be hosting a Memorial Dawn Service in Booralee Park, Botany to support the Returned Services League; Botany and Mascot Sub-Branches.

---

## Officer Recommendation

That Council suspends the alcohol-free zone in Booralee Park, Botany between 6am and 12pm on Tuesday 25 April 2019 and permits the provision of alcohol by a licensed caterer subject to the Department of Industry, Liquor and Gaming guidelines and within the designated area.

---

## Background

The ANZAC Day dawn service event has been supported by Council since 2011 following the closure of Botany and Mascot RSL Sub-Branches.

Pursuant to Section 645 of the Local Government Act 1993, Council may at its own motion, suspend or cancel the operation of an alcohol-free zone.

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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

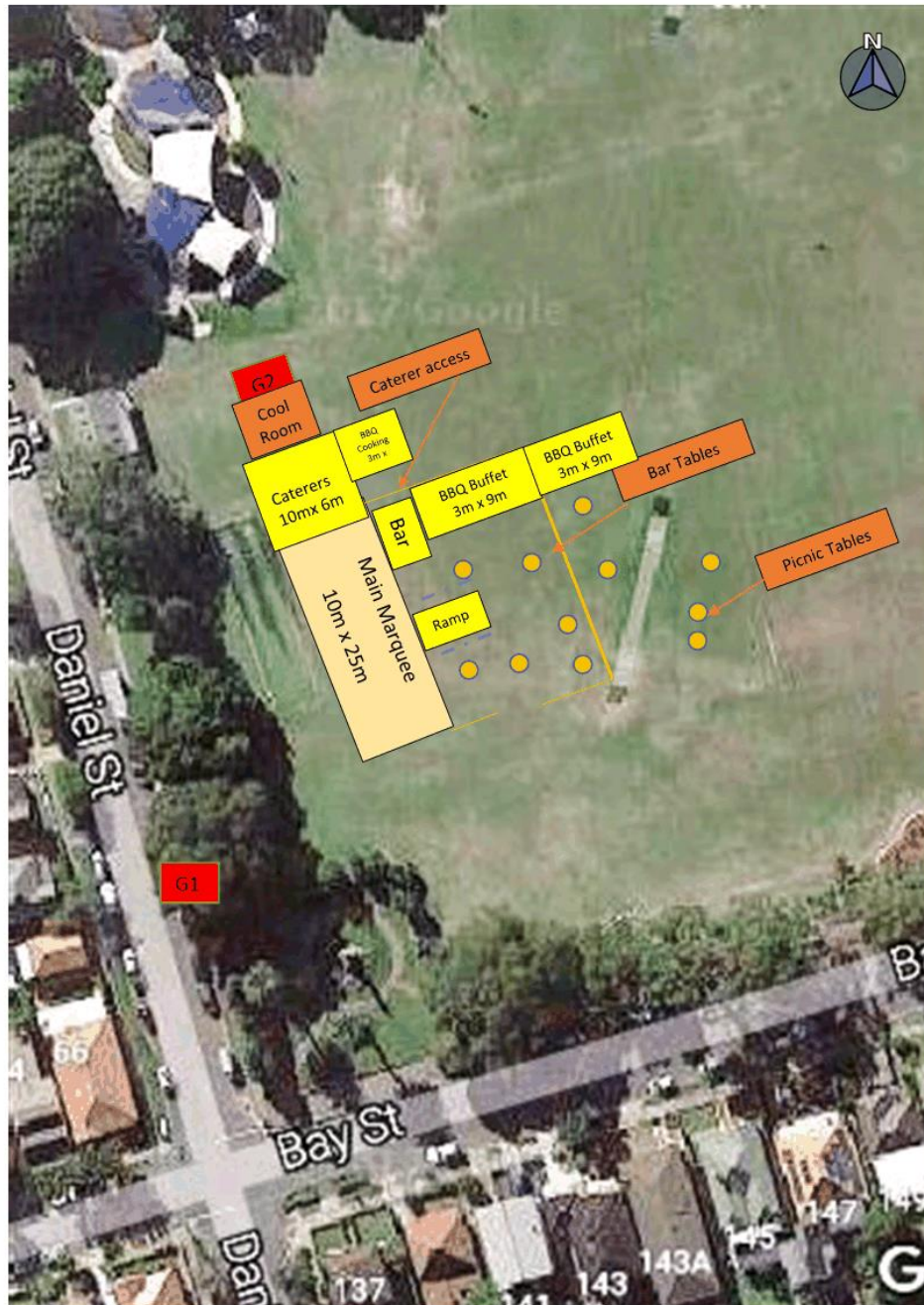
As per Section 645 of the Local Government Act 1993; council may suspend the operation of an alcohol - free zone by publishing notice of the suspension in a newspaper circulating in the area as a whole or in a part of the area that includes the zone concerned.

Notice will be provided in the Bayside Council column to be published in the Southern Courier on 09/04/2019.

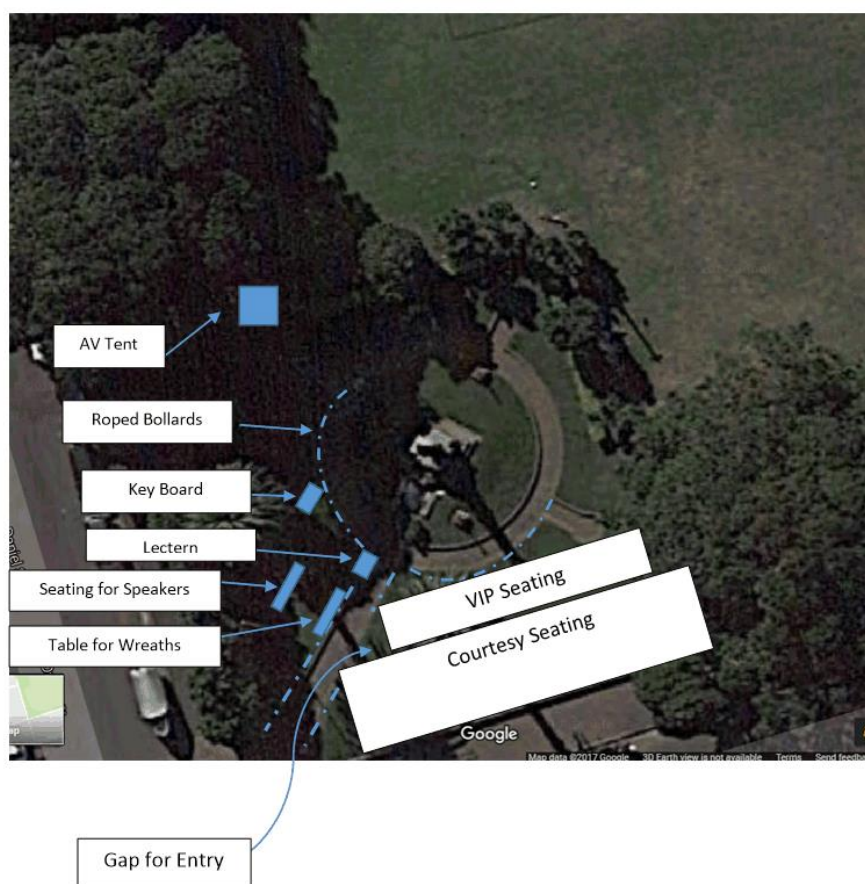
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## **Attachments**

Anzac Site Map [↓](#)



LRC Representative Bayside Council



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## Council Meeting

13/02/2019

Item No	8.11
Subject	<b>International Campaign to Abolish Nuclear Weapons (ICAN) Cities Appeal</b>
Report by	Meredith Wallace, General Manager
File	F09/526

---

## Summary

On 7 July 2017, 122 nations adopted a global agreement to ban nuclear weapons, known officially as the Treaty on the Prohibition of Nuclear Weapons. The ICAN Cities Appeal is a global campaign seeking cities and towns to show support for the United Nations Treaty on the Prohibition of Nuclear Weapons. This paper seeks Council's endorsement of the ICAN Cities Appeal and proposes a number of related advocacy actions.

---

## Officer Recommendation

- 1 That Council endorses the ICAN Cities Appeal noting that Bayside Council *"is deeply concerned about the grave threat that nuclear weapons pose to communities throughout the world. We firmly believe that our residents have the right to live in a world free from this threat. Any use of nuclear weapons, whether deliberate or accidental, would have catastrophic, far-reaching and long-lasting consequences for people and the environment. Therefore, we warmly welcome the adoption of the Treaty on the Prohibition of Nuclear Weapons by the United Nations in 2017, and we call on our national government to sign and ratify it without delay."*
  - 2 That Council writes to the Minister for Foreign Affairs to inform them that Council endorsed the ICAN Cities Appeal and now calls for the government to sign and ratify the Treaty on behalf of the Australian people.
  - 3 That Council issues a media release announcing Council's endorsement of the ICAN Cities Appeal.
- 

## Background

The International Campaign to Abolish Nuclear Weapons (ICAN) is a coalition of non-governmental organisations in one hundred countries promoting adherence to and implementation of the United Nations nuclear weapon ban treaty.

On 7 July 2017, 122 nations adopted a global agreement to ban nuclear weapons, known officially as the Treaty on the Prohibition of Nuclear Weapons. To date the Treaty has been signed by 69 nations and ratified by 19 nations. Once 50 nations have signed and ratified it will enter into force.

This ICAN Cities Appeal is a global campaign for local governments of cities/towns in nations that have not yet ratified the Treaty on the Prohibition of Nuclear Weapons. While the Australian Government supports the goal of a world free of nuclear weapons, it has not yet signed or ratified the Treaty.

The City of Melbourne, where the global campaign began, was the first council to endorse the Appeal, with City of Sydney and other Councils across the country also providing their support through the endorsement of the appeal.

---

### 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

If Council resolves to endorse the appeal, a number of communication activities will be undertaken to inform the community of Council's position.

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### Attachments

Nil



## Council Meeting

13/02/2019

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Item No	8.12
Subject	<b>Local Government NSW - Save Our Recycling Campaign</b>
Report by	Colin Clissold, Director City Presentation
File	F15/298

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## Summary

Local Government NSW (LGNSW) in its advocacy role, is requesting the support of NSW Local Government Councils to endorse their campaign *Save Our Recycling*, to realise the reinvestment of 100% of the Waste Levy collected each year by the NSW Government in waste minimisation, recycling and resource recovery.

The waste levy applies in the regulated area of NSW which comprises the Sydney metropolitan area, the Illawarra and Hunter regions, the central and north coast local government areas to the Queensland border as well as the Blue Mountains, Wingecarribee and Wollondilly local government areas.

There are six main recommendations which Bayside Council will be required to adopt in supporting of the Local Government NSW Save Our Recycling Campaign.

## Officer Recommendation

- 1 That Bayside Council endorses and supports the Save Our Recycling Campaign.
  - 2 That Council sign up to Local Government NSW's campaign, 'Save Our Recycling' - <https://saveourrecycling.com.au/>, to advocate that 100% of the Waste Levy collected by the NSW Government be reinvested in waste avoidance, recycling and resource recovery.
  - 3 That Council makes representation to the local State Member(s), in support of this campaign.
  - 4 That Council writes to the Premier, the Hon Gladys Berejiklian MP, the Opposition Leader, the Hon Michael Daley MP, the Minister for Local Government and the Minister for the Environment, the Hon Gabrielle Upton MP, and the Shadow Minister for the Environment and Heritage, Penny Sharpe MLC, seeking bipartisan support for 100% reinvestment of the waste levy collected each year into waste avoidance, recycling and resource recovery.
  - 5 That Council takes a lead role in activating the Local Government NSW *Save Our Recycling* campaign locally.
  - 6 That Council endorses the distribution and display of the Local Government NSW *Save Our Recycling* information on Council premises, as well as involvement in any actions arising from the initiative.
  - 7 That Council formally advises Local Government NSW that Council has endorsed the
-



Save Our Recycling advocacy initiative.

## Background

The *Protection of the Environment Operations Act 1997* (POEO Act) requires certain licensed waste facilities in NSW to pay a contribution to the NSW Government for each tonne of waste received at the facility. The 'waste levy' aims to reduce the amount of waste disposed of to landfill, and encourage recycling and resource recovery.

The waste levy applies in the regulated area of NSW which comprises of the Greater Sydney metropolitan area including: Blue Mountains, Wingecarribee and Wollondilly councils, the Illawarra and Hunter regions, the central and north coast local government areas to the Queensland border.

However, very little of the waste levy is currently used to support waste avoidance, recycling and resource recovery, with the vast majority flowing to the NSW Government's consolidated revenue.

In 2016/17, the NSW Government collected \$726 million from local government, community, businesses and industry via the waste levy, but only committed to use \$72 million on waste avoidance and recycling in 2017-18.

This amount – roughly 10 per cent of the total levy collection – will be spent on the NSW Government's *Waste Less Recycle More* program.

The program allocates \$801 million over 8 years to waste and recycling, compared to a total of more than \$4.62 billion collected over the same period.

At a local government level, just 18% of the \$300 million collected annually from local government was returned to councils to reinvest in recycling and waste management.

*Bayside Council paid \$5.9 million in waste levy in financial years 2017-2018, while Council received less than \$150k in contestable / non-contestable funding over the same period to assist the council with waste management and recycling infrastructure, programs and education.*

The reinvestment of the waste levy to support waste and resource recovery infrastructure, develop markets and innovative solutions, and undertake other initiatives to encourage reuse and recycling offers wide-ranging benefits to our communities across NSW.

There is the potential for economic growth, new infrastructure, new technology and new jobs, particularly in our regional areas.

It is noted that the following motion was unanimously endorsed at the Local Government NSW (LGNSW) 2018 Conference:

*That the NSW Government be called upon to ensure that 100% of the levy arising from Section 88 of the Protection of the Environment Operations Act 1997 be used for waste infrastructure and programs, predominantly by local government and the waste sector, for initiatives such as:*

- *Development of regional and region-specific solutions for sustainable waste management (e.g. soft plastic recycling facilities, green waste, waste to energy).*
- *Support innovative solutions to reduce waste and waste transport requirements.*
- *Protect existing and identify new waste management locations.*
- *Local community waste recovery and repair facilities.*
- *Funding a wider range of sustainability initiatives, such as marketing and strategies that promote and support a circular economy.*

LGNSW continues to progress this policy on behalf of the local government sector via an advocacy campaign calling on all those contesting the State election to reinvest 100% of the waste levy collected each year into waste avoidance, recycling and resource recovery in NSW. This is not a party-political issue - the advocacy initiative calls on all parties and candidates to commit to the 100% hypothecation of the waste levy to the purpose for which it is collected.

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## **Attachments**

Nil

**13/02/2019**

Item No	8.13
Subject	<b>Nominations to attend Waste Conference 2019</b>
Report by	Meredith Wallace, General Manager
File	F17/1300

## Summary

This report seeks Councillors' interest and nomination in attending the Waste Conference in Coffs Harbour from Tuesday 14th May to Thursday 16th May 2019. Indicative costs are \$1600 per attendee plus travel and accommodation costs, noting any costs associated with Councillor attendance at the Conference, are in accordance with the Expenses and Facilities Policy.

## Officer Recommendation

- 1 That Councillors nominate their interest to attend the annual Waste Conference in Coffs Harbour from Tuesday 14th May to Thursday 16th May 2019 and that those Councillors be registered to attend the Waste 2019 Conference in Coffs Harbour.
- 2 That Councillors registered to attend, have their attendance recorded against their Professional Development Plans for 2019 and be required to complete an Attendance Report to Council, as soon as possible after the conference.

## Background

The Waste 2019 Conference will be held at Opal Cove Resort in Coffs Harbour NSW from Tuesday 14th May to Thursday 16th May 2019.

This is the waste industry's leading waste management conference held annually with approximately 600 delegates and over 140 presenters, sponsors and exhibitors showcasing the latest in services, equipment and technology available in the waste industry.

Attendance at seminars, conferences, training, education and other activities by Councillors for Council business must be endorsed by Council, in accordance with the Expenses and Facilities Policy. Further, all reasonable expenses associated with conference attendance by Councillors, will be paid under the policy.

The program for the Conference will be released with registrations for the conference opening, on Wednesday 20th February. This report seeks Councillor nominations to attend the conference to ensure timely registration to ensure accommodation can be secured.

## Financial Implications

Within existing budget ☒

Included in existing approved budget ☐

Additional funds required

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## **Community Engagement**

Not applicable.

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## **Attachments**

Nil

## Council Meeting

13/02/2019

Item No	8.14
Subject	<b>Quarterly Budget Review Statement - 31 December 2018</b>
Report by	Michael Mamo, Director City Performance
File	F09/744

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## Summary

The Quarterly Budget Review Statement (QBRs) provides information on how the Council is tracking against the original budget as adopted in Council's Operational Plan for 2018-19. It shows the revised estimated income and expenditure for the year against the original and previously revised budget estimates of annual income and expenditure and includes recommendations regarding changes to the adopted revised budget to give a projected year end result.

Should the proposed variations contained within this report be adopted, the December Quarter Review maintains the forecast unrestricted cash surplus of \$12,218 for the financial year ended 30 June 2019.

The December Quarter Review Statements will be issued as a supplementary attachment to this report.

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## Officer Recommendation

- 1 That the Quarterly Budget Review Statement by the Manager Finance for the quarter ended 31 December 2018 be received and noted.
  - 2 That in accordance with *Clauses 203 and 211 of the Local Government (General) Regulations 2005*, the proposed revotes and variations to the adopted revised budget detailed in the attachment to this report are adopted by Council and the changes to income and expenditure items be voted.
- 

## Background

In December 2010 the Office of Local Government (OLG) released 'Quarterly Budget Review Statement for NSW Local Government' guidelines, which set out the reporting format that NSW councils are required to use for their quarterly financial progress reports to their council. In compliance with the requirements of Clause 203(2) of the Regulations, the Responsible Accounting Officer must prepare and submit to Council a budget review statement and form an opinion as to whether the statements indicate that the financial position of the Council is satisfactory. The Manager Finance has been delegated as the Responsible Accounting Officer by the General Manager.

The Quarterly Budget Review Statement (QBRs) provides information on how the Council is tracking against its originally adopted budget in the Operational Plan 2018/19. It shows the revised estimated income and expenditure for the year against the original estimate of annual income and expenditure as shown in the Plan and includes recommendations regarding changes to budget to give a projected year end result. The December Quarterly

Budget review also includes the proposed budget revotes from the 2017/18 Financial Year. These revotes represent available funding from the 2017/18 financial year for projects which were not complete as at 30 June 2018 and are to be completed during the 2018/19 financial year.

A presentation on the December 2018 Quarterly Budget Review was made at the General Managers briefing on 6 February 2019.

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### Financial Implications

Not applicable	<input type="checkbox"/>	
Included in existing approved budget	<input checked="" type="checkbox"/>	Budget transfers and revotes are included in the proposed variations.
Additional funds required	<input checked="" type="checkbox"/>	All variations in the December Quarter review are funded by either reserve movements, additional revenue or overall savings.

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### Community Engagement

Not applicable

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### Attachments

Nil

## **Council Meeting**

**13/02/2019**

Item No	8.15
Subject	<b>Statutory Financial Report for November 2018</b>
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 November 2018, Bayside Council had \$416.9m in cash and investments with an adjusted portfolio return on investments of 2.78%. Our income and expenditure cash-flow movements for the period primarily comprised the following:

- Income from operating activities totalled \$26.6m from rates, interest, grants, GST rebate and development planning contributions.
- Expenses from operating activities totalled \$17.2m for payments for employee costs, 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.

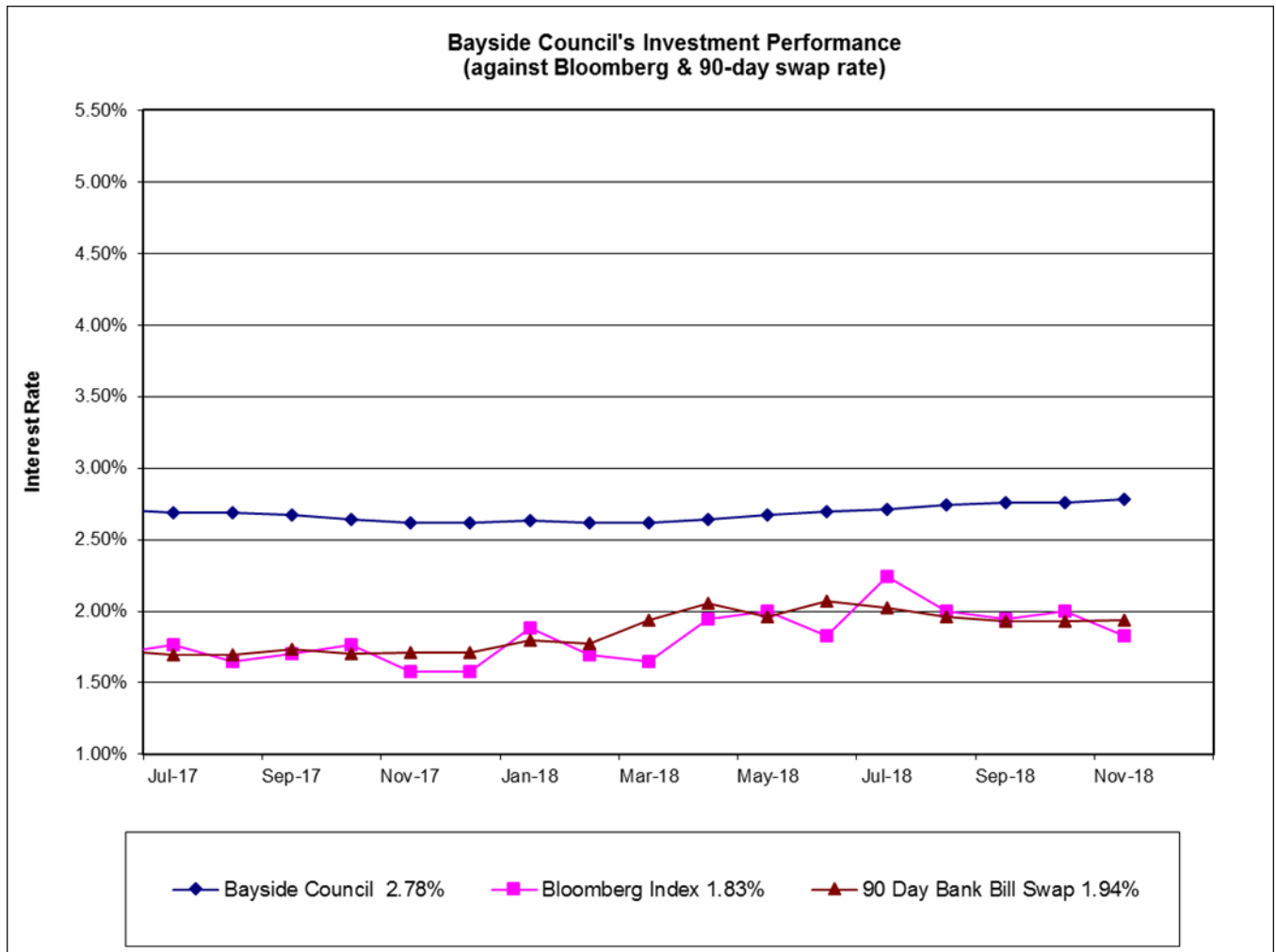
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## **Background**

The following table shows the performance of Council's investments since July 2017. 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 95 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 November 2018.

STATEMENT OF BANK BALANCES AS AT 30 November 2018		
	GENERAL FUND	
<b>Cash at Bank (Overdraft) as per Bank Statement as at: 31/10/2018</b>		<b>\$10,831,235</b>
<b>Add: Income from Operating Activities for the Period</b>		
- Rates and other receipts*	\$17,969,683	
- Sundry Debtor Deposits	\$1,279,692	
- DA Fees, FCDs & Application & Construction Fees	\$292,189	
- Interest	\$1,054,350	
- Parking and Other Infringements	\$405,455	
- Rents, Leases, Booking Fees, Certificates & Licences	\$144,958	
- Sydney Airport Contract Income & Rates	\$925,459	
- Long Service Levy	\$47,855	
- Grants	\$955,878	
- GST recovered from Tax Office	\$852,176	
- Childcare, Pool, Golf & Library Income	\$346,012	
- S.94 & Planning Contributions	\$2,334,673	
<b>Total Income from Operating Activities for the Period</b>	<b>\$26,608,380</b>	
<b>Less: Expenses from Operating Activities for the Period</b>		
Accounts Paid for Period (includes urgent cheques & refunds)	-\$12,466,861	
Direct Payroll	-\$4,520,258	
Presented Cheques	-\$132,113	
Dishonour Cheques & E-Tag Fees	-\$69,312	
Bank Charges (including Agency Fees)	-\$21,671	
<b>Total Expenses from Operating Activities for the Period</b>	<b>-\$17,210,215</b>	
<b>Total Net Movement from Operating Activities:</b>		<b>\$9,398,165</b>
<b>Investment Activities for the Period</b>		
- Investments redeemed	\$20,873,557	
- Transfer from Short-Term Money Market	\$14,600,000	
- Transfer to Short-Term Money Market	-\$38,000,000	
- New Investments	-\$15,000,000	
<b>Net Investment Flows for the Period</b>	<b>-\$17,526,443</b>	
<b>Funding Activities for the Period</b>		
Loan Repayments	\$0	
<b>Net Funding Flows for the Period</b>	<b>\$0</b>	
<b>Total Net Movement from Investment &amp; Funding Activities:</b>		<b>-\$17,526,443</b>
<b>Cash at Bank (Overdraft) as per Bank Statement as at: 30/11/2018</b>		<b>\$2,702,957</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 \$416.9m 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: 30/11/2018								
	Credit Rating	Purchase Price	Purchase Date	Maturity Date	Term Days	Prop %	Interest Rate	Market Value
<b>Term Deposits</b>								
Bank of Western Australia	A1	\$2,081,679	13/03/2018	11/12/2018	273	0.57%	2.55%	\$2,081,679
Bank of Western Australia	A1	\$1,303,595	14/03/2018	12/12/2018	273	0.36%	2.55%	\$1,303,595
Bank of Western Australia	A1	\$2,036,247	08/05/2018	05/02/2019	273	0.56%	2.65%	\$2,036,247
Bank of Western Australia	A1	\$1,208,837	13/06/2018	13/03/2019	273	0.33%	2.75%	\$1,208,837
Bank of Western Australia	A1	\$5,193,991	20/06/2018	20/03/2019	273	1.42%	2.80%	\$5,193,991
Bank of Western Australia	A1	\$1,142,737	27/06/2018	26/03/2019	272	0.31%	2.80%	\$1,142,737
Bank of Western Australia	A1	\$1,238,546	03/07/2018	26/03/2019	266	0.34%	2.80%	\$1,238,546
Bank of Western Australia	A1	\$2,500,000	10/07/2018	11/04/2019	275	0.68%	2.80%	\$2,500,000
Bank of Western Australia	A1	\$1,300,000	17/07/2018	10/04/2019	267	0.36%	2.80%	\$1,300,000
Bank of Western Australia	A1	\$5,000,000	31/07/2018	02/05/2019	275	1.37%	2.80%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	09/08/2018	09/05/2019	273	1.37%	2.80%	\$5,000,000
Bank of Western Australia	A1	\$10,000,000	16/08/2018	16/05/2019	273	2.74%	2.80%	\$10,000,000
Bank of Western Australia	A1	\$5,000,000	24/08/2018	23/05/2019	272	1.37%	2.80%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	30/08/2018	30/05/2019	273	1.37%	2.75%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	05/09/2018	05/06/2019	273	1.37%	2.75%	\$5,000,000
Bank of Western Australia	A1	\$10,000,000	10/10/2018	10/07/2019	273	2.74%	2.70%	\$10,000,000
Bank of Western Australia	A1	\$5,000,000	14/11/2018	24/04/2019	161	1.37%	2.65%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	21/11/2018	13/06/2019	204	1.37%	2.65%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	28/11/2018	27/03/2019	119	1.37%	2.65%	\$5,000,000
						<u>21.37%</u>		
Illawarra Mutual Building Society	A2	\$1,206,626	16/05/2018	12/02/2019	272	0.33%	2.70%	\$1,206,626
Illawarra Mutual Building Society	A2	\$3,077,104	30/05/2018	30/05/2019	365	0.84%	2.75%	\$3,077,104
Illawarra Mutual Building Society	A2	\$2,659,570	5/06/2018	05/06/2019	365	0.73%	2.75%	\$2,659,570
Illawarra Mutual Building Society	A2	\$5,000,000	6/06/2018	06/06/2019	365	1.37%	2.75%	\$5,000,000
Illawarra Mutual Building Society	A2	\$1,778,167	12/06/2018	12/03/2019	273	0.49%	2.68%	\$1,778,167
Illawarra Mutual Building Society	A2	\$1,500,000	16/07/2018	11/04/2019	269	0.41%	2.75%	\$1,500,000
Illawarra Mutual Building Society	A2	\$1,400,000	17/07/2018	11/04/2019	268	0.38%	2.75%	\$1,400,000
Illawarra Mutual Building Society	A2	\$5,000,000	30/08/2018	29/08/2019	364	1.37%	2.75%	\$5,000,000
Illawarra Mutual Building Society	A2	\$5,000,000	5/09/2018	03/04/2019	210	1.37%	2.70%	\$5,000,000
						<u>7.29%</u>		
Newcastle Permanent Build Society	A2	\$6,000,000	17/10/2018	31/01/2019	106	1.62%	2.50%	\$6,000,000
						<u>1.62%</u>		
ME Bank	A2	\$3,000,000	08/03/2018	06/12/2018	273	0.82%	2.50%	\$3,000,000
ME Bank	A2	\$1,000,000	08/05/2018	08/05/2019	365	0.27%	2.75%	\$1,000,000
ME Bank	A2	\$4,000,000	11/05/2018	10/05/2019	364	1.09%	2.75%	\$4,000,000
ME Bank	A2	\$2,000,000	22/05/2018	22/05/2019	365	0.55%	2.75%	\$2,000,000
ME Bank	A2	\$1,000,000	23/05/2018	22/05/2019	364	0.27%	2.75%	\$1,000,000
ME Bank	A2	\$2,000,000	29/05/2018	26/02/2019	273	0.55%	2.72%	\$2,000,000
ME Bank	A2	\$1,000,000	12/07/2018	11/07/2019	364	0.27%	2.80%	\$1,000,000
ME Bank	A2	\$5,000,000	31/07/2018	01/08/2019	366	1.37%	2.80%	\$5,000,000
ME Bank	A2	\$5,000,000	06/09/2018	06/02/2019	153	1.37%	2.65%	\$5,000,000
ME Bank	A2	\$5,000,000	26/09/2018	27/02/2019	154	1.37%	2.60%	\$5,000,000
						<u>7.93%</u>		
Westpac	AA-	\$2,000,000	18/12/2017	18/12/2018	365	0.55%	2.58%	\$2,000,000
Westpac	AA-	\$5,000,000	09/02/2018	11/02/2019	367	1.37%	2.61%	\$5,000,000
Westpac	AA-	\$5,000,000	02/03/2018	03/12/2018	276	1.37%	2.52%	\$5,000,000
Westpac	AA-	\$5,000,000	02/03/2018	02/01/2019	306	1.37%	2.53%	\$5,000,000
Westpac	AA-	\$5,000,000	02/03/2018	04/03/2019	367	1.37%	2.62%	\$5,000,000
Westpac	AA-	\$5,000,000	23/03/2018	25/03/2019	367	1.37%	2.72%	\$5,000,000
Westpac	AA-	\$3,000,000	01/05/2018	01/05/2019	365	0.82%	2.76%	\$3,000,000
Westpac	AA-	\$5,000,000	06/06/2018	06/06/2019	365	1.37%	2.76%	\$5,000,000
Westpac	AA-	\$3,000,000	08/06/2018	11/06/2019	368	0.82%	2.76%	\$3,000,000
Westpac	AA-	\$10,000,000	31/07/2018	31/07/2019	365	2.73%	2.76%	\$10,000,000
Westpac	AA-	\$3,000,000	01/08/2018	01/08/2019	365	0.82%	2.76%	\$3,000,000
Westpac	AA-	\$5,000,000	09/08/2018	09/08/2019	365	1.37%	2.79%	\$5,000,000
Westpac	AA-	\$5,000,000	30/08/2018	29/08/2019	364	1.37%	2.74%	\$5,000,000
Westpac	AA-	\$5,000,000	10/09/2018	11/09/2019	366	1.37%	2.68%	\$5,000,000
Westpac	AA-	\$5,000,000	09/11/2018	06/11/2019	362	1.37%	2.76%	\$5,000,000
Westpac	AA-	\$5,000,000	28/11/2018	28/11/2019	365	1.37%	2.73%	\$5,000,000
Westpac- AMP FRN	A	\$750,000	11/12/2015	11/06/2019	1278	0.21%	3.03%	\$750,990
Westpac FRN	AA-	\$1,000,000	11/03/2016	10/05/2019	1155	0.26%	2.94%	\$1,004,420
Westpac- Bank of QLD FRN	BBB+	\$1,000,000	18/05/2016	18/05/2021	1826	0.26%	3.42%	\$1,013,140
						<u>21.54%</u>		
AMP Bank	A1	\$3,000,000	12/06/2018	12/06/2019	365	0.81%	2.80%	\$3,000,000
						<u>0.81%</u>		

Schedule of Investments cont'd								
National Australia Bank	A1	\$1,000,000	14/06/2018	14/06/2019	365	0.27%	2.75%	\$1,000,000
National Australia Bank	A1	\$5,000,000	19/06/2018	19/03/2019	273	1.37%	2.70%	\$5,000,000
National Australia Bank	A1	\$2,000,000	11/07/2018	11/07/2019	365	0.55%	2.75%	\$2,000,000
National Australia Bank	A1	\$5,000,000	04/09/2018	04/09/2019	365	1.37%	2.65%	\$5,000,000
National Australia Bank	A1	\$5,000,000	10/09/2018	09/01/2019	121	1.37%	2.60%	\$5,000,000
National Australia Bank	A1	\$5,000,000	20/09/2018	16/01/2019	118	1.37%	2.61%	\$5,000,000
National Australia Bank	A1	\$5,000,000	26/09/2018	09/01/2019	105	1.37%	2.60%	\$5,000,000
National Australia Bank	A1	\$5,000,000	22/11/2018	24/04/2019	153	1.37%	2.65%	\$5,000,000
National Australia Bank	A1	\$6,000,000	28/11/2018	12/06/2019	196	1.63%	2.65%	\$6,000,000
NAB- Bank of QLD FRN	BBB+	\$1,000,000	29/10/2015	29/04/2019	1278	0.26%	3.07%	\$1,004,701
NAB FRN	AA-	\$2,000,000	25/02/2016	25/02/2019	1096	0.55%	2.92%	\$2,003,481
NAB - Newcastle Perm Build Soc FRN	BBB	\$2,000,000	22/03/2016	22/03/2019	1095	0.55%	3.54%	\$2,017,651
NAB- Suncorp FRN	A+	\$2,000,000	12/04/2016	12/04/2021	1826	0.55%	3.33%	\$2,034,311
						12.58%		
ING Direct	A	\$4,000,000	31/08/2017	04/09/2019	734	1.10%	2.75%	\$4,000,000
ING Direct	A	\$3,000,000	12/09/2017	12/09/2019	730	0.82%	2.75%	\$3,000,000
ING Direct	A	\$3,000,000	13/09/2017	18/09/2019	735	0.82%	2.75%	\$3,000,000
ING Direct	A	\$1,000,000	14/09/2017	18/12/2018	460	0.27%	2.70%	\$1,000,000
ING Direct	A	\$2,000,000	15/09/2017	25/09/2019	740	0.55%	2.75%	\$2,000,000
ING Direct	A	\$3,000,000	15/09/2017	18/12/2018	459	0.82%	2.70%	\$3,000,000
ING Direct	A	\$1,000,000	05/12/2017	05/12/2018	365	0.27%	2.52%	\$1,000,000
ING Direct	A	\$1,000,000	06/06/2018	06/12/2019	548	0.27%	2.80%	\$1,000,000
ING Direct	A	\$2,000,000	24/07/2018	04/09/2019	407	0.55%	2.53%	\$2,000,000
						5.47%		
Direct Investments (Floating Rate & Fixed Rate Term Deposits -TDs)								
CBA- Bank of QLD FRN	A-	\$2,000,000	26/02/2016	06/11/2019	1349	0.55%	3.01%	\$2,011,380
CBA- Bendigo & Adelaide FRN	A-	\$2,000,000	26/02/2016	18/08/2020	1635	0.55%	3.04%	\$2,011,800
CBA - Rabobank FRN	A+	\$2,000,000	04/03/2016	04/03/2021	1826	0.55%	3.45%	\$2,033,000
CBA- Credit Union Australia FRN	BBB+	\$2,000,000	01/04/2016	01/04/2019	1095	0.55%	3.54%	\$2,017,420
CBA- Greater Bank FRN	BBB-	\$3,000,000	07/06/2016	07/06/2019	1095	0.82%	3.55%	\$3,005,640
CBA FRN	AA-	\$2,000,000	12/07/2016	12/07/2021	1826	0.55%	3.15%	\$2,031,300
CBA- ME Bank FRN	BBB	\$3,000,000	09/08/2016	18/07/2019	1073	0.82%	3.38%	\$3,027,000
CBA- Bendigo & Adelaide FRN	A-	\$2,000,000	09/08/2016	19/09/2019	1136	0.55%	2.85%	\$2,016,740
CBA- Greater Bank FRN	BBB+	\$2,000,000	30/08/2016	30/08/2019	1095	0.55%	3.39%	\$2,006,050
CBA- Bendigo & Adelaide FRN	A-	\$2,000,000	21/11/2016	21/02/2020	1187	0.55%	3.04%	\$2,010,500
CBA FRN	AA-	\$3,000,000	17/01/2017	17/01/2022	1826	0.82%	3.04%	\$3,038,820
CBA- Greater Bank FRN	BBB-	\$4,000,000	24/02/2017	24/02/2020	1095	1.09%	3.39%	\$4,007,900
CBA- Rabobank FRN	A+	\$2,000,000	03/03/2017	03/03/2022	1826	0.55%	3.03%	\$2,014,360
CBA- Credit Union Australia FRN	BBB+	\$2,750,000	20/03/2017	20/03/2020	1096	0.75%	3.22%	\$2,777,170
CBA- Greater Bank FRN	BBB-	\$2,000,000	25/03/2017	29/05/2020	1161	0.55%	3.35%	\$2,002,440
CBA- ME Bank FRN	BBB+	\$3,000,000	06/04/2017	06/04/2020	1096	0.82%	3.18%	\$3,022,860
CBA- Greater Bank FRN	BBB-	\$1,000,000	04/08/2017	29/05/2020	1029	0.27%	3.35%	\$1,001,220
CBA- AMP FRN	A	\$2,000,000	06/10/2017	06/10/2020	1096	0.55%	2.68%	\$2,001,280
CBA - Heritage Bank FRN	BBB+	\$2,000,000	27/11/2017	04/05/2020	889	0.55%	3.23%	\$2,012,040
CBA - Newcastle Perm Build Soc FRN	BBB	\$2,000,000	29/11/2017	07/04/2020	860	0.55%	3.28%	\$2,018,160
ANZ - Heritage Bank FRN	BBB+	\$1,450,000	04/05/2017	04/05/2020	1096	0.40%	3.23%	\$1,457,601
Commonwealth Bank Fixed Rate TD	A1+	\$5,000,000	13/04/2018	13/12/2018	244	1.37%	2.62%	\$5,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$2,000,000	18/04/2018	18/02/2019	306	0.55%	2.70%	\$2,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$2,000,000	18/06/2018	18/02/2019	245	0.55%	2.70%	\$2,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$5,000,000	20/09/2018	17/04/2019	209	1.37%	2.58%	\$5,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$5,000,000	02/03/2018	01/03/2019	364	1.37%	2.55%	\$5,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$2,000,000	19/03/2018	19/12/2018	275	0.55%	2.50%	\$2,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$5,000,000	24/08/2018	23/05/2019	272	1.37%	2.68%	\$5,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$5,000,000	30/11/2018	28/08/2019	271	1.37%	2.70%	\$5,000,000
						21.39%		
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				0.00%		
Total Investments		\$365,589,650				100.00%		
Operating Accounts		\$2,702,957						
Cash Deposit Accounts		\$38,093,883						
AMP 31 Day Notice Account		\$10,491,279						
Total Investments and Cash		\$416,877,769						

**Investment and Cash Flows for Bayside Council:**

	<b>Oct-18</b>	<b>Nov-18</b>	<b>Total Net Movement</b>
Total Investments	\$371,463,207	\$365,589,650	<b>-\$5,873,557</b>
Operating Accounts	\$10,831,235	\$2,702,957	<b>-\$8,128,278</b>
Cash/Short Term Money Market	\$14,686,782	\$38,093,883	<b>\$23,407,101</b>
AMP 31 Day Notice Account	\$10,470,825	\$10,491,279	<b>\$20,454</b>
<b>TOTAL Investments and Cash:</b>	<b>\$407,452,049</b>	<b>\$416,877,769</b>	<b>\$9,425,720</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.

