



## **FINANCE, OPERATIONS AND COMMUNITY SERVICES COMMITTEE MEETING**

A meeting of the FINANCE, OPERATIONS AND COMMUNITY SERVICES COMMITTEE will be held at Waverley  
Council Chambers,  
Cnr Paul Street and Bondi Road, Bondi Junction at:

**7.00 PM, TUESDAY 4 JULY 2023**

A handwritten signature in black ink, appearing to read 'Emily Scott', is positioned above the printed name.

Emily Scott  
**General Manager**

Waverley Council  
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## Delegations of the Finance, Operations and Community Services Committee

On 10 October 2017, Waverley Council delegated to the Finance, Operations and Community Services 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. 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 General Manager will read the Opening Prayer:

*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.*

The Chair will read the following Acknowledgement of Indigenous Heritage:

*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

#### 2. Declarations of Pecuniary and Non-Pecuniary Interests

#### 3. Addresses by Members of the Public

#### 4. Confirmation of Minutes

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#### 6. Urgent Business

#### 7. Meeting Closure



## CONFIRMATION OF MINUTES FC/4.1/23.07



**Subject:** Confirmation of Minutes - Finance, Operations and  
Community Services Committee Meeting - 6 June 2023

**TRIM No:** SF23/17

**Manager:** Richard Coelho, Executive Manager, Governance

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### RECOMMENDATION:

That the minutes of the Finance, Operations and Community Services Committee meeting held on 6 June 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. Finance, Operations and Community Services Committee Meeting Minutes - 6 June 2023



**MINUTES OF THE FINANCE, OPERATIONS AND COMMUNITY SERVICES COMMITTEE MEETING  
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON  
TUESDAY, 6 JUNE 2023**

**Present:**

Councillor Angela Burrill (Acting Chair)	Lawson Ward
Councillor Paula Masselos (Mayor)	Lawson Ward
Councillor Elaine Keenan (Deputy Mayor)	Lawson Ward
Councillor Sally Betts	Hunter Ward
Councillor Leon Goltsman	Bondi Ward
Councillor Michelle Gray	Bondi Ward
Councillor Tony Kay	Waverley Ward
Councillor Steven Lewis	Hunter Ward
Councillor Will Nemesh	Hunter 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 7.01 pm, those present were as listed above.*

*Crs Goltsman, Kay, Keenan and Nemesh attended the meeting by audio-visual link.*

*In the absence of the chair, Cr Dominic Wy Kanak, and the deputy chair, Cr Tim Murray, the Committee elected Cr Burrill as acting chair of the Committee for this meeting.*

**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 Ludovico Fabiano, Cr Tim Murray and Cr Dominic Wy Kanak.

**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**

There were no addresses by members of the public.

**4. Confirmation of Minutes**

**FC/4.1/23.06                      Confirmation of Minutes - Finance, Operations and Community Services  
Committee Meeting - 2 May 2023 (SF23/17)**

**MOTION / UNANIMOUS DECISION**

Mover:        Cr Masselos

Seconder:    Cr Keenan

That the minutes of the Finance, Operations and Community Services Committee meeting held on 2 May 2023 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

## 5. Reports

### **FC/5.1/23.06                      Bondi Junction Cycleway and Streetscape Upgrade - Operational and Safety Update (A14/0193)**

#### **MOTION / UNANIMOUS DECISION**

Mover:        Cr Burrill  
Seconder:    Cr Masselos

That Council notes the operational and safety update on the Bondi Junction Cycleway and Streetscape Upgrade, as set out in the report.

### **FC/5.2/23.06                      Tuckeroo Trees in Myuna Road, Dover Heights (SF19/2986)**

#### **MOTION / UNANIMOUS DECISION**

Mover:        Cr Lewis  
Seconder:    Cr Gray

That Council prunes all 16 Tuckeroo trees in Myuna Road, Dover Heights, in accordance with the Tree Management Policy and Tree Management Guidelines.

### **FC/5.3/23.06                      Reconciliation Action Plan Advisory Committee - Community Membership (A14/0173)**

#### **MOTION / UNANIMOUS DECISION**

Mover:        Cr Masselos  
Seconder:    Cr Keenan

That Council:

1.    Appoints the following individuals to the Reconciliation Action Plan Advisory Committee for a term of two years from June 2023 to June 2025:
  - (a)    Kirsty Beller.
  - (b)    Brad Franks.
  - (c)    Earl Weir.
  - (d)    Walangari Karntawarra.
  - (e)    Michael Mahoney.
2.    Increases the community membership of the Committee from eight to 10 members for this term of the Committee.
3.    Extends the term of the Committee members who were appointed in 2022 to June 2025 to align with the new term of the Committee.
4.    Acknowledges the contribution of Aunty Barb Simms, who is not seeking a new term.

**FC/5.4/23.06 Early Childhood Education and Care Inquiries - Submissions (A23/0291)****MOTION / UNANIMOUS DECISION**

Mover: Cr Gray  
Seconder: Cr Keenan

That Council approves:

1. The submission to the Independent Pricing and Regulatory Tribunal on the Review of Early Childhood Education and Care attached to the report (Attachment 1).
2. The submission to the Productivity Commission on the Inquiry into Early Childhood Education and Care attached to the report (Attachment 2).

**FC/5.5/23.06 Access and Inclusion Advisory Panel Meeting - Minutes - 23 March 2023 (A21/0096)****MOTION / UNANIMOUS DECISION**

Mover: Cr Keenan  
Seconder: Cr Masselos

That Council notes the minutes of the Access and Inclusion Advisory Panel meeting held on 23 March 2023 attached to the report.

**6. Urgent Business**

There was no urgent business.

**7. Meeting Closure**

**THE MEETING CLOSED AT 7.31 PM.**

.....  
**SIGNED AND CONFIRMED**  
**CHAIR**  
**4 JULY 2023**

**REPORT**  
**FC/5.1/23.07**

**Subject:** Petition - 56-58 Lamrock Avenue, Bondi Beach - Driveway Parking

**TRIM No:** A14/0127

**Manager:** Nikolaos Zervos, Executive Manager, Infrastructure Services

**Director:** Sharon Cassidy, Director, Assets and Operations

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**RECOMMENDATION:**

That Council:

1. Refers the petition to remove the 'No Parking' zone in front of 56–58 Lamrock Avenue, Bondi Beach, to the Executive Manager, Infrastructure Services, for consideration.
2. Officers assess the request in line with Council's Parking Enforcement Protocol and advise the chief petitioner of the outcome, noting that parking across or within driveway hardstands within the public domain is subject to the NSW Road Rules.

**1. Executive Summary**

Council has received a petition containing 29 signatures of residents of Lamrock Avenue, Bondi Beach, requesting the removal of 'No Parking' signs in front of the driveways of 56-58 Lamrock Avenue.

**2. Introduction/Background**

Council accepts petitions from persons who have an interest in the Waverley local government area as residents, landowners, businesses or in some other capacity. Petitions must concern matters that Council is authorised to determine.

**3. Relevant Council Resolutions**

Nil.

**4. Discussion**

The petition states:

*We, the undersigned, petition the Mayor and Councillors of Waverley to remove 'No Parking' signs at 56-58 Lamrock Avenue, Bondi Beach for the following reasons.*

1. *Use of our driveways for parking has no impact on anyone, and is actually a benefit as cars are parked off-street, thereby freeing up on-street parking for other people.*
2. *Parking is at a severe shortage on Lamrock Avenue.*

3. *We are the only apartment building on this side of Lamrock Ave NOT able to park in their own driveways. (see photos)*
4. *Because parking is now unavailable at this address many more vehicles will now need to park on Lamrock Avenue.*
5. *Regular tradespeople servicing the above address will now need to park on Lamrock Avenue.*
6. *We've been parking in our driveways at this address for at least 10 years without penalty.*

The petition complies with the Petitions Policy.

**5. Financial impact statement/Time frame/Consultation**

There is no unbudgeted cost to Council in receiving the petition.

**6. Conclusion**

It is recommended that the petition be referred to the Executive Manager, Infrastructure Services, to assess the request in line with Council's Parking Enforcement Protocol and to advise the chief petitioner of the outcome.

**7. Attachments**

Nil

**REPORT**  
**FC/5.2/23.07**

**Subject:** Petition - Hastings Parade, North Bondi - Driveway Parking

**TRIM No:** A14/0127

**Manager:** Colin Handsaker, Acting Executive Manager, Compliance

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

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**RECOMMENDATION:**

That Council considers the petition requesting a reconsideration of parking enforcement rules in Hastings Parade, North Bondi, as part of a review of the 2006 Parking Enforcement Protocol scheduled for completion by February 2024.

**1. Executive Summary**

Council has received a petition containing 17 signatures of residents of Hastings Parade, North Bondi, and surrounding streets requesting that Council reconsider its strict enforcement of NSW Road Rule 198 in Hasting Parade.

It is recommended that the petition be considered as part of a review of the 2006 Parking Enforcement Protocol scheduled for completion by February 2024.

**2. Introduction/Background**

Council accepts petitions from persons who have an interest in the Waverley local government area as residents, landowners, businesses or in some other capacity. Petitions must concern matters that Council is authorised to determine.

Following complaints about vehicles parked in driveways in Warners Avenue (between Mitchell Street and Glenayr Avenue) obstructing vehicular and pedestrian traffic, the Executive Manager, Compliance, and Manager, Parking Patrol, attended the site.

The site inspection revealed numerous vehicles parked in residential driveways, perpendicular to the kerb obstructing access along the formed footpath.

Parking in this manner is not only dangerous, forcing some residents to walk along the roadway, it may breach Council's obligation to provide equitable to access to disabled residents.

Due to the short distance between the footpath and the kerb, it is virtually impossible for a modern vehicle to park in front of any garage in this area perpendicular to the kerb without obstructing either the footpath or the traffic lane.

Residents in this area were advised by letter on 5 April 2023 that commencing Monday, 17 April 2023, rules 197 and 198 of the NSW Road Rules would be strictly enforced. This meant that no resident in this section of Warners Avenue would be able to park in front of their garage without being infringed.



Once this strict enforcement commenced, Council received numerous complaints from an affected resident about similar parking practices in other streets, including Hastings Parade.

In response, Council circulated a letter in Hasting Parade, Ramsgate Avenue and Blair Street stating similarly that rules 197 and 198 would be strictly enforced. This is what has given rise to the petition that is the subject of this report.

### 3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Finance, Ethics and Strategic Planning Committee Tuesday 2 May 2006	F-0605.6	<p><i>Council adopted the recommendation below</i></p> <p>That Council:</p> <ol style="list-style-type: none"> <li>1. Receive and note the report dated 27 April 2006 from the Director, Corporate &amp; Technical Services.</li> <li>2. Endorse the recommended actions outlined in this report.</li> <li>3. Endorse the revised protocol for enforcement of parking offences subject to clause 7 below.</li> <li>4. Note the proposed 12-month rolling education program on parking safely and legally and endorse a strong educative approach to parking and driving safely in Waverley.</li> <li>5. Note actions suggested regarding ongoing consultation.</li> <li>6. Note that a further report on progress with implementation of recommendations of the review will be provided in 6 months.</li> <li>7. In relation to the protocol regarding parking on driveways in the public domain, calls for a further report covering various matters including proposals regarding education, achieving changing behaviour in the medium term and a possible trial in a location where this issue is a safety problem.</li> <li>8. Prioritises high risk/unsafe parking, the commercial metered areas and the residential parking scheme areas at the beachfront and around commercial districts in the routing and timetabling of the parking officer workforce. Service level agreements reflecting this prioritising be developed and submitted to Council for consideration as soon as possible</li> </ol>

### 4. Discussion

The petition states:

*We, the undersigned, petition the Council to reconsider their decision to strictly enforce rule 198 as this would cause undue hardship on the residents of Hastings Parade.*

*The availability of parking is already severely restricted and the ability to park across our own driveways is an inconvenience to no one else.*

*Parking across as opposed to on the driveway in no way hinders the use of the footpath by pedestrians.*

The petition complies the Petitions Policy.

Officers are reviewing the 2006 Parking Enforcement Protocol and will consider the petition as part of that review.

**5. Financial impact statement/Time frame/Consultation**

There is no unbudgeted cost to Council in receiving the petition.

**6. Conclusion**

It is recommended that the petition be considered as part of a review of the 2006 Parking Enforcement Protocol scheduled for completion by February 2024.

**7. Attachments**

Nil

**REPORT**  
**FC/5.3/23.07**

**Subject:** Arts, Culture and Creativity Advisory Committee - Establishment

**TRIM No:** A23/0237

**Manager:** Tanya Goldberg, Executive Manager, Arts, Culture and Events

**Director:** Ben Thompson, Director, Community, Culture and Customer Experience

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**RECOMMENDATION:**

That Council:

1. Disestablishes the Arts and Culture Advisory Committee and the Public Art Committee at the end of September 2023.
2. Establishes an Arts, Culture and Creativity Advisory Committee, to commence in October 2023.
3. Adopts the Terms of Reference for the Arts, Culture and Creativity Advisory Committee attached to the report.
4. Calls for expressions of interest for members of the Committee, noting that the Chair and Councillor members will be appointed at the Council meeting in September 2023.
5. Acknowledges the rich and productive history of the Public Art Committee, and thanks all past members for their contribution to public art in Waverley during the Committee's operation.
6. Acknowledges the contribution of the inaugural Arts and Culture Advisory Committee, and thanks all members for their contribution to arts and culture in Waverley.
7. Notes that officers are reviewing the terms of reference for all advisory committees.

**1. Executive Summary**

This report proposes to merge the functions of the Arts and Culture Advisory Committee (ACAC) and the Public Art Committee (PAC) into a single, new committee from October 2023. It is proposed that the new committee be titled the Arts, Culture and Creativity Advisory Committee.

