



STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING

A meeting of the STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE will be held at Waverley Council Chambers, Cnr Paul Street and Bondi Road, Bondi Junction at:

7.30 PM, TUESDAY 7 MARCH 2023

A handwritten signature in black ink, appearing to read 'Emily Scott'.

Emily Scott
General Manager

Waverley Council
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Delegations of the Waverley Strategic Planning and Development Committee

On 10 October 2017, Waverley Council delegated to the Waverley Strategic Planning and Development Committee the authority to determine any matter **other than**:

1. Those activities designated under s 377(1) of the *Local Government Act* which are as follows:
 - (a) The appointment of a general manager.
 - (b) The making of a rate.
 - (c) A determination under section 549 as to the levying of a rate.
 - (d) The making of a charge.
 - (e) The fixing of a fee
 - (f) The borrowing of money.
 - (g) The voting of money for expenditure on its works, services or operations.
 - (h) The compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment).
 - (i) The acceptance of tenders to provide services currently provided by members of staff of the council.
 - (j) The adoption of an operational plan under section 405.
 - (k) The adoption of a financial statement included in an annual financial report.
 - (l) A decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6.
 - (m) The fixing of an amount or rate for the carrying out by the council of work on private land.
 - (n) The decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work.
 - (o) The review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the *Environmental Planning and Assessment Act 1979*.
 - (p) The power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194.
 - (q) A decision under section 356 to contribute money or otherwise grant financial assistance to persons,
 - (r) A decision under section 234 to grant leave of absence to the holder of a civic office.
 - (s) The making of an application, or the giving of a notice, to the Governor or Minister.
 - (t) This power of delegation.
 - (u) Any function under this or any other Act that is expressly required to be exercised by resolution of the council.
2. Despite clause 1(i) above, the Waverley Strategic Planning and Development Committee does not have delegated authority to accept any tenders.
3. The adoption of a Community Strategic Plan, Resourcing Strategy and Delivery Program as defined under sections 402, 403, and 404 of the *Local Government Act*.

Statement of Ethical Obligations

Councillors are reminded of their oath or affirmation of office made under section 233A of the Act and their obligations under Council's code of conduct to disclose and appropriately manage conflicts of interest.

Live Streaming of Meeting

This meeting is streamed live via the internet and an audio-visual recording of the meeting will be publicly available on Council's website.

By attending this meeting, you consent to your image and/or voice being live streamed and publicly available.

AGENDA

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The Chair will read the following Opening Prayer and Acknowledgement of Indigenous Heritage:

God, we pray for wisdom to govern with justice and equity. That we may see clearly and speak the truth and that we work together in harmony and mutual respect. May our actions demonstrate courage and leadership so that in all our works thy will be done. Amen.

Waverley Council respectfully acknowledges our Indigenous heritage and recognises the ongoing Aboriginal traditional custodianship of the land which forms our Local Government Area.

1. Apologies/Leaves of Absence

2. Declarations of Pecuniary and Non-Pecuniary Interests

3. Addresses by Members of the Public

4. Confirmation of Minutes

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5. Reports

PD/5.1/23.03	Waverley Development Contributions Plan 2006 (Amendment No. 9) - Adoption	11
PD/5.2/23.03	Managing Conflicts of Interest for Council-related Development Policy - Exhibition	35
PD/5.3/23.03	Pesticide Use Notification Plan 2023 - Adoption	46

6. Urgent Business

7. Closed Session 60

The following matter is proposed to be dealt with in Closed Session and has been distributed to Councillors separately with the Agenda:

PD/7.1/23.03	CONFIDENTIAL REPORT - Development Application Fees
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8. Resuming Open Session 62

9. Meeting Closure

CONFIRMATION OF MINUTES PD/4.1/23.03



Subject: Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 7 February 2023

TRIM No: SF23/18

Author: Al Johnston, Governance Officer

RECOMMENDATION:

That the minutes of the Strategic Planning and Development Committee meeting held on 7 February 2023 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

Introduction/Background

The minutes of committee meetings must be confirmed at a subsequent meeting of the committee, in accordance with clause 20.23 of the Code of Meeting Practice.

Attachments

1. Strategic Planning and Development Committee Meeting Minutes - 7 February 2023 .



**MINUTES OF THE STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON
TUESDAY, 7 FEBRUARY 2023**

Present:

Councillor Steven Lewis (Chair)	Hunter Ward
Councillor Paula Masselos (Mayor)	Lawson Ward
Councillor Sally Betts	Hunter Ward
Councillor Angela Burrill	Lawson Ward
Councillor Ludovico Fabiano	Waverley Ward
Councillor Leon Goltsman	Bondi Ward
Councillor Michelle Gray	Bondi Ward
Councillor Tony Kay	Waverley Ward
Councillor Tim Murray	Waverley Ward
Councillor Will Nemesh	Hunter Ward
Councillor Dominic Wy Kanak	Bondi Ward

Staff in attendance:

Emily Scott	General Manager
Sharon Cassidy	Director, Assets and Operations
Tara Czinner	Director, Corporate Services
Fletcher Rayner	Director, Planning, Sustainability and Compliance
Ben Thompson	Director, Community, Culture and Customer Experience

At the commencement of proceedings at 7.30 pm, those present were as listed above.

Crs Burrill, Goltsman, Gray and Kay attended the meeting by audio-visual link.

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The General Manager read the following Opening Prayer and Acknowledgement of Indigenous Heritage:

God, we pray for wisdom to govern with justice and equity. That we may see clearly and speak the truth and that we work together in harmony and mutual respect. May our actions demonstrate courage and leadership so that in all our works thy will be done. Amen.

Waverley Council respectfully acknowledges our Indigenous heritage and recognises the ongoing Aboriginal traditional custodianship of the land which forms our Local Government Area.

1. Apologies

Apologies were received from Cr Elaine Keenan (Deputy Mayor).

2. Declarations of Pecuniary and Non-Pecuniary Interests

The Chair called for declarations of interest and none were received.

3. Addresses by Members of the Public

3.1 J Weirick – PD/5.1/23.02 – 34-36 Flood Street, Bondi – Interim Heritage Order.

4. Confirmation of Minutes

PD/4.1/23.02 Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 6 December 2022 (SF21/6065)

MOTION / DECISION

Mover: Cr Lewis
Seconder: Cr Murray

That the minutes of the Strategic Planning and Development Committee meeting held on 6 December 2022 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

5. Reports

PD/5.1/23.02 34-36 Flood Street, Bondi - Interim Heritage Order (A23/0045)

MOTION

Mover: Cr Masselos

Seconder: Cr Fabiano

That Council:

1. Notes that on 5 July 2022, Council refused a spot rezoning request for 34–36 Flood Street, Bondi to rezone the site from SP2 Infrastructure to R3 Medium Density Residential.
2. Notes that the NSW Department of Planning and Environment provided provisional Gateway approval for the spot rezoning of the site, in spite of Council's refusal.
3. Approves the submission on the planning proposal for 34–36 Flood Street, Bondi, attached to the report (Attachment 1) to the Department of Planning and Environment.
4. Lodges the interim heritage order attached to the report (Attachment 2) for 34–36 Flood Street with Heritage NSW.
5. Engages an independent heritage expert to undertake a heritage assessment of the site's synagogue, which was designed by Harry Seidler.
6. Officers prepare a report to Council on whether the building should be nominated for inclusion in schedule 5 (heritage items) of the Waverley Local Environmental Plan 2012 and the State Heritage Register.

AMENDMENT

Mover: Cr Kay

Seconder: Cr Burrill

That:

1. Clause 3 be amended to read as follows:

'Approves the submission on the planning proposal for 34–36 Flood Street, Bondi, attached to the report (Attachment 1) to the Department of Planning and Environment, subject to the following amendment:

- (a) Page 25 of the agenda – Amend the statement of significance to read as per the statement on page 38 of the agenda, incorporating the amendment in clause 4 below.'

2. Clause 4 be amended to read as follows:

'Lodges the interim heritage order attached to the report (Attachment 2) for 34–36 Flood Street with Heritage NSW, subject to the following amendment:

- (a) Page 38 of the agenda, paragraph 6 of the statement of significance – Amend to read as follows:

"Subsequent additions and change of interiors to the building have served to maintain its historic function and role in the Orthodox community. Recent unsympathetic additions to the street frontage detract from the buildings aesthetic and streetscape qualities but are at distance from the core building and able to be removed, should the use of the buildings

change in the future and the security blast wall not be required.”

THE AMENDMENT WAS PUT AND DECLARED CARRIED UNANIMOUSLY.

THE MOVER OF THE MOTION THEN ACCEPTED THE ADDITION OF A NEW CLAUSE 7.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED UNANIMOUSLY.

UNANIMOUS DECISION

That Council:

1. Notes that on 5 July 2022, Council refused a spot rezoning request for 34-36 Flood Street, Bondi to rezone the site from SP2 Infrastructure to R3 Medium Density Residential.
2. Notes that the NSW Department of Planning and Environment provided provisional Gateway approval for the spot rezoning of the site, in spite of Council's refusal.
3. Approves the submission on the planning proposal for 34–36 Flood Street, Bondi, attached to the report (Attachment 1) to the Department of Planning and Environment, subject to the following amendment:
 - (a) Page 25 of the agenda – Amend the statement of significance to read as per the statement on page 38 of the agenda, incorporating the amendment in clause 4 below.
4. Lodges the interim heritage order attached to the report (Attachment 2) for 34–36 Flood Street with Heritage NSW, subject to the following amendment:
 - (a) Page 38 of the agenda, paragraph 6 of the statement of significance – Amend to read as follows:

‘Subsequent additions and change of interiors to the building have served to maintain its historic function and role in the Orthodox community. Recent unsympathetic additions to the street frontage detract from the buildings aesthetic and streetscape qualities but are at distance from the core building and able to be removed, should the use of the buildings change in the future and the security blast wall not be required.’
5. Engages an independent heritage expert to undertake a heritage assessment of the site's synagogue, which was designed by Harry Seidler.
6. Officers prepare a report to Council on whether the building should be nominated for inclusion in schedule 5 (heritage items) of the Waverley Local Environmental Plan 2012 and the State Heritage Register.
7. Officers note the information presented by Emeritus Professor James Weirick in his address to the meeting in the report referred to in clause 6 above.

J Weirick addressed the meeting.

6. Urgent Business

There was no urgent business.

7. Meeting Closure

THE MEETING CLOSED AT 8.03 PM.

.....
SIGNED AND CONFIRMED
CHAIR
7 MARCH 2023

REPORT

PD/5.1/23.03



Subject: Waverley Development Contributions Plan 2006
(Amendment No. 9) - Adoption

TRIM No: A23/0030

Author: Jaime Hogan, Senior Strategic Planner

Director: Fletcher Rayner, Director, Planning, Sustainability and Compliance

RECOMMENDATION:

That Council adopts the Waverley Development Contributions Plan 2006 (Amendment No. 9) attached to the report.