**Financial Implications**

- Not applicable ☒
- Included in existing approved budget ☐
- Additional funds required ☐

**Community Engagement**

Not required.

**Attachments**

Nil

## **Council Meeting**

**13/02/2019**

Item No	8.16
Subject	<b>Statutory Financial Report for December 2018</b>
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 31 December 2018, Bayside Council had \$409.0m in cash and investments with an adjusted portfolio return on investments of 2.79%. Our income and expenditure cash-flow movements for the period primarily comprised the following:

- Income from operating activities totalled \$11.1m from rates, interest, grants and development planning contributions.
- Expenses from operating activities totalled \$18.1m for payments for employee costs, 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**

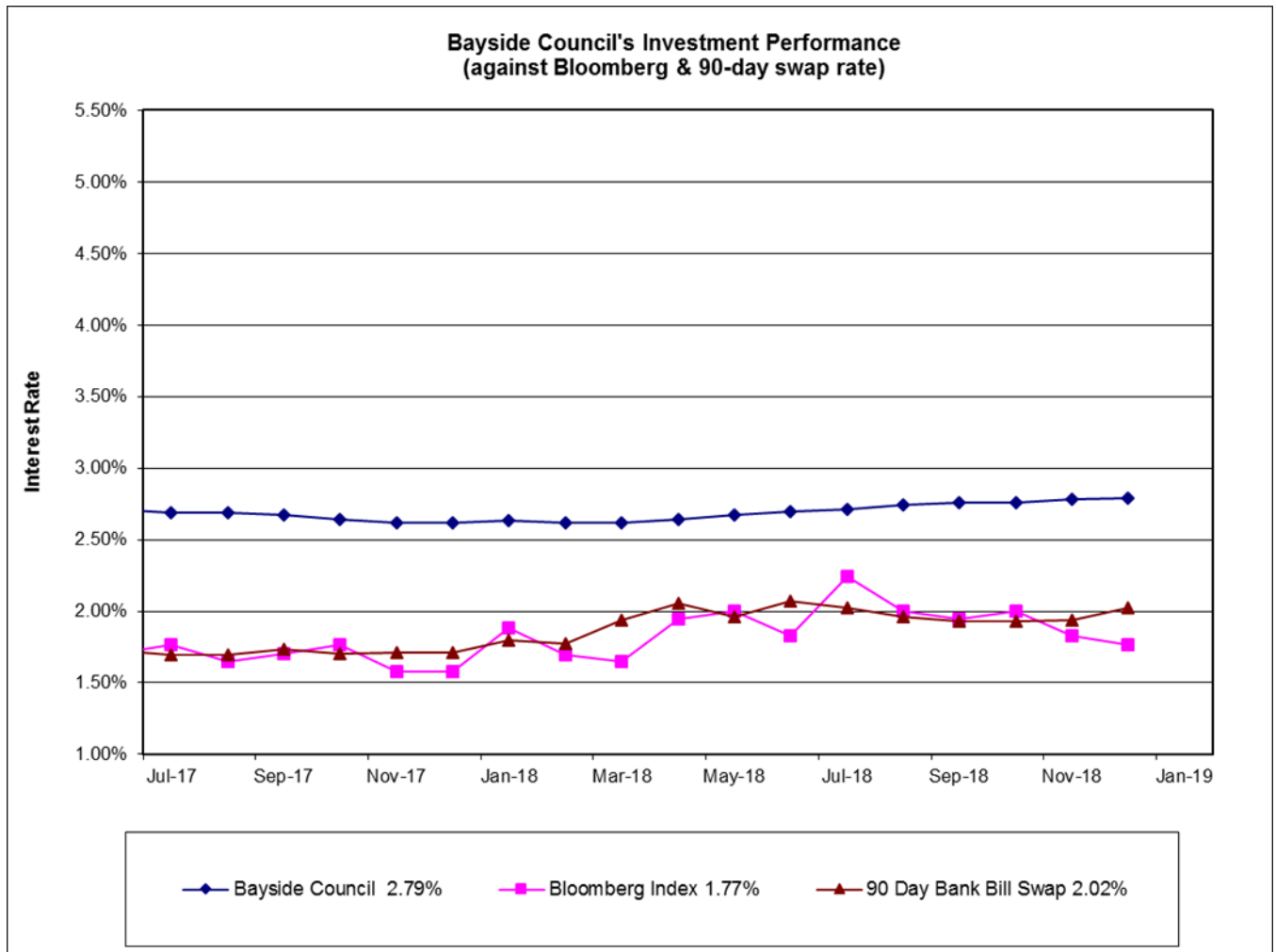
That the Statutory Financial Report by the Responsible Accounting Officer be received and noted.

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## **Background**

The following table shows the performance of Council's investments since July 2017. 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 102 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 December 2018.

STATEMENT OF BANK BALANCES AS AT 31 December 2018		
	GENERAL FUND	
<b>Cash at Bank (Overdraft) as per Bank Statement as at: 30/11/2018</b>		<b>\$2,702,957</b>
<b>Add: Income from Operating Activities for the Period</b>		
- Rates and other receipts*	\$5,621,042	
- Sundry Debtor Deposits	\$672,994	
- DA Fees, FCDs & Application & Construction Fees	\$512,718	
- Interest	\$631,791	
- Parking and Other Infringements	\$400,227	
- Rents, Leases, Booking Fees, Certificates & Licences	\$236,816	
- Sydney Airport Rates	\$601,951	
- Long Service Levy	\$6,899	
- Grants	\$1,029,720	
- Insurance Claim	\$101,000	
- Childcare, Pool, Golf & Library Income	\$316,064	
- S.94 & Planning Contributions	\$995,957	
<b>Total Income from Operating Activities for the Period</b>	<b>\$11,127,179</b>	
<b>Less: Expenses from Operating Activities for the Period</b>		
Accounts Paid for Period (includes urgent cheques & refunds)	-\$12,312,719	
Direct Payroll	-\$5,671,518	
Presented Cheques	-\$49,217	
Dishonour Cheques	-\$627	
Bank Charges (including Agency Fees)	-\$31,775	
<b>Total Expenses from Operating Activities for the Period</b>	<b>-\$18,065,856</b>	
<b>Total Net Movement from Operating Activities:</b>		<b>-\$6,938,677</b>
<b>Investment Activities for the Period</b>		
- Investments redeemed	\$12,385,274	
- Transfer from Short-Term Money Market	\$17,300,000	
- Transfer to Short-Term Money Market	-\$15,500,000	
- New Investments	-\$7,000,000	
<b>Net Investment Flows for the Period</b>	<b>\$7,185,274</b>	
<b>Funding Activities for the Period</b>		
Loan Repayments	-\$105,837	
<b>Net Funding Flows for the Period</b>	<b>-\$105,837</b>	
<b>Total Net Movement from Investment &amp; Funding Activities:</b>		<b>\$7,079,437</b>
<b>Cash at Bank (Overdraft) as per Bank Statement as at: 31/12/2018</b>		<b>\$2,843,717</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 \$409.0m 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: 31/12/2018								
	Credit Rating	Purchase Price	Purchase Date	Maturity Date	Term Days	Prop %	Interest Rate	Market Value
<b>Term Deposits</b>								
Bank of Western Australia	A1	\$2,036,247	08/05/2018	05/02/2019	273	0.57%	2.65%	\$2,036,247
Bank of Western Australia	A1	\$1,208,837	13/06/2018	13/03/2019	273	0.34%	2.75%	\$1,208,837
Bank of Western Australia	A1	\$5,193,991	20/06/2018	20/03/2019	273	1.44%	2.80%	\$5,193,991
Bank of Western Australia	A1	\$1,142,737	27/06/2018	26/03/2019	272	0.32%	2.80%	\$1,142,737
Bank of Western Australia	A1	\$1,238,546	03/07/2018	26/03/2019	266	0.34%	2.80%	\$1,238,546
Bank of Western Australia	A1	\$2,500,000	10/07/2018	11/04/2019	275	0.69%	2.80%	\$2,500,000
Bank of Western Australia	A1	\$1,300,000	17/07/2018	10/04/2019	267	0.36%	2.80%	\$1,300,000
Bank of Western Australia	A1	\$5,000,000	31/07/2018	02/05/2019	275	1.39%	2.80%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	09/08/2018	09/05/2019	273	1.39%	2.80%	\$5,000,000
Bank of Western Australia	A1	\$10,000,000	16/08/2018	16/05/2019	273	2.77%	2.80%	\$10,000,000
Bank of Western Australia	A1	\$5,000,000	24/08/2018	23/05/2019	272	1.39%	2.80%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	30/08/2018	30/05/2019	273	1.39%	2.75%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	05/09/2018	05/06/2019	273	1.39%	2.75%	\$5,000,000
Bank of Western Australia	A1	\$10,000,000	10/10/2018	10/07/2019	273	2.77%	2.70%	\$10,000,000
Bank of Western Australia	A1	\$5,000,000	14/11/2018	24/04/2019	161	1.39%	2.65%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	21/11/2018	13/06/2019	204	1.39%	2.65%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	28/11/2018	27/03/2019	119	1.39%	2.65%	\$5,000,000
						<u>20.72%</u>		
Illawarra Mutual Building Society	A2	\$1,206,626	16/05/2018	12/02/2019	272	0.33%	2.70%	\$1,206,626
Illawarra Mutual Building Society	A2	\$3,077,104	30/05/2018	30/05/2019	365	0.85%	2.75%	\$3,077,104
Illawarra Mutual Building Society	A2	\$2,659,570	5/06/2018	05/06/2019	365	0.74%	2.75%	\$2,659,570
Illawarra Mutual Building Society	A2	\$5,000,000	6/06/2018	06/06/2019	365	1.39%	2.75%	\$5,000,000
Illawarra Mutual Building Society	A2	\$1,778,167	12/06/2018	12/03/2019	273	0.49%	2.68%	\$1,778,167
Illawarra Mutual Building Society	A2	\$1,500,000	16/07/2018	11/04/2019	269	0.42%	2.75%	\$1,500,000
Illawarra Mutual Building Society	A2	\$1,400,000	17/07/2018	11/04/2019	268	0.39%	2.75%	\$1,400,000
Illawarra Mutual Building Society	A2	\$5,000,000	30/08/2018	29/08/2019	364	1.39%	2.75%	\$5,000,000
Illawarra Mutual Building Society	A2	\$5,000,000	5/09/2018	03/04/2019	210	1.39%	2.70%	\$5,000,000
						<u>7.39%</u>		
Newcastle Permanent Build Society	A2	\$6,000,000	17/10/2018	31/01/2019	106	1.67%	2.50%	\$6,000,000
						<u>1.67%</u>		
ME Bank	A2	\$1,000,000	08/05/2018	08/05/2019	365	0.27%	2.75%	\$1,000,000
ME Bank	A2	\$4,000,000	11/05/2018	10/05/2019	364	1.11%	2.75%	\$4,000,000
ME Bank	A2	\$2,000,000	22/05/2018	22/05/2019	365	0.56%	2.75%	\$2,000,000
ME Bank	A2	\$1,000,000	23/05/2018	22/05/2019	364	0.27%	2.75%	\$1,000,000
ME Bank	A2	\$2,000,000	29/05/2018	26/02/2019	273	0.56%	2.72%	\$2,000,000
ME Bank	A2	\$1,000,000	12/07/2018	11/07/2019	364	0.28%	2.80%	\$1,000,000
ME Bank	A2	\$5,000,000	31/07/2018	01/08/2019	366	1.39%	2.80%	\$5,000,000
ME Bank	A2	\$5,000,000	06/09/2018	06/02/2019	153	1.39%	2.65%	\$5,000,000
ME Bank	A2	\$5,000,000	26/09/2018	27/02/2019	154	1.39%	2.60%	\$5,000,000
ME Bank	A2	\$5,000,000	06/12/2018	03/04/2019	118	1.39%	2.65%	\$5,000,000
						<u>8.61%</u>		
Westpac	AA-	\$5,000,000	09/02/2018	11/02/2019	367	1.39%	2.61%	\$5,000,000
Westpac	AA-	\$5,000,000	02/03/2018	02/01/2019	306	1.39%	2.53%	\$5,000,000
Westpac	AA-	\$5,000,000	02/03/2018	04/03/2019	367	1.39%	2.62%	\$5,000,000
Westpac	AA-	\$5,000,000	23/03/2018	25/03/2019	367	1.39%	2.72%	\$5,000,000
Westpac	AA-	\$3,000,000	01/05/2018	01/05/2019	365	0.82%	2.76%	\$3,000,000
Westpac	AA-	\$5,000,000	06/06/2018	06/06/2019	365	1.39%	2.76%	\$5,000,000
Westpac	AA-	\$3,000,000	08/06/2018	11/06/2019	368	0.82%	2.76%	\$3,000,000
Westpac	AA-	\$10,000,000	31/07/2018	31/07/2019	365	2.78%	2.76%	\$10,000,000
Westpac	AA-	\$3,000,000	01/08/2018	01/08/2019	365	0.83%	2.76%	\$3,000,000
Westpac	AA-	\$5,000,000	09/08/2018	09/08/2019	365	1.39%	2.79%	\$5,000,000
Westpac	AA-	\$5,000,000	30/08/2018	29/08/2019	364	1.39%	2.74%	\$5,000,000
Westpac	AA-	\$5,000,000	10/09/2018	11/09/2019	366	1.39%	2.68%	\$5,000,000
Westpac	AA-	\$5,000,000	09/11/2018	06/11/2019	362	1.39%	2.76%	\$5,000,000
Westpac	AA-	\$5,000,000	28/11/2018	28/11/2019	365	1.39%	2.73%	\$5,000,000
Westpac	AA-	\$5,000,000	03/12/2018	04/12/2019	366	1.39%	2.73%	\$5,000,000
						<u>20.54%</u>		
AMP Bank	A1	\$3,000,000	12/06/2018	12/06/2019	365	0.83%	2.80%	\$3,000,000
						<u>0.83%</u>		

<b>Schedule of Investments cont'd</b>								
National Australia Bank	A1	\$1,000,000	14/06/2018	14/06/2019	365	0.27%	2.75%	\$1,000,000
National Australia Bank	A1	\$5,000,000	19/06/2018	19/03/2019	273	1.39%	2.70%	\$5,000,000
National Australia Bank	A1	\$2,000,000	11/07/2018	11/07/2019	365	0.56%	2.75%	\$2,000,000
National Australia Bank	A1	\$5,000,000	04/09/2018	04/09/2019	365	1.39%	2.65%	\$5,000,000
National Australia Bank	A1	\$5,000,000	10/09/2018	09/01/2019	121	1.39%	2.60%	\$5,000,000
National Australia Bank	A1	\$5,000,000	20/09/2018	16/01/2019	118	1.39%	2.61%	\$5,000,000
National Australia Bank	A1	\$5,000,000	26/09/2018	09/01/2019	105	1.39%	2.60%	\$5,000,000
National Australia Bank	A1	\$5,000,000	22/11/2018	24/04/2019	153	1.39%	2.65%	\$5,000,000
National Australia Bank	A1	\$6,000,000	28/11/2018	12/06/2019	196	1.65%	2.65%	\$6,000,000
National Australia Bank	A1	\$5,000,000	06/12/2018	19/06/2019	195	1.39%	2.68%	\$5,000,000
NAB- Bank of QLD FRN	BBB+	\$1,000,000	29/10/2015	29/04/2019	1278	0.27%	3.07%	\$1,006,774
NAB FRN	AA-	\$2,000,000	25/02/2016	25/02/2019	1096	0.56%	2.92%	\$2,007,088
NAB - Newcastle Perm Build Soc FRN	BBB	\$2,000,000	22/03/2016	22/03/2019	1095	0.56%	3.68%	\$2,004,653
NAB- Suncorp FRN	A+	\$2,000,000	12/04/2016	12/04/2021	1826	0.56%	3.47%	\$2,038,167
						<u>14.16%</u>		
ING Direct	A	\$4,000,000	31/08/2017	04/09/2019	734	1.12%	2.75%	\$4,000,000
ING Direct	A	\$3,000,000	12/09/2017	12/09/2019	730	0.83%	2.75%	\$3,000,000
ING Direct	A	\$3,000,000	13/09/2017	18/09/2019	735	0.83%	2.75%	\$3,000,000
ING Direct	A	\$2,000,000	15/09/2017	25/09/2019	740	0.55%	2.75%	\$2,000,000
ING Direct	A	\$1,000,000	06/06/2018	06/12/2019	548	0.28%	2.80%	\$1,000,000
ING Direct	A	\$2,000,000	24/07/2018	04/09/2019	407	0.55%	2.53%	\$2,000,000
ING Direct	A	\$5,000,000	18/12/2018	24/06/2020	554	1.39%	2.70%	\$5,000,000
						<u>5.55%</u>		
<b>Direct Investments (Floating Rate &amp; Fixed Rate Term Deposits - TDs)</b>								
CBA- AMP FRN	A	\$750,000	11/12/2015	11/06/2019	1278	0.19%	3.09%	\$752,453
CBA- Bank of QLD FRN	A-	\$2,000,000	26/02/2016	06/11/2019	1349	0.56%	3.01%	\$2,015,160
CBA- Bendigo & Adelaide FRN	A-	\$2,000,000	26/02/2016	18/08/2020	1635	0.56%	3.04%	\$2,015,400
CBA - Rabobank FRN	A+	\$2,000,000	04/03/2016	04/03/2021	1826	0.56%	3.47%	\$2,035,900
CBA- Westpac FRN	AA-	\$1,000,000	11/03/2016	10/05/2019	1155	0.28%	2.94%	\$1,006,190
CBA- Credit Union Australia FRN	BBB+	\$2,000,000	01/04/2016	01/04/2019	1095	0.56%	3.69%	\$2,003,940
CBA- Bank of QLD FRN	BBB+	\$1,000,000	18/05/2016	18/05/2021	1826	0.28%	3.42%	\$1,015,030
CBA- Greater Bank FRN	BBB-	\$3,000,000	07/06/2016	07/06/2019	1095	0.82%	3.59%	\$3,012,960
CBA FRN	AA-	\$2,000,000	12/07/2016	12/07/2021	1826	0.56%	3.15%	\$2,033,960
CBA- ME Bank FRN	BBB	\$3,000,000	09/08/2016	18/07/2019	1073	0.82%	3.38%	\$3,033,660
CBA- Bendigo & Adelaide FRN	A-	\$2,000,000	09/08/2016	19/09/2019	1136	0.56%	2.95%	\$2,006,360
CBA- Greater Bank FRN	BBB+	\$2,000,000	30/08/2016	30/08/2019	1095	0.56%	3.50%	\$2,010,980
CBA- Bendigo & Adelaide FRN	A-	\$2,000,000	21/11/2016	21/02/2020	1187	0.56%	3.04%	\$2,014,600
CBA FRN	AA-	\$3,000,000	17/01/2017	17/01/2022	1826	0.82%	3.04%	\$3,040,620
CBA- Greater Bank FRN	BBB-	\$4,000,000	24/02/2017	24/02/2020	1095	1.10%	3.39%	\$4,018,280
CBA- Rabobank FRN	A+	\$2,000,000	03/03/2017	03/03/2022	1826	0.56%	3.04%	\$2,015,580
CBA- Credit Union Australia FRN	BBB+	\$2,750,000	20/03/2017	20/03/2020	1096	0.76%	3.36%	\$2,761,523
CBA- Greater Bank FRN	BBB-	\$2,000,000	25/03/2017	29/05/2020	1161	0.56%	3.35%	\$2,007,620
CBA- ME Bank FRN	BBB+	\$3,000,000	06/04/2017	06/04/2020	1096	0.82%	3.18%	\$3,004,620
CBA- Greater Bank FRN	BBB-	\$1,000,000	04/08/2017	29/05/2020	1029	0.28%	3.35%	\$1,003,810
CBA- AMP FRN	A	\$2,000,000	06/10/2017	06/10/2020	1096	0.56%	2.68%	\$1,990,260
CBA - Heritage Bank FRN	BBB+	\$2,000,000	27/11/2017	04/05/2020	889	0.56%	3.23%	\$2,015,960
CBA - Newcastle Perm Build Soc FRN	BBB	\$2,000,000	29/11/2017	07/04/2020	860	0.56%	3.28%	\$2,006,760
ANZ - Heritage Bank FRN	BBB+	\$1,450,000	04/05/2017	04/05/2020	1096	0.40%	3.23%	\$1,461,188
Commonwealth Bank Fixed Rate TD	A1+	\$2,000,000	18/04/2018	18/02/2019	306	0.56%	2.70%	\$2,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$2,000,000	18/06/2018	18/02/2019	245	0.56%	2.70%	\$2,000,000
Commonwealth Bank Fixed Rate TD	A1+	\$5,000,000	20/09/2018	17/04/2019	209	1.39%	2.58%	\$5,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$5,000,000	02/03/2018	01/03/2019	364	1.39%	2.55%	\$5,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$5,000,000	24/08/2018	23/05/2019	272	1.39%	2.68%	\$5,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$5,000,000	30/11/2018	28/08/2019	271	1.39%	2.70%	\$5,000,000
						<u>20.53%</u>		
FTD= Floating Rate Deposit								
FRN= Floating Rate Note								
<b>Unlisted Community Bank Shares</b>								
NRMA/IAG Shares	Unrated	\$7,552				0.01%		
Bendigo Bank	A2	\$5,000				0.00%		
<b>Total Investments</b>		<b>\$360,204,377</b>				<b>100.00%</b>		
Operating Accounts		\$1,972,754						
Cash Deposit Accounts		\$36,300,764						
AMP 31 Day Notice Account		\$10,511,112						
<b>Total Investments and Cash</b>		<b>\$408,989,006</b>						

**Investment and Cash Flows for Bayside Council:**

	<b>Nov-18</b>	<b>Dec-18</b>	<b>Total Net Movement</b>
Total Investments	\$365,589,650	\$360,204,377	<b>-\$5,385,274</b>
Operating Accounts	\$2,702,957	\$1,972,754	<b>-\$730,203</b>
Cash/Short Term Money Market	\$38,093,883	\$36,300,764	<b>-\$1,793,119</b>
AMP 31 Day Notice Account	\$10,491,279	\$10,511,112	<b>\$19,833</b>
<b>TOTAL Investments and Cash:</b>	<b>\$416,877,769</b>	<b>\$408,989,006</b>	<b>-\$7,888,763</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.

## Financial Implications

Not applicable ☒

Included in existing approved budget ☐

Additional funds required ☐

## Community Engagement

Not required.

## Attachments

Nil

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## Council Meeting

13/02/2019

Item No	8.17
Subject	<b>Renaming of Bayside Wards - Post Public Exhibition</b>
Report by	Michael Mamo, Director City Performance
File	SC18/1341

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## Summary

This report provides the results of the public exhibition of the proposal to rename the wards to numbers. Approximately 69% of the 83 submissions received did not support the change of ward names to numbers.

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## Officer Recommendation

- 1 That the report on the public exhibition of the proposal to rename Council Wards to numbers be received and noted.
  - 2 That Council considers the public submissions received to determine its final position.
- 

## Background

At its November 2018 Council resolved:

- 1 That Council renames the Bayside Local Government Wards using a simple numerical sequence 1, 2, 3, 4, and 5 to eliminate the confusion particularly between the Botany Bay and Port Botany Wards.
- 2 That Council complies with best practice guidelines and undertake community consultation on the proposed renaming of the Council Wards.
- 3 That Council reports back to Council in February 2019 on the results of the community consultation.

Council advertised the proposal on its website, "have your say", and local newspapers on 4 & 5 December 2018. Submissions closed on Friday 25 January 2019.

Council received 83 submissions of which 26 supported the renaming to numbers and 57 were opposed to the renaming to numbers. Generally those that supported the change to numbers did not provide comment. Whereas the majority of those that did not support the change to numbers provided some comment that reflected their view. Some of those expressed support to renaming the wards to other names.

The Attachment summarises the results of the public exhibition including comments received.

The participation in this public exhibition process on a governance type matter such as this has been uncharacteristically relatively very high with approximately 70% of participants not supporting the use of numbers.

## Financial Implications

Some unplanned costs will be incurred in the change of publication material, and advertising and mail drops to residents to notify of the change in Ward name should it be adopted. Existing mediums already budgeted would be used such as the Council newsletter but any additional costs will be funding through a third quarter budget review

Not applicable

☐

Included in existing approved budget

☐

Additional funds required

☒

See above

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## Community Engagement

Not Applicable

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## Attachments

Attachment - Public Exhibition Responses (Renaming of Council Wards) Jan 2019 [↓](#)

# Bayside 2030





ID	Medium	Yes/No	Comment
1	EMAIL	No	If this notice is serious in content; then I suggest that you withdraw immediately and issue an apology.
2	HYS	No	Usage of number as identifiers is only sensible when there are no other identifiable characteristics, or when prioritisation is required. Neither applies here. Numbers make it harder to identify as they have no meaning of their own. The usage of names is preferable as it aids identity so makes it easier to identify which is applicable, and adds information. There is no justification or benefit to switching to numbers, so the current state is the preferred system.
3	HYS	No	I don't care about the name of the wards, I don't want my suburb to be ruled by Rockdale Council. Bring Back Botany Bay! Seriously, you are asking us now about the name of the wards, but at the time completely ignored the referendum that showed that the huge majority of voters in Botany Bay were AGAINST Rockdale taking over Botany Council??? I thought Australia was a democratic country.
4	HYS	No	<p>I strongly oppose the renaming of wards for the following reasons.</p> <ol style="list-style-type: none"> <li>1. The costs involved in this change are likely to include redoing printed and electronic media, administrative and legislative costs. These and any other costs have not been quantified to allow consideration of the costs and benefits of this proposal. Money and effort spend could be better spent elsewhere such as improving public spaces in town centres.</li> <li>2. I agree that unless we live in a modern planned city there will always be some confusion as to which ward or electorate we are in. However with time people get to know their ward or electorate. As another example of confusion that may exist as to a constituents ward Bexley town centre is currently partially in Bexley and partially in Rockdale wards. Changing from ward names to ward numbers will not improve this situation.</li> <li>3. Numbers to describe anything are impersonal and cold. It would be totally unacceptable to rename Bayside council as a number or a suburb as a postcode for example. I am proud to be a long time Bexley resident and any watering down of my areas identity is unacceptable and a complete waste of time and money.</li> </ol>

5	HYS	No	With all the changes at the moment residence are losing love for their area. We need pride. We need loyalty. We need to love our area. We need a name about us. Not a number. We are not robots please. This does not feel like a community if we are called just a number.
6	HYS	No	I have lived in the Bexley Municipal Council area all my life (born in 1939) and through that time, I've seen the amalgamation of Bexley Council with Rockdale City Council (some people think it was more of a takeover). Now we have Bayside Council foisted on us by the NSW State Government. I'm against changing from Ward names to Ward numbers. At least the current Ward names give a semblance of the suburbs that they cover. Numbered Wards revert back to nameless areas, whereas named wards retain a connection with the actual suburbs and/or districts.
7	HYS	No	I believe that giving wards names promotes a greater sense of community. I love our name of Botany Bay ward and identify with it. I do understand that the other ward names do not reflect their areas, however, they can be changed to reflect what their communities want, maybe through community engagement like this site. Numbers are far more impersonal
8	HYS	Yes	None
9	HYS	No	None
10	EMAIL	No	Following an unwanted, forced amalgamation with another council that has very little in common with the residents of the once City of Botany Bay, we have now been told that our ward names are confusing to those on the other (western) side of the airport. Those ward names have served us well for many years and don't need to be changed (dumbed down) to numbers. Some effort from those in Rockdale would get them sorted to their own satisfaction. If they're still confused, de-merge us and everyone would be happier! A number of historic names were lost when Botany Bay's wards were previously amalgamated and reduced in number. Surely we don't need to change the ward names to numbers and lose yet another part of our history

11	HYS	No	A name is something people can relate to. A number is quite impersonal even if it is only for voting purposes. While it may be easy to remember a number, I think using a direction is more appropriate and more human. So instead of replacing the existing with numbers, I propose renaming 1-5 as follows: Port Botany, Northeast Mascot, North Rockdale, Northwest Bexley, Southwest Botany Bay, South or Southeast. <a href="#">Note: Supported change but not to numbers.</a>
12	HYS	No	None
13	HYS	Yes	None
14	HYS	No	The ward names give the public an idea of where each ward is. Changing it to numbers is the stupidest thing I have heard in a long time.
15	HYS	Yes	None
16	HYS	No	Mascot Ward to become Airport Ward Port Botany Ward, Botany Bay Ward, Bexley Ward and Rockdale Ward. <a href="#">Note: Supported change but not to numbers.</a>
17	HYS	Yes	None
18	HYS	Yes	None
19	HYS	No	I think it's important to maintain local identity, especially given that the amalgamation was not sought or supported by some communities.
20	HYS	Yes	None
21	HYS	No	Numbers do not help to align with the constituency and members. It takes away the personal attachment to these wards. We need the names to be retained so that the people can feel more part of the ward. Numbers are just so impersonal.
22	HYS	No	When Rockdale Council was amalgamated with Botany Bay Council, we lost the ONLY reference to the original Council name of the founding Bay by Captain James Cook, namely BOTANY BAY. If you take the name of Botany Bay Ward away, we will lose even that reference. In my view, the Council name should have been Botany Bay Council, but the person who amalgamated the Councils had no regard to history. It is relevant that the whole of Botany Bay Ward is contiguous to the Bay. Please, please, please don't change the only historical reference to Botany Bay.

23	HYS	No	I am aware that Bayside wants to remove the stigma of previous councils eg. Rockdale and Botany but naming a ward by number is somewhat over the top. As Bayside is abutted by the airport, please consider naming the wards either aviation personnel or calling them by Bayside East, South, North, West, Southwest etc. Please not by number 1's and number 2's. We don't even call kindy classes by numbers. Thanks for allowing me to air my thoughts.
24	EMAIL	No	How boring, awful and clinical to pick numbers. Why not follow Inner West Council and rename them to beautiful Aboriginal descriptive words? <a href="https://www.facebook.com/byrne.darcy/photos">https://www.facebook.com/byrne.darcy/photos</a> . At a minimum, do something descriptive like cardinal directions North, South, East, West, Central like Randwick Council.
25	HYS	No	No one is going to remember what number each ward is. The names are easier to identify because it's namesake.
26	HYS	No	None
27	HYS	No	De-amalgamation will make the changes a waste of time and money.
28	Email	No	See Submission which was attached to email. <b>Note:</b> Last point of submission "Such a system [change to numbers] would gradually erode and erase the cultural capital and history of the historic suburbs of 'old' Botany and belittle our past."
29	HYS	No	Using numbers is pretty boring. As a member of Sir Joseph Banks park volunteer bushcare group, I propose we name the wards after native trees in our area . Banksia Ward (the Ward that includes Banksmeadow), Angophora Ward, Callistemon Ward, Acacia ward and Melaleuca Ward.

30 HYS No Changing the current ward names provides an opportunity to consider adopting indigenous language names instead of numbers. The Inner West Council is working on reconciliation by renaming their wards in indigenous language, and promoting indigenous language education in schools. Refer the following media release: <https://www.innerwest.nsw.gov.au/about/news/media-releases/2018-media-releases/council-wards-to-adopt-aboriginal-names>. Further, I think it would be great for Bayside Council to adopt dual naming for reserves and other Council operated facilities, keeping the current names in English, and adding the indigenous name, to further encourage connection to land and growing awareness of and respect for indigenous culture. **Note: Supported change but not to numbers.**

31	HYS	Yes	None
32	HYS	Yes	None
33	HYS	No	None
34	HYS	Yes	None
35	HYS	Yes	None
36	HYS	Yes	None
37	HYS	No	Its easier to remember names. If the current suburb names are not appropriate, then other names (such as famous Australians) could be chosen.
38	HYS	No	The unique historical names of Botany and the Botany Bay dating from 1770 have been expunged for a lacklustre name (Bayside) which seems to be shared by a rather large number of municipalities/counties/towns here and in many other countries. To further remove these names for (seriously?) 1, 2, 3, 4, 5 seems to be more than just silly and pointless. Its difficult to believe that an adult could come up with such an idea.
39	HYS	No	Names are more descriptive of where the wards are.
40	HYS	Yes	None
41	HYS	No	Prefer the names of the wards.
42	HYS	Yes	None
43	HYS	No	None

44	HYS	Yes	None
45	HYS	No	None
46	HYS	No	None
47	HYS	No	I think the numbering of the wards would lead to greater confusion , considering the percentage of non-English speaking families in this Council precinct and the lack of interest residents have in local and Australian issues . The local paper is delivered in this area weekly and the majority of residents are too lazy to even pick it up from the front verge , let alone read it . Apathy abounds !! in this ME society !!
48	HYS	No	None
49	HYS	Yes	None
50	HYS	No	My area in Brighton was already part of Rockdale Council before, so I'm used to not having a ward specifically named after my suburb. It's confusing just having a number. There are other codes to do with rubbish collection days as well, are they different?
51	HYS	No	None
52	HYS	No	None
53	HYS	No	How hard is it to come up with some real names? These should be using local indigenous place names if possible.
54	HYS	Yes	None
55	HYS	No	Leave it as is ..... locals should know their ward.
56	HYS	Yes	None
57	HYS	No	It would be great to have the wards named after the explorers like Banks for Botany Bay Ward. Most people in the area are aware of Sir Joseph Banks Park. It will reinforce the school house names of the area. <b>Note: Supported change but not to numbers.</b>
58	HYS	No	If the reason for changing the names is because residents feel the current naming convention doesn't reflect the area, then what do you think numbers represent? De-humanisation de-personalisation that our areas are no more than a number? This is the most over-engineering WASTE of money (again!). The opinion reflects a poor change management plan rather than an incorrect naming convention.