The proposed merger aims to streamline the governance and administration of the two committees, enhance the coordination and integration of arts and culture initiatives across Waverley, and foster a more diverse and creative public art program that embodies the local identity and values of Waverley. This is reflected in revised Terms of Reference for the proposed Arts, Culture and Creativity Advisory Committee attached to this report.

To execute this change, both committees would be disestablished at the end of September 2023. At the September 2023 Council meeting, the chair and Councillor members of the Committee would be appointed, concurrent to a recruitment process for new members of the Committee. The new Committee would commence in October 2023.

## 2. Introduction/Background

Council convenes and supports several advisory and consultative committees. These committees consider subject specific local issues, and provide a forum for discussion among Council representatives, local agencies, industry experts and community members. All committees have terms of reference, which set out the parameters for how a committee functions, appoints members, and provides feedback or comments to Council about items under discussion.

Council's Public Art Committee (PAC), in operation since 2006, has enjoyed a rich and productive history advancing public art outcomes in Waverley. Since that time, the PAC has met to foster the ongoing development of quality, diverse and creative public and visual art in Waverley, to enhance public access and experience of the arts, and to select and develop public art works that serve as markers and reflections of our local heritage and cultural identity.

Over its long and impactful tenure, public art in Waverley has flourished through the implementation of Waverley's Public Art Masterplan. The PAC has advised Council on public art commissions, Public Art in the Private Domain processes, and the accession and deaccession of public art works in the local government area.

Council established the Arts and Culture Advisory Committee (ACAC) in September 2020 (originally titled the Cultural Advisory Committee). This act was in response to action called for in the Arts and Culture Plan 2021-2026 to establish a committee to oversee the implementation and ongoing performance of the Arts and Culture Plan and to provide advice to Council on major issues, initiatives and opportunities in arts and culture.

ACAC members represent the community in an advisory role to Council and provide knowledge and diverse perspectives about creative practice, events, and arts and cultural activities relevant to the Waverley area, Council's Arts and Culture Plan, Bondi Pavilion strategic framework and other key strategies and policies.

Both committees stipulate membership comprising of a combination of Councillors and Waverley residents and sector specialists with relevant expertise and interest in arts and culture and public or visual arts respectively.

Both committees currently meet at least quarterly or more frequently as required. Waverley Arts and Culture staff provide administrative and facilitative support for both committees.

Terms of reference outline the objectives, roles, responsibilities, membership, meeting procedures, reporting requirements and review processes of each committee. These terms of reference have been carefully reviewed and inform the proposed Terms of Reference for the new Arts, Culture and Creativity Advisory Committee that incorporates the activities of the PAC and the ACAC. This document is attached to this report. The changes within it are outlined in more detail in the discussion below together with the rationale for merging the two committees.

## 3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 15 September 2020	CM/7.9/20.09	That Council: <ol style="list-style-type: none"> <li>Establishes a Cultural Advisory Committee in accordance with the terms of reference attached to this report.</li> <li>Adopts the Terms of Reference attached to this report.</li> <li>Disestablishes the Bondi Pavilion Stakeholder</li> </ol>

		Committee.
Council 20 November 2012	1211.12.14	<p>That Council</p> <ol style="list-style-type: none"> <li>1. Thank community representatives on the Waverley Public Art Committee for their important contribution to the Waverley community during their term on the Committee</li> <li>2. Adopt the revised terms of reference for the Waverley Public Art Committee</li> </ol>

#### 4. Discussion

Since the formation of the ACAC, arts and culture matters brought to advisory committees for input and advice have been split between the ACAC and the PAC. Matters relating to Visual Arts and Public Art have been brought to the PAC, while all other arts and culture activities, including the establishment of the Bondi Pavilion creative program and discussions relating broadly to Waverley's creative community, have been addressed at the ACAC. Consequently, there is an artificial division in the input sought from advisory committees that does not reflect the cultural activity of Council as a whole.

#### Rationale

The proposed merger of the ACAC and the PAC into the new Arts, Culture and Creativity Advisory Committee is based on the following rationale:

- The merger would enhance the co-ordination and integration of arts and culture initiatives across Waverley, as a single committee would have a broader scope and vision for arts and culture planning, programming, funding, promotion, evaluation, and advocacy. The merger would also enable a more holistic approach to arts and culture that considers both public art and other forms of cultural expression.
- The merger would foster a more diverse and creative public art program that reflects the local identity and values of Waverley. A single committee would have access to a wider range of expertise, perspectives, networks, and resources for arts and culture development across art forms and disciplines. The merger would also facilitate more community engagement and participation in arts and culture projects.
- The merger would reduce duplication and overlap between the two committees, as both committees have objectives and functions related to arts and culture development in Waverley and linkage to key strategies and policies enacted by Council. The merger would also simplify the governance and administration of the committees, saving time and resources for both Council staff and committee members.

#### Proposal to merge

The merger of the ACAC and the PAC into a single committee is proposed to be established for commencement from October 2023.

The proposed terms of reference for the new committee (Attachment 1) incorporate changes outlined below. These changes ensure that the desired breadth and depth of skills and experience across art forms and cultural practices is reflected in the committee's membership.

The key changes to existing terms of reference documents are:

- Increase to up to eight general members (from six) and specify the range of skills requiring representation through those members.
- Explicit inclusion of Bondi Pavilion in the committee's objectives.
- Removed stipulation that committee membership terms are non-renewable.
- Requirement that a mix of experience, tenure and opportunities for new voices within committee membership is made explicit.

## **5. Financial impact statement/Time frame/Consultation**

### **Financial impact**

There is no financial impact to Council in making this change to its advisory committee structure.

### **Time frame**

The current ACAC membership term is due to conclude in December 2023, however, it is recommended that this committee is disestablished early, to accommodate the commencement of the new Arts, Culture and Creativity Committee, with functions that incorporate those of the ACAC.

The current PAC membership is due to turn over in September 2023.

At the September 2023 Council meeting, the chair and Councillor members of the Committee would be appointed, concurrent to a recruitment process for new members of the Committee. The new Committee would commence in October 2023.

## **6. Conclusion**

The Arts and Culture Advisory Committee was established in late 2020 to oversee the implementation and ongoing performance of the Arts and Culture Plan 2021-2026, and to provide advice to Council on major cultural issues, initiatives and opportunities.

The Public Art Committee was already in operation at this time, and the two committees functioned independently of each other.

Given that public art is a subset of arts and culture activity in Waverley, the differentiation between the two committees creates an artificial division in the input sought from advisory committees that does not reflect the cultural activity of Council as a whole.

The proposed merger aims to streamline the governance and administration of the two committees, enhance the coordination and integration of arts and culture initiatives across Waverley, and foster a more diverse and creative public art program that embodies the local identity and values of Waverley. This is reflected in proposed Terms of Reference for the proposed Arts, Culture and Creativity Advisory Committee attached to this report.

The merger will allow all arts and culture activity in Waverley to be addressed and considered holistically, and for the advisory committee's expert membership to represent the full extent of arts and culture specialisations in our community.

The new committee will commence operation in October 2023.

It is recommended that Council endorse the proposal to merge the ACAC and the PAC into a single committee from October 2023, approve the new committee's terms of reference and transition-timing

plan, thank the current members of both committees for their valuable contributions to arts and culture in Waverley and acknowledge the rich history of both committees but in particular the Public Art Committee.

## **7. Attachments**

1. Draft Arts, Culture and Creativity Advisory Committee Terms of Reference [↓](#)

## Waverley Arts, Culture and Creativity Advisory Committee

### Terms of Reference, June 2023

#### Introduction

Waverley Council's Arts and Culture Advisory Committee was established in late 2020 to oversee the implementation and ongoing performance of the Waverley Council Arts and Culture Plan 2021-2026, and to provide advice to Council on major cultural issues, initiatives and opportunities.

Waverley Council's Public Art Committee, in operation since 2006, has enjoyed a rich and productive history advancing public art outcomes in Waverley. The two committees functioned independently of each other.

Given that Public Art is a subset of Arts and Culture activity in Waverley, the differentiation between the two committees creates an artificial division in the input sought from advisory committees that does not reflect the cultural activity of Council as a whole.

These Terms of Reference integrate the functions of the Waverley Public Art Committee with the Waverley Arts and Culture Advisory Committee into a new advisory committee, titled the Waverley Arts, Culture and Creativity Advisory Committee.

The Waverley Arts, Culture and Creativity Advisory Committee has an expanded and more detailed remit that captures the aims and objectives of the Public Art Committee and the Arts and Culture Advisory Committee, to capture all of Council's arts and culture activity. This allows all arts and culture activity in Waverley to be addressed and considered holistically, and for the advisory committee's expert membership to represent the full extent of arts and culture specialisations in our community.

#### Policy Framework/Strategic Context

- Waverley Community Strategic Plan 2018-2029
- Waverley Arts and Culture Plan 2021-2026
- Public Art Master Plan
- Art Collection Acquisition and Deaccessioning Guidelines 2018
- Reconciliation Action Plan
- Disability Inclusion Action Plan
- Bondi Junction Evening, Culture and Entertainment Strategy
- Economic Development Plan
- Sustainable Visitation Strategy
- Local Strategic Planning Statement
- Library Strategic Plan
- Cultural Diversity Strategy

#### Purpose

The Waverley Arts, Culture and Creativity Advisory Committee will support Waverley Council in the delivery of its Arts and Culture Plan. The plan sets the long term vision for culture in the Waverley



Local Government Area and provides a roadmap for Council, the community and partners to work together towards an exciting and engaging arts and cultural life for our area.

Waverley Arts, Culture and Creativity Advisory Committee members represent the community in an advisory role to Council. Committee members provide knowledge and diverse perspectives about creative practice, arts and cultural activities and events relevant to the Waverley area and Council's Arts and Culture Plan, Public Art Masterplan, Bondi Pavilion creative program and other key strategies, policies and guidelines.

The committee will:

- Foster the ongoing development of quality, diverse and creative arts and culture to enhance public access and experience of the arts.
- Advise Council on the selection and development of public art works and arts programming that serve to reflect our heritage and cultural identity.
- Involve the community by informing and promoting public art and arts and culture programs.

### Objectives

- Support Waverley Council in the on-going delivery of its Arts and Culture Plan by providing input into Council's arts and culture processes and projects.
- Contribute to the development and enhancement of a strong, recognisable profile for arts, culture and innovation in Waverley that reflects the local identity, diversity, and values of Waverley.
- Support and contribute to Council's aspirations to establish Waverley as an international arts and culture destination.
- To support public art in Waverley and encourage creative and innovative design in the built environment that enhances and contributes to the provision of quality facilities and amenities.
- Provide input to consideration of Council's priorities for innovation, arts and cultural development within the Waverley area, within the parameters of Council's strategies and policies.
- Provide input and advice on the arts and culture program at Bondi Pavilion, and the performance of Bondi Pavilion as a thriving Community and Cultural Centre.
- Facilitate communication between community representatives, cultural organisations and Council in arts and cultural related disciplines, and assist in gathering input from the local creative community in future cultural planning opportunities
- Contribute to the reviews of Council's arts and cultural strategies, policies, programs and services, and integrate art policy content into relevant Council processes, policies and documents.

- Provide input into the assessment of applications or proposals related to public art including commissions, cultural residencies programs and related recommendations to Council.
- Provide advice for public art or visual art elements to be incorporated into private sector development projects.
- Identify funding sources for culture in Waverley, including sponsorship and philanthropic opportunities for Council's consideration.
- Provide expert advice and recommendations regarding gifting and acquisitions, as well as deaccessioning works held within the Waverley Council Public Art Collection, in accordance with the processes prescribed in Waverley Council's Acquisition and Deaccessioning Guidelines.

### Requirements

To regularly attend Committee meetings and contribute to achieving the objectives of the Waverley Arts, Culture and Creativity Advisory Committee. Other duties that may reasonably be determined and agreed by Committee members.

Where a committee member does not attend scheduled committee meetings on three consecutive occasions without advising Council staff, they are deemed to have retired from the Committee.

### Scope

The scope of the Waverley Arts, Culture and Creativity Advisory Committee in providing advice, includes the following:

- Events Policy and Guidelines
- Artists in Residence Programs
- Permanent and Temporary Public Art commissions and proposals received within the context of the Public Art Masterplan and Public Art in the Private Domain development assessments
- Bondi Pavilion and Boot Factory arts and culture programming
- Bondi Story Room themes, content and program development
- Mentorship programs and other community and creative sector networking programs/opportunities
- Funding opportunities, including grants, philanthropy, and sponsorship
- Promotion and communication of Waverley's cultural infrastructure and programs.

Limitations to scope:

- The Waverley Arts, Culture and Creativity Advisory Committee is an advisory body only.

### Committee structure

Chairperson: The Mayor or the Mayor's delegate

Committee members will be appointed, to a maximum total of 13 places including the Chair, for a period of two years. Up to four (4) reserve representatives for will also be appointed for the same two year period.

The selection panel will ensure that the committee is comprised of:

- i. Up to three (3) Waverley Councillors.
- ii. Up to eight (8) industry professionals and others, at least four of whom live or work in Waverley, who have relevant expertise and experience in the advancement of arts and culture, and represent a mix of artists and arts workers and art forms including a minimum of:
  - a. Two specialists in public art/landscape design, architecture or urban planning
  - b. Two specialists in theatre, performance, literature, festivals, production or music
  - c. One specialist in the area of art, heritage, public programming or collection management
  - d. One specialist in the area of Indigenous practiceand who together offer a mix of ages, ethnicities, expertise and relevant skills.
- iii. Up to two (2) arts and cultural organisation representatives from sector specific bodies such as the Australia Council for the Arts and Create NSW.

Administrative support: Waverley Council staff.

Relevant Council staff will attend meetings to provide advice.

Any Councillor or General Manager/Director may attend meetings.

### Selection

The committee's selection panel will comprise:

- General Manager or General Manager's Delegate
- Executive Manager, Arts, Culture and Events
- Manager, Arts and Culture.