1. Executive Summary

The purpose of this report is to outline proposed minor amendments to the Waverley Development Contributions Plan 2006 (Plan) and seek Council's adoption of the amendment. The key amendments proposed include:

- Changes to respond to a recent external audit process conducted by Grant Thornton, including the reintroduction of the adopted Capital Works Program and associated map,
- General housekeeping changes such as minor typographical edits, and updates to legislation and Ministerial Directions.

Section 215(5) of the *Environmental Planning and Assessment Regulation 2021* provides that Council may make minor changes regarding minor typographical changes and updates to capital works details without creating a new plan, which requires public exhibition. The draft amendment proposes no policy change, and the updates are minor in nature. It is proposed that the amendment be adopted without public exhibition based on these changes.

To ensure that the Capital Works Program and associated maps remain up to date, it is proposed that an update to the Plan be undertaken in mid-2023 to integrate the 2023-24 Capital Works Program.

2. Introduction/Background

Section 7.12 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) provides Council the means to levy development for the purpose of allocating funds towards the provision, extension or augmentation of public amenities or services; or towards recouping the cost of their provision, extension or augmentation.

On 13 December 2005, Council adopted the Waverley Development Contributions Plan 2006. The Plan became effective on 1 January 2006, authorising Council to impose a fixed development levy on all approved developments in accordance with section 7.12 of the EP&A Act throughout the local government area (LGA).

Previous Amendment No. 8 to the Plan removed the Capital Works Program, which was instead provided by a link to Council's website. As part of an external audit conducted in 2022 by Grant Thornton, the link to

the website was identified as not meeting the legislative requirements under the *Environmental Planning and Assessment Act 2021*, and the reintroduction of the Capital Works Program and associated map was required.

This report seeks adoption of Amendment No. 9 to reinstate the previously deleted Capital Works Program and minor updates reflecting changes to legislation.

3. Relevant Council Resolutions

Nil.

4. Discussion

The following information details the changes proposed as part of the annual review of the Plan.

Capital Works Program and maps

Schedule 1 of the Plan has been updated to include the Council adopted Capital Works Program for 2022-23 and documents the works that are to be funded in the LGA, the amount of money required for each project, and an estimation of when the works will be completed. In addition, the major works listed are depicted on a map.

Ministerial Directions

The Ministerial Directions relevant to the making of contributions plans have been updated since the previous Amendment to the Plan. Schedule 2 to the Plan has been updated to include the new Ministerial Directions.

Updates to legislation

A number of legislative changes have been updated in the Plan, including references to the new *Environmental Planning and Assessment Regulations 2021*, the *State Environmental Planning Policy (Housing) 2021*, and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Update to templates

The template of the Cost Summary Report (Attachment 1 of the Plan) and Detailed Cost Report (Attachment 2 of the Plan) have been updated.

5. Financial impact statement/Time frame/Consultation

The *Waverley Development Contributions Plan 2006* is to be reviewed annually to provide an updated Capital Works Program and to ensure consistency with planning legislation. The Plan will be reviewed again mid-2023 to reflect the updated Capital Works Program and map for the financial year 2023-24 following formal adoption by Council in June 2023.

If adopted by Council, the amendment would be finalised, published on Council's website and public notice of its approval is given in the local newspaper, which will make the plan effective from that date.

6. Conclusion

This report seeks the adoption of Amendment No. 9 of the *Waverley Development Contributions Plan 2006*. The proposed amendments will ensure provisions can continue to be made public for public amenities and

public services within the LGA as a result of development. The Amendment proposes minor corrections and typographical changes, and update references capital works as required by the *Environmental Planning and Assessment Regulations 2021*. No policy changes are proposed as part of this Amendment.

7. Attachments

1. Waverley Development Contributions Plan (Amendment No.9) [↓](#) .



WAVERLEY
COUNCIL

WAVERLEY COUNCIL

Development Contributions Plan

2006

(Amendment No. **89**)

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PART 1 ADMINISTRATION AND OPERATION

1 Name of this Plan

This Plan is named *Waverley Council Development Contributions Plan 2006*.

2 Commencement of this Plan

This Plan has been prepared in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* (Act) and the *Environmental Planning and Assessment Regulation 2021* (Regulation). Amendment No. 98 to the *Waverley Development Contributions Plan 2006* was adopted on [insert date] 6 February 2018 and came into force on [insert date] 21 February 2018.

~~This Plan repeals Amendment No. 7 to the Waverley Development Contributions Plan 2006.~~

3 Purpose(s) of this Plan

The purpose of this Plan is to:

- ~~A~~authorise Waverley Council ('Council') to impose, as a condition of development consent, a requirement that the applicant pay to Council a levy determined in accordance with this Plan.
- ~~R~~require a certifying authority to impose, as a condition of issuing a complying development certificate or a construction certificate, a requirement that the applicant pay to Council a levy determined in accordance with this Plan.
- ~~E~~nable Council to be both publicly and financially accountable in its assessment and administration of this Plan.
- ~~P~~rovide a comprehensive framework for the assessment, collection, expenditure, accounting and indexing of development contributions on an equitable basis, ~~and~~
- ~~G~~overn the application of money paid to Council under conditions authorised by this Plan for the provision, extension or augmentation of public facilities, or towards recouping the cost of their provision, extension or augmentation to meet the demand created by developments.

4 Section 7.12 of the Act

Section 7.12 of the Act provides that a consent authority may impose, ~~as~~ a condition of development consent as authorised by a contributions plan, ~~a requirement~~ that the applicant pay a levy of ~~the a percentage authorised by a contributions plan~~, of the proposed cost of carrying out the development. The money required to be paid by a condition imposed under ~~this section~~section 7.12 is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions plan.

5 Land to which this Plan applies

This Plan applies to all land within the Waverley Local Government Area (LGA).

6 Development to which this Plan applies

This Plan applies to all applications for development consent and complying development certificates required to be made by or under Part 4 of the Act with respect to development on land to which this Plan applies.

7 Application of Section 7.12 levies

This Plan authorises ~~Council~~ a consent authority to grant consent to development to which this Plan applies subject to a condition requiring the applicant pay Council a levy as specified in the following table:

Proposed cost (\$AUD) of the development	Maximum percentage (%) of the levy
\$0 to \$100,000	Nil
\$100,001 – \$200,000	0.5 percent (%)
More than \$200,000	1.0 percent (%)

8 Section 4.55 modifications and changes to Section 7.12 levies

Should an applicant propose amendments to the development, subject to Section 4.55 of the ~~EP&AA 1979 Act~~, that result in amendments to the proposed development cost, the Section 7.12 levy should be adjusted accordingly.

9 Payment of Section 7.12 levy

This Plan requires a certifying authority (Council or an accredited certifier) to require applicants for a complying development certificate or a construction certificate to pay Council a levy prior to issue of the certificate in accordance with Clause 7 of this Plan.

A levy required to be paid by a condition authorised by this Plan must be paid to Council at the time specified in the condition. If no time is specified, the levy must be paid prior to the construction certificate or complying development certificate being issued in respect of the development under Part 4A of the Act.

10 Determination of proposed cost of development

An application for a complying development certificate or a construction certificate is to be accompanied by a cost estimate report, prepared at the applicant's cost in accordance with this clause, setting out an estimate of the proposed cost of carrying out the development for the purposes of Clause ~~25(2)208~~ of the Regulations.

The following type of report(s) is required:

- Where the estimate of the proposed cost of carrying out the development is less than \$500,000 – ~~C~~cost ~~S~~summary ~~R~~report in accordance with Attachment 1 of this Plan; or
- Where the estimate of the proposed cost of carrying out the development is \$500,000 or more – ~~D~~etailed ~~C~~cost ~~R~~report in accordance with Attachment 2 of this Plan, or a Building Contract or similar, in accordance with Schedule 2 of this Plan.

For the purpose of Clause ~~25(2)208(3)~~ of the Regulations, the following persons are approved by Council to provide an estimate of the proposed cost of carrying out development in the following circumstances:

- Where the proposed development cost is less than \$500,000 – a person who, in the opinion of Council, is suitably qualified to provide a ~~C~~cost ~~S~~summary ~~R~~report;
- Where the proposed development cost is \$500,000 or more – a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors.

Upon reviewing a ~~C~~ost ~~S~~ummary ~~R~~eport, Council may require a further estimate or review of a report to be provided by a registered quantity surveyor at the applicant's cost.

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11 Circumstances where the Section 7.12 levy may be waived

(a) Development exempted by Ministerial Direction

Conditions authorised by this Plan are subject to any direction given by the Minister of the Department of Planning and Environment under Section 7.17 of the Act (refer to Schedule ~~24~~ in this Plan). This Plan authorises the imposition of conditions in accordance with any such direction. Under Section 7.17 the Minister has directed Council to exempt development from a levy under this Plan as follows:

- Where the proposed cost of carrying out the development is \$100,000 or less;
- For the purposes of disabled access;
- For the sole purpose of providing affordable housing;
- For the purpose of reducing the consumption of mains supplied potable water, or reducing the energy consumption of a building;
- For the sole purpose of the adaptive reuse of an item of environmental heritage;
- Other than the subdivision of land, where a condition under section 7.11 of the Act has been imposed under a previous development consent relating to the subdivision of the land on which the development is proposed to be carried out;
- Seniors housing, as defined in the *State Environmental Planning Policy (Seniors Living) 2004 (Housing) 2021*, which is undertaken by a social housing provider; or
- ~~School developments that are a Federal Building the Education Revolution Project; or~~
- Any other Ministerial Direction released following the adoption of this plan.

(b) Other development exempted from the levy

Other exemptions from a levy under this plan may be considered by Council for the following development or components of development:

- The applicant is a registered charity (as defined by ATO), but only in cases where the development is of small scale (e.g. retail outlet) and where there will not be an increase in the demand for public works or infrastructure as a result of a development which would warrant the payment of a Section 7.12 levy;
- The operation provides a public benefit and is in the public interest;
- Applications submitted by or on behalf of Waverley Council;
- An application for or on behalf of NSW Government for public infrastructure such as hospitals, police stations, fire stations, education facilities and public transport infrastructure;
- An application for privately funded community infrastructure such as education facilities, universities, private hospitals;
- The NSW Government introduces new laws mandating completion of specific works relating to existing developments that have a public benefit; or
- Any other development for which Council considers an exemption is warranted, where the decision is made by formal resolution of Council at a Council meeting.

12 Application of Section 7.12 levy

Money paid to Council under a condition in accordance with this Plan is to be applied by Council towards meeting the cost of public facilities that will be, or have been provided towards works outlined in the Waverley Long Term Financial Plan which is updated annually. The Waverley ~~Long Term Financial Plan is available on Council's website at the link below: http://www.waverley.nsw.gov.au/council/plans_policies_and_reports/long_term_financial_plans~~ Capital Works Program is provided in Schedule 1.

13 Priorities for expenditure of Section 7.12 levies authorised by this Plan

Subject to Section 7.3(2) of the Act and this Plan, the public facilities listed in Schedule 1 are to be provided, in accordance with the staging set out in Schedule 1 ~~of this Plan~~. The list, timing and costs detailed in Schedule 1 are provided in accordance with Council's ~~Long Term Financial Plan~~ Capital Works Program.