59	HYS	No	It becomes very impersonal and hard to keep track of which number belongs to which area. At least with names (even if not completely accurate/encompassing) you have a general idea of the area being referred too.
60	HYS	Yes	None
61	HYS	Yes	None
62	HYS	Yes	None
63	HYS	Yes	I think we should be more inventive than numerical wards. We have incredible history in the area, we should embrace this and give our wards names we can be proud of and remember.
64	HYS	No	I think it is automation to just have numbers. Name are familiar and easier to remember.
65	HYS	Yes	None
66	HYS	Yes	None
67	HYS	No	Alternative Ward Names should be adopted to reflect the suburbs.
68	HYS	No	I feel that renaming the wards after an early settler in the area would be better eg. Rockdale Ward, could become Laycock Ward after Hannah Laycock an early settler in Kingsgrove. I'm sure there are others in the other wards numbers are so bland.
69	HYS	No	It makes it seem that the Council is dumbing down the area and it is all numbers and no community input.
70	HYS	Yes	None
71	HYS	No	I note you have determined it is not proposed to change the boundaries which, pretty much, makes this a pointless exercise, because that is the obvious answer to the issue you have outlined. Wards should represent some form of community of interest. Numbers are absolutely meaningless in that sense.
72	HYS	No	Why rename them, wasting Council funds, how about you fix roads, safety etc.
73	HYS	No	None
74	HYS	Yes	None
75	HYS	No	A number gives no indication about where the ward is geographically. It's impersonal and basic.
76	HYS	No	None



77	HYS	No	Suburbs makes more sense.
78	HYS	No	What is the problem with the names that have served us well for 100 years. Numbers might easier for councillors who deal with them every day, but most people will be completely confused by a name like Ward 3 (now where is that again). I think this sounds like an answer looking for a problem.
79	HYS	No	None
80	HYS	No	The name of the ward gives some indication of where it is. The numerical name gives no indication of it's location.
81	HYS	No	I do not live in a number, I live in an area whatever the name I am proud of it.
82	HYS	No	Way too basic, something I would expect from my primary school children, not a Council.
83	HYS	Yes	None

#### LEGEND

- HYS means "Have Your Say"

## **Council Meeting**

**13/02/2019**

Item No	8.18
Subject	<b>Code of Meeting Practice - Review</b>
Report by	Michael Mamo, Director City Performance
File	F11/563

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## **Summary**

A new Model Code of Meeting Practice ("Model Code") has been prescribed. Council is required to adopt a Code of Meeting Practice that is consistent with the Model Code. The Model Code allows discretion over some provisions that are classed as non-mandatory. Council's existing Code already has many mandatory and non-mandatory provisions. A draft Code is to be placed on public exhibition prior to a final decision being made by Council. The attached draft Code includes recommended non-mandatory provisions.

Council's current Advisory Committee structure is compliant with the Model Code and the existing Committee provisions have been incorporated in the draft Code. The Advisory Committee structure was determined in November 2017 and since that time some minor changes have been made. It is proposed to hold a Councillor/Staff workshop to review the structure and scope of the Advisory Committees to ensure they are fulfilling the outcomes envisaged and report back to Council.

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## **Officer Recommendation**

- 1 That the report on the review of the Code of Meeting Practice be received and noted.
  - 2 That the attached draft Code of Meeting Practice be placed on public exhibition in accordance with s361 of the Local Government Act.
  - 3 That a further report be presented to Council at the conclusion of the public exhibition and submissions period.
  - 4 That the Sport & Recreation Committee meet as scheduled and that the current practice of including representatives from local sporting clubs and associations relevant to priority items on the Committee agenda continue.
  - 5 That the General Manager arrange a Councillor/staff workshop to review the existing Advisory Committee structure.
- 

## **Background**

A Model Code has been prescribed under the Local Government Act and Regulation. Councils are required to adopt a Code by 14 June 2019 that incorporates the mandatory provisions of the Model. Council may also wish to adopt the non-mandatory and supplementary provisions.

The mandatory and non-mandatory provisions of the Model Code are generally reflective of local government's current practice and that of this Council. There are some new provisions

previously not in the Act or Regulations but these are seen as good administrative practice e.g. calling of Extra-Ordinary Meetings, the use of mayoral minutes and notices of motion, the debate on amendments.

Some non-mandatory provisions are not new within local government practice but not currently in place at Bayside such as dealing with multiple items in one resolution, rescission motions and the use of notices of motion and mayoral minutes. The adoption of the non-mandatory provisions are generally supported as good meeting practice.

The significant non-mandatory provisions included or excluded from the draft Code follow:

- **Notices of Motion by Councillors (included)** – with legal, strategic, financial or policy implications – General Manager may prepare a report to the same Meeting;
- **Notices of Motion by Councillors (included)** – with expenditure or services not in adopted operational plan – General Manager may prepare a report to the same Meeting or defer the notice to the next meeting;
- **Public Forums during meeting (included)** - preferred model by the Office of Local Government is to have the Public Forums prior to the meeting whereas Council's practice has been retained i.e. to include it as part of the meeting;
- **Registration of Speakers (included)** – Speakers will need to register speak on whether Council should close the meeting to the Public (similar registration process to Public Forum speakers)
- **Cancellation of Meeting (included)** – where it is apparent that there will be a lack of a quorum or because of risk to the safety and welfare of attendees;
- **Modes of Address (included)** for the Mayor, Chairperson, Councillors and staff
- **Mayoral Minutes (included)** - with expenditure or services not in adopted operational plan and no source of funds identified – Council must defer pending a report by the General Manager to the next Meeting;
- **Motions/Amendment (included)** - requiring expenditure or services not in adopted operational plan - Council must defer pending a report by the General Manager to the next Meeting;
- **Dealing with Items by Exception (excluded)** – deal with multiple items in one resolution where no public speakers and no councillor wishes to speak against the recommendation.
- **Rescission Motion (included)** – moved at same meeting only in cases of urgency
- **Pre-Meeting Briefings (included)** – retention of existing practice of General Manager Briefing Sessions to inform Councillors on items of significance.
- **Taskforce & Advisory Committees (included)** – retention of existing provisions as to forums which include councillors and staff/community representatives.

The following attachments to this report are:

- Attachment 1 contains the significant Mandatory provisions of the Model Code which are not in Council's current Code and which Council will need to adopt;
- Attachment 2 contain the significant Non-Mandatory provisions of the Model Code which are not in Council's current Code;
- Attachment 3 is the draft Code of Meeting Practice colour coded showing the mandatory provisions and same/ similar provisions as the existing Code and recommended non-mandatory provisions (Attachment 3).
- The Model Code of Meeting Practice issued by the Office of Local Government colour coded to distinguish mandatory from non-mandatory provisions (see Attachment 4).

It is considered that the attached draft Code be placed on public exhibition. A further report will be made to Council at the end of the public exhibition and submission period.

### Advisory Committee Review

The current Advisory Committee structure is in accordance with the Model Code and existing provisions relating to Councillor Forums (eg General Manager Briefings, Taskforce and Advisory Committees have been included in the draft Code.

Council adopted the current Advisory Committee structure in November 2017 and it is timely that the structure be reviewed to ensure it is meeting the outcomes envisaged by Council's decision. The terms of reference for the Committees has been amended from time to time but further improvements may be identified. Of the existing Committees the Sports & Recreation continues to meet frequently. It is will attended by non-member Councillors and representatives from local sports clubs and associations. The remaining Committees have been held in abeyance pending a review.

It is considered that a Councillor/Staff workshop be arranged to review the Committee Structure and report back to Council. In the interim the Sports & Recreation Committee will continue to meet as scheduled.

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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

Section 361 of the Act requires Council to place the draft Code on public exhibition for not less than 28 days and allow 42 days for submissions to be made to the Council. Council will provide public notice in the two local newspapers circulating in the local government area as well as on its website including on "Have Your Say".

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### Attachments

- 1 Attachment 1 - Significant Mandatory Meeting Provisions [↓](#)
- 2 Attachment 2 - Significant Non Mandatory Meeting Provisions [↓](#)
- 3 Attachment 3 - Bayside Council Code of Meeting Practice February 2019 (Draft) [↓](#)
- 4 Model Code of Meeting Practice (OLG Nov 2018) [↓](#)

## ATTACHMENT 1 – SIGNIFICANT MANDATORY CHANGES (NOT IN CURRENT CODE)

Mandatory Clause
<b>Clause 3.2 Extra-ordinary Meeting</b> The mayor can be one of the two councillors requesting the meeting. Council's current Code also allows the Mayor to call an extra-ordinary meeting.
<b>Clause 9.9 Mayoral Minutes</b> Restricts the use of Mayoral Minutes to urgent and non-routine matters in keeping with the intent of the notification period ie to provide all concerned with adequate notice to consider the agenda
<b>Clause 10.14 and 10.19 Amendments &amp; Foreshadowed Motions</b> Once an amendment is moved debate is suspended on the original motion while amendments are debated. This would mean that Council must vote with the amendments before going back to the original motion (if at all).  Foreshadowed amendments must be debated and voted on after the substantive amendment is lost and before the original motion.

## ATTACHMENT 2 – SIGNIFICANT NON-MANDATORY PROVISIONS (NOT IN CURRENT CODE)

Discretionary Item	Comment/Recommendation
<b>Giving notice of business to be considered at council meetings</b>	
Clause 3.6.3 allows the general manager to prepare a report on a Councillor's notice of motion where it has legal, strategic, financial or policy implication.	<p>Recommended – formalise current local government good practice.</p> <p>Essentially A councillor can call for a report back on any matter with legal, strategic, financial or policy implications prior Council being asked to make a decision.</p>
<p>Clause 3.6.4 requires allows the General Manager, on a Councillor's notice of motion for the expenditure of funds on works and/or services other than those already provided for in the adopted operational plan where it doesn't identify the source of to either:</p> <p>(a) prepare a report , or</p> <p>(b) defer the matter, pending a report.</p>	<p>Recommended – formalise current local government good practice</p> <p>This is similar to the above.</p>
<p><b>Clauses 3.11 Pre-meeting briefing</b></p> <p>Provisions relating to Pre-meeting briefing sessions including</p> <ul style="list-style-type: none"> <li>• General Manager or staff to preside</li> <li>• Closed to the public</li> <li>• No debate or preliminary decisions</li> <li>• Declare conflicts of interest</li> </ul>	<p>Recommended.</p> <p>These provisions generally reflect and formalise current practice of holding General Manager Briefing Sessions.</p>
<p><b>4 PUBLIC FORUMS</b></p> <p>PART 4 deals with PUBLIC FORUMS but the OLG support Public forums not being held as part of a council or committee meeting. Its view is that Council or committee meetings should be reserved for decision-making by the council or committee of council.</p> <p>Where a public forum is held as part of a council or committee meeting, it must be conducted in accordance with the other requirements of code relating to the conduct of council and committee meetings.</p>	<p>Council currently conducts its Public Forums as part of the meeting. This practice is retained in the draft Code.</p> <p>Alternative: Should the good practice model be adopted, Council will need to adopt the model non-mandatory provisions. The provisions around speakers and time limits may be modelled around Council's existing Code provisions.</p> <p>It will also need to determine the time of the public forum. If this were to be done, Council might need to consider commencing the Public Forum at say 6pm or 6:30pm and depending on the number of speakers, the Council meeting could still commence at 7pm.</p>

Discretionary Item	Comment/Recommendation
<b>The quorum for a meeting</b>	
Clause 5.2.6 and 5.2.7 allows the mayor, in consultation with the general manager and, as far as is practicable, with each councillor, to cancel the meeting where it is apparent that a quorum may not be present at the meeting, or that the safety and welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster (such as, but not limited to flood or bushfire).	Recommended.  New provision allowing cancellation of the meeting (rather than adjournment after a 30 minute wait) in specific circumstances. Currently the meeting would be required to be adjourned. Generally the business is considered at the next ordinary meeting.
<b>7 MODES OF ADDRESS</b>	
7.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.	Recommended as clarifies naming convention
7.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.	Recommended as clarifies naming convention
7.3 A councillor is to be addressed as 'Councillor [surname]'.	Recommended as clarifies naming convention
7.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].	Recommended as clarifies naming convention
<b>9 CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS</b>	
Clauses 9.2.5 requires that a mayoral minute recommending unbudgeted expenditure must identify a source of funds or the matter be deferred for the general manager to report back.	Recommended. Reflects good administrative practice. Typically the Mayoral Minute in the first instance would call for a report back on the implications prior to a final decision being made.
<b>Motions requiring the expenditure of funds</b>	
Clause 10.4.1 is similar to 9.2.5 above but in reference to any motion or an amendment to a motion.	Recommended. Reflects good administrative practice. Typically the Motion in the first instance would call for a report back on the implications prior to a final decision being made.
<b>13 DEALING WITH ITEMS BY EXCEPTION</b> Part 13 Provisions relate to the practice of passing multiple items at once.	Not Recommended. Where there is no public forum or debate on items of business, Council has the opportunity to move those items on block. This provides for an efficient meeting and allows time for items in which there is discussion.  Council wish to use this mechanism to streamline Council Meetings, the Model provisions under Part 13 would be adopted.



Discretionary Item	Comment/Recommendation
<p><b>Representations by members of the public (for moving into confidential session)</b>  Clauses 14.4.3 and 14.4.4 support this practice.</p>	<p>Recommended.  This provision requires members of the public to register prior to the meeting should they wish to speak on whether a confidential item on the business should be considered in closed session. It is rare that members of the public speak on such matters and as such they should follow the same process as the Public Forum speakers.</p>
<p><b>15 KEEPING ORDER AT MEETINGS</b>  Clauses 15.6.1 confer a standing authorisation on all chairpersons of meetings of the council and committees of the council to expel persons from meetings.</p>	<p>Recommended:  Authority for the Mayor to exclude members of the public and/or councillors for misconduct during the meeting.</p>
<p><b>Rescinding or altering council decisions</b>  Clause 17.2.9 limits the use of rescission motions to be moved at the same meeting if it is deemed that it is a matter of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.</p>	<p>Recommended.  Council's existing Code allows Councillors to lodge a rescission motion on the night of the meeting. The provision limits the lodgement and consideration of rescission motions on the same night if it is a matter of great urgency.</p>



# Draft Code of Meeting Practice

**Date: February 2019**



**TEXT LEGEND**

**Black:** Mandatory provisions (Required) or same/similar to existing Code.

**Red:** New Non Mandatory provisions recommended

**Purple:** Non mandatory and/or custom provisions same or similar to existing Code & recommended

**Yellow Highlight:** for office use only

**Notes included in this draft Code are explanatory notes and do not form part of this Code.**

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Code of Meeting Practice

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Code of Meeting Practice

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## 1 Introduction

### 1.1 Background

- 1.1.1 This code of meeting practice is based on the Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) made under section 360 of the Local Government Act 1993 (the Act) and the Local Government (General) Regulation 2005 (the Regulation).
- 1.1.2 This code applies to all meetings of council and committees of council of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.
- 1.1.3 This code of meeting practice incorporates the mandatory provisions of the Model Meeting Code.
- 1.1.4 This code of meeting practice also incorporate some of the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, this code of meeting practice does not contain provisions that are inconsistent with the mandatory provisions of the Model Meeting Code.
- 1.1.5 The provisions of the Model Meeting Code that are not mandatory are indicated in red font. [For discussion purposes only and to be deleted on final draft]
- 1.1.6 A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with this code of meeting practice.

### 1.2 Definitions

<b>the Act</b>	means the <i>Local Government Act 1993</i>
<b>act of disorder</b>	means an act of disorder as defined in <b>clause 15.4.1</b> of this code
<b>amendment</b>	in relation to an original motion, means a motion moving an amendment to that motion
<b>audio recorder</b>	any device capable of recording speech
<b>business day</b>	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
<b>chairperson</b>	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and <b>clauses 6.1.1 and 6.1.2</b> of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by <b>clause 20.7.1</b> of this code
<b>this code</b>	means the council's adopted code of meeting



	practice
<b>committee of the council</b>	means a committee established by the council in accordance with <b>clause 20.2.1</b> of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under <b>clause 12</b>
<b>council official</b>	has the same meaning it has in the Model Code of Conduct for Local Councils in NSW
<b>day</b>	means calendar day
<b>division</b>	means a request by two councillors under <b>clause 11.2.3</b> of this code requiring the recording of the names of the councillors who voted both for and against a motion
<b>foreshadowed amendment</b>	means a proposed amendment foreshadowed by a councillor under <b>clause 10.6.2</b> of this code during debate on the first amendment
<b>foreshadowed motion</b>	means a motion foreshadowed by a councillor under <b>clause 10.6.1</b> of this code during debate on an original motion
<b>open voting</b>	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
<b>planning decision</b>	means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act
<b>performance improvement order</b>	means an order issued under section 438A of the Act
<b>quorum</b>	means the minimum number of councillors or committee members necessary to conduct a meeting
<b>the Regulation</b>	means the <i>Local Government (General) Regulation 2005</i>
<b>webcast</b>	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time
<b>year</b>	means the period beginning 1 July and ending the following 30 June

### 1.3 Policy statement – Meeting Principles

#### 1.3.1 Council and committee meetings should be:

*Transparent:* Decisions are made in a way that is open and accountable.

*Informed:* Decisions are made based on relevant, quality information.

*Inclusive:* Decisions respect the diverse needs and interests of the local community.

- Principled:* Decisions are informed by the principles prescribed under Chapter 3 of the Act.
- Trusted:* The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.
- Respectful:* Councillors, staff and meeting attendees treat each other with respect.
- Effective:* Meetings are well organised, effectively run and skilfully chaired.
- Orderly:* Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

## 2 SCOPE OF CODE

This code applies to all meetings of councils and committees of councils and attendees at those meetings.

Notes in the text of this Code are explanatory notes and do not form part of this Code. They are provided to assist understanding.

## 3 BEFORE THE MEETING

### 3.1 Timing of ordinary council meetings

- 3.1.1 Ordinary meetings of the council will be held on the second Wednesday of each month (except January) commencing at 7:00pm at the Rockdale Town Hall, Princess Highway Rockdale or as otherwise determined by the Council and indicated in the Notices of Meeting.

**Note:** Under section 365 of the Act, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A.

### 3.2 Extraordinary meetings

- 3.2.1 If the mayor receives a request in writing, signed by at least two (2) councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The mayor can be one of the two councillors requesting the meeting. **Note:** This clause reflects section 366 of the Act.

### 3.3 Notice to the public of council meetings

- 3.3.1 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council. **Note:** This clause reflects section 9(1) of the Act.
- 3.3.2 For the purposes of clause 3.3.1, notice of a meeting of the council and

of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.

- 3.3.3 For the purposes of **clause 3.3.1**, notice of more than one (1) meeting may be given in the same notice.

### **3.4 Notice to councillors of ordinary council meetings**

- 3.4.1 The general manager 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 considered at the meeting. **Note: This **clause** reflects section 367(1) of the Act.**
- 3.4.2 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form. **Note: This **clause** reflects section 367(3) of the Act.**

### **3.5 Notice to councillors of extraordinary meetings**

- 3.5.1 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency. **Note: This **clause** reflects section 367(2) of the Act.**

### **3.6 Giving notice of business to be considered at council meetings**

- 3.6.1 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted **at least two (2) days** business days **prior to the day on which the business paper is prepared and delivered to Councillors** before the meeting is to be held.
- 3.6.2 A councillor may, in writing to the general manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.
- 3.6.3 If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.
- 3.6.4 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the general manager must

either:

- (a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or
- (b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.

### 3.7 Questions with notice

- 3.7.1 A councillor may, by way of a notice submitted under [clause 3.6.1](#), ask a question for response by the general manager about the performance or operations of the council.
- 3.7.2 A councillor is not permitted to ask a question with notice under [clause 3.7.1](#) that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.
- 3.7.3 The general manager or their nominee may respond to a question with notice submitted under [clause 3.7.1](#) by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

### 3.8 Agenda and business papers for ordinary meetings

- 3.8.1 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 3.8.2 The general manager must ensure that the agenda for an ordinary meeting of the council states:
  - a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
  - b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
  - d) any business of which due notice has been given under [clause 3.6.1](#).
- 3.8.3 Nothing in [clause 3.8.2](#) limits the powers of the mayor to put a mayoral minute to a meeting under [clause 9.2.1](#).
- 3.8.4 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.
- 3.8.5 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, the general

manager must ensure that the agenda of the meeting:

- a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
- b) states the grounds under section 10A(2) of the Act relevant to the item of business. **Note: This clause reflects section 9(2A)(a) of the Act.**

- 3.8.6 The general manager must ensure that the details of any item of business which, in the opinion of the general manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public, and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

### **3.9 Availability of the agenda and business papers to the public**

- 3.9.1 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council. **Note: This clause reflects section 9(2) and (4) of the Act.**
- 3.9.2 **Clause 3.9.1** does not apply to the business papers for items of business that the general manager has identified under **clause 3.8.5** as being likely to be considered when the meeting is closed to the public. **Note: This clause reflects section 9(2A)(b) of the Act.**
- 3.9.3 For the purposes of **clause 3.9.1**, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors. **Note: This clause reflects section 9(3) of the Act.**
- 3.9.4 A copy of an agenda, or of an associated business paper made available under **clause 3.9.1**, may in addition be given or made available in electronic form. **Note: This clause reflects section 9(5) of the Act.**

### **3.10 Agenda and business papers for extraordinary meetings**

- 3.10.1 The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.
- 3.10.2 Despite **clause 3.10.1**, business may be considered at an extraordinary

meeting of the council, even though due notice of the business has not been given, if:

- a) a motion is passed to have the business considered at the meeting, and
- b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

3.10.3 A motion moved under **clause 3.10.2a)** can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

3.10.4 Despite **clause 10.7**, only the mover of a motion moved under **clause 3.10.2a)** can speak to the motion before it is put.

3.10.5 A motion of dissent cannot be moved against a ruling of the chairperson under **clause 3.10.2b)** on whether a matter is of great urgency.

### 3.11 Pre-meeting briefing sessions

3.11.1 Prior to each ordinary meeting of the council, the general manager may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.

3.11.2 Pre-meeting briefing sessions are to be held in the absence of the public.

3.11.3 The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.

3.11.4 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.

3.11.5 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.

## 4 PUBLIC FORUMS

**Note: Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council. Where a public forum is held as part of a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of**



**council and committee meetings.**

**Should the existing practice of holding public forums be preferred then these provisions will be incorporated as part for Meeting Practice**

- 4.1 The council may hold a public forum **[prior to/during]** each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held **[prior to/during]** extraordinary council meetings and meetings of committees of the council.
- 4.2 Public forums are to be chaired by the Chairperson of the meeting.
- 4.3 To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by **12 noon on the day of the** public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.
- 4.4 **A person may apply to speak on no more than three items of business on the agenda of the council meeting.**
- 4.5 **Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.**
- 4.6 **The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.**
- 4.7 Subject to 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.
- 4.11 The general manager or their delegate is to determine the order of speakers at the public forum.
- 4.13 Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be



further heard.

- 4.14 A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.
- 4.15 Speakers are under no obligation to answer a question put under **clause 4.14**.
- 4.16 Speakers at public forums cannot ask questions of the council, councillors or council staff.
- 4.17 The general manager or their nominee may, with the concurrence of the chairperson, address the council in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.
- 4.19 When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- 4.20 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in **clause 4.19**, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.
- 4.21 **Clause 4.20** does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of **Part 15** of this code.
- 4.22 Where a speaker engages in conduct of the type referred to in **clause 4.19**, the general manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the general manager or their delegate considers appropriate.
- 4.23 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.

## 5 COMING TOGETHER

### 5.1 Attendance by councillors at meetings

- 5.1.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.

**Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.**

- 5.1.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting.
- 5.1.3 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This **clause** does not prevent a councillor from making an apology if they are unable to attend a meeting. However the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.
- 5.1.4 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.
- 5.1.5 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 5.1.6 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA. **Note: This clause reflects section 234(1)(d) of the Act.**
- 5.1.7 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the general manager at least two (2) days' notice of their intention to attend.

## 5.2 The quorum for a meeting

- 5.2.1 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office. **Note: This clause reflects section 368(1) of the Act.**
- 5.2.2 **Clause 5.2.1** does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council. **Note: This clause reflects section 368(2) of the Act.**
- 5.2.3 A meeting of the council must be adjourned if a quorum is not present:
  - a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
  - b) within half an hour after the time designated for the holding of the meeting, or

- c) at any time during the meeting.
- 5.2.4 In either case, the meeting must be adjourned to a time, date and place fixed:
  - a) by the chairperson, or
  - b) in the chairperson's absence, by the majority of the councillors present, or
  - c) failing that, by the general manager.
- 5.2.5 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.
- 5.2.6 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the safety and welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster (such as, but not limited to flood or bushfire), the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.
- 5.2.7 Where a meeting is cancelled under **clause 5.2.6**, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under **clause 3.2.1**.

### 5.3 Entitlement of the public to attend council meetings

- 5.3.1 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public. **Note: This clause reflects section 10(1) of the Act.**
- 5.3.2 **Clause 5.3.1** does not apply to parts of meetings that have been closed to the public under section 10A of the Act.
- 5.3.3 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:
  - (a) by a resolution of the meeting, or
  - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion. **Note: This clause reflects section 10(2) of the Act.**

### 5.4 Webcasting of meetings

- 5.4.1 All meetings of the council and committees of the council are to be webcast on the council's website.
- 5.4.2 **Clause 5.4.1** does not apply to parts of a meeting that have been closed to the public under section 10A of the Act.

- 5.4.3 At the start of each meeting the chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.
- 5.4.4 A recording of each meeting of the council and committee of the council is to be retained on the council's website for **at least 3 months**. Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

## **5.5 Attendance of the general manager and other staff at meetings**

- 5.5.1 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 of the members are councillors. **Note: This clause reflects section 376(1) of the Act.**
- 5.5.2 The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote. **Note: This clause reflects section 376(2) of the Act.**
- 5.5.3 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 employment of the general manager. **Note: This clause reflects section 376(3) of the Act.**
- 5.5.4 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the general manager.

## **6 THE CHAIRPERSON**

### **6.1 The chairperson at meetings**

- 6.1.1 The mayor, or at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council. **Note: This clause reflects section 369(1) of the Act.**
- 6.1.2 If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council. **Note: This clause reflects section 369(2) of the Act.**

### **6.2 Election of the chairperson in the absence of the mayor and deputy mayor**

- 6.2.1 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.
- 6.2.2 The election of a chairperson must be conducted:
- (a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or
  - (b) by the person who called the meeting or a person acting on their

behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.

- 6.2.3 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.
- 6.2.4 For the purposes of **clause 6.2.3**, the person conducting the election must:
- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
  - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 6.2.5 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- 6.2.6 Any election conducted under **clause 6.2.1**, and the outcome of the vote, are to be recorded in the minutes of the meeting.

### **6.3 Chairperson to have precedence**

- 6.3.1 When the chairperson rises or speaks during a meeting of the council:
- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
  - (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

## **7 MODES OF ADDRESS**

- 7.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.
- 7.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.
- 7.3 A councillor is to be addressed as 'Councillor [surname]'.
- 7.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].

## **8 ORDER OF BUSINESS FOR ORDINARY COUNCIL MEETINGS**

- 8.1 The general order of business for an ordinary meeting of the council shall

be:

- 01 Opening meeting
- 02 Acknowledgement of country
- 03 Opening Prayer
- 04 Apologies and applications for a leave of absence by councillors
- 05 Confirmation of minutes
- 06 Disclosures of interests
- 07 Mayoral minute(s)
- 08 Public Forum **[If current practice continues]**
- 09 Officer Reports
- 10 Minutes of Committee Meetings
- 11 Notices of motions including rescission motions
- 12 Questions with notice
- 13 Confidential matters
- 14 Conclusion of the meeting

- 8.3 The order of business as fixed under **clause 8.1** may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.
- 8.4 Despite **clause 10.7**, only the mover of a motion referred to in **clause 8.3** may speak to the motion before it is put.

## 9 CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS

### 9.1 Business that can be dealt with at a council meeting

- 9.1.1 The council must not consider business at a meeting of the council:
  - (a) unless a councillor has given notice of the business, as required by **clause 3.6.1**, and
  - (b) unless notice of the business has been sent to the councillors in accordance with **clause 3.4.1** in the case of an ordinary meeting or **clause 3.5.1** in the case of an extraordinary meeting called in an emergency.
- 9.1.2 **Clause 9.1.1** does not apply to the consideration of business at a meeting, if the business:
  - (a) is already before, or directly relates to, a matter that is already before the council, or
  - (b) is the election of a chairperson to preside at the meeting, or
  - (c) subject to **clause 9.2.4**, is a matter or topic put to the meeting by way of a mayoral minute, or
  - (d) is a motion for the adoption of recommendations of a committee,



including, but not limited to, a committee of the council.

- 9.1.3 Despite **clause 9.1.1**, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:
- (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.1.4 A motion moved under **clause 9.1.3 (a)** can be moved without notice. Despite **clause 10.7**, only the mover of a motion referred to in **clause 9.1.3 (a)** can speak to the motion before it is put.
- 9.1.5 A motion of dissent cannot be moved against a ruling by the chairperson under **clause 9.1.3 (b)**

## **9.2 Mayoral minutes**

- 9.2.1 Subject to **clause 9.2.4**, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.
- 9.2.2 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.
- 9.2.3 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.
- 9.2.4 A mayoral minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this **clause**, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.2.5 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.

## **9.3 Staff reports**

- 9.3.1 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

## **9.4 Reports of committees of council**



- 9.4.1 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.
- 9.4.2 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

## **9.5 Questions**

- 9.5.1 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with **clauses 3.6.1 and 3.7.1**.
- 9.5.2 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.
- 9.5.3 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the general manager at the direction of the general manager.
- 9.5.4 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. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.
- 9.5.5 Councillors must put questions directly, succinctly, respectfully and without argument.
- 9.5.6 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

## **10 RULES OF DEBATE**

### **10.1 Motions to be seconded**

- 10.1.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

### **10.2 Notices of motion**

- 10.2.1 A councillor who has submitted a notice of motion under **clause 3.6.1** is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.2.2 If a councillor who has submitted a notice of motion under **clause 3.6.1** wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.2.3 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, with the leave of the chairperson, move the

motion at the meeting, or

- b) the chairperson may defer consideration of the motion until the next meeting of the council.

### **10.3 Chairperson's duties with respect to motions**

- 10.3.1 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.
- 10.3.2 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.
- 10.3.3 Before ruling out of order a motion or an amendment to a motion under **clause 10.3.2**, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.
- 10.3.4 Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been lost.

### **10.4 Motions requiring the expenditure of funds**

- 10.4.1 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the motion if adopted.

### **10.5 Amendments to motions**

- 10.5.1 An amendment to a motion must be moved and seconded before it can be debated.
- 10.5.2 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 10.5.3 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 10.5.4 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.
- 10.5.5 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.5.6 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.

- 10.5.7 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

## **10.6 Foreshadowed motions**

- 10.6.1 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.
- 10.6.2 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.
- 10.6.3 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

## **10.7 Limitations on the number and duration of speeches**

- 10.7.1 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 10.7.2 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.
- 10.7.3 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.
- 10.7.4 Despite **clause 10.7.3**, 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.
- 10.7.5 Despite **clause 10.7.3**, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.
- 10.7.6 Despite **clauses 10.7.1 and 10.7.2**, a councillor may move that a motion or an amendment be now put:
- if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
  - if at least two (2) councillors have spoken in favour of the motion or

amendment and at least two (2) councillors have spoken against it.

- 10.7.7 The chairperson must immediately put to the vote, without debate, a motion moved under **clause 10.7.6**. A seconder is not required for such a motion.
- 10.7.8 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under **clause 10.7.1**.
- 10.7.9 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 10.7.10 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.
- 10.7.11 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

## 11 VOTING

### 11.1 Voting entitlements of councillors

- 11.1.1 Each councillor is entitled to one (1) vote. Note: This **clause** reflects section 370(1) of the Act.
- 11.1.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote. **Note: This clause reflects section 370(2) of the Act.**
- 11.1.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

### 11.2 Voting at council meetings

- 11.2.1 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.
- 11.2.2 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 council's minutes.
- 11.2.3 The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.
- 11.2.4 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the council's minutes for the meeting.
- 11.2.5 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with **clause 11.2.1** of this code.

- 11.2.6 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

### **11.3 Voting on planning decisions**

- 11.3.1 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- 11.3.2 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- 11.3.3 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.
- 11.3.4 **Clauses 11.3.1 - 11.3.3** apply also to meetings that are closed to the public.
- 11.3.5 Note: Clauses 11.3.1–11.3.4 reflect section 375A of the Act. The requirements of clause 11.3.1 may be satisfied by maintaining a register of the minutes of each planning decision.

## **12 COMMITTEE OF THE WHOLE**

- 12.1 The council may resolve itself into a committee to consider any matter before the council. Note: **This clause reflects section 373 of the Act.**
- 12.2 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 the council when in committee of the whole, except the provisions limiting the number and duration of speeches. Note: Clauses 10.20–10.30 limit the number and duration of speeches.
- 12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- 12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) 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.

## **13 DEALING WITH ITEMS BY EXCEPTION**

[Non-Mandatory provisions not included]

## **14 CLOSURE OF COUNCIL MEETINGS TO THE**

## PUBLIC

### 14.1 Grounds on which meetings can be closed to the public

14.1.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:

- 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,
- h. information concerning the nature and location of a place or an item of Aboriginal significance on community land,
- i. alleged contraventions of the council's code of conduct.

**Note:** This **clause** reflects section 10A(1) and (2) of the Act.

14.1.2 The council or a committee of the council 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. **Note:** This clause reflects section 10A(3) of the Act.

### 14.2 Matters to be considered when closing meetings to the public

14.2.1 A meeting is not to remain closed during the discussion of anything referred to in **clause 14.1.1**:

- (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 personnel 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.

**Note: This clause reflects section 10B(1) of the Act.**

14.2.2 A meeting is not to be closed during the receipt and consideration of information or advice referred to in **clause 14.1.1** (g) 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.

**Note: This clause reflects section 10B(2) of the Act.**

14.2.3 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 **clause 14.1.2**), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in **clause 14.1.1**.

**Note: This clause reflects section 10B(3) of the Act.**

14.2.4 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.

**Note: This clause reflects section 10B(4) of the Act.**

14.2.5 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the Chief Executive of the Office of Local Government. Note: This clause reflects section 10B(5) of the Act.

### **14.3 Notice of likelihood of closure not required in urgent cases**

14.3.1 Part of a meeting of the council, or of a committee of the council, 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 under **clause 3.8.5** 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 **clause 14.1.1**, and
- (b) the council or committee, after considering any representations made under **clause 14.1.1**, 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.

**Note:** This **clause** reflects section 10C of the Act.

#### **14.4 Representations by members of the public**

- 14.4.1 The council, or a committee of the 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. **Note:** This **clause** reflects section 10A(4) of the Act.
- 14.4.2 A representation under **clause 14.1.1** is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.4.3 Where the matter has been identified in the agenda of the meeting under **clause 3.8.5** as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under **clause 14.1.1**, members of the public must first make an application to the council in the approved form. Applications must be received by 12 **noon on the day of the** meeting at which the matter is to be considered.
- 14.4.4 The general manager (or their delegate) may refuse an application made under **clause 14.4.3**. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.4.5 No more than **three** speakers are to be permitted to make representations under **clause 14.1.1**.
- 14.4.6 If more than the permitted number of speakers apply to make representations under **clause 14.1.1**, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under **clause 14.1.1**, the general manager or their delegate is to determine who will make representations to the council.
- 14.4.7 The general manager (or their delegate) is to determine the order of speakers.
- 14.4.8 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under **clause 3.8.5** as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under **clause 14.4.1** after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than **three** speakers to make representations in

such order as determined by the chairperson.

- 14.4.9 Each speaker will be allowed **five (5)** minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

#### **14.5 Expulsion of non-councillors from meetings closed to the public**

- 14.5.1 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.
- 14.5.2 If any such person, after being notified of a resolution or direction expelling them 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 that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

#### **14.6 Information to be disclosed in resolutions closing meetings to the public**

- 14.6.1 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. The grounds must specify the following:
- the relevant provision of section 10A(2) of the Act,
  - the matter that is to be discussed during the closed part of the meeting,
  - 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.

**Note:** This **clause** reflects section 10D of the Act.

#### **14.7 Resolutions passed at closed meetings to be made public**

- 14.7.1 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be

recorded in the publicly available minutes of the meeting.

- 14.7.2 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under [clause 14.7.1](#) during a part of the meeting that is webcast.

## 15 KEEPING ORDER AT MEETINGS

### 15.1 Points of order

- 15.1.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.
- 15.1.2 A point of order cannot be made with respect to adherence to the principles contained in [clause 1.3.1](#).
- 15.1.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

### 15.2 Questions of order

- 15.2.1 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.
- 15.2.2 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 to the matter.
- 15.2.3 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.
- 15.2.4 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

### 15.3 Motions of dissent

- 15.3.1 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 15.3.2 If a motion of dissent is passed, 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 rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 15.3.3 Despite any other provision of this code, 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.

### 15.4 Acts of disorder

15.4.1 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 or 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 the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or
- (d) insults or makes personal reflections on or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
- (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

15.4.2 The chairperson may require a councillor:

- (a) to apologise without reservation for an act of disorder referred to in **clauses 15.4.1 (a) or (b)**, or
- (b) to withdraw a motion or an amendment referred to in **clauses 15.4.1 (c)** and, where appropriate, to apologise without reservation, or
- (c) to retract and apologise without reservation for an act of disorder referred to in **clauses 15.4.1 (d) and (e)**.

## 15.5 How disorder at a meeting may be dealt with

15.5.1 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This **clause** applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

## 15.6 Expulsion from meetings

15.6.1 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person, including any councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act.

15.6.2 **Clause** 15.6.1, does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.

15.6.3 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be

expelled from a meeting of the council for having failed to comply with a requirement under **clause 15.4.2**. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

- 15.6.4 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.
- 15.6.5 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.
- 15.6.6 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, 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 of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

## **15.7 Use of mobile phones and the unauthorised recording of meetings**

- 15.7.1 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.
- 15.7.2 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.
- 15.7.3 Any person who contravenes or attempts to contravene **clause 15.7.2**, may be expelled from the meeting as provided for under section 10(2) of the Act.
- 15.7.4 If any such person, after being notified of a resolution or direction expelling them 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 that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

## **16 CONFLICTS OF INTEREST**

- 16.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council and committees of the council in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the



meeting at which the declaration was made.