The selection panel will strive to ensure that the committee includes a range of members with a mix of expertise and relevant skills including:

- Background, experience or expertise in performing arts, visual arts, public art and/or curatorial, architecture, design, landscaping or other arts related disciplines.
- Interest in and passion for the arts in Waverley.
- Being a local resident of Waverley Council or with close connections to the Waverley area.
- Experience in sourcing sponsorship, philanthropy, or other partnership opportunities.
- Experience in working with community groups and on community cultural development projects.
- Commitment to EEO, OH&S, risk management, environmental protection and ethical principles.

The selection panel will seek out members with a willingness to work collaboratively, and who together represent a mix of ages and ethnicities as well as sector expertise and experience.

The term for community and expert members will be two years. Ensuring a mix of experience, tenure and opportunities for new voices will be prioritised.

A recommendation about the membership of the Waverley Arts, Culture and Creativity Advisory Committee will be prepared for the consideration and endorsement of Council. Officers may seek further information from nominees or their referees as part of the selection process.

### Meetings

Meetings will be held quarterly or more frequently as required.

The quorum for a meeting of the committee will be a majority of Committee members of whom one must be the Mayor or the Mayor's delegate.

Notice of committee meetings will be provided in advance.

Meeting agendas, papers, time and place will be provided at least one week before the meeting.

At the discretion of the Chair, members of the public or subject experts may be invited to speak to or provide advice on issues being considered by the Committee.

Decisions will be made by simple majority vote and recorded in the same way.

Where these Terms of Reference do not address the conduct of the meetings, Council's [Code of Meeting Practice](#) will apply.

Agendas and minutes of all committee meetings are public documents which are published following the determination of Council.

### Working groups

Working groups may be established to investigate sector specific issues and opportunities, drawing from the membership of the Waverley Arts, Culture and Creativity Advisory Committee.

The establishment of working groups must consider and acknowledge that the following entities already operate:

- Waverley Multicultural Advisory Committee
- Waverley Reconciliation Advisory Panel
- Waverley Disability and Inclusion Advisory Panel.

The Waverley Arts, Culture and Creativity Advisory Committee notes the operation of these entities and is obligated to remain informed of their activities and recommendations.

### Conflict of interest

Committee members are subject to the [Waverley Council Code of Conduct for Council Committee Members and Other Council Officials](#).

A committee member who has a pecuniary interest or non-pecuniary conflict of interest in any matter with which the Committee is concerned and who is present at a meeting of the Committee at which the matter is being considered must disclose the interest to the meeting as soon as practicable.

For pecuniary interests, the member must not be present at, or in sight of, the meeting:

- at any time during which a matter in which the member has a pecuniary interest is being considered or discussed by the Committee, or
- at any time during which the Committee is voting on any question in relation to the matter.

Non-pecuniary interests may be addressed either by:

- Not being involved by leaving the room in which the meeting is taking place and not taking part in any debate or vote on the issue, or
- No action being taken where the potential for conflict is minimal. However, the Councillor or Committee member should consider providing an explanation of why it is considered that a conflict does not exist.

For the duration of their term, members of the Waverley Arts, Culture and Creativity Advisory Committee and their relatives (as defined in the Waverley Council Code of Conduct) are ineligible from applying for programs run by Waverley Council including but not limited to: Waverley Artist Studios, Bondi Pavilion Gallery program, Waverley Library Gallery program, Waverley Art Prize, Waverley Youth Art Prize, Bondi Pavilion Theatre Program, Bondi Festival, Bondi Wave, Public Art Tenders (permanent or temporary), the Bondi Beach Sea Wall, Bondi Pavilion Local Creative Collaborations grants and Community Small Grants program or any other program produced by Waverley Council which would benefit the member either directly financially or through critical recognition.

Potential conflicts of interest will be dealt with at the commencement of the meeting at which the agenda item is being considered and will be disclosed and handled in accordance with the Waverley Council Code of Conduct and Code of Meeting Practice.

## **Media**

Members of the committee are not to speak to the media in their capacity as committee members.

**REPORT**  
**FC/5.4/23.07**

**Subject:** Social Media Policy and Media Policy - Exhibition

**TRIM No:** A23/0196

**Manager:** Adam Hassan, Executive Manager, Customer Experience and Communications

**Director:** Ben Thompson, Director, Community, Culture and Customer Experience

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**RECOMMENDATION:**

That Council

1. Publicly exhibits the draft Social Media Policy and Media Policy attached to the report for 28 days.
2. Officers prepare a report to Council following the exhibition period.

**1. Executive Summary**

The Media Policy and Social Media Policy (both adopted in 2019) have been reviewed. The Office of Local Government (OLG) issued model Media and Social Media policies in 2022. The Media Policy and the Social Media Policy have been reviewed and updated in accordance with these model policies and best practice.

The Media Policy provides a framework for Councillors and all Council staff (as well as volunteers, contractors and advisory committee members) to uphold our reputation and promote the good work that Council undertakes. It clearly indicates Council's authorised spokespersons to ensure that media coverage of Council matters is accurate, fair and reliable.

The Social Media Policy provides a framework for Councillors and all Council staff with guidance when using social media. The policy also ensures responses to issues raised through Council's social media channels are addressed in a consistent and timely manner and referred to the correct business area.

**2. Introduction/Background**

In 2019, Council's Social Media and Media Policy were implemented and published. With a model policy provided by the OLG, we have an opportunity to update our current version of both policies to be reflective of the recommendations made in the Model policy.

The Australian Competition and Consumer Commission (ACCC) determined that publishers are responsible for content on their social media sites, so it is incumbent on Council to monitor, and where necessary moderate, content on Council channels. This is reflected in the updated Social Media Policy.

There was also need for clarity around staff use of their own social media profiles and how they may represent themselves as Council employees, as well as to clarify responsibilities in the Media Policy.

The OLG has additional recommendations for Councillors to identify themselves as such on their social media channels. The updates are summarised in the tables below.

### 3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Operations and Community Services Committee 3 December 2019	OC/5.5/19.12	That Council:  1. Adopts the Media Policy attached to this report.  2. Adopts the Social Media Policy attached to this report.

### 4. Discussion

From the undertaken review, several recommended changes have been tabulated for discussion.

*Table 1. Summary of changes to Social Media Policy.*

Section	Change	Comment
1.	Update wording	Better reflect current understanding of social media, and tidy up some writing
4.2	Role of the publisher	Based on OLG Model Policy and required due to Australian legislative changes.
4.3	Council can post to third parties where needed	Helps with engagement and clarity
4.7	Staff required to take active steps to ensure their views are not interpreted as views of Council	Wording from legal advice, especially around dealing with high profile employees.
4.8	Use of social media by Councillors	From OLG Model Policy

*Table 2. Summary of changes to Media Policy.*

Section	Change	Comment
1-5.2	Update wording	Reflect headings used in Social Media Policy, and make wording more concise
2. 4.3	Additional paragraph	Council staff must not speak to the media about Council matters, or provide information, footage or photos, or Council materials such as emails and reports, without approval from the Manager, Communications and Engagement, or the Senior Media Advisor.
4.1	Additional sentence	Comments made by the Mayor are informed by the General Manager, Senior Media Advisor and Manager, Communications and Engagement
4.2	Additional sentence	Councillors should not provide Council

		materials such as emails and reports to media without the approval from the Manager, Communication & Engagement or the Senior Media Advisor.
4.3	Update wording to include the following ( <i>italicised</i> )	Council staff must not speak to the media about Council matters, or provide information, footage or photos, <i>or Council materials such as emails and reports</i> , without approval from the Manager, Communications and Engagement, or the Senior Media Advisor.
5—5.2	Additional section	Review of policy was not included in 2019 policy.

## 5. Financial impact statement/Time frame/Consultation

There are no financial impacts.

## 6. Conclusion

This update to the Social Media and Media policies is based on recommendations set by the OLG from the respective model policies and best practice.

These proposed amendments can be put on public exhibition immediately with any feedback received to be reported back to Council after 28 days.

## 7. Attachments

1. Draft Social Media Policy [📄](#)
2. Draft Media Policy [📄](#)





WAVERLEY  
COUNCIL

# Social Media Policy

Social Media Policy<sup>So</sup>

Policy owner	Communications and Engagement
Approved by	
Date approved	
Commencement date	
TRIM Reference	
Next revision date	
Relevant legislation/codes	Local Government Act
Related policies/procedures/guidelines	Council's Code of Conduct D13 31469 Social media policy 2013 Social Media Policy 2019 Council's Records Management Policy
Related forms	

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## 1. Background

Social media is a tool used in both business and personal contexts. It presents opportunities to provide information, engage residents and community members, listening to their views and understanding their sentiment. It is also a customer service communication tool.

Social media allows Council to directly connect with customers and community members, to present an open and direct platform for dialogue and to respond in real time.

Using social media also presents risks and challenges to Council and this policy aims to address some areas of concern such as inappropriate use and resourcing.

## 2. Purpose

The purpose of this Policy is to:

- provide Council staff (including temporary staff and contractors) and Councillors with guidance when using social media.
- ensure responses to issues raised through Council's social media channels are addressed in a consistent and timely manner and referred to the correct business area.

The aim of this Policy is to respect everyone's right to free speech; while also recognising that Council staff and Councillors have obligations in their personal use of social media in order to avoid the potential to directly or indirectly cause damage to Council's reputation, create conflicts of interest or undermine the ability to carry out its role effectively.

## 3. Scope

This policy applies to all Council staff (including temporary staff and contractors) and outlines their responsibilities when using social media. There is also a specific section relevant to Councillors.

Any act that breaches this policy can result in action under the Council's relevant Code of Conduct.

It applies to all social media platforms.

## 4. Policy Content

### 4.1 Council's use of social media

Council has official social media accounts used to share information with the public and answer general queries. Only authorised staff can respond to the public on Council's behalf on social media.

Additional pages created for business units or projects of Council may be established with approval from Communications and Engagement. If approved, Communications and Engagement will remain an administrator of any pages created to ensure appropriate management.

Council's Code of Conduct applies in the management of social media. A writing style guide and social media training will be provided to all delegated Council employees to aid consistency of communications and adherence to Council's brand.

To be most effective, social media should be used within the framework of a communications or consultation plan or strategy. Assistance in the development of a plan or strategy is available through communications partners.

Publishing is at the discretion and editorial judgement of communications partners.

### 4.2 The Role of the Publisher

Council and Council staff may be considered a publisher of any content uploaded onto a social media platform they administer, including content that is uploaded by a third party, and/or appears on their social media platform because they have liked, shared, or retweeted the content, or similar.

Posts, even deleted posts, are considered publication and are subject to the same defamation laws as any other media.

Staff responsible for the moderation of Council's social media platforms may remove content and 'block' or ban a person from those platforms.

### 4.3 Council staff using social media

Staff representing Council on social media are required to have the appropriate authority and delegations in accordance with Council's delegations register.

Should a staff member be given authorisation to comment on behalf of Council, the following guidelines must be adhered to:

- only publish content that is public information.

- content must not disclose confidential, private or personal information or any information that may infringe privacy or copyright.
- content should be unbiased.
- major announcements should be made in conjunction with or by Communications and Engagement.
- comments will be respectful of the community and portray Council in a positive way.
- All posts and links will be Council-related. Council may post to third party sources for information, promotion, or service delivery activity or to provide factual clarification.
- all content is politically impartial and/or representative of a formal Council position.
- Members of the Communications and Engagement team will approve content requests

#### 4.4 Posting

Content on Council's social media platforms should, where appropriate include links directing users back to Council's website for more detailed information, relevant documents, forms or online services necessary to conduct business with Council.

#### 4.5 Responding

Not all posts on Council's social media platforms are a direct inquiry to Council or seeking a response. If a response is required it will not always be a direct answer to a question, or a resolution of a problem. Communications and Engagement can advise on what an appropriate response should be. Where a response is required, every reasonable effort will be made to acknowledge the post within one business day.

#### 4.6 Monitoring Council's social media

The Communications and Engagement team will supervise content posted on all official social media platforms to ensure adherence to the Social Media Policy for appropriate use, message and consistency in branding. Council may delete comments that are:

- knowingly false, mischievous or vexatious complaints or statements about individuals, companies or Council.
- misleading, obscene, off-topic, sexist, racist or spam.
- promotional or commercial in nature.
- unlawful or incite others to break the law.

- defamatory or harassing of our employees, volunteers or the participants in our programs.
- information that may compromise the safety or security of the public.
- repetitive posts copied and pasted or duplicated by single or multiple users.
- any other inappropriate content or comments as determined by Council.

#### 4.7 Personal use of social media by staff

The right of staff to use social media in their private lives is respected. In doing so, staff must conduct themselves in a way that does not call into question their capacity to act impartially in their work.

Members of staff, particularly those with a public profile, must take active steps to ensure that their views cannot be interpreted as views of Council, for example by stating that any political views or comments are made solely in their private capacity and do not represent views of Council.

It is also important that staff do not risk Council's reputation with posts or comments they make online. Staff can generally make public comment in a personal or private capacity if the comment is lawful, and a reasonable person couldn't perceive it to be:

- made on behalf of Council.
- affecting their ability to fulfil their duties in an impartial manner.
- so harsh or extreme in its criticism or endorsement of Council, State or Federal Government, a Councillor from any political party, or their respective policies, that they are no longer able to work professionally or impartially.
- damaging to the integrity or reputation of Council.
- so strong in its criticism of Council's administration that it could seriously disrupt the workplace.
- a gratuitous personal attack that connects them to Council.
- compromising public confidence in Council.

When staff are using social media, it is not acceptable at any time to:

- promote a brand or business on social media when identified as a Council employee, such as wearing a uniform or mentioning Council in that post. This also includes with an identifiable Council building in view, even if not in uniform. Council cannot be seen to endorse or promote one brand or business over another.