14 Pooling Section 7.12 levies

For the purposes of Section 7.3(2) of the Act, this Plan authorises money obtained from Section 7.12 levies paid in respect of different developments to be pooled and applied by Council progressively towards public facilities listed in Schedule 1. Funds acquired under repealed Section 7.11 and Section 7.12 Plans may be pooled in order to achieve the objectives and projects nominated within this Plan.

15 Obligations of certifying authorities

Clause ~~146~~20 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* ~~Regulations~~ provides that a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it is satisfied of compliance with each condition requiring the payment of a levy before work is carried out in accordance with the consent. The certifying authority must provide receipt to Council that the applicant has paid the levy, at the same time as other documents required to be provided under Clause ~~131~~42(2) of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* ~~Regulations~~.

16 Deferred or periodic payment of Section 7.12 levies

Council ~~will only~~may consider deferred payment of a monetary contribution through periodic payments (i.e. payment by installments). The development application must involve staged construction and be of a public benefit. This can only occur if the applicant, or any other person entitled to act upon the relevant consent, makes a written request satisfying to Council that non-compliance with the payment provisions is justified. Acceptance of any request for periodic payment is entirely at the discretion of the Council. Periodic payments will generally only be accepted in exceptional circumstances and will be assessed on a case-by-case basis.

The following circumstances need to be addressed when requesting a periodic payment:

- Compliance with *Clause 15 Obligations of Certifying Authorities* is unreasonable or unnecessary in the circumstances of the case;
- Deferred or periodic payment of the contribution will not prejudice the cost, timing or efficiency of implementation of the public facilities and services included in the works programs;
- No detriment will be caused to the community, Council or other developers;
- Details of staging of construction;
- How the existing/new development is considered to be of a public benefit; and

- There are circumstances justifying the deferred or periodic payment of the contribution.

If Council does decide to accept periodic payments, the arrangements relating to the payment will not take effect until the applicant has entered into a written agreement with the Council reflecting the terms of the Council's approval. If approved, a condition relating to the periodic payment will be placed on the development consent.

17 Alternatives to payment options

If an applicant for development consent seeks to make a development contribution towards the provision of public facilities to off-set a development impact other than by payment of a levy pursuant this Plan, the applicant may adopt one of the following procedures to the satisfaction of, and at the discretion of Council:

(a) Offer as part of a development application

If an applicant does not wish to pay a levy in connection with the development, the applicant may include in the relevant development application an offer to carry out works or provide a material public benefit towards which the levy was to be applied.

Council will consider the offer as part of its assessment of the development application. If Council agrees to the offer and grants consent to the application, it will substitute a condition of consent under Section 4.17 of the Act requiring the works to be carried out or the material public benefit to be provided for a condition requiring payment of a levy under Section 7.12. If Council does not agree to the proposed alternative arrangement, it may grant consent subject to a condition authorised by this Plan requiring payment of a levy.

In assessing the applicant's offer, Council will have regard to the requirements of the current Practice Note issued by the NSW Government in the *Development Contributions Practice Note* (DIPNR 2005) and may consider matters such as, but not limited to, the following:

- Council must be satisfied that the public benefit is of equal or greater value than the monetary contribution that would otherwise be required; and
- In situations where the material public benefits that are proposed involve works-in-kind, Council will only accept such an offer where the works are constructed by the developer to Council's standards and transferred to Council.

(b) Offer following the grant of development consent requiring payment of a levy

If development consent has been granted to the carrying out of development subject to a condition authorised by this plan to pay a levy, the applicant must comply with the condition unless it is modified under Section 4.55 of the Act.

If the applicant does not wish to pay the levy, the applicant may make an application to Council under Section 4.55 of the Act to modify the consent by substituting for the condition requiring payment of the levy a condition requiring the carrying out of works or the provision of a material public benefit towards the public purpose to which the levy was to be applied. If Council approves the application, the applicant will be bound by the substituted condition. If Council does not approve the application, the applicant will remain bound by the condition authorised by this Plan requiring payment of the levy.

In assessing the Section 4.55 application, Council will have regard to the requirements of the current Practice Note issued by the NSW Government in the *Development Contributions*

Practice Note (DIPNR 2005) and may consider matters such as, but not limited to, the following:

- Council must be satisfied that the public benefit is of equal or greater value than the monetary contribution that would otherwise be required, and
- In situations where the material public benefits that are proposed involve works-in-kind, Council will only accept such an offer where the works are constructed by the developer to Council's standards and transferred to Council.

(c) Offer to enter into a Planning Agreement (PA)

If an applicant does not wish to pay a levy in connection with the carrying out of development, the applicant may offer to enter into a Planning Agreement (PA) with Council under Section 7.4 of the Act in connection with the making of a development application. Under the PA, the applicant may offer to pay money, dedicate land, carry out works, or provide other material public benefits for public purposes. Those purposes need not relate to the impacts of the applicant's development nor items listed in Schedule 1. The applicant's provision under a PA may be additional to, or instead of paying a levy in accordance with a condition of development consent authorised by this Plan. This will be a matter for negotiation with Council. Should an applicant be wishing to enter a PA, it is necessary to consider Section 7.4 of the ~~EP&AA 1979 Act~~, the Regulations ~~2000~~ and Council's Planning Agreement Policy ~~2014~~.

PART 2 EXPECTED TYPES OF DEVELOPMENT

This part broadly discusses the relationship between the expected types of development in the LGA and demand for additional public amenities to meet that development.

The expected types of development which will generate demand for additional public services or upgrades to amenities include, but are not limited to:

- Commercial development
- Residential development (including alterations and additions)
- Mixed use development
- Recreational or tourism related development
- Subdivisions

The development types identified above are forecasted to generate demand for the facilities detailed in Schedule 1 of this Plan. A section 7.12 levy will enable Council to provide quality and diverse public facilities and services to meet the expectations of the community. Although the Waverley Local Government Area (LGA) has a slight increase in predicted population growth, Waverley LGA experiences significant visitation from outside of the LGA and tourism. This visitation, is experiencing significant growth in the amount of temporary residents and tourists, with over three times as many tourists in 2001 compared to 1996 (Waverley Council Social Plan 2005-2010). This growing transient population, as well as the level of expectation for services from permanent residents the local community, places ongoing pressure on existing public facilities which are ageing and in need of upgrades. The Waverley Community Strategic Plan Together 3 2013-2025 document provides the overarching strategies for these services and facilities which Council provides for the general community.

PART 3 REFERENCES

Definitions and Abbreviations

ABS	means the Australian Bureau of Statistics.
Act	means the <i>Environmental Planning and Assessment Act 1979</i> .
Council	means Waverley Council.
Levy	means a levy under s7.12 of the Act authorised by this Plan.
Material Public Benefit	does not include the payment of a monetary contribution or the dedication of land free of cost.
Minister	means the Minister administering the Act.
Public benefit	is the benefit enjoyed by the public as a consequence of a development contribution.
Public facility	means a public amenity or public service.
Regulation	means the <i>Environmental Planning and Assessment Regulation 2021⁰⁰</i> .

SCHEDULE 1 – SCHEDULE OF WORKS

The works listed in this schedule may be funded from a mix of sources, including contributions collected from this Plan. Within the schedule, works are arranged under themes, however some works fall into a number of themes while only being listed once in the schedule of works.

It is noted that the Capital Works Program is updated regularly, and that the below list is not an exhaustive list and is indicative of the current works planned by Council. For detailed and up to date information, refer to the Capital Works Program available on Council's website.

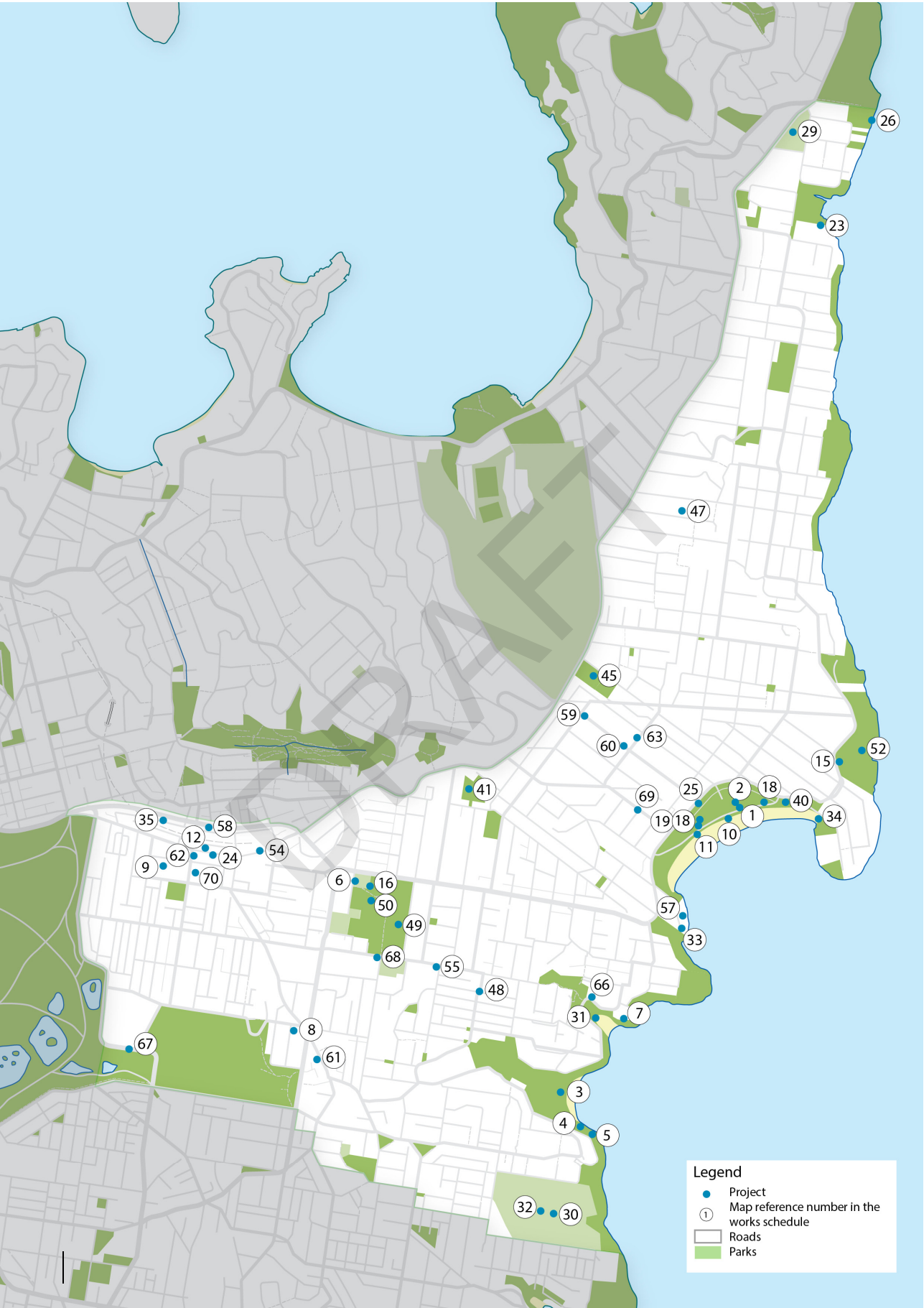
Staging as in this schedule means:

- Short Term 1-2 years
- Medium Term 3-4 years
- Long Term 5-10 years
- Ongoing, continuing works

Map Ref	Project Number	Public facility works	Estimated time (Short / Medium / Long / Ongoing)	Estimated cost
1. Buildings				
<u>1</u>	<u>C0004</u>	<u>Bondi Bathers SLSC</u>	<u>Medium</u>	<u>\$100,000</u>
<u>2</u>	<u>C0006</u>	<u>Bondi Pavilion Conservation & Restoration</u>	<u>Complete</u>	<u>\$1,250,000</u>
<u>3</u>	<u>C0007</u>	<u>Bronte Surf Club & Community Facilities</u>	<u>Medium</u>	<u>\$100,00</u>
<u>4</u>	<u>C0125</u>	<u>South Bronte (Community Centre) Toilet</u>	<u>Ongoing</u>	<u>\$18,000</u>
<u>5</u>	<u>C0289</u>	<u>Bronte Pump House Upgrade and Pump Replacement</u>	<u>Short</u>	<u>\$40,000</u>
<u>6</u>	<u>C0547</u>	<u>Council Chambers Upgrade</u>	<u>Medium</u>	<u>\$1,800,000</u>
<u>7</u>	<u>C0688</u>	<u>Tamarama SLSC – Building Upgrade</u>	<u>Short</u>	<u>\$2,000,000</u>
<u>8</u>	<u>C0712</u>	<u>2A Edmund Street (Social Housing) Redevelopment</u>	<u>Short</u>	<u>\$2,580,350</u>
<u>9</u>	<u>C0726</u>	<u>Boot Factory Restoration and Mill Hill Upgrade</u>	<u>Short</u>	<u>\$4,000,000</u>
<u>10</u>	<u>C0867</u>	<u>Bondi Lifeguard Facilities Upgrade</u>	<u>Short</u>	<u>\$165,500</u>
<u>11</u>	<u>C0879</u>	<u>SAMP5 Tunnel 1 Feasibility Study and design</u>	<u>Short</u>	<u>\$50,000</u>
<u>12</u>	<u>C0980</u>	<u>Rowe Street Development</u>	<u>Medium</u>	<u>\$456,400</u>
<u>LGA</u>	<u>C1027</u>	<u>Integriti access control system</u>	<u>complete</u>	<u>\$28,000</u>
<u>LGA</u>	<u>C1034</u>	<u>Short Term Office Accommodation</u>	<u>Short</u>	<u>\$200,000</u>
<u>15</u>	<u>C1038</u>	<u>Bondi Diggers/Waverley Sub-Depot</u>	<u>Long</u>	<u>\$150,000</u>
2. Public Domain				
Lighting / Electrical Equipment				
<u>16</u>	<u>C0565</u>	<u>Waverley Park Landscape Lighting</u>	<u>Short</u>	<u>\$800,000</u>
<u>LGA</u>	<u>C0848</u>	<u>SAMP5 Lighting & Electrical Infrastructure Renewal</u>	<u>Ongoing</u>	<u>\$150,000</u>
<u>18</u>	<u>C0851</u>	<u>SAMP5 Bondi Park Lighting</u>	<u>Medium</u>	<u>\$1,000,000</u>
<u>19</u>	<u>C1075</u>	<u>SAMP5 Bondi Park CCTV upgrades</u>	<u>Medium</u>	<u>\$1,000,000</u>
Water Equipment				

LGA	C0849	SAMP5 Water Equipment Renewal	Ongoing	\$60,000
Street Furniture				
LGA	C0845	SAMP5 - Bus Shelters, Seats and Benches, bike furniture, bin	Ongoing	\$300,000
LGA	C0850	Waverley signage strategy Implementation	Ongoing	\$100,000
Structures				
23	C0581	Cliff Walk Remediation	Short	\$3,743,100
LGA	C0811	Safety by design in public places	Short	\$800,000
25	C0847	SAMP5 Park Drive South & QED Retaining Wall Upgrade	Ongoing	\$500,000
26	C0865	Coastal Fencing Renewal - Clarke Reserve	Complete	\$17,000
LGA	C0883	SAMP5 - Other: Fences, Stairs, Edging, walls / Retaining wall	Ongoing	\$300,000
LGA	C0944	Rockfall remediation	Ongoing	\$300,000
29	C0972	South Head Cemetery Retaining wall reconstruction	Complete	\$34,000
30	C0973	Waverley Cemetery Contemplation Shelters Renewal and Enhance	Short	\$50,000
31	C1039	SAMP Promenade Sea Walls	Ongoing	\$100,000
32	C1040	Waverley Cemetery Renewal and enhancements	Ongoing	\$425,000
33	C1071	Notts Ave Boardwalk - Remediation Works	Complete	\$400,000
34	C1072	North Bondi Promenade - Remediation Works	Complete	\$100,000
3. Sustainability Infrastructure				
Renewable energy				
LGA	C0438	Installation of EV charging stations	Short	\$70,000
LGA	C0812	SAMP5 Renewal of Solar Energy Infrastructure	Short	\$5,300
LGA	C0978	Facilities Sustainable Energy upgrades (Social Housing Solar)	Short	\$40,000
Stormwater & Groundwater				
38	C0813	SAMP5 Renewal of SQID's & Harvesting Systems	Short	\$39,000
39	C0943	SAMP5 Renewal of Tanks and Pumps	Short	\$2,800
40	C0977	North Bondi GPT	Short	\$30,000
4. Open space, trees, and living infrastructure				
Living infrastructure				
41	C0041	Thomas Hogan Environmental Restoration Action Plan regeneration	Ongoing	\$30,000
LGA	C0882	Greening Steep Slopes	Ongoing	\$20,000
LGA	C0186	Planting Street Trees (SAMP 11)	Ongoing	\$200,000
LGA	C0263	Turf improvement program	Ongoing	\$300,000
Recreational & Public Space				
45	C0562	Barracluff Park + Playground	Complete	\$10,000
LGA	C0714	Public Art Commissions	Ongoing	\$250,000
47	C0854	Onslow Park and Playground	Complete	\$7,700
48	C0884	Belgrave Street Reserve Park and	Complete	\$165,000

<u>Playground Upgrade - Design</u>					
<u>49</u>	<u>C0885</u>	<u>Waverley Park Slope Stabilisation and Path to Netball Court</u>	<u>Medium</u>		<u>\$2,600</u>
<u>50</u>	<u>C0886</u>	<u>Waverley Park Playground and Fitness Station Upgrade</u>	<u>Short</u>		<u>\$1,931,000</u>
<u>LGA</u>	<u>C0975</u>	<u>SAMP5 Park & Playground Planning & Design</u>	<u>Ongoing</u>		<u>\$220,000</u>
<u>52</u>	<u>C1032</u>	<u>Williams Park Walking Track</u>	<u>Short</u>		<u>\$260,000</u>
<u>LGA</u>	<u>C1042</u>	<u>SAMP5 Park & Playground Renewal and Upgrades</u>	<u>Ongoing</u>		<u>\$200,000</u>
5. Road Infrastructure					
<u>Transport</u>					
<u>54</u>	<u>C0021</u>	<u>Bondi Junction Cycle Way / Street Scape Upgrade</u>	<u>Complete</u>		<u>\$2,000,000</u>
<u>LGA</u>	<u>C0716</u>	<u>40km/hr speed zone review</u>	<u>Short</u>		<u>\$184,000</u>
<u>LGA</u>	<u>New</u>	<u>40km/hr speed zone review - signage</u>	<u>Short</u>		<u>\$262,000</u>
<u>57</u>	<u>C0718</u>	<u>Coastal Path Improvements - Notts Ave</u>	<u>Short</u>		<u>\$13,000</u>
<u>58</u>	<u>C0949</u>	<u>Syd Einfeld Drive Bike Parking</u>	<u>Short</u>		<u>\$220,000</u>
<u>59</u>	<u>C0725</u>	<u>Cycleway Infrastructure – Curlewis St</u>	<u>Short</u>		<u>\$1,000,000</u>
<u>60</u>	<u>C0891</u>	<u>2020/21 - RC - Curlewis Street - Campbell Pde to Wellington</u>	<u>Short</u>		<u>\$1,000,000</u>
<u>Streetscape Upgrade</u>					
<u>61</u>	<u>C0717</u>	<u>Charing Cross Streetscape Upgrade</u>	<u>Short</u>		<u>\$300,000</u>
<u>62</u>	<u>C1043</u>	<u>Oxford St Mall Refresh</u>	<u>Short</u>		<u>\$500,000</u>
<u>63</u>	<u>C0889</u>	<u>2020/21 - RC - Glenayr Avenue - Blair St to Hall St</u>	<u>Short</u>		<u>\$1,684,720</u>
<u>Traffic Infrastructure</u>					
<u>LGA</u>	<u>C0654</u>	<u>SAMP Street Signage and Linemarking</u>	<u>Ongoing</u>		<u>\$70,000</u>
<u>LGA</u>	<u>C0807</u>	<u>SAMP5 Renewal Roundabouts / Speedhumps Traffic Islands/ Line</u>	<u>Ongoing</u>		<u>\$350,000</u>
<u>66</u>	<u>C0952</u>	<u>Tamarama Marine Drive</u>	<u>Short</u>		<u>\$330,130</u>
<u>67</u>	<u>C1029</u>	<u>York Road Slip Lane</u>	<u>Complete</u>		<u>\$961,000</u>
<u>68</u>	<u>C1030</u>	<u>Birrell Street Pedestrian Crossing - Henrietta Street</u>	<u>Complete</u>		<u>\$101,000</u>
<u>69</u>	<u>C1033</u>	<u>Streets as shared spaces</u>	<u>Ongoing</u>		<u>\$800,000</u>
<u>Car Park Infrastructure</u>					
<u>70</u>	<u>C0843</u>	<u>Car Park Access Infrastructure Upgrade</u>	<u>Complete</u>		<u>\$360,500</u>
6. Unplanned Works					
<u>LGA</u>	<u>E0005</u>	<u>2022 April Storm Damage</u>	<u>Short</u>		<u>\$400,000</u>



SCHEDULE 2 - MINISTERIAL DIRECTIONS

The current Ministerial Directions and their application are outlined in the following table.