## 17 DECISIONS OF THE COUNCIL

### 17.1 Council decisions

- 17.1.1 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. **Note: This clause reflects section 371 of the Act**
- 17.1.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

### 17.2 Rescinding or altering council decisions

- 17.2.1 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.10. **Note: This clause reflects section 372(1) of the Act.**
- 17.2.2 If a notice of motion to 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 of rescission has been dealt with. **Note: This clause reflects section 372(2) of the Act.**
- 17.2.3 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.6.1. **Note: This clause reflects section 372(3) of the Act.**
- 17.2.4 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 lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost. **Note: This clause reflects section 372(4) of the Act.**
- 17.2.5 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same. **Note: This clause reflects section 372(5) of the Act.**
- 17.2.6 The provisions of clauses 17.2.3 - 17.2.5 concerning lost motions do not apply to motions of adjournment. **Note: This clause reflects section 372(7) of the Act.**
- 17.2.7 A notice of motion submitted in accordance with clause 17.2.3 may only be withdrawn under clause 3.6.2 with the consent of all signatories to the notice of motion.
- 17.2.8 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council. **Note: This clause reflects section 372(6) of the Act.**
- 17.2.9 Subject to clause 17.2.4, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:
  - a. a notice of motion signed by three councillors is submitted to the

chairperson, and

- b. a motion to have the motion considered at the meeting is passed, and
- c. the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

17.2.10 A motion moved under clause 17.2.99 b can be moved without notice. Despite clause 10.7, only the mover of a motion referred to in clause 17.2.99 b can speak to the motion before it is put.

17.2.11 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.2.99 c.

### 17.3 Recommitting resolutions to correct an error

17.3.1 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:

- a. to correct any error, ambiguity or imprecision in the council's resolution, or
- b. to confirm the voting on the resolution.

17.3.2 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.3.1 a, the councillor is to propose alternative wording for the resolution.

17.3.3 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.3.1 a, unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.

17.3.4 A motion moved under clause 17.3.1 can be moved without notice. Despite clause 10.7, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.

17.3.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.3.1.

17.3.6 A motion moved under clause 17.3.1 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

## 18 TIME LIMITS ON COUNCIL MEETINGS

18.1 Meetings of the council and committees of the council are to conclude no later than 11pm.

18.2 If the business of the meeting is unfinished at 11pm, the council or the committee may, by resolution, extend the time of the meeting.

18.3 If the business of the meeting is unfinished at 12 midnight, and the council does not resolve to extend the meeting, the chairperson must either:

- (a) defer consideration of the remaining items of business on the



- agenda to the next ordinary meeting of the council, or
- (b) adjourn the meeting to a time, date and place fixed by the chairperson.
- 18.4 **Clause 18.3** does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.
- 18.5 Where a meeting is adjourned under **clause 18.3 or 18.4**, the general manager must:
  - (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
  - (b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the general manager is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

## 19 AFTER THE MEETING

### 19.1 Minutes of meetings

- 19.1.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council. **Note: This clause reflects section 375(1) of the Act.**
- 19.1.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:
  - (a) details of each motion moved at a council 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 was passed or lost, and
  - (d) such other matters specifically required under this code.
- 19.1.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council. **Note: This clause reflects section 375(2) of the Act.**
- 19.1.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 19.1.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting. **Note: This clause reflects section 375(2) of the Act.**
- 19.1.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this **clause** must not alter the substance of any decision made at the meeting.
- 19.1.7 The confirmed minutes of a council meeting must be published on the council's website. This **clause** does not prevent the council from also

publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

## **19.2 Access to correspondence and reports laid on the table at, or submitted to, a meeting**

- 19.2.1 The council and committees of the council 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: This clause reflects section 11(1) of the Act.**
- 19.2.2 **Clause 19.2.1** does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public. **Note: This clause reflects section 11(2) of the Act.**
- 19.2.3 **Clause 19.2.1** does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act. **Note: This clause reflects section 11(3) of the Act.**
- 19.2.4 Correspondence or reports to which **clauses 19.2.2 and 19.2.3** apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

## **19.3 Implementation of decisions of the council**

- 19.3.1 The general manager is to implement, without undue delay, lawful decisions of the council. **Note: This clause reflects section 335(b) of the Act.**

# **20 COUNCIL COMMITTEES**

## **20.1 Application of this Part**

- 20.1.1 This Part only applies to committees of the council whose members are all councillors.

## **20.2 Council committees whose members are all councillors**

- 20.2.1 The council may, by resolution, establish such committees as it considers necessary.
- 20.2.2 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- 20.2.3 The quorum for a meeting of a committee of the council 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.

### **20.3 Functions of committees**

- 20.3.1 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.

### **20.4 Notice of committee meetings**

- 20.4.1 The general manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:
- (a) the time, date and place of the meeting, and
  - (b) the business proposed to be considered at the meeting.
- 20.4.2 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

### **20.5 Attendance at committee meetings**

- 20.5.1 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:
- (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.
- 20.5.2 **Clause 20.5.1** does not apply if all of the members of the council are members of the committee.

### **20.6 Non-members entitled to attend committee meetings**

- 20.6.1 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. However, the councillor is not entitled:
- (a) to give notice of business for inclusion in the agenda for the meeting, or
  - (b) to move or second a motion at the meeting, or
  - (c) to vote at the meeting.

### **20.7 Chairperson and deputy chairperson of council committees**

20.7.1 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.

20.7.2 The 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.

20.7.3 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.

20.7.4 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

## **20.8 Procedure in committee meetings**

20.8.1 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this [clause](#).

20.8.2 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 unless the council or the committee determines otherwise in accordance with [clause 20.8.1](#).

20.8.3 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

## **20.9 Closure of committee meetings to the public**

20.9.1 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.

20.9.2 If a committee of the 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 make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.

20.9.3 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under

clause 20.9.2 during a part of the meeting that is webcast.

## **20.10 Disorder in committee meetings**

- 20.10.1 The provisions of the Act 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.

## **20.11 Minutes of council committee meetings**

- 20.11.1 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, 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 was passed or lost, and
  - (d) such other matters specifically required under this code.
- 20.11.2 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.
- 20.11.3 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 20.11.4 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 20.11.5 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 20.11.6 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

# **21 TASK GROUPS AND ADVISORY COMMITTEES**

## **21.1 Task Groups**

- 21.1.1 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.
- 21.1.2 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
- 21.1.3 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.
- 21.1.4 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.]
- 21.1.5 A Task Group which includes staff and/or community representatives may be closed to the public. **Note: This clause reflects section 10A(1) of the Act.**

## 21.2 Advisory Committees

- 21.2.1 The Council may appoint a group of Councillors, staff and/or community representatives to undertake a particular administrative responsibility.
- 21.2.2 Where possible, community representatives on Advisory Committees shall be nominated by community organisations or through an expression of interest process..
- 21.2.3 The Council shall determine the terms of reference for the Advisory Committee.
- 21.2.4 Subject to the terms of reference, the Advisory Committee shall have power to regulate its own procedures.
- 21.2.5 Council can disband the Advisory Committee or alter its terms of reference and membership composition at any time.
- 21.2.6 An Advisory Committee which includes staff and/or community representatives may be closed to the public. **Note: This clause reflects section 10A(1) of the Act.**

## 22 IRREGULARITIES

- 21.1 Proceedings at a meeting of a 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 committee member, or
  - (c) any defect in the election or appointment of a councillor or committee member, or
  - (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in

- accordance with the council's code of conduct, or  
 (e) a failure to comply with this code.

Note: This **clause** reflects section 374 of the Act.

## 23 Code implementation

### 23.1 Policy responsibilities

Outline the roles and responsibilities of all Council Officials involved, including the General Manager and 'all staff' as appropriate. The responsible manager and / or director may have additional responsibilities such as maintaining a register, approving submissions or providing training.

### 23.2 Procedures

Procedures that support this Code, may be approved by the General Manager from time to time and address such issues as:

- business paper process and related administrative workflow for approvals
- Guide and application forms for public speakers

### 23.3 Breaches

Describes the consequences of a breach of the policy. Consequences may include business and organisational reputation implications as well as punitive provisions.

## 24 Document control

### 24.1 Review

In accordance with section 360 of the Act, within 12 months after an ordinary election of Councillors, Council must adopt a Code of Meeting Practice. The Code is reviewed when relevant legislation changes. Council will public exhibit a draft code in accordance with section 361 of the Act prior to adopting a Code.

The Manager Governance & Risk may approve non-significant and/or minor editorial amendments including document design that do not change the policy substance.

### 24.2 Related documents

Local Government Act 1993

Local Government (General) Regulation 2005

Model Code of Meeting Practice for Local Councils in NSW (2018) prescribed by the



Local Government (General) Regulation.

### 24.3 Version history

Version	Release Date	Author	Reason for Change
1.0	January 2019	Fausto Sut Manager Governance & Risk	The legislation introducing a Model Code effectively requires Council's to adopt the Model Code subject to discretionary changes.

# MODEL CODE OF MEETING PRACTICE

for Local Councils  
in NSW

2018



**MODEL CODE OF MEETING PRACTICE FOR LOCAL COUNCILS IN NSW**

2018

**ACCESS TO SERVICES**

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Model Code of Meeting Practice for Local Councils in NSW

# 1 Introduction

This Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is made under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

This code applies to all meetings of councils and committees of councils of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code.

A council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, a code of meeting practice adopted by a council must not contain provisions that are inconsistent with the mandatory provisions of this Model Meeting Code.

The provisions of the Model Meeting Code that are not mandatory are indicated in **red font**.

A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by the council.

The Model Meeting Code also applies to meetings of the boards of joint organisations and county councils. The provisions that are specific to meetings of boards of joint organisations are indicated in **blue font**.

In adopting the Model Meeting Code, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

In adopting the Model Meeting Code, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

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## 2 Meeting Principles

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2.1 Council and committee meetings should be:

<b>Transparent:</b>	Decisions are made in a way that is open and accountable.
<b>Informed:</b>	Decisions are made based on relevant, quality information.
<b>Inclusive:</b>	Decisions respect the diverse needs and interests of the local community.
<b>Principled:</b>	Decisions are informed by the principles prescribed under Chapter 3 of the Act.
<b>Trusted:</b>	The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.
<b>Respectful:</b>	Councillors, staff and meeting attendees treat each other with respect.
<b>Effective:</b>	Meetings are well organised, effectively run and skilfully chaired.
<b>Orderly:</b>	Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

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## 3 Before the Meeting

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## Timing of ordinary council meetings

- 3.1 Ordinary meetings of the council will be held on the following occasions: **[council to specify the frequency, time, date and place of its ordinary meetings]**.
- 3.2 The council shall, by resolution, set the frequency, time, date and place of its ordinary meetings.

**Note:** Councils must use either clause 3.1 or 3.2

**Note:** Under section 365 of the Act, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A.

**Note:** Under section 396 of the Act, county councils are required to meet at least four (4) times each year.

**Note:** Under section 400T of the Act, boards of joint organisations are required to meet at least four (4) times each year, each in a different quarter of the year.

## Extraordinary meetings

- 3.3 If the mayor receives a request in writing, signed by at least two (2) councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The mayor can be one of the two councillors requesting the meeting.

**Note:** Clause 3.3 reflects section 366 of the Act.

## Notice to the public of council meetings

- 3.4 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council.

**Note:** Clause 3.4 reflects section 9(1) of the Act.

- 3.5 For the purposes of clause 3.4, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.
- 3.6 For the purposes of clause 3.4, notice of more than one (1) meeting may be given in the same notice.

## Notice to councillors of ordinary council meetings

- 3.7 The general manager 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 considered at the meeting.

**Note:** Clause 3.7 reflects section 367(1) of the Act.

- 3.8 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

**Note:** Clause 3.8 reflects section 367(3) of the Act.

## Notice to councillors of extraordinary meetings

- 3.9 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

**Note: Clause 3.9 reflects section 367(2) of the Act.**

## Giving notice of business to be considered at council meetings

- 3.10 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted **[council to specify notice period required]** business days before the meeting is to be held.
- 3.11 A councillor may, in writing to the general manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.
- 3.12 If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.

- 3.13 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the general manager must either:

(a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or

(b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.

## Questions with notice

- 3.14 A councillor may, by way of a notice submitted under clause 3.10, ask a question for response by the general manager about the performance or operations of the council.
- 3.15 A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.
- 3.16 The general manager or their nominee may respond to a question with notice submitted under clause 3.14 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

## Agenda and business papers for ordinary meetings

- 3.17 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 3.18 The general manager must ensure that the agenda for an ordinary meeting of the council states:
- (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
  - (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
  - (d) any business of which due notice has been given under clause 3.10.
- 3.19 Nothing in clause 3.18 limits the powers of the mayor to put a mayoral minute to a meeting under clause 9.6.
- 3.20 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.
- 3.21 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, the general manager must ensure that the agenda of the meeting:

- (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
- (b) states the grounds under section 10A(2) of the Act relevant to the item of business.

**Note: Clause 3.21 reflects section 9(2A) (a) of the Act.**

- 3.22 The general manager must ensure that the details of any item of business which, in the opinion of the general manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public, and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

## Availability of the agenda and business papers to the public

- 3.23 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council.

**Note: Clause 3.23 reflects section 9(2) and (4) of the Act.**

- 3.24 Clause 3.23 does not apply to the business papers for items of business that the general manager has identified under clause 3.21 as being likely to be considered when the meeting is closed to the public.

**Note: Clause 3.24 reflects section 9(2A) (b) of the Act.**

- 3.25 For the purposes of clause 3.23, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors.

**Note: Clause 3.25 reflects section 9(3) of the Act.**

- 3.26 A copy of an agenda, or of an associated business paper made available under clause 3.23, may in addition be given or made available in electronic form.

**Note: Clause 3.26 reflects section 9(5) of the Act.**

## Agenda and business papers for extraordinary meetings

- 3.27 The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.

- 3.28 Despite clause 3.27, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:

(a) a motion is passed to have the business considered at the meeting, and

(b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

- 3.29 A motion moved under clause 3.28(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

- 3.30 Despite clauses 10.20–10.30, only the mover of a motion moved under clause 3.28(a) can speak to the motion before it is put.

- 3.31 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.28(b) on whether a matter is of great urgency.

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## Pre-meeting briefing sessions

- 3.32 Prior to each ordinary meeting of the council, the general manager may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.
- 3.33 Pre-meeting briefing sessions are to be held in the absence of the public.
- 3.34 The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.
- 3.35 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.
- 3.36 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.



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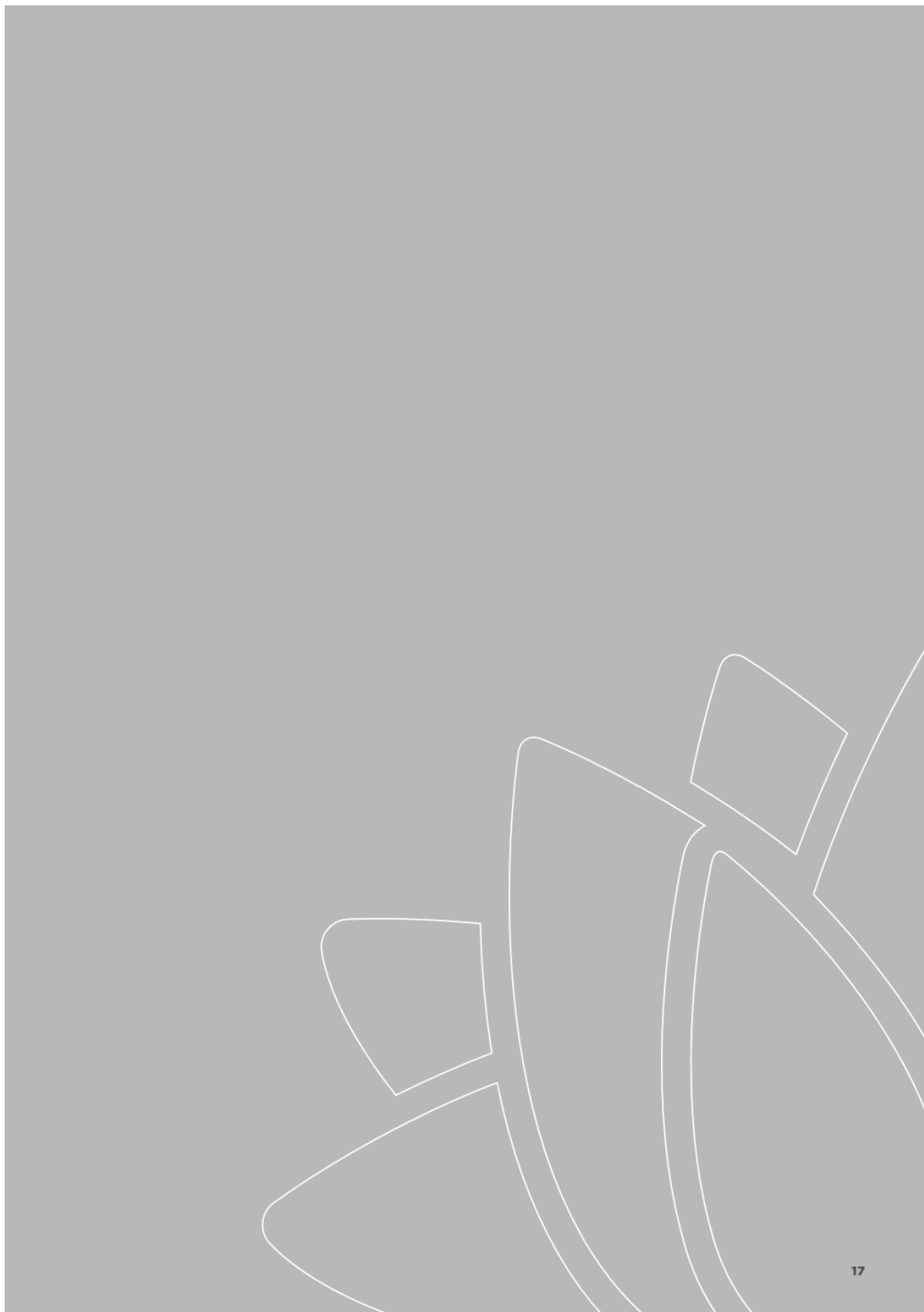
## 4 Public Forums

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- 4.1 The council may hold a public forum prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council.
- 4.2 Public forums are to be chaired by the mayor or their nominee.
- 4.3 To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by **[date and time to be specified by the council]** before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.
- 4.4 A person may apply to speak on no more than **[number to be specified by the council]** items of business on the agenda of the council meeting.
- 4.5 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.
- 4.6 The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 4.7 No more than **[number to be specified by the council]** speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the council meeting.
- 4.8 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to address the council on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the general manager or their delegate is to determine who will address the council at the public forum.
- 4.9 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may, in consultation with the mayor or the mayor's nominated chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.
- 4.10 Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than **[number to be specified by the council]** days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.
- 4.11 The general manager or their delegate is to determine the order of speakers at the public forum.
- 4.12 Each speaker will be allowed **[number to be specified by the council]** minutes to address the council. This time is to be strictly enforced by the chairperson.

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- 4.13 Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.
- 4.14 A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.
- 4.15 Speakers are under no obligation to answer a question put under clause 4.14. Answers by the speaker, to each question are to be limited to **[number to be specified by the council]** minutes.
- 4.16 Speakers at public forums cannot ask questions of the council, councillors or council staff.
- 4.17 The general manager or their nominee may, with the concurrence of the chairperson, address the council for up to **[number to be specified by the council]** minutes in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.
- 4.18 Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.
- 4.19 When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- 4.20 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.19, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.
- 4.21 Clause 4.20 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.
- 4.22 Where a speaker engages in conduct of the type referred to in clause 4.19, the general manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the general manager or their delegate considers appropriate.
- 4.23 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.
- Note: Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council. Where a public forum is held as part of a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of council and committee meetings.**



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Model Code of Meeting Practice for Local Councils in NSW

## 5 Coming Together

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## Attendance by councillors at meetings

- 5.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.

**Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.**

- 5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting.

- 5.3 The board of the joint organisation may, if it thinks fit, transact any of its business at a meeting at which representatives (or some representatives) participate by telephone or other electronic means, but only if any representative who speaks on a matter before the meeting can be heard by the other representatives. For the purposes of a meeting held in accordance with this clause, the chairperson and each other voting representative on the board have the same voting rights as they have at an ordinary meeting of the board.

**Note: Clause 5.3 reflects clause 397G of the Regulation. Joint organisations may adopt clause 5.3 and omit clause 5.2. Councils must not adopt clause 5.3.**

- 5.4 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However the acceptance of

such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.

- 5.5 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.
- 5.6 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 5.7 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

**Note: Clause 5.7 reflects section 234(1)(d) of the Act.**

- 5.8 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the general manager at least two (2) days' notice of their intention to attend.

## The quorum for a meeting

- 5.9 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.

**Note: Clause 5.9 reflects section 368(1) of the Act.**

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- 5.10 Clause 5.9 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

**Note: Clause 5.10 reflects section 368(2) of the Act.**

- 5.11 A meeting of the council must be adjourned if a quorum is not present:
- (a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
  - (b) within half an hour after the time designated for the holding of the meeting, or
  - (c) at any time during the meeting.
- 5.12 In either case, the meeting must be adjourned to a time, date and place fixed:
- (a) by the chairperson, or
  - (b) in the chairperson's absence, by the majority of the councillors present, or
  - (c) failing that, by the general manager.
- 5.13 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.
- 5.14 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the safety and welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster (such as, but not limited to flood or bushfire), the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor,

cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.

- 5.15 Where a meeting is cancelled under clause 5.14, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.3.

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## Entitlement of the public to attend council meetings

- 5.16 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public.

**Note: Clause 5.16 reflects section 10(1) of the Act.**

- 5.17 Clause 5.16 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.
- 5.18 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:
- (a) by a resolution of the meeting, or
  - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

**Note: Clause 5.18 reflects section 10(2) of the Act.**

**Note: If adopted, clauses 15.14 and 15.15 confer a standing authorisation on all chairpersons of meetings of the council**



and committees of the council to expel persons from meetings. If adopted, clause 15.14 authorises chairpersons to expel any person, including a councillor, from a council or committee meeting. Alternatively, if adopted, clause 15.15 authorises chairpersons to expel persons other than councillors from a council or committee meeting.

## Webcasting of meetings

- 5.19 All meetings of the council and committees of the council are to be webcast on the council's website.

**Note: Councils will be required to webcast meetings from 14 December 2019. Councils that do not currently webcast meetings should take steps to ensure that meetings are webcast by 14 December 2019.**

**Note: Councils must include supplementary provisions in their adopted codes of meeting practice that specify whether meetings are to be livestreamed or recordings of meetings uploaded on the council's website at a later time. The supplementary provisions must also specify whether the webcast is to comprise of an audio visual recording of the meeting or an audio recording of the meeting.**

**Note: Joint organisations are not required to webcast meetings but may choose to do so by adopting clauses 5.19–5.22. Joint organisations that choose not to webcast meetings may omit clauses 5.19–5.22.**

- 5.20 Clause 5.19 does not apply to parts of a meeting that have been closed to the public under section 10A of the Act.
- 5.21 At the start of each meeting the chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.

- 5.22 A recording of each meeting of the council and committee of the council is to be retained on the council's website for [council to specify the period of time the recording is to be retained on the website]. Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

## Attendance of the general manager and other staff at meetings

- 5.23 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 of the members are councillors.

**Note: Clause 5.23 reflects section 376(1) of the Act.**

- 5.24 The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.

**Note: Clause 5.24 reflects section 376(2) of the Act.**

- 5.25 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 employment of the general manager.

**Note: Clause 5.25 reflects section 376(3) of the Act.**

- 5.26 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the general manager.

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## 6 The Chairperson

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## The chairperson at meetings

- 6.1 The mayor, or at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.

**Note: Clause 6.1 reflects section 369(1) of the Act.**

- 6.2 If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

**Note: Clause 6.2 reflects section 369(2) of the Act.**

## Election of the chairperson in the absence of the mayor and deputy mayor

- 6.3 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.
- 6.4 The election of a chairperson must be conducted:
- (a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or
  - (b) by the person who called the meeting or a person acting on their behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.

- 6.5 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.

- 6.6 For the purposes of clause 6.5, the person conducting the election must:

- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
- (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.

- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

## Chairperson to have precedence

- 6.9 When the chairperson rises or speaks during a meeting of the council:
- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
  - (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

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## 7 Modes of Address

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- 7.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.
- 7.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.
- 7.3 A councillor is to be addressed as 'Councillor [surname]'.
- 7.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].

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## 8 Order of Business for Ordinary Council Meetings

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8.1 At a meeting of the council, the general order of business is as fixed by resolution of the council.

8.2 The general order of business for an ordinary meeting of the council shall be:  
**[councils may adapt the following order of business to meet their needs]**

- 01 Opening meeting
- 02 Acknowledgement of country
- 03 Apologies and applications for a leave of absence by councillors
- 04 Confirmation of minutes
- 05 Disclosures of interests
- 06 Mayoral minute(s)
- 07 Reports of committees
- 08 Reports to council
- 09 Notices of motions/Questions with notice
- 10 Confidential matters
- 11 Conclusion of the meeting

**Note: Councils must use either clause 8.1 or 8.2.**

8.3 The order of business as fixed under [8.1/8.2] **[delete whichever is not applicable]** may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

**Note: If adopted, Part 13 allows council to deal with items of business by exception.**

8.4 Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 8.3 may speak to the motion before it is put.



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## 9 Consideration of Business at Council Meetings

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## Business that can be dealt with at a council meeting

- 9.1 The council must not consider business at a meeting of the council:
- (a) unless a councillor has given notice of the business, as required by clause 3.10, and
  - (b) unless notice of the business has been sent to the councillors in accordance with clause 3.7 in the case of an ordinary meeting or clause 3.9 in the case of an extraordinary meeting called in an emergency.
- 9.2 Clause 9.1 does not apply to the consideration of business at a meeting, if the business:
- (a) is already before, or directly relates to, a matter that is already before the council, or
  - (b) is the election of a chairperson to preside at the meeting, or
  - (c) subject to clause 9.9, is a matter or topic put to the meeting by way of a mayoral minute, or
  - (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.
- 9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:
- (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that

it requires a decision by the council before the next scheduled ordinary meeting of the council.

- 9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20-10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.
- 9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

## Mayoral minutes

- 9.6 Subject to clause 9.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.
- 9.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.
- 9.8 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.
- 9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.

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9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.

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## Staff reports

9.11 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

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## Reports of committees of council

9.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.

9.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

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## Questions

9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.10 and 3.14.

9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.

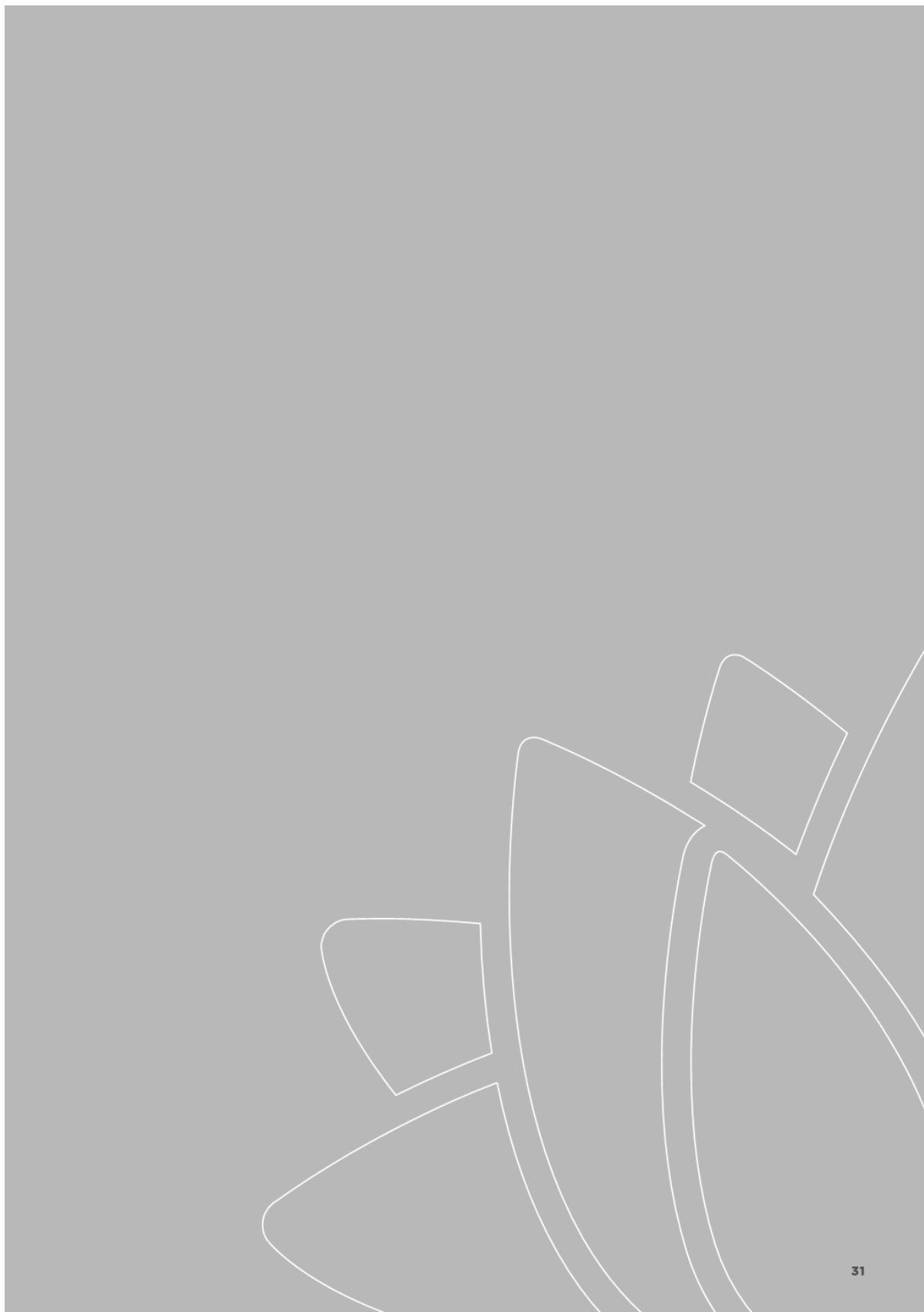
9.16 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to

answer a question put to them through the general manager at the direction of the general manager.

9.17 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. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.

9.18 Councillors must put questions directly, succinctly, respectfully and without argument.

9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.



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## 10 Rules of Debate

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## Motions to be seconded

- 10.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

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## Notices of motion

- 10.2 A councillor who has submitted a notice of motion under clause 3.10 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.10 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.4 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, with the leave of the chairperson, move the motion at the meeting, or
  - (b) the chairperson may defer consideration of the motion until the next meeting of the council..

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## Chairperson's duties with respect to motions

- 10.5 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.
- 10.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.

- 10.7 Before ruling out of order a motion or an amendment to a motion under clause 10.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.

- 10.8 Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been lost.

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## Motions requiring the expenditure of funds

- 10.9 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the motion if adopted.

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## Amendments to motions

- 10.10 An amendment to a motion must be moved and seconded before it can be debated.
- 10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.

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- 10.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.
- 10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

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## **Foreshadowed motions**

- 10.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.
- 10.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.

- 10.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

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## **Limitations on the number and duration of speeches**

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 10.21 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.
- 10.22 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.
- 10.23 Despite clause 10.22, 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.
- 10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.



10.25 Despite clauses 10.20 and 10.21, a councillor may move that a motion or an amendment be now put:

- (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
- (b) if at least two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.

10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.

10.27 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 10.20.

10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.

10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.

10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

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## Participation by non-voting representatives in joint organisation board meetings

10.31 Non-voting representatives of joint organisation boards may speak on but must not move, second or vote on any motion or an amendment to a motion.

**Note: Under section 400T(1)(c) of the Act, non-voting representatives of joint organisation boards may attend but are not entitled to vote at a meeting of the board.**

**Note: Joint organisations must adopt clause 10.31. Councils must not adopt clause 10.31.**

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## 11 Voting

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## Voting entitlements of councillors

- 11.1 Each councillor is entitled to one (1) vote.

**Note: Clause 11.1 reflects section 370(1) of the Act.**

**Note: Under section 400T(1) of the Act, voting representatives of joint organisation boards are entitled to one (1) vote each at meetings of the board.**

- 11.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.

**Note: Clause 11.2 reflects section 370(2) of the Act.**

- 11.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

- 11.4 A motion at a meeting of the board of a joint organisation is taken to be lost in the event of an equality of votes.

**Note: Clause 11.4 reflects clause 397E of the Regulation. Joint organisations must adopt clause 11.4 and omit clauses 11.2 and 11.3. Councils must not adopt clause 11.4.**

**Note: Under section 400U(4) of the Act, joint organisations may specify more stringent voting requirements for decisions by the board such as a 75% majority or consensus decision making. Where a joint organisation's charter specifies more stringent voting requirements, clause 11.4 must be adapted to reflect those requirements.**

## Voting at council meetings

- 11.5 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

- 11.6 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 council's minutes.

- 11.7 The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.

- 11.8 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the council's minutes for the meeting.

- 11.9 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.5 of this code.

- 11.10 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

- 11.11 All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

**Note: If clause 11.11 is adopted, clauses 11.6 – 11.9 and clause 11.13 may be omitted.**

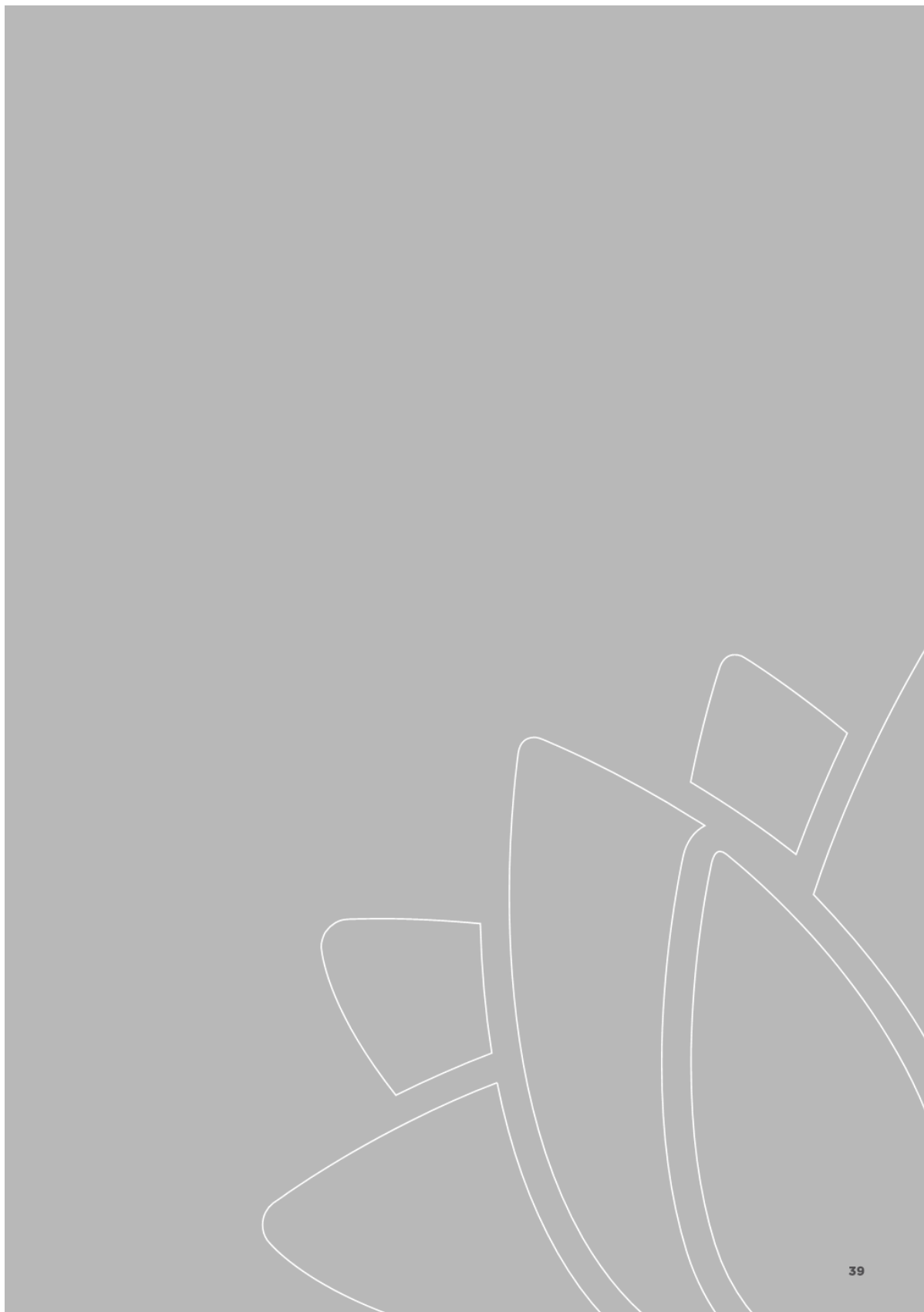
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## Voting on planning decisions

- 11.12 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- 11.13 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- 11.14 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.
- 11.15 Clauses 11.12-11.14 apply also to meetings that are closed to the public.

**Note: Clauses 11.12-11.15 reflect section 375A of the Act.**

**Note: The requirements of clause 11.12 may be satisfied by maintaining a register of the minutes of each planning decision.**



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## 12 Committee of the Whole

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- 12.1 The council may resolve itself into a committee to consider any matter before the council.

**Note: Clause 12.1 reflects section 373 of the Act.**

- 12.2 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 the council when in committee of the whole, except the provisions limiting the number and duration of speeches.

**Note: Clauses 10.20–10.30 limit the number and duration of speeches.**

- 12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- 12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) 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.



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## 13 Dealing with Items by Exception

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- 13.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.
- 13.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.
- 13.3 The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.
- 13.4 Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.3.
- 13.5 A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.
- 13.6 Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.
- 13.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.

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## 14 Closure of Council Meetings to the Public

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## Grounds on which meetings can be closed to the public

14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:

- (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,

(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,

(i) alleged contraventions of the council's code of conduct.