- post comments or images that are obscene, offensive, threatening, harassing or discriminatory in relation to work, another staff member, a stakeholder or Council.
- create a social media page to protest policies that staff are responsible for implementing or promoting.
- comment on policy matters that Council is involved with.
- post inappropriate images that reference or involve Council in some way. This could be photos taken of employees engaging in conduct that breaches the Code of Conduct, or otherwise damages Council's reputation.
- engage in comments that breach anti-discrimination legislation.
- release sensitive, personal or confidential information without proper authority.
- use an official work email address, or anything else that connects the post to Council, when making public comment.
- post any material that might otherwise cause damage to Council's reputation.

#### 4.8 Use of social media by Councillors

The obligations of Councillors with respect to their presence on social media, whether made in a personal capacity or in their capacity as a Councillor, must be factual and lawful, including avoiding infringement of copyright, privacy, defamation or harassment laws.

Councillors are responsible for the administration and moderation of their own social media platforms including in circumstances where another person administers, moderates, or uploads content onto their social media platform.

Councillors must identify themselves on their social media platforms in the following format:

*Councillor "First Name and Last Name"*. A Councillor's social media platform must include a profile photo which is a clearly identifiable image of the Councillor.

A Councillor's social media platform must include a disclaimer to the following effect:

*"The views expressed and comments made on this social media platform are my own and not that of Waverley Council"*.

If a Councillor becomes or ceases to be the mayor, deputy mayor, or the holder of another position (for example, chairperson of a committee), this must be clearly stated on the Councillor's social media platforms and updated within two months of a change in circumstances.

Media releases and other content that has been authorised according to the Council's media and



communications protocols and publicly available may be uploaded onto a Councillor's social media platform.

#### 4.9 Recording of information

Council will collect and retain social media content in line with the State Records Act 1998 and Council's Records Management Policy.

#### 4.10 Grievances

Any grievances in relation to this Policy or its application should be forwarded in writing to the General Manager.

Non-compliance with the Social Media Policy by will be managed through the relevant Code of Conduct and related processes.

### 5. Review of Policy

- 5.1. This policy will be reviewed every four years or as required in the event of legislative changes or requirements. The policy may also be changed as a result of other amendments. Any amendments to a community facing policy must be way of a Council resolution, and any amendments to an organisational facing policy must be approved by the General Manager.
- 5.2. Council staff and members of the public may provide feedback about this document by emailing [communications@waverley.nsw.gov.au](mailto:communications@waverley.nsw.gov.au).

### 6. Definitions

Term	Definition
Council	Waverley Council
Post	Any item (image, written content, event) shared through a social media platform.
Platform	A social media channel such as Facebook is a platform.
Page	Council's owned asset eg Waverley Council Facebook's Page.
Social Media	The use of online tools for communication, promotion and conversation. Blogs, Microblogs (e.g. Twitter), Social Networks (e.g. Facebook, Instagram, LinkedIn), Podcasts and Video (e.g. YouTube) are all types of Social Media.



WAVERLEY  
COUNCIL

# Media Policy

## Media Policy

Policy owner	Communications and Engagement
Approved by	
Date approved	
Commencement date	
TRIM Reference	D23/52900
Next revision date	February 2027
Relevant legislation/codes	Local Government Act
Related policies/procedures/guidelines	Council's Code of Conduct D13 31469 Media Policy 2019 Council's Records Management Policy
Related forms	

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## 1. Background

Waverley is a high-profile local government area, with many newsworthy projects, activities and tourism destinations. A mutually beneficial and trusting relationship between Council and the media is essential in maintaining and protecting Council's reputation, and promoting the good work that we do. Our media relations should support our vision for Waverley for a vibrant and resilient community that takes care of each other, other natural environment and local places. We treat the media in the same manner as any other customer of Council, with timeliness, transparency and respect.

## 2. Purpose

The Media Policy provides a framework for Councillors and all Waverley Council staff (including volunteers, contractors and advisory committee members) to uphold our reputation and promote the good work that we do. It clearly indicates Council's authorised spokespersons to ensure that media coverage of Council matters is accurate, fair and reliable.

The Media Policy aims to:

- promote open exchange of information between the Council and the media
- limit the publication of inaccurate information, miscommunication and reputational risk
- strengthen positive media relations
- clearly indicate Council's authorised spokespersons
- ensure appropriate authorisation and responsibility for the information provided
- ensure consistency by staff and Councillors in dealing with the media.

Council staff must not speak to the media about Council matters, or provide information, footage or photos, or Council materials such as emails and reports, without approval from the Manager, Communications & Engagement or the Senior Media Advisor. Staff should immediately inform the Manager, Communications & Engagement and/or Senior Media Advisor, of any incident or situation that may attract media attention or inquiries, including information shared on social media.

## 3. Scope

This policy applies to Councillors and all Waverley Council staff (including volunteers, contractors and advisory committee members). Any breaches of the policy can result in action under Council's relevant Code of Conduct.

## 4. Policy Content

### 4.1. Statements to the media

The Mayor is the primary official spokesperson for Council. Comments made by the Mayor are informed by the General Manager, Senior Media Advisor and Communications & Engagement Manager. The General Manager, Manager, Communications and Engagement and the Senior Media Advisor, may also act as official spokespersons where agreed by the Mayor and GM. Media statements that relate to operational matters of Council are generally attributed to a spokesperson

for Council. The Senior Media Advisor and Communications & Engagement Manager may also put forward a Director or other staff member to provide expert commentary on a specific topic, with the Mayor and GM's approval. Council also has approved spokespersons for Lifeguard matters.

#### 4.2. Councillors and the media

The Media Policy does not prevent the right of individual Councillors to express their own opinions to the media at any time. Councillors must clearly indicate that they are expressing their personal views, and not that of Council, except if they are supporting a Council position. Except for the Mayor, Councillors are not the official spokespersons of Council, unless delegated by the Mayor. To ensure information provided to the media is accurate and timely, Councillors should seek information from the appropriate Council officer, such as the Senior Media Advisor, before making comment. Councillors should not provide any Council materials (including but not limited to emails, documents and reports) to media without the approval from the Manager, Communications & Engagement or the Senior Media Advisor unless it is already published by Council and in the public domain.

#### 4.3. Council and the media

The Manager, Communications and Engagement and the Senior Media Advisor manage all media inquiries for Waverley Council and its staff and the media approvals process.

All media inquiries for Waverley Council and its staff should be directed to [media@waverley.nsw.gov.au](mailto:media@waverley.nsw.gov.au) or 0416 075 532. Inquiries to this email and phone number are monitored seven days a week, including on public holidays.

Council staff must not speak to the media about Council matters, or provide information, footage or photos, or Council materials such as emails and reports, without approval from the Manager, Communications & Engagement or the Senior Media Advisor. Staff must not intentionally contest or undermine Council policy or decision, or cast Council, Councillors or Council staff in a negative light.

Council staff may speak to the media or write Letters to the Editor as private individuals with the following restrictions:

- a) they do not comment on Council business or policy
- b) they are not identified as Council employees
- c) their comments are not perceived as representing official Council position or policy

Any breaches of the Media Policy can result in action under Council's relevant Code of Conduct.

## 5. Review of Policy

- 5.1. This policy will be reviewed every four years or as required in the event of legislative changes or requirements. The policy may also be changed as a result of other amendments. Any amendments to a community facing policy must be way of a Council resolution, and any amendments to an organisational facing policy must be approved by the General Manager.
- 5.2. Council staff and members of the public may provide feedback about this document by emailing [communications@waverley.nsw.gov.au](mailto:communications@waverley.nsw.gov.au).

**REPORT**  
**FC/5.5/23.07**

**Subject:** Lifeguard Drone Shark Patrol Program

**TRIM No:** A22/0341

**Manager:** Ben Kusto, Executive Manager, Open Space and Recreation Operations

**Director:** Sharon Cassidy, Director, Assets and Operations

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**RECOMMENDATION:**

That Council notes that drones will be introduced into the Lifeguard Service to respond to general water safety scenarios, rather than solely be used proactively to detect shark activity.

**1. Executive Summary**

The purpose of this report is to provide an overview of the use of drone or unmanned aerial vehicle (UAV) technology in shark management. The report outlines current shark mitigation measures in Waverley and outcomes of relevant studies. The report details that while drones can have a use for shark detection, the use of drones alone for beach safety should not be solely focused on this aspect, as it has low cost-efficiency and may provide a false sense of security, given the possibility of human error/miss-interpretation. It is recommended that UAV operations are implemented into the Lifeguard Service as a 'responsive' approach to general water safety scenarios rather than the proactive use of drones to detect shark activity.

**2. Introduction/Background**

The NSW Government's Shark Meshing (Bather Protection) Program includes 51 beaches between Newcastle and Wollongong.

These beaches are netted using specially designed meshing nets that the program promotes reduce the chances of shark encounters and have a range of shark mitigation technologies like drones, SMART drumlines and listening stations on trial to measure beach-goers safety while attempting to minimise impacts on marine biodiversity.

The nets do not create a total barrier between swimmers and sharks. They are designed to intercept sharks near meshed beaches, which reduces the chance of a shark interaction.

While the nets cannot provide a guarantee that a shark interaction will never happen, the program has been effective in reducing the potential number of interactions.

In the Waverley local government area (LGA), there are four main shark mitigation technologies in place:

- The shark meshing program was introduced in 1937 and currently involves the positioning of two separate nets at Bondi and Bronte that are 1,000 m long (Bondi) and 220 m long (Bronte), 6 m high and sit in a depth of around 10 m.
- There is also a shark listening buoy at Bondi Beach. The device can detect a shark that has been tagged as part of the NSW SMART drumline program, whereby target sharks (White sharks, Bull

sharks and Tiger sharks) are tagged and released. When a shark is detected, an electronic alert is sent out.

- In 2022, Surf Life Saving NSW (SLSNSW) began scheduled daily drone surveillance during the month of January.
- In addition, there are SMART drum lines installed and removed daily at Bronte, Tamarama and Bondi Beach. If a target shark (white, tiger or bull) is caught, the shark is taken further out to sea where it is released.

Council resolution CM/7.7/21.03 in March 2021 highlights Council support of shark management options that reduce or eliminate impacts upon marine diversity, this includes no longer supporting shark meshing. Furthermore, in August 2022 Council resolved to investigate:

- The development of a shark patrol using drone technology operated by Waverley's professional lifeguards.
- The training and logistical requirements to successfully operate such a patrol.
- The appropriate drone technology suitable for shark spotting.
- Budgetary impacts, costs, and sources of funding, including applying for any potential grants that may be available.

### 3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 16 August 2022	CM/6.1/22.08	<p>That Council:</p> <ol style="list-style-type: none"> <li>Notes: <ol style="list-style-type: none"> <li>The resolution of March 2021 that Council supports shark management options that reduce or eliminate impacts upon marine diversity.</li> <li>That this includes no longer supporting shark meshing.</li> <li>That shark nets, introduced in 1937, are identified as a key threatening process under the <i>Biodiversity Conservation Act 2016</i> (NSW).</li> <li>That Waverley has two shark nets, one at Bondi and one at Bronte, but no nets at Tamarama.</li> <li>That these shark nets, which are 150 metres long, six metres high and sit at a depth of approximately 10 metres, do not provide comprehensive coverage, given that Bondi is 1,000 metres long and Bronte is 220 metres long.</li> <li>That research by the Department of Planning and the Environment shows that: <ol style="list-style-type: none"> <li>Fewer sharks are tagged in the Sydney region than for other areas, such as the North Coast.</li> <li>Between 2009 and 2019, in the Sydney</li> </ol> </li> </ol> </li> </ol>



		<p>Region, 19 sharks dangerous to humans were caught in netting, of which 14 died, while 140 non-target sharks were caught as well as six species of marine animals, including 15 turtles and one dugong, with most animals dying.</p> <p>(g) That Council adopted a mayoral minute in December 2019 declaring a State of Climate and Biodiversity Emergency.</p> <p>(h) That since February 2022, the Department of Planning and the Environment places and removes daily six SMART drum lines off Waverley beaches, which are designed to intercept and release target sharks that come close to shore.</p> <p>(i) That the summer season is soon to commence.</p> <p>2. Investigates:</p> <p>(a) The development of a shark patrol using drone technology operated by Waverley's professional lifeguards.</p> <p>(b) The training and logistical requirements to successfully operate such a patrol.</p> <p>(c) The appropriate drone technology suitable for shark spotting.</p> <p>(d) Budgetary impacts, costs and sources of funding, including applying for any potential grants that may be available.</p> <p>3. Receives a report as a matter of urgency.</p>
Council 16 March 2021	CM/7.7/21.03	<p>That Council:</p> <p>1. Supports shark management options that provide the most effective means of protecting swimmers and that reduces or eliminates impacts on marine biodiversity.</p> <p>2. Endorses the response to the NSW Shark Management Strategy survey attached to the report.</p> <p>3. Notifies all surf clubs, precincts and the Chamber of Commerce of the existence of the survey, including the link.</p> <p>4. Arranges a Councillor workshop to discuss the outcomes of the Shark Management Strategy at an appropriate time.</p>

#### 4. Discussion

##### Lake Macquarie City Council Study

During the 2017-18 summer season, Lake Macquarie City Council (LMCC) as part of the Coastal Safety Group, assessed the viability of incorporating routine (proactive) drone flights into normal lifeguard duties.

The aim of their study was to test the feasibility of integrating proactive (daily planned) drone flights piloted by a lifeguard to improve beach safety (which included shark detection).

Highlights from the study (note: the report was unpublished) were:

- Over 60% of planned or scheduled flights were cancelled due to uncontrollable environmental conditions i.e. wind
- Sharks >2 m identifiable as dangerous species i.e. White (*Carcharodon carcharias*), Bull Shark (*Carcharhinus leucas*) and Tiger (*Galeocerdo cuvier*) were only detected in 3% of all flights
- Recommended responsive rather than proactive use of drones in beach safety.

Drones are being adopted by lifeguard services globally to improve beach safety by spotting Sharks classified as dangerous species, monitoring beach users and general water safety, yet their cost-effectiveness for this purpose has not been assessed.