For more information, refer to the website of the Department of Planning & Environment:

www.planning.nsw.gov.au

<u>Direction</u>	<u>Purpose</u> <u>Direction</u>	<u>Date Issued</u>	<u>Applies to this plan</u>
<u>Environmental Planning and Assessment (Local Infrastructure Contributions) Amendment Direction 2021</u>	<u>Permit infrastructure contributions up to the \$30,000 threshold for urban release areas in Shoalhaven.</u>	<u>7 December 2021</u>	<u>No</u>
<u>Environmental Planning and Assessment (Levies – City of Sydney) Direction 2021</u>	<u>To stage the introduction of the maximum 3% Section 7.12 levy under the Central Sydney Development Contributions Plan. The Ministerial Direction manages the transitional arrangements between the maximum 2% and 3% levy rates prior to 1 July 2022 when the maximum 3% levy will apply.</u>	<u>26 November 2021</u>	<u>No</u>
<u>Environmental Planning and Assessment (Local Infrastructure Contributions) Further Amendment Direction 2020</u>	<u>Further amendment to the Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012.</u>	<u>18 December 2020</u>	<u>No</u>
<u>Environmental Planning and Assessment (Local Infrastructure Contributions – Timing of Payments) Direction 2020</u>	<u>To temporarily defer the payment of local infrastructure contributions and levies until the issuing of an occupation certificate for certain types of development. The direction expires on the last day of the prescribed period within the meaning of section 10.17 of the EP&A Act. The prescribed method has been extended to 31 March 2022.</u>	<u>25 June 2020</u>	<u>Yes</u>
<u>Environmental Planning and Assessment (Local Infrastructure Contributions) Amendment Direction 2020</u>	<u>The amendment makes special provision for Blacktown and The Hills local government areas for the 6 month period starting on 1 July 2020, to cap local infrastructure contributions at \$50,000 per dwelling or per residential lot.</u>	<u>18 June 2020</u>	<u>No</u>
<u>Environmental Planning and Assessment (Local Infrastructure Contributions – Information) Direction 2020</u>	<u>Requests certain councils to provide information relating to the delivery of public amenities and public services specified in local contributions plans, including the staging of works.</u>	<u>18 May 2020</u>	<u>No</u>
<u>Environmental Planning and Assessment (Local Infrastructure Contributions – Pooling of Contributions) Direction 2020</u>	<u>Facilitates the consolidation (pooling) of infrastructure contributions to accelerate the delivery of local infrastructure.</u>	<u>18 May 2020</u>	<u>Yes</u>
<u>Environmental Planning and Assessment (Local Infrastructure Contributions) Further Amendment Direction 2019</u>	<u>Further amendment to the Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012.</u> <u>Initial 2012 direction is amended by 2013, 2016, 2017, 2018 and 2019 directions. A consolidated version of the direction is available for information only.</u>	<u>20 December 2019</u>	<u>No</u>

<u>Environmental Planning and Assessment (Local Infrastructure Levies) Direction 2015</u>	Prohibition on s7.12 levy where a s7.11 contribution is required	14 October <u>April</u> 2016	Yes
<u>Environmental Planning and Assessment (Local Infrastructure Contributions – Warriewood Valley) Revocation Direction 2015</u>	<u>Environmental Planning and Assessment (Local Infrastructure Contributions – Warriewood Valley) Revocation Direction 2015</u>	<u>22 February 2015</u>	<u>No</u>
<u>Environmental Planning and Assessment (Local Infrastructure Contributions – Port Botany and Port Kembla) Direction 2013</u>	Exemption from payment of a contribution for land within the lease areas of Port Botany and Port Kembla	6 December 2013	No
<u>Environmental Planning and Assessment (Local Infrastructure Contributions – Port of Newcastle) Direction 2014</u>	Exemption from payment of a contribution for land within the lease area of the Port of Newcastle	<u>10 October 2014</u> 2014	No
<u>Environmental Planning and Assessment (Local Infrastructure Contributions – Hawkesbury City Council) Direction 2013</u>	Pitt Town Residential Precinct (Hawkesbury Council) – exclusion of certain items from contributions levied	24 September 2013	No
<u>Environmental Planning and Assessment Act 1979 Revocation of Direction in force under section 94E and Direction under section 94E</u>	Exemption from payment of a contribution for development carried out under the Seniors Living SEPP where undertaken by a social housing provider	14 September 2007	Yes

ATTACHMENT 1 – COST SUMMARY REPORT

Please note that the Cost Summary Report template is available for download at Council's website.

COST SUMMARY REPORT

FOR DEVELOPMENT COST OF \$500,000 OR LESS



APPLICANT DETAILS <i>(It is important that we are able to contact you if more information is needed)</i>			
Name (or Company): _____			
Postal Address: _____			
_____ Postcode: _____			
Phone No. (Daytime): _____		Mobile No.: _____	
E-mail: _____ Contact Person (if a Company): _____			
APPLICATION DESCRIPTION <i>(This will help us to correctly identify the subject property)</i>			
Development Application No.: _____		Date Approved (if relevant): _____	
Development Address: _____			
DEVELOPMENT DETAILS			
Site Area:	sqm	Gross Floor Area – Residential:	sqm
Gross Floor Area – Retail:	sqm	Gross Floor Area – Other:	sqm
Gross Floor Area – Commercial:	sqm	Total Gross Floor Area:	sqm
ESTIMATE DETAILS			
Analysis of Development Cost		\$	
Demolition and Site Preparation			
Structure			
External Walls, windows and doors			
Internal walls, screens and doors			
Wall finishes			
Floor finishes			
Ceiling finishes			
Fittings and equipment			
Hydraulic services			
Mechanical services			
Fire services			
Electrical services			
Lift services			
External works			
External services			
Other related work			
SUB TOTAL		\$	
Consultant Fees		\$	
Other related development costs		\$	
SUB TOTAL		\$	
Goods and Services Tax (GST)		\$	
TOTAL DEVELOPMENT COST		\$	

I certify that I have:

- Inspected the plans the subject of the application for development consent;
- Calculated the development costs in accordance with the definition of development costs in clause 25J of the Environmental Planning and Assessment Regulations 2000 at current prices;
- Included GST in the calculation of development cost.

Signature: _____ Date: _____

Position and Qualifications: _____

ATTACHMENT 2 - DETAILED COST REPORT

Please note that the Detailed Cost Report template is available for download at Council's website.

REGISTERED* QUANTITY SURVEYOR'S DETAILED COST REPORT

FOR DEVELOPMENT COST OF \$500,000 OR MORE



* A member of the Australian Institute of Quantity Surveyors

APPLICANT DETAILS *(It is important that we are able to contact you if more information is needed)*

Name (or Company): _____

Postal Address: _____

Postcode: _____

Phone No. (Daytime): _____ Mobile No.: _____

E-mail: _____ Contact Person (if a Company): _____

APPLICATION DESCRIPTION *(This will help us to correctly identify the subject property)*

Development Application No.: _____ Date Approved (if relevant): _____

Development Address: _____

DEVELOPMENT DETAILS

Site Area:	sqm	Gross Floor Area – Residential:	sqm
Gross Floor Area – Retail:	sqm	Gross Floor Area – Other:	sqm
Gross Floor Area – Commercial:	sqm	Total Gross Floor Area:	sqm
Gross Floor Area – Parking:	sqm	Total Number of Car Parking Spaces	

ESTIMATE DETAILS

Area of Work	Cost of Construction (\$)	Cost (\$)
Demolition and Site Preparation		/sqm of site area
Excavation		/sqm of site area
Construction – Retail		/sqm of retail area
Construction – Commercial		/sqm of commercial area
Construction – Residential		/sqm of residential area
Fitout – Retail		/sqm of retail area
Fitout – Commercial		/sqm of commercial area
Fitout – Residential		/sqm of residential area
Carpark		/sqm of parking area /car space
Professional Fees	\$	% of construction cost % of development cost
TOTAL CONSTRUCTION COST	\$	
TOTAL GST	\$	
TOTAL DEVELOPMENT COST	\$	

I certify that I have:

- Inspected the plans the subject of the application for development consent;
- Prepared and attached an elemental estimate generally prepared in accordance with the Australian Cost Management Manuals from the Australian Institute of Quantity Surveyors;
- Calculated the development costs in accordance with the definition of development costs in clause 25J of the Environmental Planning and Assessment Regulations 2000 at current prices;
- Included GST in the calculation of development cost; and
- Measured Gross Floor Areas in accordance with the Method of Measurement of Building Areas in the AIQS Cost Management Manual Volume 1, Appendix A2.

Signature: _____ Date: _____

Position and Qualifications: _____

REPORT
PD/5.2/23.03

Subject: Managing Conflicts of Interest for Council-related Development Policy - Exhibition

TRIM No: A23/0076

Author: Mitchell Reid, Executive Manager, Development Assessment

Director: Fletcher Rayner, Director, Planning, Sustainability and Compliance

RECOMMENDATION:

That Council:

1. Publicly exhibits the Managing Conflicts of Interest for Council-related Development Policy attached to the report for 28 days.
2. Officers prepare a report to Council following the exhibition period.

1. Executive Summary

Changes to the *Environmental Planning and Assessment Regulation 2021* are proposed that will require all NSW councils to prepare and adopt a policy that outlines how potential conflicts of interest will be managed for proposed council-related development.

The purpose of this policy is to manage potential conflicts of interest and increase transparency at all stages of the development process for council-related development.

2. Introduction/Background

New legislative requirements are proposed to the *Environmental Planning and Assessment Regulation 2021* in relation to the management of potential conflict of interest for council-related development. To implement the new requirements, it will be necessary for Council to have an adopted Policy in place and for this to be considered in the management of the development assessment process.

Councils' conflict of interest policy will need to comply with the Council-related Development Application Conflict of Interest Guideline (the Guidelines) prepared by the Department of Planning and Environment.

The general requirements are:

- Councils must adopt and have a policy that specifies how conflicts of interest in connection with council-related development applications will be handled. The policy must comply with the requirements of the Guidelines.
- Council-related development applications must be accompanied by either a management strategy statement, which explains how the council will manage potential conflicts of interest, or a statement that the council has no management strategy for the application.
- Councils must record conflicts of interest in connection with each council-related development application, and the measures taken to manage the conflicts, in their existing DA register.

- Council-related development applications must be exhibited for a minimum of 28 days to ensure transparency during the assessment process.

‘Council-related development’ means development for which Council is the applicant developer (whether lodged by or on behalf of Council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority.

3. Relevant Council Resolutions

Nil.

4. Discussion

While councils are primarily development regulators, they can also be the developer, landowner or hold a commercial interest in the land they regulate. Where councils have this dual role, an inherent conflict can arise between their interests in the development and their duty as development regulator.

To mitigate this outcome, it may be appropriate to separate or minimise the role played by council staff in the DA assessment and determination process. This might be done by the outsourcing of all or parts of the assessment process to an external expert such as a planning consultant. This is a common practice and one that has been applied at Waverley for many years.

The types of Council-related development proposals that more recently have been externally assessed and determined by independent bodies such as the Waverley and Sydney Eastern City Planning Panels include Bondi Pavilion upgrade and local surf club upgrades.

In some circumstances, Council staff may determine the risks associated with a Council-related development are sufficiently low and no specific controls are warranted. Where this is the case, Council should still publicly communicate that fact to ensure transparency.