**Note: Clause 14.1 reflects section 10A(1) and (2) of the Act.**

14.2 The council or a committee of the council 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.

**Note: Clause 14.2 reflects section 10A(3) of the Act.**

## Matters to be considered when closing meetings to the public

14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:

- (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 personnel 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.

**Note: Clause 14.3 reflects section 10B(1) of the Act.**

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14.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 14.1(g) 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.

**Note: Clause 14.4 reflects section 10B(2) of the Act.**

14.5 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 clause 14.2), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 14.1.

**Note: Clause 14.5 reflects section 10B(3) of the Act.**

14.6 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.

**Note: Clause 14.6 reflects section 10B(4) of the Act.**

14.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the Chief Executive of the Office of Local Government.

**Note: Clause 14.7 reflects section 10B(5) of the Act.**

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### Notice of likelihood of closure not required in urgent cases

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14.8 Part of a meeting of the council, or of a committee of the council, 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 under clause 3.21 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 clause 14.1, and
- (b) the council or committee, after considering any representations made under clause 14.9, 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.

**Note: Clause 14.8 reflects section 10C of the Act.**

## Representations by members of the public

- 14.9 The council, or a committee of the 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.

**Note: Clause 14.9 reflects section 10A(4) of the Act.**

- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by **[date and time to be specified by the council]** before the meeting at which the matter is to be considered.
- 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.13 No more than **[number to be specified by the council]** speakers are to be permitted to make representations under clause 14.9.
- 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the

persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.

- 14.15 The general manager (or their delegate) is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than **[number to be specified by the council]** speakers to make representations in such order as determined by the chairperson.
- 14.17 Each speaker will be allowed **[number to be specified by the council]** minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

## Expulsion of non-councillors from meetings closed to the public

14.18 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.

14.19 If any such person, after being notified of a resolution or direction expelling them 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 that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

## Information to be disclosed in resolutions closing meetings to the public

14.20 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. The grounds must specify the following:

- (a) the relevant provision of section 10A(2) of the Act,

- (b) the matter that is to be discussed during the closed part of the meeting,
- (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.

**Note: Clause 14.20 reflects section 10D of the Act.**

## Resolutions passed at closed meetings to be made public

14.21 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.

14.22 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the chairperson under clause 14.21 during a part of the meeting that is webcast.





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## 15 Keeping Order at Meetings

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## Points of order

- 15.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.
- 15.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.
- 15.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

## Questions of order

- 15.4 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.
- 15.5 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 to the matter.
- 15.6 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.
- 15.7 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

## Motions of dissent

- 15.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 15.9 If a motion of dissent is passed, 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 rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 15.10 Despite any other provision of this code, 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.

## Acts of disorder

- 15.11 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 or 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 the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or

(d) insults or makes personal reflections on or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or

(e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

15.12 The chairperson may require a councillor:

(a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a) or (b), or

(b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or

(c) to retract and apologise without reservation for an act of disorder referred to in clauses 15.11(d) and (e).

## How disorder at a meeting may be dealt with

15.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

## Expulsion from meetings

15.14 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person, including any councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act.

15.15 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.

**Note: Councils may use either clause 15.14 or clause 15.15.**

15.16 Clause [15.14/15.15] **[delete whichever is not applicable]**, does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.

15.17 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

15.18 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.

- 15.19 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.
- 15.20 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, 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 of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.
- 15.24 If any such person, after being notified of a resolution or direction expelling them 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 that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

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### Use of mobile phones and the unauthorised recording of meetings

- 15.21 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.
- 15.22 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.
- 15.23 Any person who contravenes or attempts to contravene clause 15.22, may be expelled from the meeting as provided for under section 10(2) of the Act.

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## 16 Conflicts of Interest

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- 16.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council and committees of the council in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made.

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## 17 Decisions of the Council

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## Council decisions

- 17.1 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.

**Note: Clause 17.1 reflects section 371 of the Act in the case of councils and section 400T(8) in the case of joint organisations.**

**Note: Under section 400U(4) of the Act, joint organisations may specify more stringent voting requirements for decisions by the board such as a 75% majority or consensus decision making. Where a joint organisation's charter specifies more stringent voting requirements, clause 17.1 must be adapted to reflect those requirements.**

- 17.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

## Rescinding or altering council decisions

- 17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.10.

**Note: Clause 17.3 reflects section 372(1) of the Act.**

- 17.4 If a notice of motion to 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 of rescission has been dealt with.

**Note: Clause 17.4 reflects section 372(2) of the Act.**

- 17.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.10.

**Note: Clause 17.5 reflects section 372(3) of the Act.**

- 17.6 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 lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

**Note: Clause 17.6 reflects section 372(4) of the Act.**

- 17.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

**Note: Clause 17.7 reflects section 372(5) of the Act.**

- 17.8 The provisions of clauses 17.5–17.7 concerning lost motions do not apply to motions of adjournment.

**Note: Clause 17.8 reflects section 372(7) of the Act.**

- 17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.11 with the consent of all signatories to the notice of motion.

- 17.10 A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than [council to specify the period of time] after the meeting at which the resolution was adopted.

- 17.11 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.

**Note: Clause 17.11 reflects section 372(6) of the Act.**

17.12 Subject to clause 17.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:

- (a) a notice of motion signed by three councillors is submitted to the chairperson, and
- (b) a motion to have the motion considered at the meeting is passed, and
- (c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

17.13 A motion moved under clause 17.12(b) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.12(b) can speak to the motion before it is put.

17.14 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.12(c).

## Recommitting resolutions to correct an error

17.15 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:

- (a) to correct any error, ambiguity or imprecision in the council's resolution, or
- (b) to confirm the voting on the resolution.

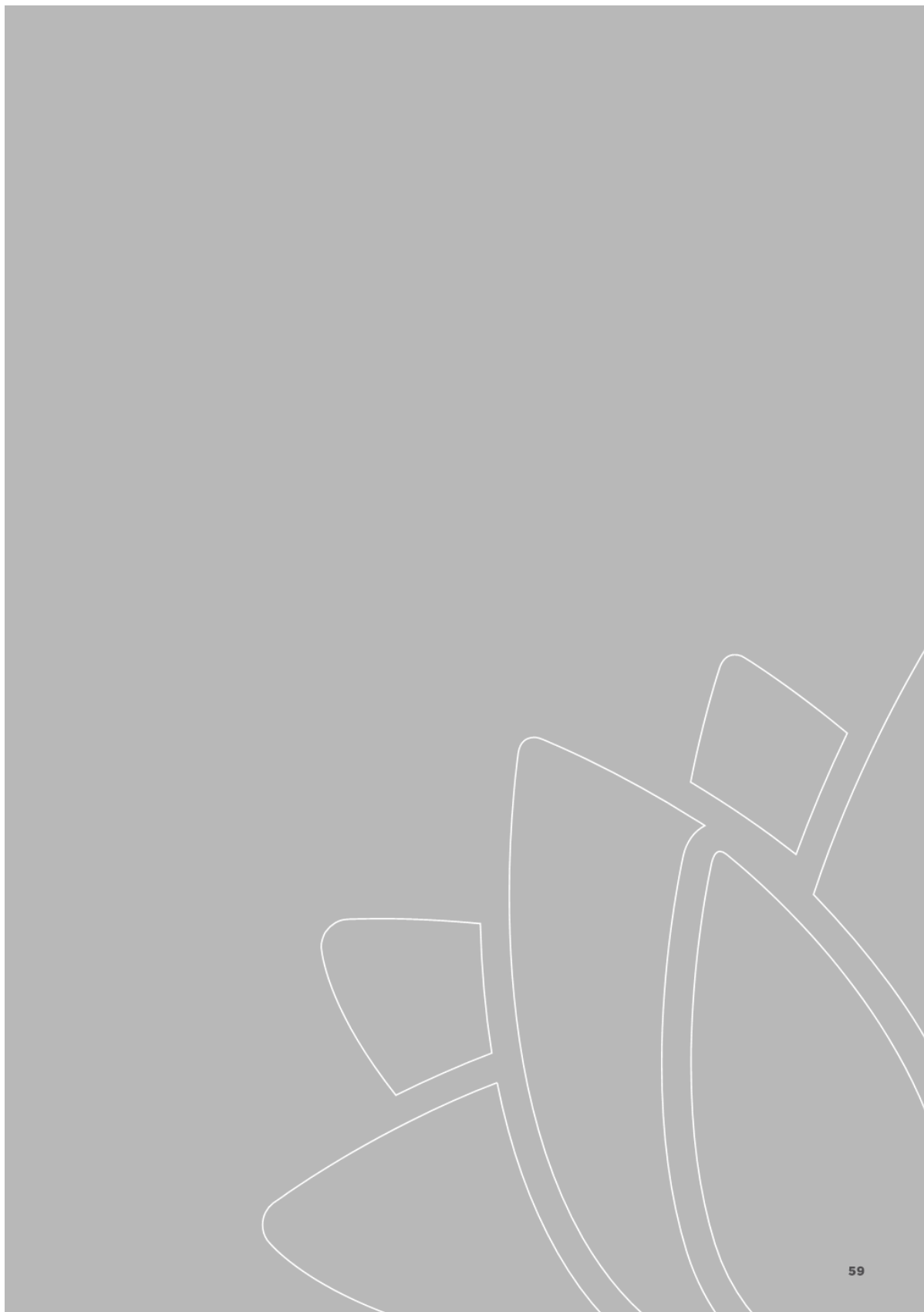
17.16 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.15(a), the councillor is to propose alternative wording for the resolution.

17.17 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.

17.18 A motion moved under clause 17.15 can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.

17.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.

17.20 A motion moved under clause 17.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.



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## 18 Time Limits on Council Meetings

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- 18.1 Meetings of the council and committees of the council are to conclude no later than **[council to specify the time]**.
- 18.2 If the business of the meeting is unfinished at **[council to specify the time]**, the council or the committee may, by resolution, extend the time of the meeting.
- 18.3 If the business of the meeting is unfinished at **[council to specify the time]**, and the council does not resolve to extend the meeting, the chairperson must either:
- (a) defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the council, or
  - (b) adjourn the meeting to a time, date and place fixed by the chairperson.
- 18.4 Clause 18.3 does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.
- 18.5 Where a meeting is adjourned under clause 18.3 or 18.4, the general manager must:
- (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
  - (b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the general manager is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

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## 19 After the Meeting

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## Minutes of meetings

- 19.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.

**Note: Clause 19.1 reflects section 375(1) of the Act.**

- 19.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:

- (a) details of each motion moved at a council 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 was passed or lost, and
- (d) such other matters specifically required under this code.

- 19.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.

**Note: Clause 19.3 reflects section 375(2) of the Act.**

- 19.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

- 19.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.

**Note: Clause 19.5 reflects section 375(2) of the Act.**

- 19.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

- 19.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

## Access to correspondence and reports laid on the table at, or submitted to, a meeting

- 19.8 The council and committees of the council 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 19.8 reflects section 11(1) of the Act.**

- 19.9 Clause 19.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

**Note: Clause 19.9 reflects section 11(2) of the Act.**

- 19.10 Clause 19.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

**Note: Clause 19.10 reflects section 11(3) of the Act.**

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**Model Code of Meeting Practice for Local Councils in NSW**

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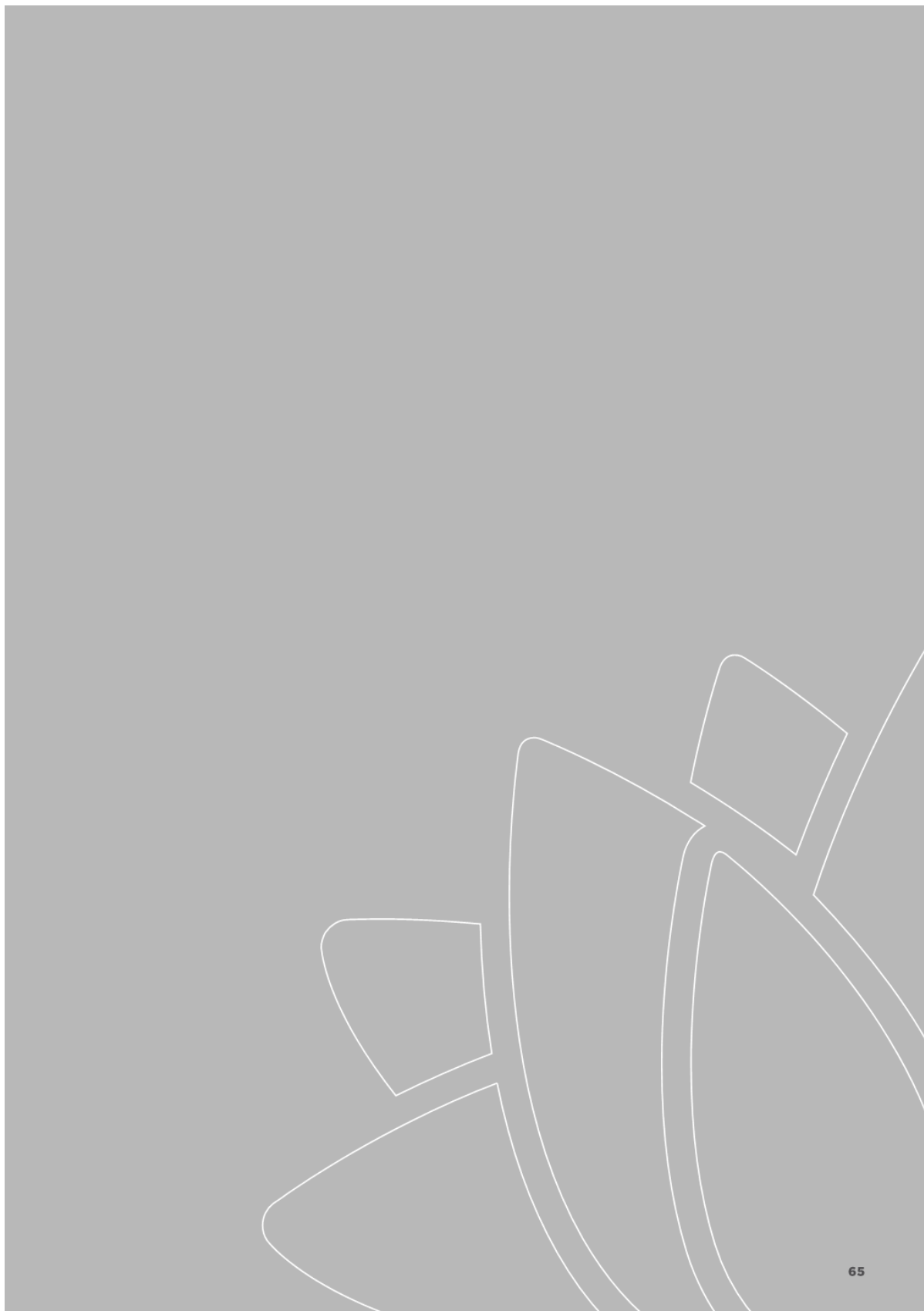
- 19.11 Correspondence or reports to which clauses 19.9 and 19.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

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## **Implementation of decisions of the council**

- 19.12 The general manager is to implement, without undue delay, lawful decisions of the council.

**Note: Clause 19.12 reflects section 335(b) of the Act.**



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Model Code of Meeting Practice for Local Councils in NSW

## 20 Council Committees

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## Application of this Part

- 20.1 This Part only applies to committees of the council whose members are all councillors.

## Council committees whose members are all councillors

- 20.2 The council may, by resolution, establish such committees as it considers necessary.
- 20.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- 20.4 The quorum for a meeting of a committee of the council 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.

## Functions of committees

- 20.5 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.

## Notice of committee meetings

- 20.6 The general manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:
- (a) the time, date and place of the meeting, and

- (b) the business proposed to be considered at the meeting.

- 20.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

## Attendance at committee meetings

- 20.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:
- (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.
- 20.9 Clause 20.8 does not apply if all of the members of the council are members of the committee.

## Non-members entitled to attend committee meetings

- 20.10 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. However, the councillor is not entitled:
- (a) to give notice of business for inclusion in the agenda for the meeting, or
  - (b) to move or second a motion at the meeting, or
  - (c) to vote at the meeting.

## Chairperson and deputy chairperson of council committees

20.11 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.

20.12 The 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.

20.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.

20.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

## Procedure in committee meetings

20.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.

20.16 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 unless the council or the committee determines otherwise in accordance with clause 20.15.

20.17 A motion at a committee of a joint organisation is taken to be lost in the event of an equality of votes.

**Note: Clause 20.17 reflects clause 397E of the Regulation. Joint organisations must adopt clause 20.17 and omit clause 20.16. Councils must not adopt clause 20.17.**

20.18 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

## Closure of committee meetings to the public

20.19 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.

20.20 If a committee of the 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 make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.

20.21 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 20.20 during a part of the meeting that is webcast.

## Disorder in committee meetings

20.22 The provisions of the Act 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.

## Minutes of council committee meetings

20.23 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, 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 was passed or lost, and
- (d) such other matters specifically required under this code.

20.24 All voting at meetings of committees of the council (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

20.25 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.

20.26 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

20.27 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.

20.28 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

20.29 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.



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## 21 Irregularities

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- 21.1 Proceedings at a meeting of a 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 committee member, or
  - (c) any defect in the election or appointment of a councillor or committee member, or
  - (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
  - (e) a failure to comply with this code.

**Note: Clause 21.1 reflects section 374 of the Act.**

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## 22 Definitions

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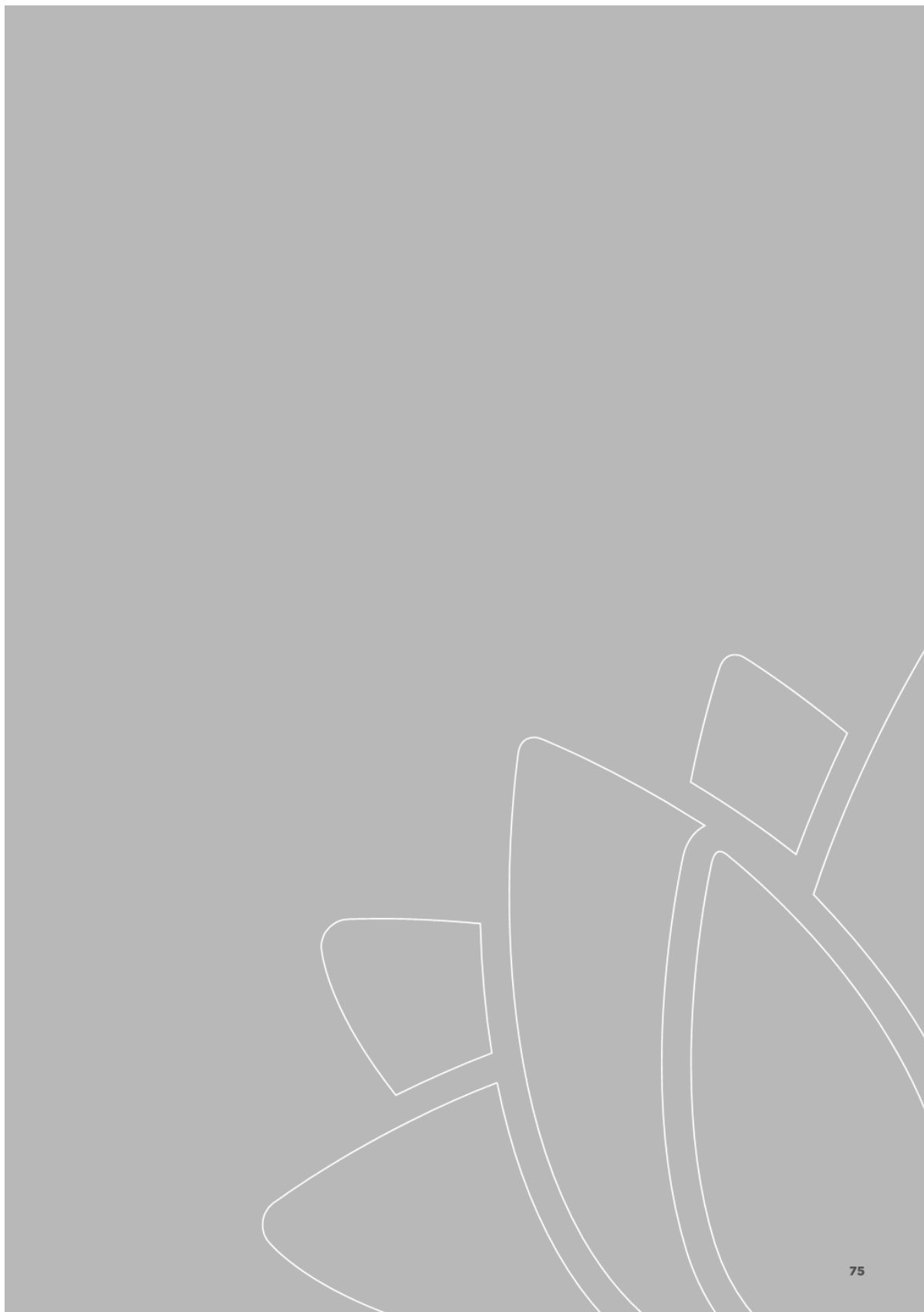
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<b>the Act</b>	means the <i>Local Government Act 1993</i>
<b>act of disorder</b>	means an act of disorder as defined in clause 15.11 of this code
<b>amendment</b>	in relation to an original motion, means a motion moving an amendment to that motion
<b>audio recorder</b>	any device capable of recording speech
<b>business day</b>	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
<b>chairperson</b>	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and  in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 20.11 of this code
<b>this code</b>	means the council's adopted code of meeting practice
<b>committee of the council</b>	means a committee established by the council in accordance with clause 20.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1
<b>council official</b>	has the same meaning it has in the <i>Model Code of Conduct for Local Councils in NSW</i>
<b>day</b>	means calendar day
<b>division</b>	means a request by two councillors under clause 11.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion
<b>foreshadowed amendment</b>	means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment
<b>foreshadowed motion</b>	means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion
<b>open voting</b>	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
<b>planning decision</b>	means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act
<b>performance improvement order</b>	means an order issued under section 438A of the Act

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<b>quorum</b>	means the minimum number of councillors or committee members necessary to conduct a meeting
<b>the Regulation</b>	means the <i>Local Government (General) Regulation 2005</i>
<b>webcast</b>	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time
<b>year</b>	means the period beginning 1 July and ending the following 30 June







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## Council Meeting

13/02/2019

Item No	8.19
Subject	<b>Local Government Elections - September 2020</b>
Report by	Michael Mamo, Director City Performance
File	F18/1162

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## Summary

The purpose of this report is to provide Council with options for the delivery of the 2020 local government elections. Should Council wish to engage the NSW Electoral Commission (NSWEC) to administer the Council's elections it has until 11 March 2019 to do so, otherwise the elections must be administered by the General Manager.

The NSWEC continues to provide a quality service to the vast majority of councils in NSW. While a cost estimate from the NSWEC has not been received as yet, the NSWEC provides the least risk to Council. From a recent tender by a group of councils there seems to be very limited alternate external providers in the market place, with only one response received. Council does not have the experience in house to administer the elections with external assistance. Council does not have the experience or capacity to conduct the elections. In addition, Council has significant activities planned and currently on foot which makes the option of diverting resources to a Council run election unfeasible.

In the circumstances, it is considered prudent to engage the NSWEC to provide all of Council's electoral services as per the model resolution (which makes provision for polls and referendums).

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## Officer Recommendation

- 1 That Council, pursuant to s. 296(2) and (3) of the Local Government Act 1993 (NSW) ("LGA"), enter into an election arrangement by contract for the NSW Electoral Commissioner to administer all elections of the Council.
  - 2 That Council, pursuant to s. 296(2) and (3) of the LGA, as applied and modified by s. 18, enter into a council poll arrangement by contract for the NSW Electoral Commissioner to administer all council polls of the Council.
  - 3 That Council, pursuant to s. 296(2) and (3) of the LGA, as applied and modified by s. 18, enter into a constitutional referendum arrangement by contract for the NSW Electoral Commissioner to administer all constitutional referenda of the Council.
- 

## Background

Under section 296AA of the LGA, each council must resolve 18 months before the next election i.e. by 11 March 2019 to either:

- Engage the NSWEC to administer the council's elections, polls and referenda or
- Administer the elections itself through the general manager.

Should a council fail to make a decision on the administration of its elections by 11 March 2019 it will not be able to engage the NSWEC to administer its ordinary election and by default it will be required to make its own arrangements for the administration of its elections.

The LGA also requires that should a council fail to make a decision on the administration of its elections by 11 March 2019 it be required to publish a notice of that failure on the Council's website. In addition, should a council resolve to administer the elections itself, it must specify the following information in their resolution:

- whether the general manager intends to administer elections personally or to engage an electoral services provider;
- if the general manager intends to administer elections personally, whether the general manager has identified any persons to be appointed as the returning officer and substitute returning officer and, if so, their names;
- If the general manager intends to engage an electoral services provider, whether the general manager has identified an electoral services provider and, if so, the name of that provider.

Council essentially has three options ie:

- contracting the NSWEC; or
- contracting another service provider (through a tender process) under the supervision of the General Manager or
- conduct the elections in house.

#### **OPTION 1 – NSWEC (Preferred)**

Of the recent local government elections, the NSWEC conducted the significant majority of those elections as follows:

- 2017 NSWEC conducted 46 out of 47 elections
- 2016 NSWEC conducted 76 out of 81 elections
- 2012 NSWEC conducted 136 out of 150 elections.

The engagement of the NSWEC presents several advantages. Importantly the NSWEC is well established, seen as independent, has a proven track record, has infrastructure in place and is resourced to undertake elections simultaneously for local government in NSW. It has considerable expertise and experience in conducting elections.

The NSWEC has spent significant resources in developing its processes and software to conduct the election. It is also the preferred option in terms of being seen to be independent of Council in providing the election and also the integrity of its systems and processes.

The NSWEC option provides the least impact on Council's human resources as Council will have limited involvement and will not be required to divert staff from its Operational Plan and business as usual activities.

The NSWEC was to provide Council with a cost estimate for the conduct of the 2020 Local Government Election in early 2019 but at the date of this report it has not been received. It is noted that the first Bayside Council election cost approximately \$699,000. Council will be able to negotiate contract terms with the NSWEC including service levels, which may lower the cost.

**OPTION 2 & 3 – Administered by the General Manager**

A council may conduct its own elections, constitutional referendums and polls and in such a case the general manager is responsible for their conduct. The LGA makes it clear the responsibilities of the general manager include appointing a suitably qualified independent returning officer and a substitute returning officer for the council's area, appointing the polling places and determining the fees payable to the returning officer, substitute returning officer and electoral officials. The returning officer is to appoint one or more electoral officials. A general manager cannot be appointed as a returning officer, substitute returning officer or electoral official for any area. Also an employee of a council for an area cannot be appointed as a returning officer or substitute returning officer for that area but an electoral official may be an employee of the council. The general manager will also be responsible for managing the relevant election costs and preparing a report for the Minister for Local Government on the conduct of each election. The report must disclose, among other things, full and transparent costing for that election.

As part of this option the Council may engage the services of a suitable qualified and experienced external provider to undertake the elections on the General Manager's behalf.

Council's considering the external provider option would be required to prepare a comprehensive specification and go to tender. This would not be achieved by 11 March 2019. It is argued that this may prove to be the more cost effective model although this will not be known until tenders are called. Given the timing of a decision to notify the NSWEC, choosing this option leaves Council vulnerable given the limited providers in the market place should the cost exceed that of the NSWEC.

For the 2012 Local Government Elections, former Rockdale City Council found that the NSWEC was more cost effective than a quote received from an external provider. At that time there was only one recognised resourced provider and from research that seems to still be the case today. A recent joint tender by 14 councils elicited only one tenderer.

The former City of Botany Bay Council conducted its own electoral services in 2012 by engaging a person to act as returning officer and purchasing materials and other resources from an external provider. The former Council had four wards contested, two wards uncontested councillor and a contested mayoral election. Its reported costs were understated as not all staff costs were included as reported by the then Department of Local Government. A realistic cost comparison is not available.

The key risk with this option is the limited number of providers. Importantly, Council will not be able to engage NSWEC should the tender process fail to attract a suitable response, should the cost be excessive or should the provider fail to deliver the services required by legislation.

It is noted that generally the NSWEC will not make its services or advice available to non-contracted councils, beyond those required by legislation. It is clear that the Commissioner will take full responsibility for the conduct of the Election if the NSWEC administers the Election, however the Commissioner is not prepared to take partial responsibility should Council administer the Election itself. In this regard legislation requires the NSWEC to prepare, update and revise the roll of electors.

**CONCLUSION**

Having regard to the timeframes available to Council, the least risk to Council is to appoint the NSWEC to conduct council elections in 2020. The NSWEC is well placed to undertake an

independent quality service, with consultation and input from Council. From recent experience it has been cost effective with final costs lower than its projected costs. Council maintains an Election Reserve, with an allocation of funds each year, to meet the anticipated cost of elections.

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### Financial Implications

Not applicable	<input type="checkbox"/>	
Included in existing approved budget	<input checked="" type="checkbox"/>	Council makes an annual allocation of funds to an Election Reserve to cover the anticipated cost of the election.
Additional funds required	<input type="checkbox"/>	

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### Community Engagement

Not Applicable

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### Attachments

- 1 Office of Local Government Circular 18-43 - Council Decisions on the Administration of the September 2020 Elections [↓](#)
- 2 Administration of 2020 Elections - FAQs [↓](#)



Office of  
Local Government

## Circular to Councils

<b>Circular Details</b>	Circular No 18-43 / 12 December 2018 / A624481
<b>Previous Circular</b>	15-01 <i>Local Government Amendment (Elections) Bill 2015</i>
<b>Who should read this</b>	Councillors / General Managers / Council Governance staff
<b>Contact</b>	Council Governance Team / 02 4428 4100 / olg@olg.nsw.gov.au
<b>Action required</b>	Council to Implement

### Council decisions on the administration of the September 2020 elections

#### What's new or changing?

- Under section 296AA of the *Local Government Act 1993* (the Act), councils must make a decision on how their September 2020 ordinary elections are to be administered no later than **11 March 2019**.
- Each council must resolve **either**:
  - to enter into an election arrangement with the NSW Electoral Commissioner (NSWEC) to administer all the council's elections, polls and constitutional referenda or
  - that the council's elections are to be administered by the general manager of the council.
- If a council fails to resolve to engage the NSWEC to administer its elections by **11 March 2019**, it will be required to administer its own elections.

#### What this will mean for your council

- Councils should start preparing now, if they have not already done so, to make a decision by March on the administration of their next ordinary election.
- A council should only resolve to administer its own elections if it is confident that it has the capacity to do so. The attached FAQ contains information to assist councils to assess whether they have the capacity to administer their own elections.
- If a council is proposing to engage the NSWEC to administer its elections, it should resolve to do so as soon as possible and notify the NSWEC.

#### Key points

- Where councils resolve to engage the NSWEC to administer their elections, polls and referenda they should use the model resolution suggested in the attached FAQ.
- Where councils resolve to administer the elections themselves, they must specify the following information in their resolution:
  - whether the general manager intends to administer elections personally or to engage an electoral services provider,
  - if the general manager intends to administer elections personally, whether the general manager has identified any persons to be appointed as the returning officer and substitute returning officer and, if so, their names,

- if the general manager intends to engage an electoral services provider, whether the general manager has identified an electoral services provider and, if so, the name of that provider.

**Where to go for further information**

- Further information to support councils' decision making on the administration of their September 2020 ordinary elections is contained in the FAQ attached to this circular.
- Contact OLG's Council Governance Team by telephone on 02 4428 4100 or by email at [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au).
- Contact the NSW Electoral Commission by telephone on 02 9290 5999.



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## FREQUENTLY ASKED QUESTIONS

### Part 1 Decision making on the administration of elections

#### **What decisions must councils make on the administration of their elections?**

Under section 296AA of the the Act, each council must resolve by **11 March 2019** either:

- to engage the NSWEC to administer the council's elections, polls and referenda or
- that the council's elections are to be administered by the general manager of the council.

#### **What happens if a council fails to make a decision on the administration of its elections by 11 March 2019?**

If a council fails to make a decision on the administration of its elections, polls and referenda by 11 March 2019, it will not be able to engage the NSWEC to administer its ordinary election and it will be required to make its own arrangements for the administration of its elections.

A council that fails to make a decision on the administration of its elections by 11 March 2019 will also be required to publish a notice of that failure on the council's website.

## **Part 2 Election arrangements with the NSWEC**

### **What election arrangements can councils enter into with the NSWEC?**

The election arrangement is a standardised contract for all councils. The service schedule and costs schedule of the standardised contract will vary between councils and are made by the NSWEC in consultation with each council.

Where a council resolves to engage the NSWEC to administer its elections, polls and referenda, the election arrangement with the NSWEC will apply to the 2020 ordinary election and every election, poll and referendum including any by-election or countback election until the contract is automatically terminated 18 months before the following ordinary election of councillors.

Where a council resolves to engage the NSWEC to administer its elections, polls and referenda, it should use the model resolutions provided below.

### **If a council wishes to engage the NSWEC to administer its elections, polls and referenda what form should its resolution take?**

Councils wishing to make a resolution that an election arrangement be entered into for the NSWEC to administer all elections, polls and referenda under section 296(3) of the Act should use the following model resolution:

*The [insert full description of council] ("the Council") resolves:*

- 1. pursuant to s. 296(2) and (3) of the Local Government Act 1993 (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.*
- 2. pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.*
- 3. pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.*

### **When must the election arrangements with the NSWEC be finalised?**

Where councils have resolved to enter into an election arrangement with the NSWEC, the contract with the NSWEC must be finalised no later than 15 months before the next ordinary elections (ie **11 June 2019**).

### **Can election arrangements with the NSWEC be terminated?**

Yes, but only after the council's ordinary election. An election arrangement for the NSWEC to administer all elections, polls and referenda of a council can be terminated by the council or the NSWEC at any time after the ordinary election by giving written notice of termination and in accordance with any notification requirements set out in the contract.

If the election arrangement is not terminated by either party, the arrangement is automatically terminated 18 months before the following ordinary election when the council will be required to determine who will conduct its next ordinary election.

**If a council does not engage the NSWEC to administer its ordinary election, can it engage the NSWEC to administer a particular by-election, poll or referendum after the ordinary election?**

Yes. Where a council does not enter into an election arrangement with the NSWEC to administer its ordinary election, the council may resolve to enter into an election arrangement with the NSWEC to administer a particular by-election, poll or referendum following the ordinary election.

If councils resolve to engage the NSWEC to administer a particular by-election, poll or referendum after the ordinary election, they should use the model resolutions provided below.

**If a council wishes to engage the NSWEC to administer a particular by-election or countback election, what form should its resolution take?**

Councils wishing to engage the NSWEC to administer a particular by-election or countback election after the ordinary election should use the following model resolution:

*The [insert full description of council] ("the Council") resolves pursuant to ss. 296(2) and (4) of the Local Government Act 1993 (NSW) that:*

- 1. an election arrangement is to be entered into for the Electoral Commissioner to administer [insert description of the particular election but do not do so by date in case the election date is changed or postponed]; and*
- 2. such election arrangement is to be entered into by contract between the Electoral Commissioner and the Council.*

**Note: Please refer below for additional information concerning limitations with respect to countback elections.**

**If a council wishes to engage the NSWEC to administer a particular poll, what form should its resolution take?**

Councils wishing to engage the NSWEC to administer a particular poll after the ordinary election should use the following model resolution:

*The [insert full description of council] ("the Council") resolves pursuant to ss. 296(2) and (4) of the Local Government Act 1993 (NSW), as applied and modified by s.18, that:*

- 1. a council poll arrangement be entered into for the Electoral Commissioner to administer [insert description of the council poll but do not do so by date in case the poll date is changed or postponed]; and*
- 2. such council poll arrangement be entered into by contract between the Electoral Commissioner and the Council.*

**If a council wishes to engage the NSWEC to administer a particular referendum, what form should its resolution take?**

Councils wishing to engage the NSWEC to administer a particular referendum after the ordinary election should use the following model resolution:

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The [insert full description of council] (*"the Council"*) resolves pursuant to ss. 296(2) and (4) of the Local Government Act 1993 (NSW), as applied and modified by s.18, that:

1. a constitutional referendum arrangement be entered into for the Electoral Commissioner to administer [insert description of the constitutional referendum but do not do so by date in case the referendum date is changed or postponed]; and
2. such constitutional referendum arrangement be entered into by contract between the Electoral Commissioner and the Council.

**If a council does not engage the NSWEC to administer its ordinary election, can it engage the NSWEC to administer a countback election following the ordinary election?**

A countback election to fill a casual vacancy must be conducted by the returning officer who conducted the election at which the person whose departure created the casual vacancy was elected. If that is not possible, the countback election must be conducted by the substitute returning officer at that election and if that is not possible, by another returning officer appointed in accordance with the Act.

If a council appoints a returning officer and substitute returning officer who are employees of a commercial electoral services provider, the council's option to resolve to enter into an election arrangement with the NSWEC for the administration of a particular countback election may be limited by both the Act as well as the contractual arrangements agreed to between the council and the commercial electoral services provider.

For example, the NSWEC will not be able to administer a countback election for a council where it did not administer its ordinary election if the NSWEC does not have access to the electoral material, data and other information held by the council or a commercial electoral services provider in relation to the ordinary election.

To retain the option to engage the NSWEC to conduct a particular countback election, councils must ensure (amongst other things) that any contractual arrangement they enter into with commercial electoral services providers to manage their ordinary election allows them to retain or to have ongoing access to ballots cast and other electoral material, information and data relating to the ordinary election.

Even where contractual arrangements between the council and a commercial electoral services provider make provision for the retention of electoral material, information and data, it may still not be possible for the NSWEC to undertake a particular countback election for a council because the provider's systems and procedures with respect to electoral material, information and data may not be compatible with the NSWEC's systems and procedures.