The active component of beach safety primarily relies on lifeguards or lifesaving services to conduct preventative actions when appropriate and to respond to emergencies. Over the years, lifeguard services have benefited from a number of tools that increase their ability to respond effectively to threats to beach users i.e. jet skis, quad bikes (our Can-Ams) and, more recently, drones.

These tools benefit beach safety by expanding the monitoring, visualisation and communication abilities of monitoring water safety that underpin effective lifeguard services.

During the study, rapid response scenarios for reported lost persons and shark detection were tested, comparing the effectiveness of drones to lifeguards, and found that drone response could be faster and cover much larger areas. Utilised together, the use of drones should be reserved for reactive scenarios in areas not easily accessible to lifeguards, rather than proactive flights.

Organisations wishing to incorporate drones for shark mitigation and/or beach monitoring into their services should be aware of the high financial cost of incorporation and the low proportion of days (effectiveness) the drones can be used safely.

##### Marine Predator Research Group at Macquarie University Study

In March 2022 an article titled, *Drone Observations of Marine Life and Human–Wildlife Interactions off Sydney* was published by the Marine Predator Research Group at Macquarie University. The observations from the report were based off the coast of Sydney and included our three beaches, Bondi, Tamarama and Bronte between October 2017 and September 2021. These observations occurred from 6 am to mid-morning (9 am to 11 am), weather dependent.

Across the four-year study period, shark sightings were higher compared to other wildlife, especially for the months of June (Austral winter) and December (summer) with a total of 101 cases of co-occurrence between humans (swimmers and surfers) and sharks sharing the water.

The observations recorded confirms what we already know that of the co-occurrence of sharks, namely the placid grey nurse (*Carcharias taurus*), observed near humans off our coastline. White sharks (*Carcharodon*

*carcharias*) were only observed three times over the three-year period, with only one of those observations with humans in close proximity (both humans and shark seen in the same still frame).

This study provides direct evidence of the co-occurrence of sharks with humans off three of Australia's busiest beaches.

The likelihood of encountering larger, typically offshore species i.e. White sharks (*Carcharodon carcharias*), in this region is relatively low and is consistent with the locally low number of shark interactions and few animals caught in the shark meshing program (DPI stat.).

### **Surf Life Saving NSW UAV Surveillance Program**

In early December 2022, the State Duty Officer for Public Safety with SLSNSW advised that their seasonal UAV Surveillance Program was operational from 21 December 2022 to 29 January 2023.

Shark detection flights operate each hour beginning at 9 am for a 20-minute duration and ceasing at 4 pm, dependent on conditions. Notification parameters reportable to the State Operating Centre are

- Sharks >2 m.
- Dangerous species.
- Close to swimmers.
- Beach closed.

Council received nil notifications reportable based on these parameters during the surveillance period in 2022-2023.

### **Proposed approach**

Council officers highlight that while drones can have a use for shark detection, the use of drones alone for beach safety should not be solely focused on this aspect, as it has low cost-efficiency and may provide a false sense of security, given the possibility of not detecting sharks that are present (human error/interpretation). If drones are incorporated into beach safety operations, they must have primary uses outside of shark detection alone.

Automated flight and AI technology are still under development, aiming to make shark detection via drone flights completely automated ('drone in a box'). In that framework, the use of drones to conduct automated routine shark detection flights becomes more feasible, yet more costly. However, it would not require direct supervision from a lifeguard.

This approach though would also prevent the use of drones for other beach safety scenarios unless lifeguards were still appropriately pilot trained in UAV operations.

It is therefore proposed to introduce drones as part a holistic response to beach safety.

## **5. Financial impact statement/Time frame/Consultation**

As noted above the development of a regular shark patrol using drone technology is not proposed. However, inclusion of drone technology is proposed with appropriate costings detailed below.

In conjunction with Randwick Council Lifeguard Service, it is proposed to deliver UAV pilot training required under CASA regulations. This is estimated to be \$800 per licence. It is proposed that four staff are trained in year one of implementation and then year on year for the remaining staff totalling \$3,200 each year for a six-year period.

The purchase of an appropriate UAV/drone would be of the order of \$9,000. While minor budget adjustment for these costs can be made, Council officers will also continue to seek appropriate grant funding.

## **6. Conclusion**

As highlighted above, while drones can have a use for shark detection, the use of drones alone for beach safety should not be solely focused on this aspect, as it has low cost-efficiency and may provide a false sense of security, given the possibility of human error/miss-interpretation.

It is recommended that UAV operations are implemented into the Lifeguard Service as a 'responsive' approach to general water safety scenarios rather than the proactive use of drones to detect shark activity.

## **7. Attachments**

Nil

**REPORT**  
**FC/5.6/23.07****Subject:** Tamarama Fitness Station - Mitigation of Amenity Impacts**TRIM No:** A17/0353**Manager:** Nikolaos Zervos, Executive Manager, Infrastructure Services**Director:** Sharon Cassidy, Director, Assets and Operations

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**RECOMMENDATION:**

That Council:

1. Treats Attachment 1 of the report as confidential in accordance with section 11(3) of the *Local Government Act 1993*, as it relates to a matter specified in section 10A(2)(b) of the *Local Government Act 1993*. The attachment contains discussion in relation to the personal hardship of a resident or ratepayer.
2. Notes that three separate consultations have supported the fitness stations at Tamarama Park, being the design as consulted in 2017, consultation on the draft Tamarama Park Plan of Management in 2022 and recent direct consultation with adjoining residents of Gaerloch Avenue.
3. Notes the requirements of the *Crown Land Management Act 2016* for access and egress over Crown land from adjoining properties.
4. Following the completion of the Tamarama Surf Life Saving Club Building Upgrade:
  - (a) Re-establishes and maintains appropriate screen planting to provide a low planted buffer below 1.5 metres.
  - (b) Reconfigures the fitness station in its current location for the use and enjoyment of the public by reorientating the equipment to change the direct line of sight from the highest chin-up bar up towards the edge of the exposed elevated pool at 21 Gaerloch Avenue.

**1. Executive Summary**

The purpose of this report is to update Council on investigations into the Tamarama fitness station and feedback received from residence 21, 23 and 25 Gaerloch Avenue following direction consultation.

The report also undertakes a view assessment to determine if further modifications to the approved fitness station design are warranted.

Based on the three separate consultations and site and design investigations outlined in this report it is recommended that, following the completion of the Tamarama Surf Life Saving Club (SLSC) redevelopment, that:

- Appropriate screen planting be re-established and maintained to provide a low planted buffer below 1.5 m.

- The fitness station remains for the use and enjoyment of the public and the equipment is reorientated to change the direct line of sight from the highest chin-up bar up towards the edge of the exposed elevated pool at 21 Gaerloch Avenue.

## 2. Introduction/Background

It is important to acknowledge that the parcel of Crown land that contains the fitness station was set aside for 'public recreation' in 1907 for the benefit of all residents and visitors across NSW and any embellishments of the land must be in support of the gazetted reserve or dedication in accordance with the *Crown Land Management Act 2016* and Plan of Management adopted for the site. Council, as the appointed Crown Land Manager and custodians of the reserve, must make decisions that affect the reserve in the interests of the greater community and in accordance with the reservation or dedication for 'public recreation'.

The Coastal Walk fitness stations were upgraded in 2019 following extensive community consultation in 2017 to replace the pre-existing dilapidated fitness stations built circa 2006. The fitness stations are complying development under the Infrastructure State Environmental Planning Policy and are acknowledged as existing public facilities by both the current and draft Tamarama Park Plan of Management.

Between 10 May and 7 June 2022, Council undertook Stage 1 community consultation on the draft PoM to understand user patterns, gauge community sentiment and gather feedback on the park and beach and the proposed key ideas that were generated through research and analysis, before creating the new draft PoM. 90% (53 of 56) of people supported the proposal to provide buffer planting along the park/residential boundary at the fitness station. The survey also asked how satisfied people were with the current fitness station with 71% (42 of 59) of respondents where supportive or very supportive of the fitness station.

In accordance with the Community Strategic Plan, Council strives to support broader community recreation and health outcomes by offering updated facilities and infrastructure that is freely accessible to everyone in our community. This includes upgrading dilapidated fitness equipment with modern equipment that meets the needs and aspirations of the broader community, supports the increased demand for access and use of facilities and is designed to meet relevant current Australian Standards for safety and design.

The equipment chosen and installed are improved versions of the 2014 equipment installed at Bondi Beach in materials more durable to the coastal environment. Equipment selections were based on the pre-existing exercise activities along the Coastal Walk, offering the same activities and not reducing the activities and designed to meet Australian Standards for outdoor fitness equipment (AS 16630).

The location of the Tamarama Fitness station is roughly in the same location as the previous station with an expanded footprint to meet the access and circulation space requirements of AS 16630 and accessibility needs. The fitness station remains directly behind 21 Gaerloch Avenue. The fitness station has been benched down into the landscape to meet the adjoining levels of the Coastal Walk providing step free access into the facility. Of the three Coastal Walk fitness stations built, it remains the only one that provides an equitable/accessible experience for people in mobility devices being linked to Pacific Avenue and mobility parking spot via an accessible ramp.

Currently, the fitness station is closed off from public use as the area is being used for site sheds and storage for the Tamarama SLSC redevelopment project. Following the completion of this project, it is intended that the fitness station wet pour rubber will be repaired, and the station reopened for public use and enjoyment.

**3. Relevant Council Resolutions**

<b>Meeting and date</b>	<b>Item No.</b>	<b>Resolution</b>
Finance, Operations and Community Services Committee 1 November 2022	FC/5.4/22.11	<p>That Council:</p> <ol style="list-style-type: none"> <li>Notes the community consultation feedback received during the draft Tamarama Plan of Management in support of the fitness station and proposed buffer planting.</li> <li>Following the completion of the Tamarama Surf Life Saving Club Building Upgrade, re-establishes and maintains appropriate screen planting to provide a buffer between the fitness station and neighbouring properties in consultation with the owners / residents of 21, 23, and 25 Gaerloch Avenue officers consult the above adjoining neighbours and other interested parties on the matter.</li> <li>Notes that the approved plans for the development at 21 Gaerloch Avenue, Tamarama, adequately dealt with the privacy and amenity of the development, which directly adjoins a Crown Reserve and is in proximity to the fitness station and the busy Coastal Walk.</li> <li>Before completion of the Tamarama Surf Life Saving Club Building Upgrade and as soon as possible, investigates lowering the height and changing the style of the fitness equipment in consultation with the owners of 21, 23 and 25 Gaerloch Avenue to further mitigate privacy and noise impacts to these properties, with a report on the matter to come back for Council consideration.</li> </ol>
Council 20 September 2022	CM/8.1/22.09	That Council brings forward the investigation into the Tamarama Fitness Station resolved by Council in February 2020 (CM/8.13/20.02) so that recommendations can be considered in a report to the November 2022 Finance, Operations and Community Services Committee.
Council 18 February 2020	CM/8.13/20.02	<p>That:</p> <ol style="list-style-type: none"> <li>Council investigates measures to mitigate privacy and noise impacts on residents at 21, 23 and 25 Gaerloch Avenue, Tamarama, from the adjacent, upgraded Tamarama fitness station located on the coastal walk close to the Tamarama Surf Life Saving Club, including, but not limited to, changing the height, style and location of the current fitness equipment.</li> <li>Council officers consult the above adjoining neighbours and other interested parties on the matter.</li> <li>Council receives recommendations in a formal report.</li> </ol>

		4. The investigation also cover the issue of potential non-compliance with a development consent condition at 21 Gaerloch Avenue, Tamarama, in relation to how it might improve the privacy and noise impacts of the fitness station.
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#### 4. Discussion

On 23 January 2023, as directed by Council resolution FC/5.4/22.11, Council officers engaged directly with the residents of 21, 23 and 25 Gaerloch Avenue via email and letters inviting them to provide written feedback on any issues or concerns they had with the existing outdoor fitness station.

A total of four owners/residents are registered at the three above properties, with 21 Gaerloch Avenue being a strata block. All were notified. Three responses were received, one from each address of 21, 23 and 25 Gaerloch Avenue. Their submissions are attached to the report under confidential cover.

It should be noted a detailed submission was received from 1/21 Gaerloch Avenue, which comprises level 1 and 2 of the building. However, no submission was received from 2/21 Gaerloch Avenue, which comprises the ground level and lower ground level including, pool and outdoor terraces.

Direct consultation with adjoining residents at 21, 23 and 25 Gaerloch Avenue found two of three residents support a modified fitness station at this location and that all adjoining residents support low buffer planting that will not impact their existing southern views.

The following summaries the key themes raised in the submissions. Refer to Attachment 2 for officers' detailed response to each issue raised.

*Table 1. Feedback from adjoining owners.*

Themes	Feedback Summary
<b>1. Buffer planting</b>	All three submissions supported low shrub buffer planting that would remain below a maximum height of 1.5m at maturity to ensure residential views are not impacted.
	One submission requested no trees be planted.
<b>2. Residential amenity impact - Noise</b>	Three submissions noted noise coming from fitness station users impacting their residential amenity including early morning and late evening use and the use of amplified music.
	Two submission noted improvements to the fitness station have attracted more users. Including people exercising, users are also loudly socialising, capturing videos for social media and generally loitering.
	One submission raised concerns about potential future noise issues compounding residential amenity from the Tamarama SLSC redevelopments proposed café and night-time club operations and requested no café.
	Two submissions noted that buffer planting would not be enough to mitigate noise impacts generated by increased use the new fitness station has attracted.
<b>3. Residential amenity impact – Privacy</b>	Two submissions noted that the higher apparatus generate privacy concerns of overlooking adjoining properties and lower apparatus are preferred.
	One submission noted that buffer planting would not be enough to mitigate loss of privacy.