Examples of this may include:

- Where Council is the owner of a large commercial building that has a range of shops within it, for which it receives many development applications for commercial fit outs and minor changes to the building facade.
- Development for internal alterations or additions to buildings that are not a heritage item, advertising signage, minor building structures projecting from a building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services), and development where Council might receive a small fee for the use of their land.

In these types of circumstances, it would be reasonable for the policy to not require any additional controls for conflicts of interest so the application would be assessed in the same way as non-council-related developments.

5. Financial impact statement/Time frame/Consultation

Existing operational budget exists for the use of external consultants where required.

6. Conclusion

While the new legislation puts in place a requirement for the preparation and adoption of a formal policy, for a considerable amount of time Council staff have put in place and implemented internal protocols to

avoid any conflict of interest for Council-related development. This policy will formalise this approach and meet the new legislative requirements.

7. Attachments

1. Draft Managing Conflicts of Interest for Council-related Development Policy [↓](#) .



WAVERLEY
COUNCIL

Managing Conflicts of Interest for Council-related Development Policy

Managing Conflicts of Interest for Council-related Development Policy

Policy owner	Executive Manager, Development Assessment
Approved by	Council
Date approved	
TRIM reference	A23/0076
Next revision date	March 2027
Relevant legislation	<i>Environmental Planning and Assessment Act 1979</i> <i>Environmental Planning and Assessment Regulation 2021</i>
Related policies/procedures/guidelines	
Related forms	

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1. Background

Councils are development regulators, but they also can be the developer, landowner or hold a commercial interest in the land they regulate. Where councils have this dual role, an inherent conflict can arise between their interests in the development and their duty as regulator.

To mitigate this outcome, it may be appropriate to separate or minimise the role played by Council staff in the DA assessment and determination process. This might be done by the outsourcing of all or parts of the assessment process to an external expert such as a planning consultant. This is a common practice and one that has been applied at Waverley for many years.

The types of Council-related development proposals that more recently have been externally assessed and determined by independent bodies such as the Waverley and Eastern City Planning Panels include Bondi Pavilion upgrade, Bondi Surf Club, Mill Hill refurbishment and Bronte Surf Club. In some circumstances, Council may determine the risks associated with a Council-related development are sufficiently low and no specific controls are warranted. Where this is the case, Council should still publicly communicate that fact to ensure transparency.

Examples of this may include:

- Where Council is the owner of a large commercial building that has a range of shops within it, for which it receives many development applications for commercial fit outs and minor changes to the building facade.
- Development for internal alterations or additions to buildings that are not a heritage item, advertising signage, minor building structures projecting from a building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services), and development where the council might receive a small fee for the use of their land.

In these types of circumstances, it would be reasonable for Council's policy to not require any additional controls for conflicts of interest so the application would be assessed in the same way as non-Council-related developments.

Identifying these conflicts of interest early and finding ways to address them is crucial to good governance and allows council to strengthen its relationship with communities and build and enhance trust.

New legislative requirements are proposed to the *Environmental Planning and Assessment Regulation 2021* in relation to the management of potential conflict of interest for council-related development. To implement the new requirements, it will be necessary for Council to have an adopted Policy in place and for this to be considered in the management of the development assessment process.

The general requirements are:

- Councils must adopt and have a policy that specifies how conflicts of interest in connection with council-related development applications will be handled. The policy must comply with the requirements in these Guidelines.
- Council-related development applications must be accompanied by either a management strategy statement, which explains how the council will manage potential conflicts of interest, or a statement that the council has no management strategy for the application.

- Councils must record conflicts of interest in connection with each council-related development application, and the measures taken to manage the conflicts, in their existing DA register.
- Council-related development applications must be exhibited for a minimum of 28 days to ensure transparency during the assessment process.

2. Purpose

The purpose of this policy is to manage potential conflicts of interest and increase transparency at all stages of the development process for council-related development.

3. Scope

This policy applies to Council-related development.

4. Process for identifying and managing potential conflicts of interest

4.1 Management controls and strategies

4.1.1 The following management controls may be applied to:

- (a) The assessment and determination of an application for Council-related development:
 - Refer to Table 1.
- (b) The regulation and enforcement of approved Council-related development:
 - Use of independent consultants.
 - Enter into a shared services arrangement with neighbouring councils.

4.1.2 The management strategy does not apply to the following types of development:

- (a) Commercial fit outs and minor changes to the building façade.
- (b) Internal alterations or additions to buildings that are not a heritage item.
- (c) Advertising signage.
- (d) Minor building structures projecting from a building façade over public land (such as awnings, verandah, bay windows, flagpoles, pipes and services).
- (e) Development where the council might receive a small fee for the use of their land.

4.2 Identifying whether a potential conflict of interest exists

Development applications lodged with the Council that are Council-related development (as defined in section 5) are to be referred to the General Manager (or delegate) for a conflict of interest risk assessment.

The General Manager (or delegate) is to:

- Assess whether the application is one in which a potential conflict of interest exists.
- Identify the phase(s) of the development process at which the identified conflict of interest arises.
- Assess the level of risk involved at each phase of the development process.
- Determine what (if any) management controls should be implemented to address the identified conflict of interest (in each phase of the development process if necessary) having

Managing Conflicts of Interest for Council-related Development Policy

regard to any controls and strategies outlined in clause 4.1 of the policy and the outcome of the General Manager's assessment of the level of risk involved as set out in the dot point above. *Note: the General Manager could determine that no management controls are necessary in the circumstances.*

- Document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal. Refer to Table 2.

Table 1. Assessment and determination criteria for an application for Council-related development.

Category of Council-related development	Assessment	Determination
<p>Minor DA</p> <p>Minor DA refers to development that is small-scale, routine operational and/or non-controversial. The determination of a minor DA shall be made after consideration of the following criteria, at the discretion of the Director Planning, Sustainability and Compliance (or delegate):</p> <ul style="list-style-type: none"> • The estimated value of the works to be undertaken; • The potential impact on surrounding residential amenity associated with the proposed development; • The consistency of the proposed works with an existing Council Management Plan or strategy; • Whether the proposal involves any substantial variations from existing Council policy; and • Whether the proposal will leave to any financial benefit for the council. <p>Examples: replacement of amenity block, internal refurbishment or renovation of a building, external painting of a building, development value of under \$5m with less than 10 objections.</p>	<ul style="list-style-type: none"> • Assessment undertaken by Council staff not involved in the Council-related development. • A management statement is to be prepared and exhibited on the NSW Planning Portal with the DA, unless it is of a kind referred to in Part 4(2) of this Policy. 	<ul style="list-style-type: none"> • Determination by Waverley Local Planning Panel
<p>Major DA</p> <p>Major DA refers to development that is large-scale, significant and/or controversial. The determination of a major DA shall be made after consideration of the following criteria, at the discretion of the Director Planning, Sustainability and Compliance (or delegate):</p> <ul style="list-style-type: none"> • The estimated value of the works to be undertaken; • If the DA is Regional Development (under the <i>State Environmental Planning Policy (Planning Systems) 2021</i>. 	<ul style="list-style-type: none"> • Assessment is to be undertaken by an external Planning Consultant. • A management statement is to be prepared and exhibited on the NSW Planning Portal with the DA. 	<ul style="list-style-type: none"> • Determination by the Regional Planning Panel if the Capital Investment Value (CIV) of the application is >\$5 million in accordance with Schedule 6 of the State Environmental Planning Policy

Managing Conflicts of Interest for Council-related Development Policy

<ul style="list-style-type: none"> • The potential impact on surrounding residential amenity associated with the proposed development; • The consistency of the proposed works with an existing Council Management Plan or strategy; • Whether the proposal involves any substantial variations from existing Council policy; and • Whether the proposal will leave to any financial benefit for the council. <p>Examples: new community building and/or facilities, significant alterations and additions to a Council owned building, development value of more than \$5m with more than 10 objections.</p>		<p>(Planning Systems) 2021.</p> <ul style="list-style-type: none"> • Determination by Waverley Local Planning Panel if the application does not trigger referral to the Regional Planning Panel.
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Table 2. Management statement example.

Council conflict of interest management statement	
Address	
DA number	
Potential conflict	A council senior staff member is responsible for project managing and delivering major council development project that will generate income for council. The same senior staff member is responsible for reviewing and approving DA referral response from his/her directorate.
Management strategy	<p>Refer to Table 1 for guidance. The strategy could include (examples only)</p> <ul style="list-style-type: none"> • Assessment/referral response staff are not part of the project delivery team. • External consultant engaged for DA assessment. • Relevant senior staff member responsible for project managing and delivering the council development project does not review DA referral comments. • Determination by WLPP or Regional Planning Panel • Key milestones post determination reported to Council and published
Contact	Anyone with concerns about council fulfilling its obligations should report their concerns with the General Manager or delegate of Waverley Council.

Managing Conflicts of Interest for Council-related Development Policy

5. Definitions

Term	Definition
<i>application</i>	An application for consent under Part 4 of the Act to carry out development and includes an application for a complying development certificate and an application to modify a development consent
<i>Council</i>	Waverley Council
<i>Council-related development</i>	Development for which Council is the applicant developer (whether lodged by or on behalf of council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority
<i>development process</i>	Application, assessment, determination, and enforcement the Act means the <i>Environmental Planning and Assessment Act 1979</i>
<i>the Act</i>	The <i>Environmental Planning and Assessment Act 1979</i>

A word or expression used in this policy has the same meaning as it has in the Act, and any instruments made under the Act, unless it is otherwise defined in this policy.

Notes included in this policy do not form part of the policy.

REPORT

PD/5.3/23.03



Subject: Pesticide Use Notification Plan 2023 - Adoption

TRIM No: A06/0333

Author: Sue Stevens, Co-ordinator, Urban Ecology
Sam McGuinness, Executive Manager, Environmental Sustainability

Director: Fletcher Rayner, Director, Planning, Sustainability and Compliance

RECOMMENDATION:

That Council adopts the Pesticide Use Notification Plan 2023 attached to the report.

1. Executive Summary

It is a legislative requirement that Council has a Pesticide Use Notification Plan. This report proposes that Council adopt the attached draft Pesticide Use Notification Plan 2023, which will replace the current Pesticide Use Notification Plan 2016.

2. Introduction/Background

It is a requirement under the *Pesticides Regulation 2017* that Council has an up-to-date Pesticide Use Notification Plan (PUNP). Council's current Pesticide Use Policy and Notification Plan was originally adopted by Council in 1998 with the last revision undertaken in 2016. The updated 2023 Plan has been prepared to comply with this regulation. The PUNP clearly outlines how Council will inform the community and potential users of Council managed facilities.

The Pesticide Use Notification Plan outlines the signage and notification that will be required to be taken by Council officers in their use of herbicides, fungicides or rodenticides when notification is required and the circumstances where notification will not be required.

This Plan and this report are focused on how and where pesticides and herbicides are used and the notification required to use them in each of these circumstances. Separate to this is the methodologies utilised by Council regarding herbicides and minimising their use and avoiding the use of some herbicides such as glyphosate.