**Part 3 Decisions by councils to administer their own elections****Where a Council resolves that the council's elections are to be administered by the general manager, what information must be included in the resolution?**

Under section 296AA, where a council resolves to administer its own elections, it must include the information specified below in the resolution:

- whether the general manager intends to administer elections personally or to engage an electoral services provider
- if the general manager intends to administer elections personally, whether the general manager has identified any persons to be appointed as the returning officer and substitute returning officer and, if so, their names
- if the general manager intends to engage an electoral services provider, whether the general manager has identified an electoral services provider and, if so, the name of that provider.

As soon as practicable after the resolution is made, the general manager must publish a copy of the resolution on the council's website.

**What should the general manager consider when identifying persons to be appointed as a returning officer and substitute returning officer?**

The general manager must ensure that the persons they identify for appointment as the returning officer and substitute returning officer (who exercises the functions of the returning officer in that person's absence), is **suitably qualified** and **independent**.

**What skills and attributes are required to be a returning officer or substitute returning officer?**

The returning officer is the front-line manager for the conduct of elections for a particular council area. The role involves:

- managing the returning officer's office
- appointing and training staff including polling place managers on how to conduct a count and how to determine formality of ballot papers
- developing procedures to be followed by electoral officials issuing pre-poll, declared institution, postal and election day votes
- preparing all necessary printed election materials such as forms, declaration envelopes, signs etc
- obtaining all necessary election material for use in pre-poll and election day venues such as voting screens, ballot boxes, pencils etc
- determining the quantity of ballot papers required and arranging for their printing, delivery and secure storage
- making Braille ballot papers available, if requested
- dealing with political parties, candidates and the public
- processing candidates' nominations including acceptance of the deposit and conducting the draw for position of candidates on the ballot paper
- registering 'how to vote' material
- putting in place all necessary arrangements to enable pre-poll, declared institution, postal and election day voting including booking the appropriate venues



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- ensuring delivery and collection of election materials to and from pre-poll and election day polling venues
- conducting the 'check count' of the votes and the distribution of preferences
- declaring the election
- arranging storage (and ultimate destruction) of ballot papers and voting-related materials and data for the statutory period of 18 months
- ensuring the security of ballot papers and voting-related materials and data (including with respect to potential cyber attacks)
- conducting a countback election, if required in the first 18 months following the ordinary election.

General managers must identify for appointment as returning officer and substitute returning officer, persons who are capable of undertaking all these requirements proficiently. It is suggested that key skills and competencies include:

- demonstrated leadership and management experience
- excellent communication skills
- excellent interpersonal skills including an ability to deal with people from all backgrounds
- excellent organisation and time management skills
- ability to work under pressure and meet deadlines as required
- ability to deal with challenging situations and determine appropriate solutions
- ability to work in a methodical manner and with attention to detail

Additionally, to be employed as an electoral official, including as a returning officer, a person must be on an electoral roll and eligible to vote at either New South Wales state or federal elections.

**What is meant by 'independent'?**

To ensure the conduct of an election is seen to be at arms' length from the council, an employee of a particular council cannot be appointed as a returning officer or substitute returning officer for a particular area (section 296A(4)).

To avoid any perception of bias, friends or relatives of the mayor, councillors, general manager or candidates for election should not be appointed as the returning officer or substitute returning officer.

It is also important that electoral officials, including the returning officer are, and are seen to be politically neutral. For example, they must not have current or recent political affiliations with any political party, candidate, councillor or mayor.

A general manager of any council is ineligible for appointment as a returning officer, substitute returning officer or an electoral official (section 296A(5)).

**Is it possible to use the services of a returning officer previously engaged by the NSWEC?**

Unlike the Australian Electoral Commission, the NSWEC does not retain a pool of permanent returning officers. General managers are permitted to approach a person who has had prior experience as a returning officer for the NSWEC.

**Is it possible for the returning officer appointed by the council to be trained by the NSWEC?**

The NSWEC has advised that its returning officer training program is customised specifically to complement the NSWEC's own business processes, procedures and IT systems. It combines on-line and face to face training and is centred around training the returning officers in using the NSWEC's computer applications. As such, this training program is not transferable to the differing operating environments of individual councils. Similar constraints apply to any manuals or handbooks prepared by the NSWEC.

The training of returning officers, appointed by general managers administering their council's elections, will necessarily be informed by that council's own procedures and systems.

**Is it possible for councils to share a returning officer to conduct several elections concurrently?**

The legislation permits councils to share a returning officer. In this way costs (wages of the returning officer, office staff, and office accommodation) could be apportioned to participating councils.

If the decision is taken by councils to engage a single returning officer to conduct a number of concurrent elections, the general manager of each participating council will nonetheless retain ultimate responsibility for the conduct of their council elections.

As many election-related tasks and activities have legislative timetables that are non-negotiable, strategies will need to be put in place to address the challenges of having only one returning officer, and detailed project plans will be required to ensure the delivery of the individual elections satisfies the legislation.

Each general manager in the combined group must issue an instrument of appointment nominating the same person as the returning officer for the group. The allocation of tasks (for example, one council may nominate a staff member to source the cardboard material, another council may nominate someone to work with Vision Australia on the arrangements for Braille ballot papers) and the costs to be apportioned to each council in the group also need to be documented.

**Can the services of a commercial electoral services provider be used?**

Yes. There are a number of private sector companies providing electoral services for company boards of directors, sporting clubs and associations and the like. Similarly, some electoral commissions, such as the Australian Electoral Commission, may conduct fee for service elections.

While the Act permits the use of such commercial electoral services providers, the general manager will still retain overall responsibility for the administration of the elections.

In considering the use of such providers, it is important to clarify that they can deliver the elections for the council. For example, although the Australian Electoral Commission is not involved in local government elections, its overall election experience may lead a general manager to believe a suitably qualified officer from



the Australian Electoral Commission could be engaged as the returning officer for the council's elections.

The general manager would also need to be satisfied that if the provider claims to be able to obtain all the electoral material, or hire the necessary venues, or arrange the printing of the ballot papers, or conduct the count, that they can demonstrate their successful completion of these tasks in similar circumstances.

A key consideration will be whether the provider is able to administer the complex counts required under the weighted inclusive Gregory method of preference allocation that will soon be prescribed under the *Local Government (General) Regulation 2005* (the Regulation) for council elections.

It is also a requirement that the method proposed to be used by the provider to conduct the count of the ballot papers (whether through the use of data entry or scanning equipment) can comply with the formality, scrutiny and record keeping provisions contained in the Act and Regulation.

If the services of a commercial electoral services provider are to be used, the contract must specify a 'natural person' as the returning officer, not simply name the particular company. It is also necessary to ensure that the person engaged as either the returning officer or substitute returning officer is indemnified by the council or has sufficient professional indemnity insurance in the event that an election is challenged or declared void due to any irregularity in the way it was run.

Councils are not restricted to relying on the services of one service provider to deliver all election-related items. For example, while a commercial electoral services provider may be engaged to conduct the count, the council may decide to make its own arrangements in relation to the appointment of a returning officer, the purchase of cardboard material or the printing of the ballot papers.

**If council decides to use a commercial electoral services provider is it necessary to go to tender?**

Section 55 of the Act exempts councils from tendering when entering into a contract or arrangement for the NSWEC to administer the council's elections, referendums and polls. This exemption does not apply to contracts or arrangements with any other service provider.

As the amount involved in conducting council elections can be significant it is important to ensure that any commercial organisation is providing value for money. It is also important to ensure that as public funds are being expended, principles of openness, transparency and accountability are not compromised.

Unless the cost of administering the elections is under \$150,000 or any of the other exemptions provided for in section 55 apply, councils will be required to go to tender or to conduct a selective tender when engaging a commercial electoral services provider.

**What should councils consider when entering into a contract with a commercial electoral services provider?**

In negotiating arrangements for the administration of their elections with commercial electoral services providers, councils need to ensure that:

- there will be an appropriate number of pre-poll and polling places
- there will be adequate staffing levels
- the provider uses counting software that is able to undertake counts using the soon to be prescribed weighted inclusive Gregory method
- the potential need for the contractor to administer countback elections in the 18 months following the ordinary election
- that the provider is able to meet the new requirements recommended by the NSW Parliament's Joint Standing Committee on Electoral Matters (JSCEM) which are outlined below.

**What is the appropriate number of polling places?**

The appropriate number of polling places for any one council will depend on its individual characteristics and factors such as the number of electors, the geographic area it covers, available transport options and suitable venues.

While the cost of hiring venues will be a consideration, general managers should also have regard to the following when determining the number and type of venues to be used:

- How many voters are there in total in the area, and how many voters can each particular venue comfortably handle?
- What venues have been used in the past by either the Australian Electoral Commission for federal elections or the NSWEC for either state or local government elections? What was the previous attendance pattern at these venues?
- Is the venue conveniently located, particularly in light of transport options?
- Is it suitable for the purpose of conducting an election? For example, is there sufficient space for the various tables, voting screens, ballot boxes, throughput of voters? Is there appropriate furniture for electoral officials? For example, if small tables and chairs are used in a primary school these are not appropriate for adults involved in election-related activities.
- Is it easily accessible for all voters and in particular those with a disability, mobility issues, the elderly or frail, parents with prams?
- Are there venues located close to ward boundaries that are able to issue ballot papers for both the ward in which they are located as well as votes for adjoining ward/s? Or in the case of an undivided council, venues located close to the boundary of another council or councils?
- Is appropriate public liability insurance in place?

It is likely that the more electors a council has, the more polling places it will need.

**What are the appropriate staffing levels for a council election?**

Determining the appropriate number of staff required for any particular council area depends on the estimated number of votes likely to be taken and the volume for each particular voting option (pre-poll, declared institution, postal and election day) as this will have an impact on the categories of staff recruited. For example, if it is anticipated

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that there will be a high demand for pre-poll voting it may be necessary to have more office assistants available in the returning officer's office than in an area where it is likely that more votes will be taken on election day at polling places.

Under the legislation all polling places must have a minimum of two staff, one of whom is the polling place manager.

The NSWEC's polling place staffing formula is based on 600 votes per issuing table (at one election official per table) and the overall projected number of votes for the polling place determines the number of issuing tables. The number of issuing tables determines whether a particular polling place requires a deputy polling place manager, a ballot box guard and/or an enquiry officer.

**Is it possible to conduct the count and distribution of preferences manually?**

No. Under proposed amendments to the Regulation a new method of preference allocation will be used for council elections. The new method, the weighted inclusive Gregory method, uses a fractional transfer system. All ballot papers of the elected candidate are used to distribute the surplus (instead of a sample). The ballot papers are distributed at a reduced rate with each transfer of votes by applying a transfer value, making manual counts impossible.

Councils should ensure that any commercial electoral services provider they engage to conduct their elections is able to undertake a count utilising counting software that allocates preferences using the soon to be prescribed weighted inclusive Gregory method.

**What arrangements should be made for countback elections?**

Under amendments proposed to the Regulation, councils will have the option of filling vacancies that occur in the 18 months following the September 2020 council elections using a countback of the votes cast at the ordinary election instead of a by-election. Countback elections are not available for elections using the optional preferential voting system (including elections for popularly elected mayors).

In order to fill vacancies using a countback election, councils must resolve at their first meeting following the ordinary election that any casual vacancy is to be filled by a countback election.

If councils are proposing to fill vacancies using a countback election, they should factor this into their contractual arrangements with commercial electoral services providers. Among other things, the contractual arrangements should ensure the following:

- the retention of all electoral material, information and data for the 18 month period following the ordinary election during which countback elections may be used
- the safe storage and security of electoral material, information and data (including from cyber attack)
- the council has ongoing access to the electoral material, information and data from the ordinary election.

**What other considerations should councils factor into their contractual arrangements with commercial electoral services providers?**

In its inquiry into preference counting in local government elections, the JSCEM made a number of recommendations to improve the transparency of council elections. The key recommendations are recommendations 3 – 7. These are as follows:

- That the NSWEC works with relevant stakeholders to develop a policy that makes it easier for scrutineers to examine paper ballots, electronic records and data entry records (Recommendation 3).
- That the Office of Local Government ensures that councils which administer their own elections be required to adhere to any scrutineering policy developed by the NSWEC (Recommendation 4).
- That an audit process be introduced to ensure that data entry of ballots is accurate in every local government election count that uses electronic counting. The JSCEM also recommended that scrutineers be allowed to observe this audit process and the results (Recommendation 5).
- That the Government outlines minimum levels of data, including full preference data, which is to be released following a local government election regardless of whether the election is run by the NSWEC, a commercial provider, or a council themselves (Recommendation 6).
- That the source code of counting software used in local government elections, whether those elections are conducted by the NSWEC or a commercial provider, be subject to an external audit at least once every five years, subject to reasonable restrictions which protect the Intellectual Property of the organisations involved (Recommendation 7).

The Government has accepted these recommendations. The JSCEM's report and the Government Response can be accessed [here](#).

The Office of Local Government will provide more detailed guidance to councils administering their own elections on compliance with these requirements closer to the election. However, councils should factor compliance with these requirements into their contractual arrangements with commercial electoral services providers. In particular, councils should ensure the following:

- that the commercial electoral services provider has a formal policy that ensures that scrutineers are given as much opportunity as possible to be involved in the counting process by allowing the examination and comparison of ballot papers, the data entry of votes recorded on ballot papers (whether by manual data entry or digital scanning) and electronic or data entry records
- that the commercial electoral services provider has an audit system in place for checking ballot papers against the information entered into the electronic counting system used by the provider and that scrutineers are permitted to observe the audit process and its results
- that the commercial electoral services provider will make full preference data available for publication
- that the source code of counting software used by the commercial electoral services provider has been independently audited by an accredited source code auditor. The audit should be undertaken after the counting software has



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been updated to undertake counts using the new weighted inclusive Gregory method.

**What services will the NSWEC provide to councils that administer their own elections?**

The NSWEC provides enrolment services to councils conducting their own elections such as the provision of authorised rolls, candidates' rolls, an online look-up facility for non-residential electors, a list of general postal voters and enrolment declaration envelopes. These products and services will be provided at cost to the relevant councils.

**What information are councils that administer their own elections required to provide to the NSWEC?**

Councils conducting their own elections are required to provide certain information to the NSWEC to support it in the exercise of its statutory functions in connection with the administration of candidate registration and other electoral funding and disclosure requirements and the enforcement of the failure to vote provisions of the Act and Regulation.

**How should election costs be managed?**

General managers should prepare a budget for all facets of council elections, and record and monitor expenditure to ensure a shortfall does not occur. Activity based costing will need to be applied to ensure that all costs and expenses are identified.

Areas to be covered include:

- wages of all electoral officials and any council staff engaged in election-related work
- recruitment and training
- advertising including the placement of statutory advertisements
- candidate and elector information
- hire of venues, furniture and equipment
- production of all election-related material, including forms, envelopes and cardboard material
- printing of ballot papers including in Braille, if requested
- transportation of election-related materials
- IT software and hardware
- administration expenses such as telephone, postage, courier services, photocopiers and printers
- insurance

A number of key variables will not be known until the close of nominations, namely whether an election will be uncontested, whether there will need to be a by-election due to insufficient nominations, whether candidates will form groups and request group voting squares, and whether as a result, ballot papers will need to be printed to allow 'above the line' and 'below the line' voting.

These factors will have an impact on costs. However given the lead time required to ensure voting can go ahead at the prescribed times, provision for all likely costs has to be made.

**What are the reporting requirements on election costs?**

Within six months of the election, the general manager must prepare a report for the Minister for Local Government on the conduct of each election. Full and transparent costings for each election must be disclosed in this report.

**What is meant by 'full and transparent costings'?**

It needs to be acknowledged that although council staff may be used to undertake administrative tasks related to the conduct of elections, this comes at a cost. Notably any time spent on election-related work is time not spent on other council duties. Similarly use of council office space or office equipment or resources for election-related work is at the expense of other day to day council activities.

The following list is not exhaustive but contains a number of items that should be reported on:

- the proportion of the general manager's time spent on election-related activities (such as training the returning officer, ensuring all aspects of the election have been identified, scoped and are on track, preparing and managing the budget) as a proportion of salary
- proportion of other council staff time spent on election-related activities (such as processing payroll and payables, sourcing suppliers of election material, providing IT support, and legal advice) as a proportion of salary
- wages of council staff hired specifically to assist with election-related activities
- wages of the returning officer, substitute returning officer, and all electoral officials (polling place managers, officers issuing votes, others who may be required in larger polling places, such as queue controller and ballot box guard, as well as office assistants in the returning officer's office)
- cost of recruiting all electoral officials
- cost of training all electoral officials including the production of any manuals or guides
- cost of conducting candidate information seminars.
- cost of the returning officer's office
- cost of hiring venues or using council venues for any additional pre-poll locations and election day voting
- cost of hiring furniture or equipment or using council furniture and equipment
- cost of electoral material including forms, envelopes, production of candidate information sheets, stationery and cardboard material required for polling places
- cost of developing and managing the tender process for the delivery and collection of election-related material and furniture
- cost of courier services and postage, particularly in relation to dispatch of postal votes
- cost of advertising and any elector information produced including cost of translations
- cost of printing ballot papers including any Braille ballot papers
- IT-related costs particularly the development of counting software
- cost involved in producing the report to the Minister on the conduct of the election

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Such identification of activity based costs and expenses will also enable a comparison with the fees charged by the NSWEC, to see whether one option is better value than the other for ratepayers.

Even in the case of an uncontested election or where there are insufficient nominations to enable the election to proceed on election day, there will be costs associated with having reached that stage, which also need to be reported.



## **Council Meeting**

**13/02/2019**

Item No	8.20
Subject	<b>Delivery Program &amp; Operational Plan 2018/19 - Six-Monthly Progress Report</b>
Report by	Michael Mamo, Director City Performance
File	F18/519

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## **Summary**

This report provides the statutory six month progress report on Council's Delivery Program 2018/21 and Operational Plan 2018/19.

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## **Officer Recommendation**

That Council receives and notes the six monthly progress report on Council's Delivery Program 2018/21 and Operational Plan 2018/19.

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## **Background**

Council adopted the current Delivery Program 2018/21 and annual Operational Plan 2018/19 in June 2018.

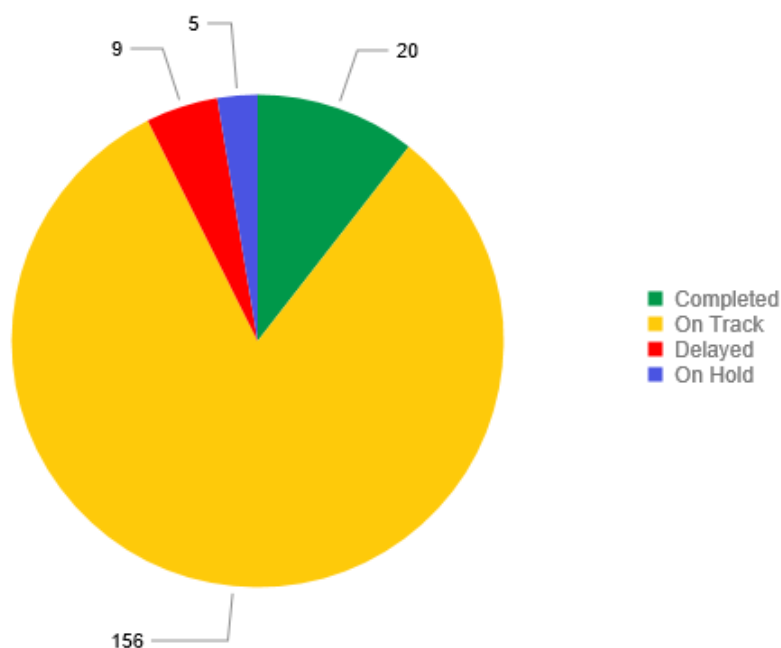
In accordance with s 404(5) Local Government Act 1993, Council must report progress every six months on the Delivery Program (and Operational Plan).

The attached report, details the progress of each action in the Delivery Program 2018/21 and annual Operational Plan as at 31 December 2018. The Delivery Program/Operational Plan is structured under the themes of the Community Strategic Plan being:

- In 2030 Bayside will be a vibrant place
- In 2030 our people will be connected in a smart city
- In 2030 Bayside will be green, leafy and sustainable
- In 2030 we will be a prosperous community

## **Summary**

As seen from the chart below, 93% of the matters have been completed or are on track for completion by 30 June 2019.



For ease of reference the actions “delayed” or “on hold” are shown in their respective tables below. It should be noted that the status is only relative to the originally six monthly target.

**Table 1 – Actions Delayed**

Action	Comment
Conduct minimum of 4 Food handling Workshops with food businesses across our Local Government Area.	The food handling workshops are programmed for the second half of the financial year 2018/19.
Assess site conditions at Botany Golf Course to inform future recreation uses and environmental management	Bayside Social Infrastructure Strategy will be completed in 2019 as part of the Local Environment Plan (LEP) review. The Strategy will make recommendations about current/future demand for open space/community facilities. Site condition assessment will be progressed subsequently.
Construct a skate park at Mutch Park to increase recreation opportunities for youth.	The development approval has now been obtained, a contractor has been appointed and a construction license finalized and executed with Sydney Water to allow construction to commence in February 2019.
Develop a Bayside s.7.11 Development Contributions Plan to consolidate Rockdale and Botany Bay Plans	Bayside Contributions Plan is required by July 2020 and will utilise background studies being prepared for planning controls. Preparation of Contributions Plan to commence in Q1 2019/20
Implement Bayside Economic Strategy	Implementation is awaiting the finalisation of the Strategy. The scope of the Strategy has been developed. A Working Group has been established to provide guidance on the Strategy scope and its development. The process to engage a consultant to develop the Strategy is underway.

Action	Comment
Improve water quality and upgrade infrastructure at Russel Ave and Bardwell Valley	Commencement delayed, detailed design to commence in early 2019.
Water quality improvements to enhance riparian zones and waterway assets	Commencement delayed, detailed design to commence in early 2019.
Review condition of the seawall at Sandringham	Research of background investigations has commenced. Draft project charter under development. Project plan and commencement of asset condition investigations scheduled for second half of the year.
Revise Library model to incorporate all libraries	Due to be reviewed in March 2019

**Table 2 – Actions On Hold**

Action	Comment
Coordinate the anti-hooring task force	The Anti-hooring Task Force to be determined by the Brighton Le Sands Working Party
Design and document access improvements to Botany Town Hall including a lift.	This project has been put on hold, pending the completion of the conservation management plan and the Social Infrastructure Strategy.
Design and install safety barriers in significant locations	Temporary barriers installed with major events as part of the event planning.
Maintain the contaminated land management and recording system through the development process	Site Audit Statements received entered into relevant databases. Desktop review to be progressed in Quarter 3.
Progress Cook Cove Project	Work on the Cook Cove Project will progress in accordance with the Council resolution of December 2018.

## Financial Implications

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

## Community Engagement

Not Applicable

## Attachments

Draft 6 Month Progress Report as at 31 December 2018 (@5 Feb 2019) [↓](#)

# Bayside 2030



# 1 About the Operational Plan

## 1.1 Integrated Planning & Reporting overview

The Delivery Program and Operational Plan are a part of Council's Integrated Planning and Reporting framework. This Delivery Program shows our response to the community's long term goals, identified through community engagement and documented in the Community Strategic Plan. It is a commitment to our community from the elected Council and identifies the actions our organisation will take to work towards that commitment.

As well as the work that we do throughout the LGA, Council has an important role to play in advocating for and partnering with other agencies to achieve local outcomes.

The Delivery Program is linked to the Workforce Management Plan, Long Term Financial Plan and Asset Management Strategy. They have been developed to ensure that Council is in the best possible position to deliver community priorities while continuing to provide services at current levels.

The 2018 - 2021 Delivery Program is designed as the single point of reference for activities undertaken throughout the organisation for the three years 2018-2021. All plans, projects, activities, funding and resource allocations are directly linked to the Delivery Program.

The Delivery Program is structured on the themes outlined in the Community Strategic Plan - Bayside 2030.

All plans, projects, activities, funding and resource allocations are directly linked to the Delivery Program. The Council's one year Operational Plan for 2018 - 2019 sits within the Delivery Program. It spells out the actions and

projects that will be undertaken by the Council in 2018 - 2019 towards achieving the commitments made in the 2018 - 2021 Delivery Program.

## 1.2 How to read this document

This document is structured on the four themes being informed by the Community Strategic Plan and Delivery Programs. The themes are:





Theme One - In 2030 Bayside we will be a vibrant place.

Theme Two - In 2030 our people will be connected in a smart city

Theme Three - In 2030 Bayside will be green, leafy and sustainable

Theme Four - In 2030 Bayside will be a prosperous community

This progress report provides the status of each action and project as at 31 December 2018. The performance against each action and project is colour coded as follows:

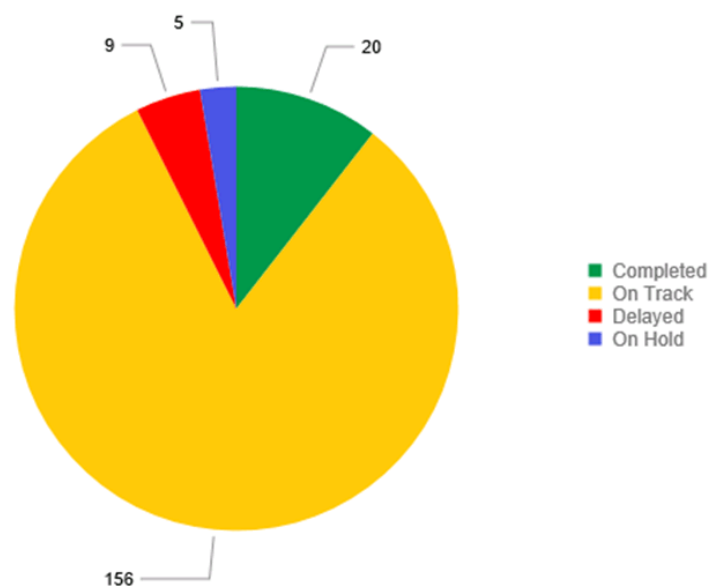
-  Completed – Target 100% met
-  On Track – Nearing completion
-  Delayed – Behind schedule
-  On Hold – Not being undertaken at this time

## 2 Overall Performance

### 2.1 Key Operational Achievements

The composite Operational Plan 2018/19 includes 190 actions across four themes. Of these, 10% have been completed, 82% are on track for completion, 5% are delayed or behind schedule and 3% are on hold.

**Chart – Status Summary as at 31 December 2018**



The following are selected achievements for the six months to 31 December 2018.

**Theme One - In 2030 Bayside we will be a vibrant place.**

- Branded gateway signage and new suburb signing being installed across the local government area.
- Park landscaping and seawall improvement works at Cahill Park and Pine Park substantially completed and opened to public before Christmas.
- Preparations underway for April 2019 Arts Festival with program drafted and planning underway to deliver 25 events.
- Contributed to and or coordinated the following community safety forums: Let's Talk Youth Safety, Water Safety and Crime Prevention Week information session at Rockdale in conjunction with NSW Police.
- Council received a \$2.5 million grant from the NSW government for LEP/DCP review to prepare background studies, undertake community engagement and develop new planning controls.
- Community engagement for the Local Strategic Planning Statement commenced
- Council made submissions on F6 Project and participated in Stakeholder Group meetings.
- Arncliffe and Banksia Precinct planning controls completed.
- Sporting fields and facilities have been mapped and updated on Council's Website.

**Theme Two - In 2030 our people will be connected in a smart city**

- A new Community Grants and Donation Policy has been reported to council, the program reviewed and new guidelines developed.
- Youth attendance at Bayside drop-in and school holiday programs continues to increase. School holiday program activities are typically at capacity and with a wait list.
- Local History and Museum Services has delivered multiple events and exhibitions including Rockdale Opera Company's 70th Anniversary at Rockdale and Mascot, 'What's your story?' at the George Hanna Memorial Museum.
- Collaborated with the Botany History Trust on multiple events including a plaque unveiling to commemorate the Battle of Beersheba and two Armistice Day events.
- The annual Ron Rathbone Local History Prize attracted 29 entrants.
- Home Library Service delivers to 110 housebound residents and visit 14 nursing homes. A further 4 nursing homes in the Bexley area have been added to the Service.
- Council held two pop up libraries, one at Eastlakes to celebrate South Eastern Community Connect's 40th Anniversary and one at the Mascot Memorial Park Christmas Markets and Carols.
- Bayside Council Volunteer Policy has been approved.
- A Draft Digital Strategy prepared, and is pending public release once design work has been finalised.



**Theme Three - In 2030 Bayside will be green, leafy and sustainable**





- Council's recycling calendars, clean up dates and Waste Services App information were delivered to Bayside residents
- Council's Waste Services App was awarded Highly Commended in the Sustainable Projects Award category of the Keep Australia Beautiful NSW Sustainable Cities Awards.
- Council consulted, designed, and introduced a new Waste Avoidance and Resource Recovery (WARR) Strategy 2030.
- Council was awarded Winner of the Circular Economy category of the Keep Australia Beautiful NSW Sustainable Cities Awards for Bayside Council's WARR Strategy 2030.





**Theme Four - In 2030 Bayside will be a prosperous community**


- At the NSW Local Government Conference, the Mayor and Councillors successfully raised the motion of foreshore erosion along Botany Bay, securing funding.
- 8 students have commenced and been inducted into Council's workforce.
- Council delivered 4 workshops with BEC on Women Returning to Work, Partnered with IESMI to provide information to residents in employment, estimated 150 people attended.

## 1: In 2030 Bayside will be a vibrant place

### *My place will be special to me*






Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Gateway sites are welcoming and attractive	Advocate to Roads & Maritime Services (RMS) to improve appearance and maintenance of major gateway sites on RMS roads	Mayoral Minute presented to Council	Branded gateway signage and new suburb signage being installed across the local government area.	
	Improve the foreshore parks at Cahill Park and Pine Park	Implementation of Master Plans for each location	Park landscaping and seawall improvement works at Cahill Park and Pine Park have been substantially completed and opened to public before Christmas.	
	Improve traffic flow at Wentworth Avenue, Page Street and Baker Street intersections	Review and identify traffic flow options	80% design documentation has been completed. Delays are being experienced through services providers and RMS approvals.	
Roads rates and rubbish are not forgotten	Deliver an efficient street sweeping program across the Bayside Local Government area	As per scheduled program	Twice monthly mechanical street sweeping service levels have been met resulting in 1255 tons of debris being swept and removed from roads within the LGA during the first half of 2018/19	





Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Provide an effective cleaning program of town centres	As per scheduled program	Council has taken delivery of new equipment including a ride-on footpath scrubber, high pressure water cleaning system and a mechanical footpath sweeper, with an expansive cleaning program to start early in 2019 of all Town Centres. Routine cleaning programs have been effectively conducted to date.	
	Undertake litter campaigns and enforcement	Ongoing enforcement of infringements, management of proactive and reactive strategies	Program is in the process of being delivered, with an additional 26,000 L of mobile bin capacity introduced to the beachfront area in October 2018 for the warmer season. Procurement and manufacturing of new beach litter infrastructure and signage is on schedule for delivery by February 2019.	
Traffic and parking are a thing of the past	Enforce NSW Road Rules School Parking Patrol Program	Minimum target of 228 school patrols conducted	Required target for 6 months was 228 School Patrols. 422 School Patrols have been conducted to the end of December being 185%.	
	Harmonise Permit Parking policy	Draft policy prepared	Draft policy prepared	






Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Implement priority short term actions from Brighton Le Sands Parking Strategy	Priorities agreed	<p>Reported to Bayside Traffic Committee in October 2018 meeting. The 1P 8am-10pm signs were installed in</p> <ol style="list-style-type: none"> <li>1. The Boulevard between The Grand Parade and The Boulevard Laneway</li> <li>2. In Princess Street between The Grand Parade and Moate Avenue</li> </ol> <p>Review of angled parking opportunities in several streets between President Avenue and Bay Street complete. Community consultation planned early 2019.</p>	







*Our places are accessible to all*

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Assets meet community expectations	Administer Council's Graffiti Removal Program in accordance with Council's policy	Graffiti removed in accordance to Service Standard	100% graffiti removed within the required 72 hour response period.	





Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Assess site conditions at Botany Golf Course to inform future recreation uses and environmental management	Project plan and site assessment complete	Bayside Social Infrastructure Strategy will be completed in 2019 as part of the Local Environment Plan (LEP) review. The Strategy will make recommendations about current/future demand for open space/community facilities. Site condition assessment will be progressed subsequently.	
	Audit and monitor existing lease, seasonal permits and licenses for sporting facilities and open space	Audit commenced	Seasonal permits have been monitored seasonally to ensure that sporting facilities and open spaces are well utilised across Bayside LGA.	
	Deliver Parks and Open Space bookings through effective systems and procedures	Improvements identified	Recreation and booking officers have streamlined processes and procedures to support effective parks and open space bookings including updating all parks and recreation application forms.	
	Deliver Sport and Recreation services to the Community through Council's Aquatic Centres, Golf Courses, Tennis and Squash Courts and other facilities	Service Review planned and commenced	All sport and Recreation services were delivered to the community through Aquatic centres, golf course and tennis and squash courts. Services reviews have commenced for the Botany Aquatic Facility and golf course and presented to the sport and recreation committee.	
	Deliver the Botany Aquatic Centre upgrade feasibility and concept design	Site assessment, concept design and Project Plan complete	Consultants engaged to prepare Redevelopment Options Study for Council consideration in Q3	




Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Design and document access improvements to Botany Town Hall including a lift.	Concept plan complete	This project has been put on hold, pending the completion of the conservation management plan and the Social Infrastructure Strategy.	
	Develop and maintain key partnerships to improve community safety	Attend relevant Interagency & Local Area Command meetings	Attended all relevant interagencies and Local Area Command meetings including domestic violence, Liquor Accord, Botany Bay and St George Police Area Command. Liaison with Police occurs with hot spots and across major issues such as Alcohol Free Zones.	
	Ensure Council's properties and facilities are fit for purpose and meet statutory requirements.	Provide ongoing maintenance for facilities and properties	Instigated programmed maintenance schedules for Pest Control; Gutter Cleaning; Cleaning of premises; Air Conditioning; playground repairs and maintenance. Focusing on pro-active scheduling. Delivering consistent quality of service. This program will be completed by June 2019.	
	Harmonise processes for asset condition monitoring	Conduct condition audit	Asset condition and asset performance rating templates developed and deployed for assessments of various asset categories including buildings, playgrounds, fitness equipment and recreation assets.	






Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Implement Fire Safety Awareness and Action Program including the property database for Annual Fire Safety Statements	Draft prepared	All essential service monitoring including Annual Fire Safety Schedules now profiled and reinstated with one system across Bayside.  Fire Awareness Program to commence in 2019 including awareness of Aluminium Composite Cladding.	
	Improve real estate portfolio through strategic management & actioning priorities	Priorities identified	Commenced. Stage 1 focusing on the renewal of expired lease agreements and debt management.	
	Investigate grants and funding opportunities to enhance Sport and Recreation facilities within Bayside LGA	Relevant Grants sought and applications drafted	Applied for 7 Greater Sydney Sports Facility Fund grant applications through Office of Sport NSW In August 2018 to improve and enhance Bayside LGA sporting and recreation facilities.	
	Review Community Services and Facilities to inform asset management	Project commenced	Scope of Social Infrastructure Strategy (which includes Community Services and Facilities study) developed; Working Group established and provided guidance on the scope; consultants to be appointed early 2019.	
	Work with Department of Education (DoE) to explore opportunities for shared use of facilities	Attend meetings and commence identification	The relevant planning and policy documents have been reviewed and establishing appropriate links with select schools across Bayside LGA will commence.	







Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Bayside provides safe and engaging spaces	Bayside West (Arncliffe, Banksia) Strategic Infrastructure planning active transport routes and intersection upgrades	Project Plan complete	Draft Bayside West (Arncliffe, Banksia) Development Contribution Plan work schedule identifies active transport routes and intersection upgrades. Public exhibition in 2019.	
	Comply with Council's obligations under the Development Agreement to progress the construction of the Arncliffe Youth Centre	Construction program confirmed	Council is complying with the requirements under the Development Agreement. The project is progressing and plan of management is being developed by Council.	
	Coordinate the anti-hooning task force	Scope confirmed and reported	The Anti-hooning Task Force priorities to be determined by the Brighton Le Sands Working Party in early 2019.	
	Develop a Bayside Housing Strategy including Affordable Housing strategies	Scope confirmed and study commenced	Bayside Housing Strategy draft scope prepared including affordable housing. Draft Strategy for community consideration in 2019.	
	Review and expand the Summer Rangers Program in Cook Park in partnership with Waste and Cleansing.	Review program to target specific areas of concern around littering and water safety.	Program commenced 11 November, 2018 and continuing across all weekends. Statistics to be completed and reported on at program completion.	
	Review open space in Wolli Creek and develop a strategy	Complete Review	Wolli Creek review commenced and will be used in preparation of the Bayside Open Space and Recreation Strategy to be completed in 2019/2020	








Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Review Parks Plan of Management and Master Plan - Fisherman's Club and Muddy Creek environs	Identify land acquisition	<p>The masterplan for the Fishermans Club and Muddy Creek environment is on track to commence mid-2019 and will inform the new plan of management for this precinct.</p> <p>The demolition of the Fishermans Club is being scoped, and consultants appointed. The timing for commencement of demolition is expected in the 20/21 financial year.</p>	
Open space is accessible and provides a range of active and passive recreation opportunities to match our growing community	Deliver maintenance to Council's civil assets being Roads, Drainage and footpaths.	Program and conduct maintenance as per agreed targets	Council's roads, drainage and footpath assets maintained to agreed service levels resulting in rectification of 305 defects during the period and resolution of 744 customer requests	
	Deliver Sporting facilities and bookings Policy to ensure community focused sports and recreation services.	Policy drafted and adopted and implementation program identified	Recreation and Community Facilities policy is currently being reviewed and will go to Council for endorsements in April 2019.	
	Enforce the Companion Animal Act	Dog Attacks recorded on Companion Animals Register within 72 hours	All reported Dog Attacks Council responsible for investigating have been recorded on the Companion Animal Register within 72 Hours. There were 45 alleged attacks reported to Council and investigated in line with the Companion Animals Act for this period.	






Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Ensure all passive and recreational parks and associated infrastructure is well maintained and fit for purpose	All scheduled maintenance programs are to be completed as per proactive schedules or as reactive maintenance.	<p>Maintenance works have been actioned in line with service delivery programs throughout the LGA, on a daily and weekly basis. Broadleaf and non-selective weed control has been carried out throughout all recreational and passive parks.</p> <p>Within all recreational parks sports field renovations and seasonal change overs were actioned accordingly to approximately 60+ Sports Fields. Eg: Aerated, Fertilised, Top-Dressed, Covering and Uncovering synthetic pitches, removing and storing goal posts. Major sports field turf replacements have been actioned at Arncliffe, Gardener and Scarborough Parks along with seeding works at Booralee Park.</p>	
	Implement the Disability Action Inclusion Plan	Priority actions identified and key stakeholders engaged	Priority actions have been identified. Terms of Reference for internal working group finalised and adopted by the Executive. Meetings to commence February 2019.	
	Manage Parks, Recreation and Open Space bookings through online booking system	Booking system scoped	Booking System has been scoped to ensure that it meets the requirements to provide the community with a positive customer experience.	




Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Prepare Bayside Open Space and Recreation Strategy	Scope confirmed	Scope of Social Infrastructure Strategy (which includes open space and recreation study) prepared; Working Group established; consultants to be engaged in early 2019	
	Undertake background design and documentation for a synthetic playing field at Gardiner Park	Design complete	Geotechnical and contaminant investigations complete. Stormwater design 50% complete.	
	Undertake background design and documentation for a synthetic playing field, lighting upgrades and stormwater upgrades in Arncliffe Park	Design complete	Arborist and underground services inspections completed; concept stormwater design complete; detailed structural design underway; planning advice received about approval pathway	
People who need it can access affordable housing	Advocate for the strengthening of NSW Government policy to facilitate affordable housing across NSW	Attend quarterly meetings with key advocacy groups including SSROC as well as ongoing discussions with State Government agencies and Eastern City District Councils	Staff attended and participated in SSROC meetings, Shelter NSW affordable housing discussions, LEP Review Technical Working Groups about affordable housing. Council submission in support of amendments to SEPP 70 (Affordable Housing) to facilitate Affordable Housing Contribution Schemes across Sydney	
	Develop a Community Housing Provider governance framework	Governance framework drafted	Preliminary background research about community housing providers undertaken to inform draft framework for council consideration in 2019	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
SMART cities – making life better through smart use of technologies	Build and launch a Bayside Council App to enable easier requests, connection and communication with our customers	Proof of Concept agreed	Application integration work has commenced to ensure connectivity between internal systems to an external facing App / Service.	
	Deploy mobile CCTV cameras in accordance with Council's CCTV Camera Management Protocol, in response to identified illegal dumping hotspots, reports of anti-social behaviours and requests from police	\$ Internal CCTV Committee meet quarterly 100% CCTV cameras deployed within 5 working days	Internal CCTV Committee meets quarterly and 100% CCTV mobile cameras deployed within 5 working days as required	
	Explore opportunities to use technology to provide better outcome for the community	Scope SMART City Technology Framework	Planning commenced and a dedicated team to be established to scope and enable the better use of technology for internal and external processes.	
	Investigate ways to integrate smart building technology to improve management of public buildings to improve operational efficiency, reduce energy costs and improve security	Review smart building technology and prepare a feasibility report for public buildings	Electronic locking systems implemented in new public buildings via Council's City Projects Program. Review of smart building technology to occur in 2019	
We welcome tourists to our city	Rebranding of Bayside signage	Approved Concept Plan	Implementation commenced on rebranding of a number of sign types. Initial scope includes street name blades on main state roads, and large park name signs. Additional stages are to be planned for future years.	
	Short term use strategy for Mascot Administration Building and Coronation Hall	Project Program developed	Negotiations for a lease of the Mascot Admin Centre and Coronation Hall will be finalised in early 2019.	


*Our places are people focused*






Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Local areas are activated with cafes, restaurants and cultural events	Conduct food shop inspections	50% number of food proactive and reactive inspection of food premises conducted	55% of programmed retail food premises have been inspected.	
	Deliver an inclusive Bayside Council Events Program which adds value to our community and City , activates public spaces and invigorates town centres	Delivered in accordance with approved program	Current Yearly Events Programme is on track.	
	Deliver Bayside Arts Festival including Sculptures @ Bayside, the Visual Arts prize and photography competition.	Draft 2019 Arts Festival program	2019 Arts Festival program has been drafted. Festival to be held April 2019. Planning underway. On track to deliver 25 events.	
	Engage with the local arts community through the Georges River and Bayside (GRAB) Arts and Cultural Forum	Co-deliver 2 forums promoting and supporting local arts and community	One GRAB forum delivered with and for local writers. Planning on track for delivery of events as part of Arts Festival. Current planning with Georges River and for next GRAB forum. More than 100 local artists will be engaged through these events.	
	Identify opportunities for public art through development applications and place based planning and ensure that they comply with Council's Public Art policy.	2 public art projects delivered	Provided advice on the delivery of two public art projects using Council's interim Public Art Policy.	






Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Implement Bayside Council Community Safety Plan, with a focus on external partnerships, addressing community perceptions of safety	3 Community Safety Forums conducted	Contributed to and or coordinated the following forums: Let's Talk Youth Safety, Water Safety and Crime Prevention Week information session at Rockdale in conjunction with NSW Police.	
	Partner with community organisations to deliver a wide range of community events including Seniors Month and Youth Week activities	Ongoing engagement and planning	Seniors Month, Youth Week and the Arts Festival on track to be delivered in 2019 and achieve targets in 2019.	
	Support and celebrate our culturally diverse community through community led local and place based initiatives	Develop and implement a community capacity building based program with partners	Capacity Building staff are working with a range of services to develop and deliver a number of community led and placed based initiatives, including work with health at Eastlakes and Mascot Garden, DiD projects	
My community and Council work in partnership to deliver better local outcomes	Consolidate Bayside planning environment through development of new Planning Controls (Local Environmental Plan (LEP) and Development Control Plan (DCP))	LEP and DCP review commenced and funding application lodged with Department of Planning and Environment	Council received a \$2.5 million grant from the NSW government to prepare background studies, undertake community engagement and develop new planning controls	
	Develop a Bayside Council Voluntary Planning Agreement Policy (VPA)	Draft adopted by Council	Draft VPA Policy to guide Councils consideration and governance to be reported to Council in 2019.	


Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Develop a Bayside s.7.11 Development Contributions Plan to consolidate Rockdale and Botany Bay Plans	Project Plan complete	Bayside Contributions Plan is required by July 2020 and will utilise background studies being prepared for Bayside LEP/DCP planning controls. Preparation of Contributions Plan to commence in 2019	
	Develop a Local Strategic Planning Statement	Community engagement underway	Community engagement for the Local Strategic Planning Statement commenced (online survey, resident telephone surveys, liaison with stakeholders).	
	Develop the Arncliffe – Banksia s.7.11 Development Contributions Plan	Plan scoped	A draft work schedule has been prepared for the Bayside west (Arncliffe – Banksia) s.7.11 Development Contributions Plan; public exhibition in 2019	




Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Plan for and advocate to minimise the impact of the proposed F6 / WestConnex	Advocacy strategies identified	<p>Council submissions- F6 Project Overview August 2018 and Environmental Impact Statement December 2018 focusing on:</p> <ul style="list-style-type: none"> <li>the need for Section B works (a tunnel from President Avenue, Kogarah to Taren Point) to be brought forward</li> <li>impacts on community assets</li> <li>provision and safety of active transport</li> <li>biodiversity, flooding, water and air quality and contamination</li> <li>proposed land acquisitions</li> <li>traffic impacts, and</li> <li>impacts on local businesses</li> </ul> <p>Council also participated in monthly staff workshops with RMS (July - December 2018), participated in Stakeholder Group meetings, commenced, in collaboration with RMS, the Recreation Needs Analysis for Bicentennial Park Precinct and Scarborough Park (fronting President Avenue) to provide input into relocation of community assets.</p>	



Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Prepare SEPP 64 Policy regarding Outdoor Advertising	Draft prepared	Background information reviewed. Policy to be presented to Council in 2019	
	Progress Cook Cove Project	Progress land transactions associated with Cooks Cove Project	Work on the Cook Cove Project will progress in accordance with the Council resolution of December 2018.	
	Progress planning proposals to amend the Local Environmental Plan and Development Control Plan	No. of Planning Proposals determined	Two Planning Proposals submitted to Department of Planning for finalisation; one Planning Proposal exhibited; ten Planning Proposals under assessment or lodged for assessment.	
	Work with NSW Department of Planning and Environment to finalise the LEP and DCP amendments for the Bayside West Priority Precinct – Arncliffe and Banksia	LEP and DCP amendment complete	Arncliffe and Banksia Precinct planning controls completed. State Environmental Planning Policy Arncliffe & Banksia Precincts 2018 was notified by the NSW Department of Planning & Environment on 12 October 2018. Development Control Plan adopted by Council in December 2018	
Places have their own village atmosphere and sense of identity	Finalise and implement the Brighton Le Sands Master Plan	§ Councillor Working Group established. § Project Plan adopted. § Community Engagement Plan adopted.	Brighton Le Sands Working Party established with Councillor representation and four meetings held. Project Plan completed. Urban Form Consultant engaged and work commenced. Community Engagement Consultant Engaged.	






Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Review and update the Rockdale Town Centre Master Plan	Consultant engaged	Current master plan and development controls reviewed; updated built form diagrams being developed for consideration by Council and community in 2019	
	Undertake Centres analysis to inform new planning controls in LEP and DCP and ensure land use tables promote activity in Centres that is responsive to place	Consultant engaged	Scope of the Centres and Employment Lands Strategy has been developed; Working Group has been created and provided guidance on the scope; consultants to be appointed in early 2019	
Public spaces are innovative and put people first	Improve the vibrancy of village centres at Banksmeadow; Swinbourne Street and Kingsgrove village centres	Deliver community meetings to inform works	Tender documentation has been completed for Banksmeadow and Kingsgrove Village Centres. Swinbourne concepts have been published for consultation.	
	Respond to community complaints about unauthorised development, uses or unsafe structures	Complaints responded to in Accordance with Council's Enforcement Policy (ongoing)	Over 1000 community complaints were received. All complaints were responded in accordance with Council's Enforcement Policy.	
	Review and update Bayside Parks Plan of Management	Scope identified	Staff have attended State Government workshops and has successfully received \$30,000 to commence this project; working group established. Collation of background data commenced.	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Use digital platforms to increase utilisation and better customer experience when booking sporting facilities and open space parks	Map Sporting fields and facilities and update information on website	Sporting fields and facilities have been mapped and updated on Council's Website.	
There is an appropriate community owned response to threats	Adhere to NSW Government / Police guidelines for security at major events	Ongoing event management planning	Events Team continue to receive up to date strategy & intelligence briefings by police and security operators. Every major event is compliance checked by local and state authorities.	
	Design and install safety barriers in significant locations	Barriers locations identified and designed	Temporary barriers installed with major events as part of the event planning.	
	Support Bayside Local Emergency Management Committee and provide assistance to Emergency agencies	Ongoing	Council has chaired 2 LEMC and attended 2 REMC meetings during the period and provided assistance to Emergency agencies on 8 occasions for incidents within the LGA.	

*Our places connect people*





Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Our heritage and history is valued and respected	Collaborate with Sydney Water to deliver usable open space on Sydney Water land under license to Council to maintain.	Meetings held	Discussion with Sydney Water are ongoing. A construction license for construction of a skate park in Mutch Park was finalized and executed to facilitate these works to occur. Sydney Water are currently remediating their land at Linear Park. Council have	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
			reached an informal understanding with Sydney Water to occupy the site when remediation is complete.	
	Deliver ongoing Local History and Museum Services	Projects identified annually to deliver 2 exhibition and 2 local history projects per year	Local History and Museum Services has delivered multiple events and exhibitions including Rockdale Opera Company's 70th Anniversary at Rockdale and Mascot, 'What's your story?' at the George Hanna Memorial Museum. As the centenary of WW1 draws to an end we have collaborated with the Botany History Trust on multiple events including a plaque unveiling to commemorate the Battle of Beersheba and two Armistice Day events. We held an event at the museum called 'Death in the Air' which is leading us towards a calendar of events, celebrating 100 years of the Mascot aerodrome which will occur in 2019-2020. A major highlight was the Ron Rathbone Local History Prize which attracted 29 entrants. The community history team has been actively engaging the local and greater Sydney historical community and have delivered 4 talks within and outside the LGA.	
	Maintain Heritage Conservation Management Plans Register for key community facilities	Develop register for existing plans and link to feasibility	Register included in corporate asset management system to identify	





Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
			buildings with local and/or state heritage listing.	
	Prepare Conservation Management Plans for individual buildings	Individual buildings identified	Completion of Wilsons Cottage Conservation Documentation; sought consultants to prepare Botany Town Hall Conservation Management Plan - to commence in early Q3; Conservation Management Plan for Sir Joseph Banks Park in draft form.	
	Review Bayside Heritage Conservation Areas and Heritage items to inform the new Bayside LEP and DCP	Consultant engaged	Scope of Bayside Indigenous Heritage Strategy/Heritage Strategy developed, distributed and consultant selected; Working Groups established and provided guidance on the scope and consultant selection; work has commenced on both these strategies.	
	Revise Library model to incorporate all libraries	Complete review	Due to be reviewed in March 2019	
Walking and cycling is easy in the city and is located off road in open space where possible	Develop the Bayside Integrated Transport and Infrastructure Plan incorporating the Bayside Cycling Strategy	Scope identified	Scope of the Strategy has been developed, Working Group has been created and provided guidance on the scope. Consultants to be appointed in early 2019	
We are one city with shared objectives and desires	Manage Community bookings through online booking system	Booking system scoped and implemented	Online booking system is currently being scoped. Community bookings are currently managed through a digital booking system.	






## 2: In 2030 our people will be connected in a smart city





### *The community is valued*




Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Aboriginal culture and history is recognised and celebrated	Develop Bayside Council Reconciliation Action Plan to provide a framework of practical actions to build respectful relationships and create opportunities engagement with our Aboriginal community	Advisory Committee established and opportunities for collaboration identified	Specialist position appointed November 2018, potential Aboriginal Advisory Committee members identified and the plan is in the initial stage of development.	
All segments of our community are catered for – children, families, young people and seniors	Administer Bayside Council's community grants and Financial Assistance programs	Administer Community Grants program as per Council's Financial Assistance Policy	A new Community Grants and Donation Policy has been reported to council, the program reviewed and new guidelines developed. The Grants Program will be advertised and implemented in the second half of 2018/19. Requests for donations and fee waivers are being actioned on an as needs basis.	
	Collaborate with local service providers to support the delivery of enhanced service delivery models in-line with FACS' Early Intervention Reform Approach	Ongoing participation in relevant children, family and youth inter-agencies	Capacity building staff attend relevant inter-agencies for children, youth, and CALD and aged programs.	
	Deliver home shopping service for aged and people with disability	Service provided in accordance with funding guidelines	Continued service provided three days per week to housebound clients providing food and household items delivered to their premises	











Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Manage and deliver relevant and effective services and programs and support services for children, aged & people with disability	§ Implement Childcare Subsidy changes. § Implement Commonwealth Home Support Program (CHSB)	The Commonwealth Home Support Program and Child Care Subsidy has been implemented from July 2018 and all Children and aged care services are operating and meeting all regulatory and legislative requirements.	
	Manage and operate Family Day Care Service	Ongoing support of Family Day Care service operators and families in accordance with Legislative and regulatory requirements.	106 Education and Care support visits have been conducted to Family Day Care Educators.	
	Manage and operate Long Day Care Centres	Service operating in accordance with funding, legislative and regulatory requirements.	Long Day Care Centres are operating in accordance within the National Quality Framework and are meeting legislative and regulatory requirements in accordance with our funding requirements. Bayside Council Long Day Care Centre are operating with a utilisation rate of 95%	
	Manage and operate Meals on Wheels program	Service provided in accordance with funding guidelines	Meals on Wheels continued to be delivered to eligible community members to support members of the community to live independently and meet nutritional and wellbeing in accordance with Commonwealth Home Support Program funding.	



Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Manage and operate School Aged Care (Before and After School Care/Vacation Care)	Increase approved numbers for School Aged Care in accordance with Legislative and regulatory requirements.	School Aged Services are operating in accordance with legislative and regulatory requirements and in accordance with funding requirements. School Age Care have an utilisation rate of 88%. Pagewood School Aged Care approved places have increased from 74 to 90 placements to meet the growing needs of the community particularly in the after school Care area.	
	Monitor effectiveness of Council's direct Community services.	Monitor and identify any service improvements	Review of Aged and Disability services has been conducted and reported to Council. Any agreed improvements on track to be implemented in the last half of the year.	
	Review and develop Bayside Place Based Social Plan (including Aging, Disability, Youth, CALD, Families and Children plans)	Ongoing implementation of actions identified in Plans	Capacity building team is implementing actions from the relevant social plans.	
	Support local youth through provision of and support for youth drop in activities and school holiday activities, providing a soft entry point for Youth Service providers	Deliver drop-in and school holiday programs to local youth	Youth attendance at Bayside drop-in and school holiday programs continues to increase. School holiday program activities are typically at capacity and with a wait list.	
	Support Seniors Groups and Associations to become incorporated and to deliver relevant creative aging programs to their members	Organisational training provided to groups to ensure they are properly constituted	Seniors groups receive direct support to help them develop over time. A more structured approach to training community groups about the benefits	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
			of and process to become incorporated is being planned for 2019. Groups are always able to seek one on one support as required.	
Cultural diversity is reflected and celebrated in the city's activities	Develop and implement a Community Capacity Building program with partners to support and celebrate our culturally diverse community through local and place based initiatives	4 Local place based initiatives with attendance targets	Community Capacity Building contributed to and delivered initiatives such as: Intergenerational Knitting Group, Intergenerational Singing Projects, Girls Yoga and commenced Eastlakes development project, Mascot Community Gardening Group, Positive Parenting Support for Nepalese families in Bayside, the Indonesian Arts and Culture Club	
	Review National Days and Cultural Events Program	Calendar of National Events adopted	Regular flag raising ceremonies recognising our diverse demographic and celebrating cultural differences are held on request.	
	Strengthen our commitment to "Welcome Nation" program for refugees.	Review programs with improvements identified.	Two of our refugees have secured permanent employment with Council.	
Flexible/care support arrangements for seniors, children and people with disabilities are available across the Bayside	Deliver Bayside Home Library Service	Ongoing assessment and implementation of development opportunities and review of usage	Home Library Service delivers to housebound residents. We have approximately 110 individuals on the service and visit 14 nursing homes which resulted with an increase in individuals receiving the service and bulk loans to diversional therapists. In this reporting period we have brought on 4 new nursing homes in the Bexley	




Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
			area. We have experienced a decrease in numbers in the Botany area and we will actively promote HLS in this area over the next 6 months. Numbers overall are quite stable.	
	Deliver community play session throughout Bayside to support families and children	2 community play sessions held with a minimum 10 families participation	2 Community Play Sessions have been conducted - "Play sessions Under the Stars" and "Play Session with Grandparents Day". The Community Play Session had 12 families in attendance.	
Opportunities for passive and active activities are available to community members, including people with pets	Deliver ongoing programs and events across all libraries to enhance life-long learning opportunities for the range of demographic groups within the community	Identify opportunities and implement a diverse range of programs. Ongoing	The library provides a range of lifelong learning programs to support formal and informal learning outcomes. Examples include early literacy programs, book clubs, author talks, code classes, school holiday programs, Mandarin classes, English conversation classes, falls prevention programs, tai chi classes, knitting groups, etc There has been an increase in the number of and variety of the programs offered at Eastgardens Library since it reopened in October with a dedicated programming space.	
	Promote and hold Community pet 'microchip day' to promote responsible pet ownership	Identify areas of high volume pet ownership	Planning for the Microchip day is currently being planned and will be undertake by June 2019.	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
We are a healthy community with access to active recreation and health education	Co-deliver Connecting Communities program in partnership with South Eastern Sydney Local Health (SESLHD) through Council's Memorandum of Understanding with SESLHD, and using the Asset Based Community Development (ABCD) approach	2 Asset Based Community Development (ABCD) projects delivered	Six Asset Based Community Development Projects being supported. Projects include: Nepalese parenting, Student leadership and disability support.	
	Collaborate with Office of Sport to contribute to positive regional outcomes, planning and grants opportunities	<ul style="list-style-type: none"> <li>Key community stakeholders identified and consulted.</li> <li>Projects identified.</li> <li>Apply for grants.</li> </ul>	<p>Applied for 6 grant applications with the Office of Sport for the Greater Sydney facilities grant.</p> <p>We attended and represented Council on 2 regional meeting focusing positive regional planning and grants opportunities.</p>	
	Conduct minimum of 4 Food handling Workshops with food businesses across our Local Government Area.	Conduct 2 food handling workshops	The food handling workshops are programmed for the second half of the financial year 2018-2019.	
	Construct a skate park at Mutch Park to increase recreation opportunities for youth.	Confirm and commence implementation.	The development approval has now been obtained, a contractor has been appointed and a construction license finalized and executed with Sydney Water to allow construction to commence in February 2019.	
	Establish the Sport and Recreation working party with sporting clubs key stakeholders.	2 working party meetings conducted	Working party terms of references are in draft and meeting will be held in 2019	





Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Partner with local and NSW stakeholders to advocate on behalf of the community and deliver local health initiatives	2 initiatives delivered	A minimum of four local health initiatives have been delivered including work with Mental health, safe relationship for young people, social isolation and positive intergenerational relationships.	
	Promote and support active recreation, leisure and sporting activities and initiatives	Scope and identify current opportunities	We have promoted and initiated a number of health, Fitness and wellbeing programs at Botany Aquatic Centre including; Aqua Aerobics and yoga. We have supported a number of local communities' recreation, leisure and sporting activities by providing access to suitable spaces and venues.	
	Review the effectiveness of the Food Handling Workshops, identify specific issues and develop a tailored educational program.	<ul style="list-style-type: none"> <li>Research and record information relating to specific concerns highlighted during food shop inspection.</li> <li>Prepare presentation specific to issues found.</li> </ul>	<p>The review of the food safety inspections outcomes and food handling workshop have been completed. The food handling workshops are to be completed in the second half of the financial year 2018-2019</p> <ol style="list-style-type: none"> <li>1) Design presentation to suite main points of failures during food inspection</li> <li>2) Organize a visit from a professional pest controller or pest control biologist</li> </ol>	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
			3) Show photos of what are common design deficiencies in a food premises  4) Issue Certificate of participation to each participant.  5) Obtain glitter bugs, UV lights and sanitizer to show result of use  6) Place a notation on inspection sheet "Food handlers have skills and knowledge to handle food safely".	
We can participate in cultural and arts events which reflect and involve the community	Funding opportunities for events identified and pursued	Identify funding opportunities	We traditionally have some corporate sponsorship for some of our events and are open to accepting new sponsorship subject to routine diligence checks.	
	Hold Pop up Libraries in target areas where a library does not currently operate	Identify locations for Pop Up library program	We have held two pop up libraries, one at Eastlakes in November to celebrate South Eastern Community Connect's 40th Anniversary and one in December at the Mascot Memorial Park Christmas Markets and Carols.	






*We are unified and excited about the future*


Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Community leadership is developed and supported	Media support to promote Council's reputation and image	Publications in formats that are accessible and reach across all community groups	Council continues to keep the community and key stakeholders informed and up to date. The quarterly community newsletter has been produced and distributed to 60,000 households in August, October and December. The monthly e-newsletter has been prepared and distributed to over 40,000 registered emails. Daily posts are shared on Facebook and Twitter. Media Releases are prepared and distributed to local newspapers. During August to October the number of releases averaged 3 to 4 each week.	
	Work with key stakeholders including NSW Family and Community Services (FACS), South East Sydney Local Health District (SESLHD), community partners and NGOs to map existing services and identify gaps	Ongoing identification of gaps and service needs through interagency activities	A minimum of four meetings held with partners including Family and Community Services, Health, Housing and other Councils. Service gaps were identified and issues mapped. Projects arising from this work are being developed.	
The city is run by, with and for the people	Assist specialised areas/groups with community event planning and promotion	9 events held in partnership	Ongoing media and promotional advice is assistance is given on request to all departments	











Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Represent council and the community's interests on regional boards and forums such as the Mayoral Aviation Council and the SSROC	Identified and participated in relevant forums	Council continues membership and provides administrative support and office accommodation to the Australian Mayoral Aviation Council as an in-kind service. Our membership of SSROC ensures we continue to receive the benefit of shared services and resources. Meetings are held quarterly and as required with General Manager and Mayor or Councillor representatives.	
We are all included and have a part to play in the city	Citizenship Ceremonies conducted and presided over by the Mayor - to recognise our diversity and acknowledge our newest citizens	\$ Ceremonies and Citizens introduced in accordance with Federal Government requirements Number of Citizens/Ceremonies	Citizenship ceremonies are on track for 2018/19	
	Develop a Bayside Council Volunteer Strategy which supports Council and partners in the recruitment, training and support of volunteers	Internal working group established and strategy scoped	Bayside Council Volunteer Policy and Forms have been created and approved by the Executive and the Staff Consultative Committee.	
	Educate local primary school students on the role of local government	6 civics workshops delivered to local schools	Local schools have been approached, one is interested and planning is underway. A new approach will be explored in 2019. In addition, a civics forum was held with two high schools and young people received training in local governance and human rights issues.	

*We benefit from technology*

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Council engages with us and decision making is transparent and data driven	Community Forums are held twice yearly to inform the community of Council's progress	Promote and convene Forums	A proposal has been developed for a forum to be convened in 3rd quarter 2018/2019	
	Council's Integrated Planning and Reporting is responsive and accountable	Legislation complied with	Six monthly reporting on Operational Plan completed. New Integrated Planning & Reporting software implemented.	
	Develop and maintain the 'Talking Bayside' Community Panel	250 residents signed up for panel	Marketing campaign commenced to attract new memberships and reconnect previous members. Audit of membership database. Commenced monthly newsletter. Invited to engage on major projects such as LSPS and Botany Aquatic	
	Engage the community through a variety of methods as outlined in Council's Communication & Community Engagement Strategy	Ongoing identification and delivery of a diverse range of engagement methods	Marketing and promotion campaign of Have Your Say. Redesign of site. Audit of memberships, updated registration forms. Created Community Engagement template for staff with matrix. Keep up to date on strategic and major projects. Employ Community Engagement Officer to assist in expanding service to both internal and external clients	
	Media support to promote Council's reputation and image	Publications in formats that are accessible and reach across all community groups	Council continues to keep the community and key stakeholders informed and up to date. The quarterly community newsletter has been	



Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
			produced and distributed to 60,000 households in August, October and December. The e-newsletter is prepared and distributed to over 40,000 registered emails at the end of month. Daily posts (3 to 4) are shared on Facebook and Twitter and all comments or enquiries via Facebook are responded to in a timely manner currently within an hour of being posted during business hours. Media Releases are prepared and distributed to local newspapers. During August to October the number of releases averaged 3 to 4 each week. Council responds to all media enquiries in a timely and responsible manner.	
Technological change has been harnessed and we are sharing the benefits	Develop a Social Media Strategy including policy; framework and content management approach across all platforms.	Draft submitted	Council continues to have a strong presence on social media platforms, predominately Facebook and Twitter, posting several times a day to keep to provide online options that keep the community and key stakeholders up to date and informed. Council recognises that digital platforms are the growth area in communications. In the next six months Council aims to grow its organic reach by reviewing and enhancing its content. The eNews newsletter has increased its subscription to over 40,000.	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Develop Bayside Council Digital Technology Strategy	Final draft submitted	A Draft Digital Strategy has been prepared and endorsed. Finalisation pending design work being finalised.	
	Publish Council's events calendar – providing quarterly updates to the community	Update and publish 2 Events Calendars	Regular Events Committee meetings held to ensure Event information is up to date.	
We are a digital community	Increase access to online digital resources throughout library services.	Continue to deliver online access to Library Services	The library delivers a range of electronic resources ranging from books, magazines, live streaming films, audio recording to learning and information databases.	
We can access information and services online and through social media	Community and stakeholders are informed about Council business, news and activities.	Various communication mediums updated with relevant news	Council continues to keep the community and key stakeholders informed and up to date by preparing promotional material for its many events, programs and activities. These are distributed to the community via letterboxing or through strategic locations such as libraries and community facilities. Regular advertising in the local newspapers (Southern Courier and St George Leader) also keep the community up to date on key issues such as Development Applications under review and major events.	
	Council's website continues to provide accessible and up to date information	Website is continuously reviewed and updated to	An audit of existing content on Council's website has been completed. Launch of the new look site with	




Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	on activities; events and services across Bayside	meet community expectations	improved search options and navigation tool was released 13 December 2018.	
	Council's website is accessible and up to date	Website is monitored for relevant content	Ongoing improvements to Council's website are planned with online services such as payment gateway and smart forms, commencing in 2019.	
	Key documents are available in alternative formats and community languages	Key documents identified and action plan developed	Council provides information on how to access support to read or view all documents, correspondence and information. This includes support for the hearing impaired, visually impaired and non-English speaking community.	
	Prepare system capability and data to enable public mapping of key Council infrastructure and services	Tools prepared to enable public to view	Public Maps capability has been developed and tested. Opportunity created for inclusion into Council's web page	

### 3: In 2030 Bayside will be green, leafy and sustainable

#### *Our waste is well managed*

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
I can reduce my waste through recycling and community education	Implement Council's Waste Avoidance Resource Recovery Strategy (WARRS) 2030 + Action Plan.	WARRS 2030 Strategies aligned with Council and regional objectives	<p>Council consulted, designed, introduced and adopted a new Waste Avoidance and Resource Recovery (WARR) Strategy 2030. It was endorsed by Council in July 2018. Council's WARR Action Plan for the first half of 2018/19 has been successfully delivered.</p> <p>Council was awarded Winner of the Circular Economy category of the Keep Australia Beautiful NSW Sustainable Cities Awards for the creation of Bayside Council's WARR Strategy 2030.</p>	
	Inform residents about Council's Domestic Waste and Clean Up programs	Digital and print information, including Waste Services App designed, printed, promoted	Council's recycling calendars, clean up dates and Waste Services App information were delivered to Bayside residents. This information can also be accessed by all residents on Council's website, Council's Customer Services and Waste Services App, which includes a digital Waste & Cleansing Services Guide 2019. In 2018, Council's Waste Services App was awarded Highly Commended in the Sustainable Projects Award category	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
			of the Keep Australia Beautiful NSW Sustainable Cities Awards.	
	Meet statutory compliance and reporting obligations	Capture data and analytics	Council has completed all required statutory compliance and reporting obligations.	●
	Program and offer interactive recycling education programs to 35 schools and at 6 community events pa	Program identified and ongoing implementation on target	6 community education events were conducted by end of 2018, with many more scheduled in 2019. All schools within the LGA were contacted and offered education programs, with those willing to participate scheduled in early 2019, from the start of the new year.	●
	Seek funding through the NSW Environment Protection Authority's 'Waste Less, Recycle More' Waste and Resource Recovery Initiative.	Funding achieved	Program is in the process of being delivered within this financial year, with funding assigned to strategic projects approved by NSW EPA.	●
	Undertake the management of essential waste and recycling services to over 62,000 households	Deliver an efficient Domestic Waste Service in line with Statutory requirements	Domestic Waste Services have been conducted in line with statutory requirements to approximately 65,000 households or 170,000 residents. Services included: <ul style="list-style-type: none"> <li>• kerbside bin management,</li> <li>• kerbside clean-up services,</li> <li>• kerbside on-call and booked services,</li> <li>• community recycling drop-off events, and</li> </ul>	●






Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
			<ul style="list-style-type: none"> <li>litter management.</li> </ul> <p>Over \$2M of new fleet was delivered by December 2018, to support the delivery of these essential services.</p>	
Illegal Dumping is a thing of the past	Ascertain hotspots through mapping and analysing reported incidents of illegal dumping	Strategies designed to reduce illegal dumping	<p>In 2018/19, Council continued and updated a thorough analysis of known 'hotspots' determined by street and suburb, utilising a new level of data sophistication.</p> <p>This program guides the successful relocation of multiple CCTV solar cameras to data supported known 'hotspots' areas, as required.</p>	
	Investigate incidents of illegal dumping and enforce compliance	All reported incidents investigated	<p>All incidents are investigated by Council or the Sydney Regional Illegal Dumping (RID) Squad. In the first half of 2018/19, Council and RID investigated 1,649 incidents.</p> <p>In 2018/19, Council and RID conducted monthly operations, targeting hotspot areas, providing educational information in letter boxes, engaging the community and installing deterrence signage.</p>	
	Maintain the contaminated land management and recording system through the development process	Undertake desktop review	<p>Site Audit Statements received entered into relevant databases. Desktop review to be progressed in 2019</p>	














Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Remove and dispose of illegally dumped materials throughout the City	Illegally dumped materials removed within identified timeframe	Program delivered in alliance with Regional Illegal Dumping Squad (RID) with all requests investigated and collected by Council or those responsible for the offence.	



*We are prepared for Climate Change*

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Our city is prepared and able to cope with severe weather events	Botany Bay Foreshore Beach Flood Plain Risk Management Study and Plan	Contractor appointed	Flood study review complete. Risk management study to commence in 2019	
	Improve water quality and upgrade infrastructure at Russel Ave and Bardwell Valley	Project design	Commencement delayed, detailed design to commence in early 2019.	
	Investigate upgrades to trunk drainage in response to the land use changes in Bayside West precinct	Investigation work commenced	Review of stormwater drainage related to the revised Bayside West Precinct area completed. Works required identified in draft development contributions work schedule so funds can be collected and construction scheduled	
	Undertake two-dimensional Flood Study Review of the Bardwell Creek Drainage Catchment	Study drafted	Community input to evaluate accuracy of draft flood model sought; draft flood study reported to Floodplain Risk Management Committee; identified flood affected lots; public engagement with flood affected residents.	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Upgrade Stormwater Infrastructure at Arncliffe St, Willis St and Guess Ave	Contractor appointed	Design of stormwater, public domain and road improvements is completed and ready for tender.	
Waterways and green corridors are regenerated and preserved	Carry out turf maintenance of approx. 400 parks and reserves and approx. 150 lineal kilometres of grass verges	Maintenance programs delivered as scheduled	Turf maintenance works have been actioned in line with service delivery programs throughout the LGA.  Service delivery programmes have been improved upon, to ensure more aesthetically pleasing parks and open spaces.	
	Develop an integrated water management needs analysis for Bayside Council	Analysis complete	Stage 1 of the Water Management Strategy completed.	
	Implement key priorities in Council's adopted Biodiversity Strategy to protect and enhance natural areas	Implementation commenced on agreed priorities	Specifications/Scope of Works developed for 18 Priority Natural Areas and 8 additional sites as part of the High Priority Aquatic Weed Control Program. 292 people (107 Bushcare Volunteers and 185 Environmental Education/Event volunteers) participated in the Natural Areas Restoration program contributing 1063 In-kind hours on Bayside Council sites (Bushcare 525 hours/Education/Events 538 hours).	
	Improve water quality and manage stormwater in Dominey Reserve and downstream	Complete feasibility study	Completed Flood study of stormwater detention option completed; ongoing liaison with Sydney Water on proposed water quality improvements	


Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Improved tree canopy across LGA	Project scoped and draft plan reported	Continuation of Street Tree planting program. Approximately 200+ trees planted as identified by customer requests and interdepartmental projects.	
	Investigate water quality and drainage infrastructure in and near Sir Joseph Banks Park to inform future planning	Project plan completed	Project plan for the implementation of the project has been developed.	
	Maintain all garden areas on council assets within LGA	Maintenance programs delivered as scheduled	Garden maintenance works have been actioned in line with service delivery programs throughout the LGA.  Service delivery programmes have been improved upon.	
	Manage and maintain all trees within LGA	Continuation of street tree master plan	Tree maintenance works have been actioned in line with service delivery programs throughout the LGA.  Service delivery programmes have been improved upon.	
	Protect and restore the health of waterways and wetlands through planned Gross Pollutant Traps (GPTs) inspection and cleaning program	Environmental schedules in place for waterways, wetlands and GPTs.	Council maintains 61 GPTs that have prevented 53.12 tons of waste from entering waterways during the period. The frequency of Service is every 6 weeks for critical GPTs and every 3 months for the lesser critical GPT's	
	Undertake Landscape Maintenance Services	Ongoing provision of landscape management services	All weed control programmes have been effectively carried out within the various asset types within the LGA;	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Water quality improvements to enhance riparian zones and waterway assets	Design completed	Commencement delayed, detailed design to commence in early 2019.	
We increase our use of renewable energy	Installation of water and energy efficiency initiatives in community buildings	Initiatives identified	Scarborough irrigation storm water harvesting and the thermal comfort study for Bexley Community Centre feasibility studies completed; energy and water efficient fixtures for AS Tanner Reserves amenities and Hall upgrade identified; scope of works for Rockdale Town Hall/Library and Angelo Anestis Aquatic Centre solar completed.	
We understand climate change and are prepared for the impacts	Develop Bayside Environmental Strategy to assist in forward planning for infrastructure , assets and inform land use decisions	Scope of plan confirmed	Environment Strategy scope completed; working group established; consultants engaged.	
	Implement community sustainability program of events and workshops	Scope of workshops identified and 5 conducted	Bushcare Program implemented (Planting days, bushcare walks); 5 community workshops held: Wild Things Spiders, Wetlands talk by Arthur White, Native Bee Workshop, Spider Walk, Welcome Back Shorebirds	
	Plan for the effects of climate change on the floodplain with the Floodplain Management Committee	Committee established	Floodplain Risk Management Committee established, two meetings held. Continuing to seek community representatives.	


Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Review condition of the Cahill Park Sea Wall	Review completed	Cahill Sea Wall has been reviewed scoped and included in the contract works currently underway in Cahill Park.  Construction of the rehabilitated seawall is expected to be complete early 2019	
	Review condition of the seawall at Sandringham	Research to renew and protect the seawall	Research of background investigations has commenced. Draft project charter under development. Project plan and commencement of asset condition investigations scheduled for second half of the year.	





#### 4: In 2030 we will be a prosperous community

##### *Local housing, employment and business opportunities are generated*

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Bayside will be a 30 minute city – residents work locally or work off site – no one has to travel more than 30 minutes to work	Advocate for an integrated, accessible and affordable transport system	Attend workshops, meetings & regular discussions with key stakeholders including cycling groups, RMS, Transport NSW. Make submissions to major transport project Environmental Assessments ie the F6.	Council made submissions for "Stage 1 F6 Project Overview" - August 2018 and "F6 Stage 1 Environmental Impact Statement" - December 2018. Meetings with RMS and the community informed the submissions. Staff met with representatives from RMS, Australian Rail Track Corporation in relation to Sydney Gateway Project, and Transport NSW for the South East Transport Strategy. Bicycle User Groups and Bicycle NSW have also attended. Council also member of the Inner City Council Share Bike Task Force and Transport NSW Cycling Investment program.	

##### *Opportunities for economic development are recognised*

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Major employers support/partner with local small business	Administer Local Area Funds	Program identification commenced	Economic Development and urban design studies have been commissioned to identify opportunities for economic growth and public domain improvements.	





Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Implement Bayside Economic Strategy	Research and drafting commenced	Implementation is awaiting the finalisation of the Strategy. The scope of the Strategy has been developed. A Working Group has been established to provide guidance on the Strategy scope and its development. The process to engage a consultant to develop the Strategy is underway.	
We are an international hub for transport and logistics related business	Finalise a qualitative Risk Assessment of Botany Industrial areas	Draft completed	Council is preparing an Infrastructure Study which includes consideration of the Risk assessment. Liaison with Department of Planning and Environment required in 2019	
	Manage the Airport Business Unit	Deliver services in accordance with Contractual obligations	Council no longer has the contract to manage the Airport Business due to unsuccessful tender bid.	
	Provide advocacy and representations on traffic issues and freight movements associated with the developments and operations of Port Botany and Sydney Airport	Attend quarterly meetings with Port Botany Consultative Committee and Port Botany Planning Manager, Sydney Airport Community Liaison Group and Sydney Airport Planning Coordination team	Staff attended Port Botany Consultative Committee, Sydney Airport Community Forum, Sydney Airport Planning meetings, Sydney Gateway briefing, South East Transport Strategy Working Group. Sydney Airport and Sydney Port are members of Council's Transport Strategy Working Group	





*The transport system works*

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
We can easily travel around the LGA – traffic problems and gridlock are a thing of the past	Develop Bayside Employment and Economic Development Strategy to identify opportunities for activation of local areas	Consultant engaged	Scope of Strategy developed; Working Group established. Consultants to be engaged in early 2019	
	Implement the Road Safety Program with annual matching funding from NSW Roads and Maritime Services	Conduct programs to raise road safety awareness	The Road Safety Program has involved the following campaigns and events: Pedestrian Safety Campaign December 2018, Motorcycle Safety Campaign (Breakfast Torque) held October 2018; Speed Campaign September 2018; 2 x Helping Learner Supervisors Workshops held in August and November 2018. Another workshop planned for March 2019 and 3 x Child Restraint Check days held since August, October and December 2018 with 3 more dates planned for 12 February, 9 April and 11 June 2019.	
We can easily travel to work by accessible, reliable public transport	n/a		There is no Operational Plan action for this strategy in 2018/19.	



*Transparent & accountable governance*

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Ethical Governance	Enhance public access to information	Privacy Management Framework reviewed	Privacy Management Framework reviewed and a number of opportunities for improvement have been identified. A priority list of actions is being developed for implementation from 2019.	
	Review improve and lobby for change at State Government; Regional and Local level to advocate and exchange information to inform and improve decision making	Identify key stakeholders and advocacy strategies	Attendance by Councillors at the NSW Local Government Conference where the Mayor and Councillors successfully raised the motion of foreshore erosion along Botany Bay, securing funding.	
High Standards of Customer Service	Participate in the National Local Government Customer Service Network Benchmarking Program and report performance	Prepare and participate in the Program	A Mystery Shopping Program will commence in January 2019. Will be partnering with CSBA which will be reviewing face to face and over the phone interactions.	
	Provide excellence in customer service across Bayside Council community touch points	Undertake analysis to confirm baseline customer satisfaction	New contact centre software (Premier) was implemented in November 2018. Council now survey customers after calls and can record calls for quality and training. Baseline data will be collected over the next three months. Frontline customer service staff have had customer service coaching and training to improve the customer experience.	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Skilled Staff	Annual Supplier and Staff procurement education programs delivered	Agreed program targets achieved	Procurement Education for staff delivered through Induction Programs, Focus Groups and Training Sessions, Educational Resources and one on one support.  Procurement Education for suppliers delivered through the issuing of information packs to new suppliers and bi-annual mail out on Procurement Policy, Statement of Business Ethics and 'Doing Business with Bayside' Guide.	
	Develop and implement graduate , traineeship and apprenticeship programs	Program developed and approved	Since 5 November 2018, 8 students have commenced and been inducted.	
	Implement Bayside Council's leadership development program for the financial year of 2018 and 2019.	Program adopted and implementation commenced	The training needs analysis of Managers and Coordinators is completed. Based on the outcome of the training needs analysis a leadership training strategy has been developed and will be implemented in accordance with the training plan.	
	Implement self- service human resources system	Implementation plan developed & integrated with asset management system and project management system	The harmonisation of two Payroll System was completed in July 2018. The employee Self Service project will commence in January 2019 creating automation and consistency in administrative payroll activities.	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Strong Financial Management	Implement, monitor and review new financial reporting framework.	New framework implemented	Final Code of Accounting Practice to be issued by the Office of Local Government. Commenced review of draft Code for enable planning for new Financial Reporting Framework.	
	Review and implement Investment Strategy	Review commenced through independent strategic advisor	Draft Investment Policy prepared. Review by external Investment advisor to commence following consolidation of a number of investments.	

*We are prepared for a sharing economy*

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
Innovative businesses are supported to locate in Bayside	Facilitate bridging programs for students between BEC, TAFE and business	2 Employment Action Workshops + 1 Women Return to Work Workshop	Delivered 4 workshops with BEC on Women Returning to Work, Partnered with IESMI to provide information to residents in employment, estimated 150 people attended.	
	Partner with Botany Enterprise Centre to deliver Building Better Business Workshop programs for local business operators	2 Building Better Business workshops	Four workshops in partnership with BEC completed in 2018: Starting a Business in Australia (August), Moving From Home Based Business to The Next Level, Marketing: On-line, Off Line, Social Media and Women Returning To Work (October 2018).	
Local plans and regulations have kept pace with the sharing economy	Deliver effective and competitive Complying Development (CDC) and Construction Certificate (CC) Services.	Review undertaken	Review of process improvement including assessment techniques and peer review functions undertaken.	

Delivery Program Strategy	Action	6 Month Milestone	Progress 31 December 2018	Status
	Investigate and implement opportunities to improve assessment processing times and customer satisfaction for development applications	Review and investigation commenced	<p>Opportunities have been identified to improve assessment times for Development Applications.</p> <p>This has resulted in seeing a 9% reduction in the average number of days for determination during January 2018 – December 2018.</p> <p>Customer Satisfaction Survey was completed in August 2018 and the results are being used to improve the customer experience scoped for 2019.</p>	

## Council Meeting

13/02/2019

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Item No	8.21
Subject	<b>Disclosure of Interest Return</b>
Report by	Michael Mamo, Director City Performance
File	SC18/1217

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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 (3) 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 these Returns, which has been lodged by Designated Persons.

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 Designated Persons under Section 449(1) of the Act, (i.e. their first Return) must be tabled at the first Council Meeting held after the last day of the three month lodgement date.

In accordance with Section 450A(2)(a) the following Section 449(1) returns have been lodged.

POSITION	RETURN DATE	DATE LODGED	LODGE MENT DATE
Parking Patrol Officer	02/10/2018	11/10/2018	2/1/2019
Parking Patrol Officer	08/10/2018	11/10/2018	8/1/2019
Environmental Health Officer	08/10/2018	17/10/2018	8/1/2019
Environmental Compliance Officer	08/10/2018	21/11/2018	8/1/2019

The returns are now tabled in accordance with Section 450A(2)(a) of the Act and are available for inspection if required.

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### Financial Implications

Not applicable ☒  
Included in existing approved budget ☐  
Additional funds required ☐

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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

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## Council Meeting

13/02/2019

Item No	8.22
Subject	<b>Botany Historical Trust - Committee Membership</b>
Report by	Michael Mamo, Director City Performance
File	F16/1038

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## Summary

This report provides further information about the composition of the Executive of the Botany Historical Trust, and asks Council to consider whether it wishes to appoint up to two (2) Councillors, representing the Area, to the Executive of the Trust, or continue the current arrangement of the General Manager representing Councillors.

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## Officer Recommendation

- 1 That Council notes the General Manager's appointments of community representatives / independent experts and Council staff to the Executive of the Botany Historical Trust as outlined in this report.
  - 2 That Council considers the appointment of up to two (2) Councillors, representing the Area to the Executive of the Botany Historical Trust.
- 

## Background

Councillors will recall that the Botany Historical Trust recommended amendments to its Constitution at its meeting of 6 August 2018. The proposed amendments were subsequently adopted by Council at the meeting of 10 October 2018.

Among other things, the Constitution defines the membership of the Executive as including office bearers elected from its membership, as well as:

- up to two (2) Councillors, representing the Area, or if no Councillor is appointed the General Manager or nominee.
- up to three (3) community representatives and/or independent experts appointed by the General Manager on the recommendation of the Executive.

It is noted that the election of Office Bearers occurs at the first Annual General Meeting of the Trust following each local government election.

The following Office Bearers and General Members continue as Executive Committee members until the next Annual General Meeting following the 2020 local government elections:

President: Anne Slattery	Secretary: Robert Hanna
Senior Vice-President: Alice McCann	Treasurer: Richard P Smolenski
Vice-President: George Christopher Hanna	Two General Members: Clarence Jones, Jacqueline Milledge

At its Annual General Meeting on 28 November 2018, the Trust were also advised of the following appointments as members of the Executive in accordance with the amended constitution:

- Community Representative/Independent Members appointed by the General Manager:
  - Dr Peter Orlovich, Archivist.
  - Aunty Barbara Simms Keeley, Indigenous Elder.
- Council staff (non-voting) appointed by the General Manager:
  - Manager Customer Experience.
  - Community Historian Librarian.

During the current term of Council, no Councillors have been appointed as delegates to the Executive of the Trust; the General Manager has represented Councillors in accordance with the Constitution. Following the adoption of an amended Constitution and the recent Annual General Meeting of the Trust, it is timely to consider whether up to 'two (2) Councillors, representing the Area,' be appointed to the Executive for the remainder of the Council term, that is until the 2020 local government elections. The term 'Area' is defined in the Constitution as the area within the boundaries of former City of Botany Bay.

If no appointments are made, the General Manager or nominee will represent Councillors, in accordance with the Constitution.

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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**

**13/02/2019**

Item No	9.1
Subject	<b>Minutes of the Botany Historical Trust Meeting - 4 February 2019</b>
Report by	Debra Dawson, Director City Life
File	SF18/3012

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## **Officer Recommendation**

The Minutes of the Botany Historical Trust meeting held on 4 February 2019 be received and the recommendations therein be adopted.

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## **Summary**

The recommendations of the meeting do not contain any recommendations that are controversial or that significantly impact on the budget.

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## **Present**

President Anne Slattery  
Vice President Christopher Hanna  
Senior Vice President Alice McCann  
Secretary Robert Hanna  
Committee Member Clarence Jones  
Committee Member Jacqueline Milledge  
Committee Member Peter Orlovich

## **Also Present**

Meredith Wallace, General Manager  
Bobbi Mayne, Manager Customer Experience  
Jennifer MacRitchie, Community History Librarian

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The Chairperson opened the meeting in the Mascot Library and George Hanna Museum at 6.35 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:

Debra Dawson, Director City Life

## **3 Disclosures of Interest**

There were no disclosures of interest.

## **4 Minutes of Previous Meetings**

### **4.1 Minutes of the Botany Historical Trust Meeting - 5 November 2018**

#### **Trust Recommendation**

On the motion of Peter Orlovich, seconded by Jacqueline Milledge:

That the Minutes of the Botany Historical Trust meeting held on 5 November 2018 be confirmed as a true record of proceedings.

Notes: With reference to item 6.3, the leasing of Botany Town Hall, the President asked the General Manager about the status of Mascot's Coronation Hall. Ms Wallace explained that negotiations are underway to let the administration building on Coward Street and the offices on the ground floor of the Coronation Hall, although no leases have been signed as yet. Ms Slattery asked whether the Coronation Hall is available for short bookings. Ms Wallace will confirm.

Dr Orlovich asked about the old Botany Police Station and its future. Council officers understand that the property is still in the ownership of the State Government and will verify this. The former Mascot Police Station in Miles Street is now a private dwelling.

A suspension of standing orders took place at 6.50 pm when the meeting was joined by Mr Les and Mrs Robyn Haggett, representatives from the Botany RSL Sub-Branch. Mr Barry McGrath, representing Cain Slater, also from the Sub-Branch, joined the meeting at 7.00 pm.

## **5 Reports**

### **5.1 Arthur Park - Installation of a new Plaque**

#### **Trust Recommendation**

On the motion of Clarence Jones, seconded by Christopher Hanna:

1. That the report be received and noted.
2. That the design and wording of a new plaque commemorating the service of

Botany's men and women during World War II be approved.

3. That the removal of the remaining plaques for mounting on an Honour Board, or within a frame, for display at the George Hanna Memorial Museum be approved.

Notes: Representatives from Botany RSL Sub-Branch were invited to discuss the BHT's recommendations for replacing the plaques honouring World War II servicemen in Arthur Park, Botany. Consensus was reached for the re-dedication of the memorial listing the original names recorded. There will be no organisations included on the plaque. Ms Slattery suggested that 15 August 2019, Victory in the Pacific Day, would be a fitting date to unveil the new plaque. Military representatives will also be invited to take part. Ms Wallace suggested that an interpretative sign could also be installed to explain the significance and history of the memorial, plaques and trees in Arthur Park.

Mr and Mrs Haggett and Mr McGrath left the meeting at 7.15 pm.

## **5.2 Community History and Museum**

### **Trust Recommendation**

On the motion of Peter Orlovich, seconded by Jacqueline Milledge:

That the report be received and noted.

## **5.3 New Park Name Request - Mascot**

### **Trust Recommendation**

On the motion of Jacqueline Milledge, seconded by Alice McCann:

That the BHT Executive Committee supports the proposed name for the new park for endorsement by Council.

## **6 General Business**

### **6.1 Development Applications**

Ms Milledge asked about the status of the proposed development at 1447 Botany Road, Botany. Ms Wallace explained that there was currently a stop work order in place and that the current owners have stated that the vandalism to the property occurred before they purchased it. Investigation is continuing. In response to a question about the Marina Theatre, Ms Wallace stated that it has been sold but that there have been no further developments at this time

### **Trust Recommendation**

That this discussion be noted.

## 6.2 Trams

Mr Robert Hanna showed the Executive a new book by the NSW Division of the Australian Railway Historical Society titled *Bondi to the Opera House: the trams that linked Sydney*. The book features several photos of the Botany trams on Botany Road. He suggested that this may be a good topic for a future exhibition at the George Hanna Memorial Museum.

### Trust Recommendation

That this discussion be noted.

## 6.3 Carolyn McMahon

Mr Christopher Hanna announced that Carolyn McMahon, Secretary of Mascot RSL Sub-Branch recently received an OAM for service to the community.

### Trust Recommendation

That this discussion be noted.

## 6.4 Captain Cook's 250 Anniversary

Mr Robert Hanna asked whether Council plans to mark the 250<sup>th</sup> anniversary of Captain Cook's arrival in Botany Bay on 29 April 1770. Ms Wallace responded that there have been no plans made as yet but that Bayside Council will be involved in some way and that it is possible that there will be Government grants available to local communities to assist with their commemorative events.

### Trust Recommendation

That this discussion be noted.

## 6.5 Botany RSL Sub-Branch archives

Dr Orlovich noted that the Botany RSL Sub-Branch archives are still in storage at AMAC House and that he had anticipated that they would have been relocated some time ago. His report outlining possible future storage options has not yet been implemented and a permanent home for them is yet to be found. Ms Wallace assured Dr Orlovich that there is no immediate time pressure for the archives to be moved and that future negotiation may be possible with the new board at Botany Golf Club. Dr Orlovich also commended the work of the three ladies who assisted him with reorganising and documenting the Botany RSL Sub-Branch archives.

**Trust Recommendation**

That this discussion be noted.

Mr Smolenski joined the meeting at 8:00pm

**6.6 Sir Joseph Banks Park**

Mr Robert Hanna asked the General Manager about signs he had seen warning about snakes in Sir Joseph Banks Park. Ms Wallace explained that there had been some bush regeneration work undertaken there by volunteers in recent months and that a snake had been sighted there.

**Trust Recommendation**

That this discussion be noted.

**6.7 Development Applications**

Mr Smolenski expressed his concern about development applications being advertised for public submissions over the Christmas/New Year period when people are away from home or busy. Ms Wallace explained that Council cannot stop the clock on development applications because of the holidays but that Council does extend the closing date for feedback in recognition of the Christmas and New Year holidays.

**Trust Recommendation**

That this discussion be noted.

**6.8 BHT Program for 2019**

The President submitted a draft program for excursions and events for 2019. These are still to be confirmed. Ms Slattery expressed a desire for two general weekday meetings where ordinary members could possibly share local memories etc. that might be recorded in some way. Ms Wallace noted that Council has staff that could help with filming.

**Trust Recommendation**

That this discussion be noted.

## **6.9 Extra Meetings**

Ms Milledge asked about the possibility of holding extra Committee meetings if necessary in connection with building applications that require discussion. Ms Slattery advised that the constitution does allow for special meetings if necessary. The Executive expressed a desire to have a representative from Planning attend meetings to provide more information on certain developments when required. Ms Wallace assured the Executive that this can be arranged as necessary.

### **Trust Recommendation**

That a representative from Planning will attend future Botany Historical Trust meetings when a development application is listed on the agenda.

## **7 Next Meeting**

That the next meeting be held in the Mascot Library and George Hanna Memorial Museum at 6.30 pm on Monday, 6 May 2019.

Mr Smolenski advised that he will be unable to attend this meeting as he will be overseas.

The Chairperson closed the meeting at 8:20 pm.

## **Attachments**

Nil

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## Council Meeting

13/02/2019

Item No	9.2
Subject	<b>Minutes of the Extraordinary Risk &amp; Audit Committee Meeting - 31 January 2019</b>
Report by	Michael Mamo, Director City Performance
File	SF18/3012

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## Officer Recommendation

The Minutes of the Extraordinary Risk & Audit Committee meeting held on 31 January 2019 be received and the recommendations therein be adopted.

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## Summary

The minutes include the following substantial recommendations:

### **5.3 Draft Project Plan to remediate the 2016/17 Audit Disclaimer of Opinion (Project 2020)**

- 1 That the Risk & Audit Committee note Council's establishment of Project 2020 to coordinate the program of work required to address the audit issues and prepare the two years of Financial Statements (2017/18 and 2018/19).\
  - 3 That the Risk & Audit Committee note management is meeting with the NSW Auditor General to establish the audit programs for finalisation of the 2017/18 and 2018/19 Financial Statements.
  - 4 That the Risk & Audit Committee note that the approach to finalising the 2017/18 Financial Statements is unlikely to result in the removal of the Disclaimer of Audit Opinion, due to the following factors:
    - 4.1 A number of Audit issues identified in the 2016/17 Financial Statements Client Service Report (received January 2019) continue to impact the 2017/18 financial year of operations and financial statements.
    - 4.2 Timing and extent of work required to address issues
- 

## Present

Independent External Member Jennifer Whitten (Chair)  
Independent External Member Lewis Cook  
Independent External Member Catriona Barry  
Independent External Member Barry Munns  
Councillor Liz Barlow  
Councillor Scott Morrissey

## Also present

David Nolan, Director Financial Audit Services - Audit Office of NSW  
 Meredith Wallace, General Manager  
 Michael Mamo Director City Performance  
 Fausto Sut, Manager Governance & Risk  
 Matthew Walker, Manager Finance  
 Dorothy Rapisardi

The Chairperson opened the meeting in the Pindari Room, Rockdale Town Hall at 6:30pm.

## 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

There were no apologies received.

## 3 Disclosures of Interest

There were no disclosures of interest.

## 4 Minutes of Previous Meetings

### 4.1 Minutes of the Risk & Audit Committee Meeting - 20 December 2018

#### Committee Recommendation

1. The Minutes of the Risk & Audit Committee meeting held on 20 December 2018 be confirmed as a true record of proceedings.
2. That outstanding Actions from previous meetings be updated

Item	Action	Responsible Officer
24/05/18 5.6	The Manager Procurement provides a copy of the Procurement Guide to all Committee members.	Manager Procurement
27/09/18 5.2	A final report of TechOne Post Implementation Review Project and roadmap be presented to the Committee at a future meeting.	Manager Finance
27/09/18 5.5	Circulate a copy of the Procurement Health Check List and example of Procurement documents to the Committee.	Manager Procurement



22/11/18 5.1	An annual report of the Risk & Audit Committee will be prepared for the February 2019 meeting.	Committee Chair
20/12/18 5.2	BDO to provide suggestions on updates for Committee Charter to reflect Office of Local Government draft changes to guidelines.	Steve Kent - BDO
20/12/18 6.1	Standing agenda items for future committee meetings be aligned to Committee Responsibilities as outlined in Section 4 of Risk & Audit Committee Charter, with each Responsibility area allocated an identified responsible officer.	Manager Governance & Risk
31/1/19 5.3	That a copy of the presentation on Project 2020 be provided to all Committee members	Manager Finance

## 5 Reports

### 5.1 Modified statements by Councillors and Management for Bayside Council 2016/17 Financial Reports

#### Committee Recommendation

That the Risk & Audit Committee receive and note the modified statements by Councillors and Management for the Bayside Council 2016/17 Financial Reports.

### 5.2 Draft audit report and client service report for Bayside Council 2016/17 financial reports

#### Committee Recommendation

1. That the reports be withheld from the press and public as it is confidential for the following reason:

With reference to Section 10(A) (2) of the Local Government Act 1993, the attachment relates to matters that are confidential, as it is considered that it is in the public interest that they not be disclosed to the public. In accordance with the Code of Conduct, the matters and the information contained within this report must not be discussed with or disclosed to any person who is not a member of the meeting or otherwise authorised.

2. That the draft audit report and draft client service report for Bayside Council 2016/17 financial reports be received and noted.

### **5.3 Draft Project Plan to remediate the 2016/17 Audit Disclaimer of Opinion (Project 2020)**

#### **Committee Recommendation**

- 1 That the Risk & Audit Committee note the receipt of the final 2016/17 Financial Statements Client Service Report dated 24 January 2019.
- 2 That the Risk & Audit Committee note Council's establishment of Project 2020 to coordinate the program of work required to address the audit issues and prepare the two years of Financial Statements (2017/18 and 2018/19).
- 3 That the Risk & Audit Committee note management is meeting with the NSW Auditor General to establish the audit programs for finalisation of the 2017/18 and 2018/19 Financial Statements.
- 4 That the Risk & Audit Committee note that the approach to finalising the 2017/18 Financial Statements is unlikely to result in the removal of the Disclaimer of Audit Opinion, due to the following factors:
  - 4.1 A number of Audit issues identified in the 2016/17 Financial Statements Client Service Report (received January 2019) continue to impact the 2017/18 financial year of operations and financial statements.
  - 4.2 Timing and extent of work required to address issues.
5. That the Project Plan be abridged for reporting and monitoring purposes based on key timeframes and accountabilities.
6. That the Project Plan progress and reporting be subject to periodic review and reporting by the Internal Auditor.
7. That the staff be congratulated for their efforts in producing a Project Plan of high quality, detail and thoroughness.

## **6 General Business**

There was no General Business.

## **7 Next Meeting**

That the next meeting be held in the Pindari Room, Rockdale Town Hall at 6:30pm on 28, February 2019 with the members to meet at 5pm.

The Chairperson closed the meeting at 7:50pm.

## **Attachments**

Nil



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## Council Meeting

13/02/2019

Item No	9.3
Subject	<b>Minutes of the Bayside Traffic Committee Meeting - 6 February 2019</b>
Report by	Michael McCabe, Director City Futures
File	SF18/3012

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## Officer Recommendation

The Minutes of the Bayside Traffic Committee meeting held on 6 February 2019 be received and the recommendations therein be adopted.

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## Present

Councillor Dorothy Rapisardi (Convener)  
Traffic Sergeant Frank Gaal, St George Local Area Command;  
Senior Constable Alexander Weissel, Botany Bay Police;  
James Suprain, representing Roads and Maritime Services; and,  
George Perivolarellis, representing State Members for Rockdale and Heffron, (9.40am)

## Also present

Jeremy Morgan, Manager City Infrastructure, Bayside Council;  
Pintara Lay, Coordinator Traffic and Road Safety, Bayside Council;  
Lyn Moore, NSW Pedestrian Council;  
Peter Hannett, St George Bicycle User Group;  
Asith Nagodauithane, Transit Systems;  
Glen McKeachie, Coordinator Regulations, Bayside Council;  
David Carroll, Senior Parking Patrol Officer, Bayside Council;  
Malik Almuhanha, Traffic Engineer, Bayside Council;  
Agasteena Patel, Traffic Engineer, Bayside Council;  
Alex Silio, Asset Officer, Bayside Council;  
Sam Nguyen, Student/Graduate, Bayside Council; and  
Pat Hill, Traffic Committee Administration Officer, Bayside Council.

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The Convenor opened the meeting in the Rockdale Town Hall, Pindari Room, Level 1, 448 Princes Highway, Rockdale at 9.20am 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:

Councillor Ed McDougall  
Les Crompton, representing State Member for Kogarah  
Harry Haidar, St George Cabs

## 2 Disclosures of Interest

There were no disclosures of interest.

## 3 Minutes of Previous Meetings

### **BTC19.001 Minutes of the Bayside Traffic Committee Meeting - 5 December 2018**

#### **Committee Recommendation**

That the Minutes of the Bayside Traffic Committee meeting held on 5 December 2018 be confirmed as a true record of proceedings.

## 4 Reports

### **BTC19.002 Charles Street at the rear of No. 108 Princes Highway, Arncliffe - proposed alteration to the speed hump**

#### **Committee Recommendation**

That approval be given to the modification of the existing concrete speed hump and median island in Charles Street at the rear of 108 Princes Highway, Arncliffe, as follows:

- 1 Removing the existing concrete speed hump
- 2 Extending existing median island by 2m at its northern end
- 3 Installing two sets of rubber cushion pads
- 4 Painting two sets of 'one-way street pavement arrows'

### **BTC19.003 Chisholm Street, Wolli Creek - Proposed parking restriction**

#### **Committee Recommendation**

That endorsement be given to the installation of new parking restrictions in Chisholm Street, Wolli Creek, which is a privately owned, public accessible road, as follows:

- along the northern kerb line, proposed 'No Stopping' and 'No Parking' restrictions
- along the southern kerb line,
  - proposed 25.2m of '1P, 8.30 am – 6 pm, Mon – Fri and 8.30 am - 12.30 pm, Sat',
  - proposed 15.6m of 'Disabled Parking' with indented parking and pram ramps
  - proposed 12.6m of 'Loading Zone, 8.30am-6pm, Mon – Fri and 8.30 am - 12.30 pm, Sat'

- proposed 6.3m of 'No Parking, Car Share Vehicles Excepted'
- proposed 'No Stopping'

**BTC19.004 Church Avenue, along the southern kerb line, west of Bourke Street, Mascot - proposed change of 'No Stopping' to '1P, 7 am - 7 pm' restrictions**

**Committee Recommendation**

That approval be given to the removal of the existing 'No Stopping' restriction and replacement with '1P, 7 am – 7 pm' restriction along the southern kerb line of Church Avenue, west of Bourke Street, Mascot, as follows:

- \* from 0m to a point 11m – retain 'No Stopping'
- \* from 11m to 61m – proposed change of 'No Stopping' to '1P, 7 am – 7 pm'
- \* from 61m westward – retain existing parking and 'No Stopping' restrictions

**BTC19.005 1 Edward Street, in front of Botany Town Hall - proposed 'P5 Minute, 1pm-6pm, Tuesday, Permit Holders Excepted, AREA OTHER'**

**Committee Recommendation**

That approval be given to the proposed change of a parking restriction along the northern kerb line of Edward Street between Botany Road and James Bourke Place, in front of Botany Town Hall from 'No Parking, 5.30 pm - 8.30 pm, Wednesday, Council Vehicles Excepted' to 'P5 Minutes, 1 pm – 6 pm, Tuesday, Permit Holders Excepted, AREA OTHER' restriction.

**BTC19.006 Emmaline Street, Ramsgate Beach, between The Grand Parade and Chuter Avenue - proposed 'two way street' signs**

**Committee Recommendation**

- 1 That approval be given to the installation of 'two way' regulatory traffic signs in Emmaline Street between The Grand Parade and Chuter Avenue, Ramsgate Beach, and mid-block facing both directions of traffic
- 2 That approval be given to the painting of a 'one-way street pavement arrow' in Chuter Avenue immediately south of Emmaline Street to reinforce the existing 'No Left Turn' restriction from the southbound traffic from turning left from Chuter Avenue to Emmaline Street.

**BTC19.007 Florence Street Carpark, The Grand Parade, Ramsgate Beach - Installation of 'No Stopping' signs with times '9.00 pm to 5.00 am'**

**Committee Recommendation**

- 1 That 'No Stopping 9.00 pm – 5.00 am' restrictions be installed at the off-street car park on The Grand Parade, Ramsgate Beach (opposite Florence Street).
- 2 That a 'Park in Bays Only' sign be installed at vehicle each entry point to the car park.

**BTC19.008 2 and 2a Halley Avenue, Bexley - proposed 'Parking, Motorbikes Only' at the driveways**

**Committee Recommendation**

That the approval be given for a 3.3m 'Motorbikes Only' restriction between Nos. 2 and 2A Halley Avenue, Bexley.

**BTC19.009 King Street and Cameron Street intersection, Rockdale - Proposed 'Give Way' and centre lines**

**Committee Recommendation**

- 1 That approval be given to the installation of Give Way priority control sign and line in King Street at Cameron Street, Rockdale.
- 2 That approval be given to the installation of broken centre lines, type S1 and raised pavement markers in King Street west of Cameron Street.

**BTC19.010 Kurnell Street, Botany, between Swinbourne Street and Warrana Street - Proposed traffic calming scheme**

**Committee Recommendation**

- 1 That consultation be carried out with affected residents regarding the proposed traffic calming scheme which could comprise:
  - One way street
  - Rubber cushion pads
  - Load limit restriction
- 2 That results of consultation be reported to the Traffic Committee for further consideration.

**BTC19.011 Ramsgate Beach Car Park east of The Grand Parade, Ramsgate Beach - proposed extension of time to the existing Loading Zone to cover seven days a week**

**Committee Recommendation**

That loading zone options in the car parks east of The Grand Parade be reviewed to provide weekend loading zones to reduce conflicts with pedestrians and cyclists.

**BTC19.012 Spring Street along the northern kerb line east of Albert Street, Banksia - proposed 10m 'No Stopping' restriction**

**Committee Recommendation**

That approval be given to the installation of a 10m 'No Stopping' restriction along the northern kerb line of Spring Street west of Albert Street as cars were seen to be parked too close to the corner of the above intersection.

**BTC19.013 Western end of Tramway Lane Rosebery - Change from 'No Parking' restriction to 'No Stopping' restriction**

**Committee Recommendation**

That approval be given to the change of existing 'No Parking' restriction to 'No Stopping' restriction indicated by a solid yellow line marking at the western end of Tramway Lane Rosebery, as follows:

Starting from the western end of Tramway Lane, moving in the eastward direction:

- 0m to 15m along southern kerb line: yellow kerbside line marking for No Stopping restriction
- 0m to 13m along northern kerb line: yellow kerbside line marking for No Stopping restriction
- Kerb line transverse to southern and northern kerb line at western end of Tramway Lane: yellow kerbside line marking for No Stopping restriction

**BTC19.014 Walz Street along northern kerb line west of Railway Street, Rockdale - Change 'Taxi Zone' restriction west of Hesten Lane to 'Taxi Zone 6 am - 2 pm' and '1P at other times' restrictions**

**Committee Recommendation**

That approval be given to the change of the fourth 'Taxi Zone' space to a combined 'Taxi Zone 6 am – 2 pm' and '1P at other times' restriction on Walz Street along the northern kerb line west of Hesten Lane, Rockdale, as follows:

- Starting from the western kerb line on Rail Street, in the westward direction:



- From 0m to 20m – retain existing ‘No Stopping’
- From 21m to 40m – retain ‘Taxi Zone’
- From 50m to 60m – proposed change of ‘Taxi Zone’ to ‘Taxi Zone 6 am-2 pm’ and ‘1P at other times’
- From 61m westward – retain existing restrictions

### **BTC19.015 Referrals from Anti-Hooning Taskforce**

#### **Committee Recommendation**

The Anti-Hooning Taskforce has not referred any matters for consideration of the Bayside Traffic Committee.

### **BTC19.016 Matters referred to the Bayside Traffic Committee by the Chair**

#### **Committee Recommendation**

- 1 That an update be provided on the parking matter in front of the shops in Dalley Avenue Pagewood on the installation of timed parking.
- 2 That the update provided on the Mascot Railway Station Precinct Study be noted.

### **BTC19.017 General Business**

#### **Committee Recommendation**

No items were raised.

The Convenor closed the meeting at 10.52am.

## **Attachments**

Nil

## **Council Meeting**

**13/02/2019**

Item No	10.1
Subject	<b>Notice of Motion - Lady Robinsons Beach Environment</b>
Submitted by	Ed McDougall, Councillor
File	F08/662

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## **Summary**

This Motion was submitted by Councillor McDougall.

## **Motion**

- 1 That Council investigate options to issue penalty notices for littering, including hiring off-duty police officers similar to the scheme in place in Kings Cross.
  - 2 That Council consider implementing further bins along the foreshore and on the beach.
  - 3 That a report on these matters be prepared for Council such that these and any other options might be considered and implemented in time for 2019-2020 summer period.
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## **Background**

### **Supporting Statement by Councillor McDougall**

Bayside Council deals with unparalleled littering and anti-social behaviour along the Botany Bay foreshore from Kyeemagh to Sans Souci, and despite daily clean-up efforts, bin capacity that is significantly above most Sydney beaches and ranger patrols this continues to be an ongoing problem.

Plastics and other non-biodegradable rubbish continually wash into the bay and are blown along the foreshore. Council's enforcement powers are currently limited in preventing vandalism and littering of the foreshore and further action is warranted.

While the current summer peak period is nearly over, Bayside Council should prepare a strategy to deal with these issues prior to 2019-2020 summer.

### **Comment by General Manager**

This Notice of Motion is in order and can be dealt with.

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## **Attachments**

Nil

## Council Meeting

13/02/2019

Item No	10.2
Subject	<b>Notice of Motion - Bourke Street Crossing, Mascot</b>
Submitted by	Dorothy Rapisardi, Councillor
File	F08/752P02

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## Summary

This Motion was submitted by Councillor Rapisardi.

## Motion

- 1 That Council investigates costings for the provision of traffic controllers at the Bourke Street crossing at Mascot Railway Station during the peak periods identified by the preliminary counts.
  - 2 That Council writes to the Roads and Maritime Services and Transport for NSW seeking financial support for any proposed interim measures, including traffic controllers.
  - 3 That Council writes to the local State Member seeking his active support in obtaining funding for interim safety measures.
- 

## Background

### Supporting Statement by Councillor Rapisardi

This crossing experiences a high volume of pedestrian traffic to and from Mascot Station, surrounding businesses and multi-unit dwellings. Bourke Street is delegated as a local road but is surrounded by and subject to significant traffic congestion from state roads. Bourke Street also features a dedicated cycle way, where cyclists who fail to stop at the crossing also pose significant risk to pedestrians. This trifecta of conditions means that the unregulated flow of pedestrian traffic produces risks for pedestrians and exacerbates vehicle congestion.

Council has previously identified this crossing as requiring a remedy to both the safety and congestion issues above, but has also noted that any changes to the crossing infrastructure may well have profound flow-on effects on the traffic conditions in surrounding streets. For this reason, Council has already supported a resolution by the Bayside Traffic Committee to conduct the relevant traffic and pedestrian studies to inform any upgrades to the site and has engaged Traffic Consultants to undertake these studies. The recommendations that will be produced by this process will aim to regulate movements and safety for decades to come.

At the last meeting of the Bayside Traffic Committee on 6 February 2019, an update was sought on the status of these studies. The Roads and Maritime Services representative advised that the results of the studies have been received by the Roads and Maritime Services in the first week of February 2019. There was no advice possible as to when recommendations would be received by Council.

As Council awaits these recommendations, the risks to pedestrians, cyclists and other vehicles continue to haunt the crossing.

**Comment by General Manager:**

This Notice of Motion is in order and can be dealt with.

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**Attachments**

Nil