<b>4. Modify fitness equipment</b>	Two submissions requested the size and scale of the fitness station equipment be reduced in consultation with residents to improve privacy of adjoining residents. One submission requested no fitness station.
<b>5. Compliance enforcement – After-hours use and noise</b>	Two submissions raised concerns about effective after-hours compliance enforcement.
<b>6. 21 Gaerloch Avenue DA approval timing versus fitness station approval timing</b>	Two submissions claim the DA for 21 Gaerloch Avenue was approved prior to the revised fitness station design being approved and therefore the development did not adequately consider the potential residential amenity impacts.

### View analysis and review of fitness station design and levels

In preparation of this report, view analysis and sight lines have been considered along with opportunities to mitigate privacy concerns inside and outside of the private and public domain.

In summary, 21, 23 and 25 Gaerloch Avenue properties all sit above the adjoining public domain and the fitness equipment; refer to Figure 1.



*Figure 1. View of 21, 23 and 25 Gaerloch Avenue – January 2023. All three properties sit above the fitness station and dominate the landscape with no vegetation to soften the visual impact of the built form.*

The heights point of the chin-up bars sits below the existing height of the closest boundary wall at 21 Gaerloch Avenue. Screening landscape within the development has not been established. A second gate

prevents Council from establishing buffer planting to this frontage which aligns directly with the equipment; refer to Figure 2.



*Figure 2. View of Tamarama Fitness Station and southern boundary of 21 Gaerloch Avenue, which directly overlooks the reserve (Source: Tamarama SLSC Dilapidation Report, July 2021).*

The fitness station can be viewed by occupants standing at the ground floor, outdoor terrace and swimming pool as all these areas sit above the fitness station.

The pool coping sits above the boundary wall to take advantage of views southwards and consequentially is exposed to views from the adjoining public domain.

Privacy concerns of views from the public domain into private areas of the residential property are difficult to achieve. All of the areas of private space of concern in regard to privacy impacts from the fitness station are also in full view from the elevated public footpath and roadway which overlook the property from Pacific Avenue; refer to Figure 3.

The boundary fence at 21 Gaerloch Avenue measures 1,510 mm adjacent the fitness equipment below the permissible 1,800 mm height; refer to Figure 4

Buffer planting along the boundary has been trampled by visitors accessing the ground floor apartment listed for short-term accommodation.





*Figure 3. View from Pacific Avenue footpath which directly overlooks the outdoor private spaces of 21 Gaerloch Avenue. The fitness stations are also visible from this point between site sheds – January 2023.*



*Figure 4. The boundary fence at 21 Gaerloch Avenue measures 1,510 mm adjacent the fitness equipment below the permissible 1,800 mm height. Buffer planting along the boundary has been trampled by visitors access the ground floor apartment.*

### Detailed built levels analysis

To satisfy clause 4 of resolution FC/5.4/22.11, officers have considered if changing the height and style of the fitness equipment is warranted to remove perceived overlooking issues into the private domain based on an analysis of 21 Gaerloch Avenue ground floor, terrace and pool coping levels, topography of the site and potential privacy treatments.

The fitness station has been designed to provide part of a connected trail system of three stations in total offering different exercise workouts. Tamarama is the only station with chin-up bars. Changing the design would significantly diminish its function and remove equipment from the one station that is accessible to users with mobility challenges.

The equipment has been designed to meet safety standards AS16630. Modifying the design may compromise users' safety and open Council to potential litigation claim in event of injury and reduce its functionality to cater to a wide range of users and skill levels.

Consideration could be given to rotating the chin-up bar equipment so the equipment sites parallel to the property boundary rather than its current orientation which is skewed at an angle. This would have users of the highest bars orientated in parallel to the property as opposed to towards the property wall.

23 and 25 Gaerloch Avenue properties sit well above the fitness station and overlook the fitness station. The ground floor apartment and outdoor pool at 21 Gaerloch Avenue also overlooks the fitness area, however the ground floor bedroom has been designed with a zero-lot setback and glazed windows that look directly out onto the reserve noting that the windows required treatment under the conditions of approval.

The chin-up bars are designed in accordance with AS 16630:2021 (Permanently installed outdoor fitness equipment – Safety requirements and test methods) including training space envelope, circulation space, fall space area in impact attenuation material (i.e. rubber softfall).

The bottom of the highest chin-up bars as built sit at RL11.07 with the highest chin up bar set at 2,100 mm above ground at RL13.17. Users of the apparatus in a chin-up position places the average male eye height above shoulder heights at 205 mm above the bar. This equates to an average eye height above the bar at approximately RL13.38 based on average male ergonomic measurements.

The fitness station is benched into the landscape with retaining walls and sits below the adjoining property, 21 Gaerloch Avenue. The ground level at the property boundary, the closest point to the chin-up bars, is at RL12.13. Fence height from ground at this point is measured onsite at 1,510 mm (top of fence RL13.64). This places the top of the boundary fence at 470 mm above the chin-up bar and 260 mm above average male chin-up eye height.

21 Gaerloch Avenue ground floor level is FFL12.65 and nominates a step down to an outside terrace at RL12.40 and 100mm step down from deck to yard RL12.30. With the wall height at RL13.64 this creates a balustrade height equivalent at 1240mm high beside the outdoor terrace. An average sized adult male eye height is 1630mm and female 1505mm. From the outside terrace, this places the eye level at RL13.91 to RL14.03 enabling views over the low wall (RL13.64) and over the top of users of the fitness equipment below when standing on the terrace.

21 Gaerloch Avenue pool coping sits at RL13.60. This places the pool coping at 430 mm above the chin-up bar and 220mm above average male chin-up eye height.

In short, the residents using the outdoor pool and on the outside terrace can look down on users of the equipment as they sit above it. Users of the equipment have views above but not over the boundary wall. Refer to Figure 5 and Attachment 2.

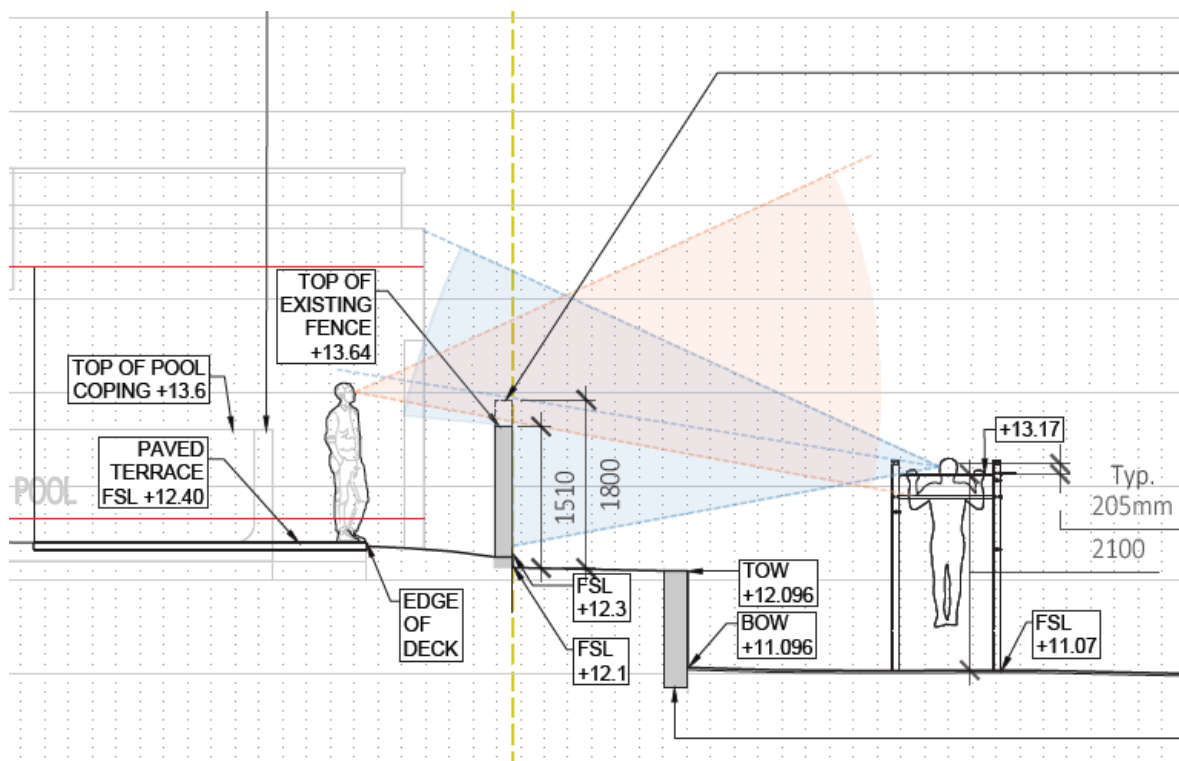


Figure 5: Excerpt from Attachment 2 (SK.01 View Analysis – Cross Section Existing Conditions).

The fitness station levels were designed on the presumption that the adjacent southern boundary wall of 21 Gaerloch Avenue would be built to the full permissible height of 1,800 mm as per the approved DA plans. However, the boundary wall adjacent the fitness equipment only measures 1,510mm high (RL 13.64).

If the boundary wall was built to the full permissible height of 1,800 mm, this would have placed it at RL13.93, which would be 760 mm above the highest chin-up bar and 550 mm above average male chin-up eye height at its closet point.

The boundary wall slopes westward with the topography exposing the elevated pool. Even at 1800mm high the pool will always be exposed at this location.

The fitness station is exempt and complying development. Due to topography and limited height, it does not overlook any of the adjoining properties. The fitness equipment could be reorientated to align with the property boundary to remove direct orientation towards the elevated pool. Refer to Attachment 4.

This would require reconfiguration of the equipment with four new posts to ensure fall zones off equipment can be safely established.

Removal of equipment out of the direct overlooking elevated view line of 21 Gaerloch Avenue is not possible as the property overlooks the reserve. The property already dominates the landscape and achieves sweeping panoramic views from multiple areas of the development site. The minor visual impact of the fitness station would be considered fair and reasonable under the principles of view sharing set out in case law which establishes residents are not simply entitled to retain pre-existing views.



**‘Crown Land - Your Neighbour’**

The new CLM Act has emphasised the responsibilities of private landowners that neighbour Crown Land. The Department has highlighted the requirements in a guide, Crown Land – Your Neighbour (Attachment 5).

Council-managed Crown land is directly impacted by this guide. Tamarama Park has a number of private landowners who neighbour the park. The draft Tamarama Park and Beach PoM refers to the new guide, emphasises the responsibilities of both private landowners and Council, and highlights that Council acknowledges the historical nature of neighbours to the park and commits to working with park neighbours to ensure that each party’s responsibilities under the Act are adhered to.

**5. Financial impact statement/Time frame/Consultation**

Financial impacts related to the recommendations of this report are limited to operational expenses associated with staff resourcing.

The Tamarama fitness station cost \$128,000 to construct in 2017. With escalation in construction costs, it is estimated to cost in excess of \$160,000 in 2023.

Reconfiguration of the equipment, replacement of rubber softfall and replanting buffer planting will cost approximately \$30,000. Reconfiguration can be undertaken with SAMP funding for asset repairs in the 2023-24 budget. Buffer planting costs can be absorbed into the annual parks planting budget in 2023-24.

Rubber softfall repairs will be completed after occupation of site sheds and storage areas as part of the ‘make good’ public domain budget of Tamarama SLSC redevelopment.

**6. Conclusion**

Based on the three separate consultations and site and design investigations outlined in this report it is recommended that, following the completion of the Tamarama SLSC) redevelopment:

- Appropriate screen planting be re-established and maintained to provide a low planted buffer below 1.5 m.
- The fitness station remains for the use and enjoyment of the public and the equipment is reorientated to change the direct line of sight from the highest chin-up bar up towards the edge of the exposed elevated pool.

**7. Attachments**

1. Feedback from 21, 23 and 25 Gaerloch Avenue (under separate cover) (confidential)
2. 21, 23 and 25 Gaerloch Avenue - Consultation Summary Report [↓](#)
3. SK.01 View Analysis - Cross Section Existing Conditions [↓](#)
4. SK.02 Proposed Fitness Equipment Amendment [↓](#)
5. Crown Land - Your Neighbour - Information sheet [↓](#) .

## Report

### Tamarama Fitness Station Mitigation of Amenity Impacts

Direct Resident Consultation Summary  
21, 23 & 25 Gaerloch Avenue

**Date:** 19 May 2023

**TRIM Reference:** SF23/192



#### Background:

Council has been approached by a resident with concerns of noise and privacy related to the existing Tamarama Park outdoor fitness station.

At the Council meeting on 1 November 2022, Councillors passed a motion requesting Council officers contact the owners of 21, 23 and 25 Gaerloch Avenue to seek feedback on any concerns in relation to the adjoining outdoor fitness station.

The Council motion FC/5.4/22.11 is as follows, that Council:

1. *Notes the community consultation feedback received during the draft Tamarama Plan of Management in support of the fitness station and proposed buffer planting.*
2. *Following the completion of the Tamarama Surf Life Saving Club Building Upgrade, re-establishes and maintains appropriate screen planting to provide a buffer between the fitness station and neighbouring properties in consultation with the owners/residents of 21, 23, and 25 Gaerloch Avenue.*
3. *Notes that the approved plans for the development at 21 Gaerloch Avenue, Tamarama, adequately dealt with the privacy and amenity of the development, which directly adjoins a Crown Reserve and is in proximity to the fitness station and the busy Coastal Walk.*
4. *Before completion of the Tamarama Surf Life Saving Club Building Upgrade and as soon as possible, investigates lowering the height and changing the style of the fitness equipment in consultation with the owners of 21, 23 and 25 Gaerloch Avenue to further mitigate privacy and noise impacts to these properties, with a report on the matter to come back for Council consideration.*

#### Discussion:

On 23 January 2023, as directed by Council resolution FC/5.4/22.11, Council officers engaged directly with the residents of 21, 23 and 25 Gaerloch Avenue via email and letters inviting them to provide written feedback on any issues or concerns they had with the existing outdoor fitness station.