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 20 August 2019	CM/7.9/19.08	That Council: <ol style="list-style-type: none"> Aims to protect the environment, humans and animals in any area where weeding is taking place, as well as achieving the most efficient weeding practices. Receives and notes the Herbicide Reduction Study Assessment Report by NGH Environmental attached to this report.

		<p>3. Immediately ceases the use of glyphosate (diluted and undiluted) in identified 'Sensitive Places' and 'Chemically Sensitive Places'. These locations are to be mapped and the map made publicly available. Locations where glyphosate (diluted and undiluted) will be prohibited from use will include:</p> <ul style="list-style-type: none"> (a) Playgrounds. (b) Areas around schools and parks adjacent to schools. (c) Bondi Beach Park, including Campbell Parade, Queen Elizabeth Drive, Park Drive and Biddigal Reserve; Bronte Park and Gully, including upper Bronte Gully; Tamarama Park and Gully. (d) Sports playing fields under the management responsibility of Council. (e) Other areas that property owners request. <p>4. Immediately begins using non-glyphosate (diluted and undiluted) treatments for controlling weeds, including hand weeding, brush cutting, chipping, mulching and suppression of seed heads and mowing.</p> <p>5. Phases out any rostered, scheduled glyphosate (diluted and undiluted) applications to Council's footpaths, kerb and gutters and stormwater infrastructure and implements the management options outlined in clause 4 above as they become available and feasible.</p> <p>6. Commits by 2020/21 to reducing the amount of glyphosate (diluted and undiluted) used across Council operations by 100% based on Council's 2018 usage, and achieves this through alternative treatment methods, including alternative herbicides and non-herbicide techniques.</p> <p>7. Ensures Council staff and subcontractors are trained in weed identification, weed plant lifecycles and are knowledgeable of the appropriate treatment methods.</p> <p>8. Ensures Council staff and contractors using glyphosate (diluted and undiluted) are supplied with and wear personal protective equipment (PPE) that is appropriate for the job. The selection of PPE is dependent on a detailed risk assessment. The risk assessment should consider the work situation, the physical form of the chemical, the handling methods and environmental factors.</p>
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		<ol style="list-style-type: none"> 9. Updates weed policies and strategies to specifically address the objective of reducing and eliminating glyphosate (diluted and undiluted) use. 10. Develops a community information and communication plan to inform the public on reducing and eliminating herbicide use by Council, but also within the community. 11. Reports back to Council by June 2020 on glyphosate (diluted and undiluted) use for 2019/20, and the weed management program for 2019–20. 12. Prepares a further report that includes: <ol style="list-style-type: none"> (a) Further scientific evidence that shows if glyphosate is more harmful than alternative methods, and under what circumstances, or that proves glyphosate can be used safely, and in what manner. (b) An updated comparison between using organic alternatives and glyphosate (overall outcomes and environmental effects for each) to that provided in Appendix L of the Assessment Report. (c) Protocols and processes that ensure Council workers follow all necessary directions for using glyphosate as per specified use, including wearing PPE clothing, and to eliminate community safety concerns; ensure their ChemCert Certificates are updated accordingly. (d) Further investigation into alternative application methods for using weed wands and paint brushes to limit glyphosate use and eliminate any drift and run off, as identified in Appendix L of the Assessment Report. (e) Consideration of a simple hierarchy of weed management until a total ban of glyphosate is introduced. (f) Weed control standards as Council moves towards a ban of glyphosate in the local government area, and what effects this ban might have on those suffering from allergies or other respiratory conditions. (g) Updated information on which countries and Australian councils have banned or significantly reduced glyphosate use and their outcomes
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		<p>based and environmental experiences following the ban.</p> <p>(h) How, and in what time frame, would Council need to update the design and maintenance of its open spaces to better facilitate a total ban.</p> <p>(i) Identifying if Council has a liability when using glyphosate and, if so, measures to eliminate it while glyphosate is still used, noting that Council's Pesticide Use and Notification Plan will assist.</p> <p>(j) How are the approximately \$790,000 per year costs to be funded from Council's 2019/20 budget and Long-Term Financial Plan (LTFP).</p> <p>13. Develops a policy for the designing and/or redesigning of outdoor spaces and gardens that facilitates weed resistance.</p>
Council 27 September 2018	CM/5.2/18.09	<p>That Council officers engage an independent expert to undertake a review of our current policies and procedures governing herbicide and pesticide use to ensure we eliminate, or at least minimise, the use of glyphosate and are delivering a best practice and sustainable weed management solution that is an alternative, non- glyphosate substance to protects our employees, residents, and the local environment.</p>
Operations Committee 5 April 2016	OC/5.2/16.04	<p>That Council:</p> <ol style="list-style-type: none"> Adopts the Pesticide Use Notification Plan 2016 as printed in the agenda subject to the following changes to the Notification Summary Table on page 43 of the agenda: <ol style="list-style-type: none"> Where baiting is undertaken, that a letter box drop be instituted in surrounding areas. Where meat baiting is undertaken, that there be a door-knock in surrounding areas, in addition to a letter box drop. Officers prepare a report to the June 2016 Operations Committee on the feasibility of either eliminating or minimising our use of chemicals in the control of weeds and vermin in the Waverley LGA. The report is also to investigate additional options of notification of pesticide use.

4. Discussion

Council manages and is responsible for a broad range of assets and public places such as parks, playgrounds, remnant bushland, roads, laneways and buildings. There is a need for Council to maintain these to a high standard ensuring that they are safe and clean. This may involve the control of termites, vermin, weeds impacting on native bushland or weeds, such as bindii.

Weeds management

Council has a Weeds Action Plan 2014 that identifies priority weeds for removal and preferred methods for removal. Ideally weeds will be removed by mechanical means, although this is not always efficient or more importantly effective. Individual Council projects such as the Biodiversity Action Plan: Remnant Sites 2022-2031 and the Bronte Ecological Restoration Action Plan 2015-2045 have significant detail on how specific weeds should be managed.

Council staff and contractors who use herbicides are ChemCert qualified so that they are able to determine and use the correct amount of herbicide and do so in a safe manner, both to themselves and to the environment and those around them. Council officers will prepare a future report responding to methodologies and actions around reducing the use of herbicides and eliminating the use of glyphosate.

Changes from 2016 Plan

The following minor changes have been made in the updated 2023 plan:

- An additional row specific to Cemetery operations has been added to the tables.
- Letterboxing and door knocking notification options have been deleted as more emphasis is now on informing the community via Council's website and onsite signage.

5. Financial impact statement/Time frame/Consultation

Adopting this Policy will have no financial impact.

Staff from Assets and Operations and Environmental Sustainability have been involved in the review and updating of this Policy. If adopted, the Policy will be published on Council's website.

6. Conclusion

By updating the Pesticide Use Notification Plan, Council will be meeting our legislative requirements in terms of our use, and the use by any sub-contractors, of pesticides within the local government Area. It also clearly describes how Council will inform the community of pesticide use that Council undertakes.

7. Attachments

1. Draft Waverley Pesticide Use Notification Plan 2023 [↓](#) .



Pesticide Use Notification Plan 2023

DRAFT

AUTHORS: Sue Stevens and Steve Gilchrist
PROGRAM: Environmental Sustainability and Open Space and Sportsfield Maintenance
DATE CREATED: 23 February 2023
DATE ADOPTED BY COUNCIL:

Introduction

This Pesticide Use Notification Plan has been prepared in accordance with the requirements of Part 5 of the Pesticides Regulation 2017 (the Regulation). This plan sets out how Waverley Council will notify members of the community of pesticide applications it makes or allows to be made to outdoor public places that it owns or controls.

The purpose of this Notification Plan is to fulfill Councils obligation to notify residents about pesticide applications outdoor public places that are owned or controlled by public authorities. This Plan allows members of the community to take action to avoid or minimise contact with pesticides, if they choose.

Pesticides are used in public places when necessary to eliminate weeds, protect public property from pest damage, protect the users of public places from nuisance or danger, and meet the community expectations for aesthetically appealing parks and public facilities. Waverley Council ensures that pesticides are applied to public places in a safe and responsible manner, thus minimising harm to the community or the environment.

Council is committed to ensuring that all pesticide use is justified, minimised and that the lowest toxicity of pesticides necessary are used to achieve the desired outcome. Council will continue to investigate alternatives to pesticide use where available.

This Plan sets out how the Council will notify members of the community of pesticide applications made by Council and its contractors in public places.

This Plan describes:

- the public places that are covered by the Plan
- the types of users and visitors to these public places, and their estimated level of use
- notification methods and channels - how and when the Council will provide the community with information about its pesticide applications in public places
- how the community can access this Plan to obtain further information about the Councils notification arrangements
- how future reviews of the Plan will be conducted
- contact details for anyone wishing to discuss the Plan with a Council Officer

Pesticide use on Council's controlled land includes programmed and reactive applications, such as:

- application of herbicides to public places, including parks, reserves, roads and pathways, is applied reactively to control weeds on an as needs basis
- the application of insecticides, fungicides, rodenticides, soil additives, growth inhibitors, and algaecides is also applied reactively to control pests on an as needs basis.
- baits are used to control outbreaks of vermin in public open spaces and to protect buildings and structures from damage by termites and soil pests.

Public Places covered by this Plan

Waverley Council proposes to use or allow the use of pesticides in the following categories of outdoor public places that it owns or controls in the Waverley Local Government Area:

- Public parks and reserves.
- Cemeteries.
- Playgrounds.
- Picnic and BBQ areas.
- Sports fields, ovals and courts, and skate facilities.
- Street trees and planter boxes.
- Civic spaces.
- Road verges and streetscape planting.
- Outdoor swimming pool surrounds.
- Footpaths, laneways, and public roads.
- Easements accessible to the public, including drains.
- Car parks and public toilets.
- Crown Lands controlled by Council.
- Grounds and interiors of Council owned buildings.