A total of four (4) owners / residents are registered at the three above properties with 21 Gaerloch Ave being a strata block. All were notified. Three (3) responses were received, one from each address of 21, 23 and 25 Gaerloch Avenue.

The following summaries the key themes raised in the submissions and Council officer's response to issues raised:

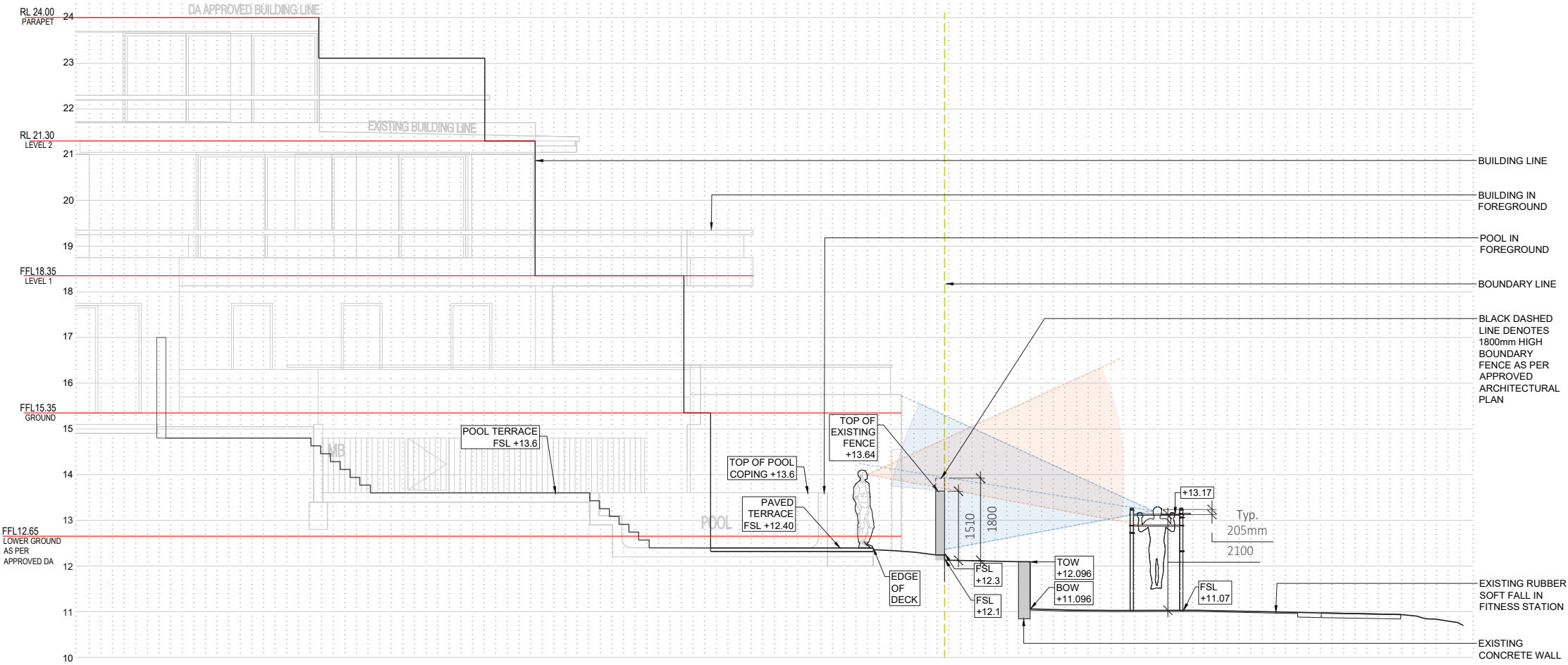
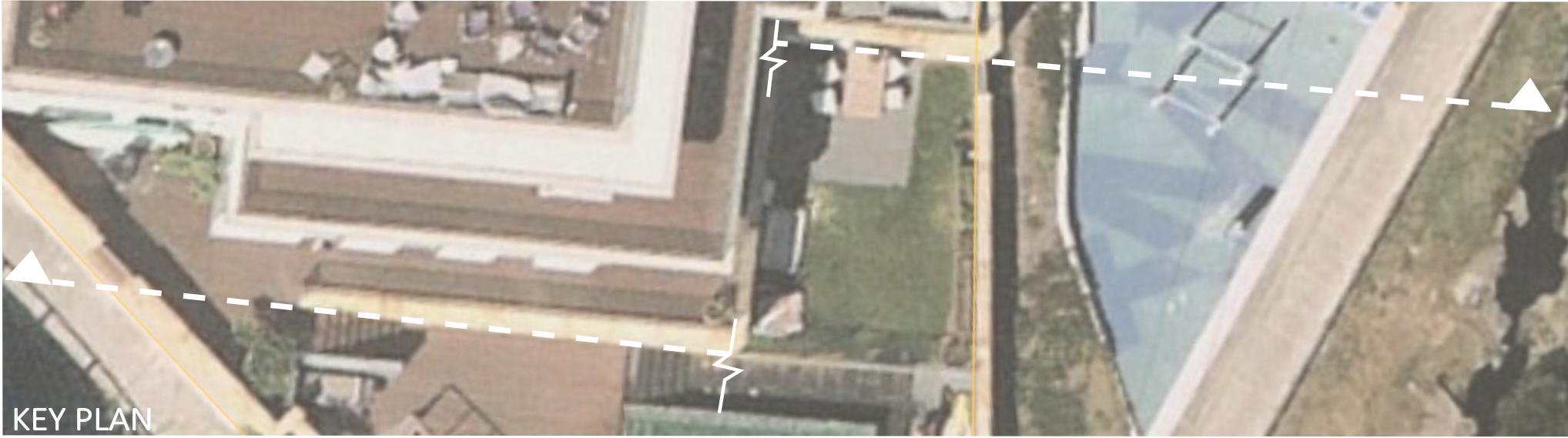
Themes	Feedback Summary	Response
<b>1. Buffer planting</b>	All three submissions supported low shrub buffer planting that would remain below a maximum height of 1.5m at maturity to ensure residential views are not impacted.	<p>Low buffer planting is also supported and approved in the original fitness design and tested and supported in border community consultation during the Draft Tamarama PoM.</p> <p>The unapproved gate onto the reserve at 21 Gaerloch currently prevents Council from successfully establishing significant buffer planting at this location. Previous plantings have been trampled by residents / visitors of 21 Gaerloch Ave accessing the reserve via this gate.</p>
	One submission requested no trees be planted.	<p>Tree plantings are not proposed at this location. Though additional trees would provide greater shade amenity to many users of the reserve, they would potentially block views from all three elevated properties.</p> <p>Replacement tree plantings inside the property boundary at 21 Gaerloch Ave did form part of the DA approval to replace trees and screen the property including the exposed pool but have not been planted.</p>
<b>2. Residential Amenity Impact - Noise</b>	Three submissions noted noise coming from fitness station users impacting their residential amenity including early morning and late evening use and the use of amplified music.	<p>Parks and reserves that are open for public use and enjoyment and include a range of permissible social, active and passive recreation activities.</p> <p>There are no restrictions or controls in place to prevent users from accessing Tamarama Park, the coastal walk or the outdoor facilities.</p> <p>Council Rangers and Police can only enforce noise complaints that are in breach of the EPA residential noise guidelines and times. This does not cover normal use of a park or reserve but does provide time restrictions on musical instruments and amplified music as follows:  <i>"Before 8 am and after midnight on any Friday, or Saturday or the day immediately before a public holiday  Before 8 am and after 10 pm on any other day"</i></p> <p>Council Rangers and Police do have the power to direct users to leave a public place at any time at their discretion.</p> <p>It is recommended that additional signage be installed to remind users to please respect other park users and adjoining neighbours by keeping</p>



		noise to a minimum and reminding users of time restrictions in relation to musical instruments and amplified music.
	Two submission noted improvements to the fitness station have attracted more users. Including people exercising, users are also loudly socialising, capturing videos for social media and generally loitering.	<p>All of the uses listed are permissible in our parks and reserves and gathers in public parks a regular occurrence.</p> <p>As the population of Sydney and our LGA increases, the intensity of use of ours parks, reserves and Council facilities will also increase. Council's facilities are expected to cater for this higher demand while supporting use by a broader range of users and activities.</p> <p>Our park facilities are designed to be multifunctional whenever possible to support the social, health and wellbeing of our residents and visitors in accordance with our Community Strategic Plan and related adopted strategies and PoMs.</p> <p>The fitness station design meets these strategies and objectives.</p>
	One submission raised concerns about potential future noise issues compounding residential amenity from the Tamarama SLSC redevelopments proposed café and night-time club operations and request no café.	The Tamarama SLSC redevelopment and kiosk are managed and notified separately under the D.A. process.
	Two submissions noted that buffer planting would not be enough to mitigate noise impacts generated by increased use the new fitness station has attracted.	<p>Shrub planting will only provided limited noise attenuation.</p> <p>Full height screening and mature trees would provide a much more effective buffer but conflict with the resident's desires to have uninterrupted views over the park and beach.</p>
<b>3. Residential Amenity Impact - Privacy</b>	Two submissions noted that the higher apparatus generate privacy concerns of overlooking adjoining properties and lower apparatus are preferred.	View analysis of the built works demonstrate that all three properties sit above the fitness station not below it. Therefore the fitness station does not overlooking the boundary fences of any adjoining properties.
	One submissions noted that buffer planting would not be enough to mitigate loss of privacy.	Full height screening and mature trees would provide a much more effective visual barrier but conflict with the residents desires to have uninterrupted views over the park and beach.

		All properties sit above the outdoor fitness station and consequently have views down towards this area of the coastal walk.
<b>4. Modify fitness equipment</b>	Two submissions requested the size and scale of the fitness station equipment be reduced in consultation with residents to improve privacy of adjoining residents.	<p>The fitness station has been designed to provide part of a connected trail system of 3 stations in total offering different exercise workouts. Tamarama is the only station with chin-up bars. Changing the design would significantly diminish its function and remove equipment from the one station that is accessible to users with mobility challenges.</p> <p>The equipment has been designed to meet safety standards AS16630. Modifying the design may compromise users safety and open Council to potential litigation claim in event of injury and reduce its functionality to cater to a wide range of users and skill levels.</p> <p>Consideration could be given to rotating the chin-up bar equipment so the equipment sits parallel to the property boundary rather than its current orientation which is skewed at an angle. This would have users of the highest bars orientated in parallel to the property as opposed to towards the property wall.</p> <p>23 and 25 Gaerloch Ave properties sit well above the fitness station and overlook the fitness station. The ground floor apartment and outdoor pool at 21 Gaerloch also overlooks the fitness area, however the ground floor bedroom has been designed with a zero lot setback and glazed windows that look directly out onto the reserve but require treatment under the approval.</p>
	One submission requested no fitness station.	The outdoor fitness stations have previously been supported in this location by the broader community following two separate consultations.
<b>5. Compliance enforcement – after hours use and noise</b>	Two submissions raised concerns about effective after-hours compliance enforcement.	<p>Council and Police can only enforce the rules and regulations that apply and noise complaints that are in breach of the EPA residential noise guidelines and times.</p> <p>The coastal walk is permanently open for public use. This right of public access was formalised when the reserve was gazetted for “public recreation” in 1907.</p> <p>Council will continue to monitor the use of this space once it is reopened following the completion of the Tamarama SLSC redevelopment project.</p>

<p><b>6. 21 Gaerloch Avenue DA Approval timing v's fitness station approval timing</b></p>	<p>Two submissions claim the DA for 21 Gaerloch Avenue was approved prior to the revised fitness station design being approved and therefore the development did not adequately consider the potential residential amenity impacts.</p>	<p>The reserve and fitness station and activities on the reserve are a pre-existing condition prior to both ownership and DA submission. As was the pre-existing amount of shrub foliage removed from the reserve as part of the build that previously provided a level of screening.</p> <p>The community has an expectation Council will maintain and upgrade facilities in parks and reserves to meet current demand and best practice. The fitness station upgrade is an exempt and complying development under the Infrastructure SEPP and redevelopment of a pre-existing facility under the PoM adopted in 2007.</p> <p>Consultation was undertaken in 2017 and all neighbours were informed. The owners of 21 Gaerloch were engaged with and aware of the fitness station works during construction in 2019.</p> <p>It is up to the applicants and Architect to determine all suitable requirements to manage the interface between the private and public domain within the limitations of the LEP and DCP. The Statement of Environmental effects submitted with the DA supports this advising the development would include:</p> <ul style="list-style-type: none"> <li>- <i>side and rear fences in the form of rendered walls of 1.8m predominantly (1.9m at points due to the sloping nature of the site).</i></li> <li>- <i>no adverse affect the public domain and pool and terrace would not impact on the visual privacy of adjoining properties.</i></li> <li>- <i>Due to the slope of the site a portion of the pool will be above ground. This portion of the pool structure is to be screened by boundary fences and landscaping.</i></li> </ul>
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01 CROSS SECTION EXISTING CONDITIONS  
SK.01 1:100 @ A3