Waverley Council's estimate of the level of community use, regular user groups and types of pesticide use in each of these categories of public places is summarised in the following table:

Public places	Regular user groups	Level of place use	Type of pesticide use
Cemeteries	General Community Use – residents and visitors Organised Tour groups Relatives visiting family interred Companion Animals	High	Irregular spot spraying with Herbicide is used where mulching or hand weeding is not an option. Regular program of herbicide application to monuments and monument tops Annual spraying of plant growth regulator to Cemetery aisles and turfed areas.
Parks & Reserves	General community use: Residents and visitors. Sporting groups. Recreational users. Children & adults. Schools. Corporate & private. Companion animals. Events hire.	High	Irregular spot spraying with herbicide is used where mulching or hand weeding is not an option. Annual broadacre herbicide spraying to control weeds in turf is undertaken where mechanical and cultural controls are ineffective. Occasional broadacre herbicide spraying to prepare for native plantings

Playgrounds	Residents and visitors. Children & adults. Childcare groups. Schools.	High	Irregular spot spraying with herbicide is used where mulching or hand weeding is not an option.
Picnic and BBQ areas	Residents & visitors. Sporting groups. Recreational users. Children & adults. Corporate & private. Events hire.	High	Irregular spot spraying with herbicide is used where mulching or hand weeding is not an option. Insecticides, fungicides/ algaecides, rodenticides and baits used on an as needs basis.
Sporting fields, ovals, courts & skate facilities	Children & adults. Active recreational users. Schools. Sporting groups.	High	Irregular spot spraying with herbicide is used where mulching or hand weeding is not an option. Annual broadacre herbicide spraying to control weeds in turf where mechanical and cultural controls are ineffective. Insecticides, fungicides/ algaecides, rodenticides and baits used on an as needs basis.
Street trees and planter boxes	Residents and visitors passing by.	Low	Irregular spot spraying with herbicide is used where mulching or hand weeding is not an option.
Civic spaces	Residents and visitors. Corporate & private. Companion animals. Events hire.	High	Irregular spot spraying with herbicide is used where mulching or hand weeding is not an option. Insecticides, fungicides/ algaecides, rodenticides and baits used on an as needs basis.
Road verges and streetscape planting	Residents and visitors. Walkers, cyclists, and drivers.	Medium	Irregular spot spraying with herbicide is used where mulching or hand weeding is not an option. Occasional broadacre herbicide spraying to prepare for native plantings
Footpaths, laneways, and public roads	Residents and visitors. Walkers, cyclists and drivers.	Medium	Irregular spot spraying with herbicide is used where mulching or hand weeding is not an option.

Easements accessible to the public, including drains	Residents and visitors. Walkers and cyclists.	Medium	Irregular spot spraying with herbicide is used where mulching or hand weeding is not an option. Insecticides, fungicides/ algaecides, rodenticides and baits used on an as needs basis.
Car parks and public toilets	Residents and visitors.	Medium	Baits and Insecticides used on an as needs basis.
Crown Lands controlled by Council	Residents and visitors.	Medium	Irregular spot spraying with herbicide is used where mulching or hand weeding is not an option. Annual broadacre herbicide spraying to control weeds in turf where mechanical and cultural controls are ineffective.
Grounds and interiors of Council owned buildings	Council Staff. Residents and visitors. Families and children.	Medium	Irregular spot spraying with herbicide is used where mulching or hand weeding is not an option. Insecticides and baits are used in public facilities on an as needs basis.

Notification Arrangements

This section of the plan describes how and when Waverley Council will provide notice of pesticide use in public places, including special measures for sensitive sites that are immediately adjacent to public places, arrangements for emergency pesticide applications and circumstances where notice will not be given.

These notification requirements are based on Council's assessment of:

- the level and type of usage of public places where pesticides may be used;
- the extent to which members of the public who are most likely to be sensitive to pesticides (e.g. children) are likely to regularly use the areas;
- the extent to which activities generally undertaken in these areas could lead to some direct contact with pesticides, for example active recreation on sports ovals, sitting on the grass in public parks;
- that, for some application techniques, the public is unlikely to come into direct contact with pesticides (e.g. bush regeneration programs using the cut-and-paint or stem injection techniques); and
- the type of pesticides used. Pesticides used have varying toxicities and exposure pathways.

Notification of pesticide use will be provided by a combination of:

- signs erected at main entrance of parks, reserves, playgrounds, sports fields and other public open space for all pesticide application (noting that public signage is occasionally subject to removal and vandalism);
- information on Council's website;

Instances where the Council will not give prior notice of pesticide use**When herbicides use is domestic strength and/or small amounts**

Council will not give notification for minor spot spraying of domestic strength herbicides manually applied, or by cut and paint, or stem injection techniques. Nor will it give prior notification of domestic strength insecticides used by hand for insect and rodent baiting in garden beds, tree bases, planters, indoor car parks and public toilets.

When notice of pesticide use will be provided***Spot applications***

For spot spraying applications using back packs or hand sprayer, signage will remain in place only for the duration of the application.

Broadacre applications

For major application using boom sprayers and mechanical methods, signage will remain in place at the entrance of the Park, Reserve or Council controlled land until the re-entry period has elapsed. Additional signage will be displayed at the main entrances of parks and public spaces 48 hours prior to application and remain in place until 48 hours following application to inform the public of Council's intention to apply chemicals. This signage will indicate the proposed date range for application, purpose of application, product name, type and risk phrases as per label.

External providers of services to Council

Where the Council uses contractors to apply pesticides on its behalf, it is Council's obligation to ensure that notification is made in accordance with the notification requirements of this plan.

Where persons or organisations hold an existing lease on Council land that remains a public place, and if they use pesticides in this area, Council will still require notification in accordance with the requirements of this plan.

How notice of pesticide use will be provided

Broadscale programmed use of herbicides will be posted on Council's web site outlining the locations and timing of the herbicide application.

Public Parks, Reserves, Cemeteries, Civic Space, and Council controlled Crown Lands

Signage will be displayed at the main entrances of parks and public spaces immediately prior to application and remain in place until 48 hours after the herbicide application.

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Picnic and BBQ areas

For picnic and BBQ areas signage will be displayed on the boundary and/or within the perimeter immediately prior to the application of pesticides and will remain in place until the approved re-entry period (as per the product label) has expired.

Sports Fields, Ovals & Courts, Outdoor Swimming Pool Surrounds & Skate Facilities

For sports fields, ovals & courts, skate facilities, and outdoor swimming pool surrounds signage will be displayed at the main entrances of the facilities on the day of application, and will remain in place after application until the approved re-entry period has expired.

Roads verges, Footpaths, Laneways, Streetscapes, Easements, and drains

Spot use utilising herbicides of domestic quantities will not require signage.

Certain Council owned Buildings & Properties

For pesticide use in grounds of Council owned buildings and properties, including childcare facilities owned or controlled by Council, signs will be provided at the main entrance and near the application area on the day before application and during application.

Special measures for sensitive sites

Clause 18 of the Pesticide Regulations defines a sensitive site to be any:

- School or pre-school;
- Kindergarten;
- Childcare centre;
- Hospital;
- Community health centre;
- Nursing home, and,
- Place declared to be a sensitive place by the Environment Protection Authority (EPA)

Waverley Council also considers **community** and **communal gardens** to be a 'sensitive site'.

For non-emergency or programmed pesticide use in outdoor public places adjacent to sensitive sites (listed above). For emergency or reactive pesticide use in outdoor places adjacent to sensitive sites the Council will provide signs in the vicinity at the time of application.

Playgrounds

The Council does not use pesticides within fenced playgrounds and within the immediate vicinity of play equipment in unfenced playgrounds. Pesticide use within such playgrounds will be limited to emergency treatment for infestation only and even then only applied after assessing the risk on an individual site basis.

Pesticide Use Notification Summary Table

Public place	Site signage	Website
Cemeteries – spot application	✓	
Cemeteries – programmed application	✓	✓

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Public open space, including: Parks, reserves, and playgrounds – Spot Application	✓	
Public open space, including: Parks, reserves and playgrounds – Broadacre Application	✓	✓
Sporting fields and ovals – Spot Application	✓	
Sporting fields and ovals – Broadacre Application	✓	✓
Areas surrounding ocean pools	✓	
Road verges and road reserves– Spot Application	✓	
Road verges and road reserves– Broadacre Application	✓	✓
Laneways, pathways, easements accessible to the public, drains – Spot Application	✓	
Laneways, pathways, easements accessible to the public, drains – Broadacre Application	✓	✓
Crown land– Spot Application	✓	
Crown land– Broadacre Application	✓	✓
Grounds and interiors of Council owned buildings	✓	
Sensitive places	✓	✓
Emergency application	✓	

What information will be provided

In accordance with clause 20(1)(h) of the Pesticides Regulation, notice of pesticide use will include the following information:

- The full product name of the pesticide used;
- The purpose of the use, clearly setting out what pest or pests are being treated;
- The purposed date/s or date range of the pesticide use;
- Contact telephone number and email address of the Council officer who people can contact to discuss the notice; and
- Any warnings regarding re-entry to, or use of the place, if specified on the pesticide product label, or the Australian Pesticides and Veterinary Medicines Authority permit.

How the Community will be informed of this Plan

Waverley Council will advise residents of the plan and its contents by:

- Placing a copy of the plan on the web site www.waverley.nsw.gov.au;

Future reviews of this Plan

This notification plan will be reviewed every 5 years, or when circumstances require a review of the plan.

Contact Details

Anyone wishing to contact Waverley Council to discuss the Pesticide Use Notification Plan should contact:

Steve Gilchrist
Manager, Open Space and Sportsfield Maintenance
Waverley Council
Cnr. Bondi Road and Paul Street
Bondi Junction NSW 2022

Or by email: info@waverley.nsw.gov.au
Or access the website www.waverley.nsw.gov.au

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CLOSED SESSION
PD/7/23.03

Subject: Moving into Closed Session

Author: Emily Scott, General Manager

WAVERLEY
COUNCIL

RECOMMENDATION:

That:

1. Council moves into closed session to deal with the matter listed below, which is classified as confidential under section 10A(2) of the *Local Government Act* for the reasons specified:

PD/7.1/23.03 CONFIDENTIAL REPORT - Development Application Fees

This matter is considered to be confidential in accordance with Section 10A(2)(g) of the *Local Government Act*, and the Committee is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest as it deals with advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

2. Pursuant to section 10A(1), 10(2) and 10A(3) of the *Local Government Act*, the media and public be excluded from the meeting on the basis that the business to be considered is classified as confidential under section 10A(2) of the *Local Government Act*.
3. The correspondence and reports relevant to the subject business be withheld from the media and public as provided by section 11(2) of the *Local Government Act*.

Introduction/Background

In accordance with section 10A(2) of the Act, Council may close part of its meeting to deal with business of the following kind:

- (a) Personnel matters concerning particular individuals (other than councillors).
- (b) Personal hardship of any resident or ratepayer.
- (c) Information that would, if disclosed, confer a commercial advantage on a person with whom 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 a person who supplied it: or
 - (ii) Confer a commercial advantage on a competitor of Council;
 - (iii) Reveal a trade secret.
- (e) Information that would, if disclosed, prejudice the maintenance of law.
- (f) Matters affecting the security of Council, Councillors, Council staff and Council property.
- (g) Advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds 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 any Code of Conduct requirements applicable under section 440.

It is my opinion that the business listed in the recommendation is of a kind referred to in section 10A(2) of the *Local Government Act 1993* and, under the provisions of the Act and the *Local Government (General) Regulation 2021*, should be dealt with in a part of the meeting that is closed to members of the public and the media.

Pursuant to section 10A(4) of the Act and clauses 14.9–14.10 of the Waverley Code of Meeting Practice, members of the public may make representations to the meeting immediately after the motion to close part of the meeting is moved and seconded, as to whether that part of the meeting should be closed.

RESUMING IN OPEN SESSION PD/8/23.03

Subject: Resuming in Open Session
Author: Emily Scott, General Manager



RECOMMENDATION:

That Council resumes in open session.

Introduction/Background

In accordance with clause 14.21 of the Waverley Code of Meeting Practice, when the meeting resumes in open session the chair will announce the resolutions made by Council while the meeting was closed to members of the public and the media.