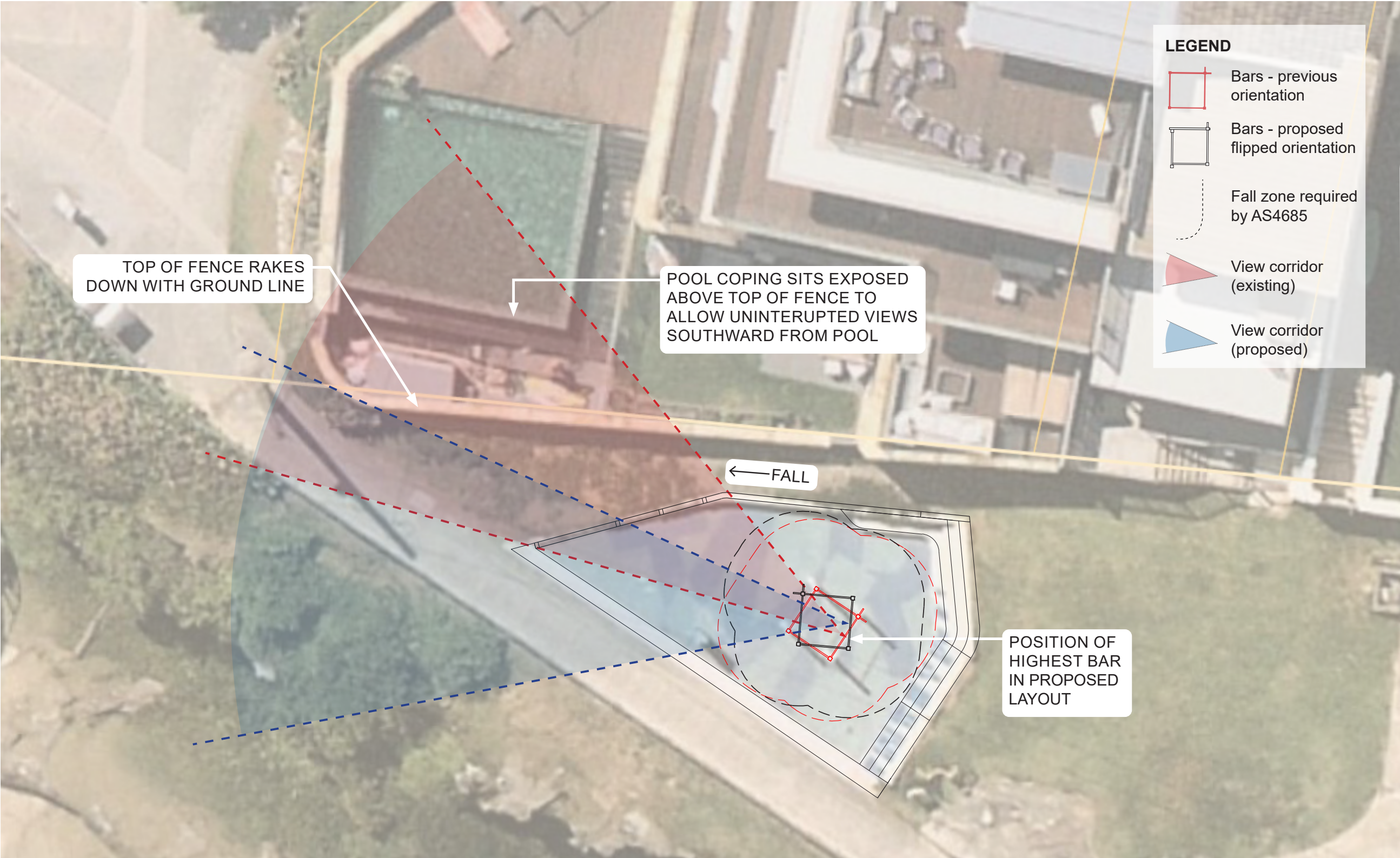
Project Title: **TAMARAMA FITNESS STATION**

Drawing Name: **VIEW ANALYSIS**  
**CROSS SECTION EXISTING CONDITIONS**  
Drawing No: **SK.01**

Date: 23.05.2023  
Drawn by: JQ  
Scale: 1:100 @ A3 0 1 2 2.5m







**SITE PLAN 1:100**

Project Title: **TAMARAMA FITNESS STATION**

Drawing Name: **PROPOSED FITNESS EQUIPMENT AMMENDMENT**

Date: 23.05.2023

Drawing No: **SK.02**

Drawn by: JQ

Scale: 1:100 @ A3 0 1 2 2.5m



## Crown land – your neighbour

### Information sheet



## Crown land adjoining private property

*This information sheet helps you find out who manages the Crown land near your property and tells you what you need to know as our neighbour.*

The Department of Planning, Industry and Environment's Crown Lands branch manages Crown land on behalf of the NSW Government for the people of NSW.

This document relates to the 3 major types of public land managed by the department:

- Crown reserves
- Crown public roads (most often undeveloped road corridors also known as 'paper' roads)
- Crown waterways (the beds of most inland waterways and the bed of the Pacific Ocean to 3 nautical miles offshore is reserved Crown land).

In this fact sheet we will refer to them all as just 'Crown land'.

### How to identify who manages public land that adjoins your property

Public land is managed by various public authorities, such as National Parks and Wildlife Service, your local Council, Local Land Services, Crown Lands and others. The managing agency may have installed signs at entrance points to the public land that identify its contact details and what activities are permitted or prohibited.

If there is no signage, you can find out if the land is Crown land by completing a property search via the NSW [Government Property Index](https://pp.planningportal.nsw.gov.au/government-property-index-list)<sup>1</sup>, using the [NSW Planning Portal spatial data viewer](https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address)<sup>2</sup> or by contacting the department on 1300 886 235.

### Find Crown land on a map

We provide digital maps of the Crown land estate via the [NSW Planning Portal](https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address)<sup>2</sup>.

The maps give information on Crown land, waterways, reserves and tenures (such as leases, licences and enclosure permits). You can view a Crown land property report by searching by lot number or street address.

### What you can do on Crown land

#### Private recreation

In general, low impact recreational activities are permitted on Crown land without any authorisation. Activities such as bushwalking, hiking and outdoor sporting activities that don't involve a vehicle and do not interfere with native fauna or flora are considered low impact.

#### Higher impact activities on Crown land require approval

Activities that potentially interfere with the public's use and enjoyment of Crown land or disturb the natural environment will most likely require a licence or authorisation from us. Examples include

<sup>1</sup> <https://pp.planningportal.nsw.gov.au/government-property-index-list>

<sup>2</sup> <https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address>



# Crown land – your neighbour

## Information sheet



installing any structures or fixtures, placing items and/or storing materials on the land, and driving a car or other vehicle on Crown land.

You can drive vehicles on Crown public roads. However, if you want to do even minor works to create or maintain an access track on a Crown public road, you will need written consent from the department.

### Private use of Crown land adjoining your property

Any private use of Crown land that adjoins your property is unlawful unless you hold a valid licence or permit from the department.

For example, you need a licence or permit to graze animals, construct fencing, disturb vegetation, store items, park vehicles, construct garden beds, place outdoor dining sets, install sheds or garages, put up a clothesline or install a compost bin or children's play equipment.

### Garden waste or storm water disposal

You cannot dispose of any type of garden waste on Crown land. Illegal dumping destroys native bushland and animal habitats by introducing disease, weeds and pests. It also increases the risk of bushfires. You should dispose of garden waste by placing it in your green organics waste bin, composting it or taking it to your local waste facility.

If you see anyone dumping materials or waste on Crown land, report it via the NSW Environment Protection Authority's [RID \(Report Illegal Dumping\) online portal](#)<sup>3</sup> or by calling 131 555.

Directing or piping stormwater run-off from your private property onto adjoining Crown land is not permitted. This action can affect the natural soil composition and usual surface water flow on the public land, potentially causing flooding issues for adjoining property owners and roads. Property owners must ensure all stormwater coming from their property is correctly piped and drained to the street gutter or a location in accordance with the local development control plan.

### Vegetation clearing and road works on Crown 'paper' roads

Clearing vegetation or undertaking even minor road works on Crown public roads requires written approval from the department. For more information, see our [Guideline – administration of Crown Roads](#)<sup>4</sup>.

### Erosion control measures – waterfront properties (retaining or sea walls)

Installing erosion control measures on your waterfront property boundary may require a controlled activity permit from the [Natural Resources Access Regulator](#)<sup>5</sup> and development consent from your council.

If any part of the proposed structure will be located within the adjoining Crown waterway, you will need landowner's consent from the department to lodge the development application with council and a domestic waterfront licence before beginning construction.

For more information see the [Domestic waterfront licence pages](#)<sup>6</sup> on our website.

<sup>3</sup> <https://ridonline.epa.nsw.gov.au/#/home>

<sup>4</sup> [https://www.industry.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0017/164033/Administration-of-Crown-roads-guideline.pdf](https://www.industry.nsw.gov.au/__data/assets/pdf_file/0017/164033/Administration-of-Crown-roads-guideline.pdf)

<sup>5</sup> <https://www.dpie.nsw.gov.au/nrar>

<sup>6</sup> <https://www.industry.nsw.gov.au/lands/use/licences/domestic-waterfront>

# Crown land – your neighbour

## Information sheet



### Bushfire management

In cooperation with the NSW Rural Fire Services, we oversee an extensive bushfire mitigation program that includes maintaining fire trails and asset protection zones and undertaking hazard reduction burns within bushfire districts on Crown land across the state.

You cannot use Crown land for any new adjoining property development plans to address your own bushfire mitigation responsibilities.

For more information on the department's bushfire mitigation programs see the [Land management and compliance section<sup>7</sup>](#) of our website.

### Your responsibilities as our neighbour

Landowners must ensure that private property and all associated occupation is wholly contained within their property boundary. Landlords or their agents must ensure residential tenants do not encroach onto adjoining Crown land.

If you or your tenants wish to access or undertake an activity on adjoining Crown land, please call us on the number given at the end of this information sheet to discuss your options.

### Ensuring compliance

We will investigate any concerns reported from members of the public or other government agencies, or issues identified through aerial imagery or site inspections to control unauthorised use of the Crown estate.

Using Crown land without approval is an offence. We can take compliance regulatory action if we need to.

Compliance enforcement actions can include:

- directions to remove structures, vehicles or materials illegally placed on Crown land
- stop-activity orders issued 'on the spot' to stop or prevent unlawful activities taking place on Crown land
- issuing penalty infringement notices – \$1,100 for each infringement.

For more information on the department's compliance strategy and enforcement policy see the [Compliance page of the Land management and compliance section<sup>8</sup>](#) of our website

### Where to go for help:

Visit our website at [www.industry.nsw.gov.au/lands](http://www.industry.nsw.gov.au/lands)

Call us on 1300 886 235

For help in your language, call the Translating and Interpreting Service (TIS National) on **131 450**

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<sup>7</sup> <https://www.industry.nsw.gov.au/lands/what-we-do/management>

<sup>8</sup> <https://www.industry.nsw.gov.au/lands/what-we-do/management/compliance>



**REPORT**  
**FC/5.7/23.07**

**Subject:** Bondi Beach Mobile Vendor Licences - Post-Exhibition

**TRIM No:** SF22/4119

**Manager:** Andrew Best, Executive Manager, Property and Facilities

**Director:** Sharon Cassidy, Director, Assets and Operations

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**RECOMMENDATION:**

That Council:

1. Approves in principle the granting of four licences of up to five years to mobile vendors at Bondi Beach for the provision of beach-related services.
2. Notes that a tender process will be undertaken to seek licensees, with a report to be prepared to Council to grant the licences to the preferred tenderers.

**1. Executive Summary**

Council has approved the award of mobile vendor licences at Bondi Beach for many years. The licences are for the provision of beach-related services and refreshments to locals and visitors.

Section 47A of the *Local Government Act 1993* (the Act) requires that if a council proposes to grant a lease or licence in respect of community land for a period of up to five years it must publicly notify and exhibit the proposal for a period of no less than 28 days.

At the Finance, Operations and Community Services meeting on 2 May 2023, Council approved publicly exhibiting its intent to grant four mobile vendor licences at Bondi Beach.

The *Local Government Act 1993* requires that where submissions are received through the notice period, a report be brought back to Council to deal with the responses.

This report summarises the 13 submissions received through the public exhibition period. A tender process will subsequently be undertaken to identify suitably qualified mobile vendor operators to provide beach-related services under licence. Officers will prepare a report to Council on the outcome of the tender and seek approval to grant the licences.

**2. Introduction/Background**

Bondi Park, Beach and Pavilion Plan of Management authorises mobile vendor licences for goods and services ancillary to public recreation.

Council permits four licences to provide beach services and refreshments to beach users. The purpose of the licences is to provide supplementary beach refreshments and beach equipment hire to visitors and not directly replicate or be detrimental to existing operators in the Bondi Pavilion and Bondi Park area.

The current licences were awarded in late-2017 (following a tender process conducted in mid-2017) for three years with two one-year options (maximum of five years). Licences were previously awarded via tender in 2010.

At the Finance, Operations and Community Services meeting on 2 May 2023, Council approved undertaking a public exhibition process for its intent to grant four mobile vendor licences at Bondi Beach.

### 3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Finance, Operations and Community Services Committee 2 May 2023	FC/5.4/23.05	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. In accordance with section 47A of the <i>Local Government Act 1993</i>, publicly notifies and exhibits for 28 days the proposal to grant four licences of up to five years to mobile vendors at Bondi Beach for the provision of beach-related services.</li> <li>2. Officers prepare a report to Council following the exhibition period should any submissions be received.</li> <li>3. Subject to no submissions being received, approves in principle the granting of the licences.</li> <li>4. Notes that a tender process will be undertaken to seek licensees, with a report to be prepared to Council to grant the licences to the preferred tenderers.</li> </ol>

### 4. Discussion

Section 47A of the *Local Government Act 1993* (the Act) requires that if a council proposes to grant a lease or licence in respect of community land for a period of up to five years it must publicly notify and exhibit the proposal for a period of no less than 28 days.

The Act requires that information in relation to the land intended to be licensed, the term of the lease and the use of the premises be provided in the public notice. The public exhibition period for the intent to award four mobile vendor licences at Bondi Beach contained the following information:

- Land – The areas identified in Attachment 1.
- Term – Three years plus two one-year options.
- Use – The provision of beach-related services and refreshments.

Thirteen submissions were received through the public exhibition period. The submissions have been categorised and summarised below.

#### **Issue 1 – Three submissions were made from perspective operators that proposed their own specific product or services**

The section 47 public exhibition process is to inform the public of Councils intent to award a lease or licence. Specific proposals are not considered through the process. These operators will be able to submit their proposal in the required tender format once the tender process has commenced.

**Issue 2 – Six submissions supported the proposal to award mobile vendor licences but advocated for the services provided to be aligned specifically to health and wellbeing.**

One submission proposed the concept of saunas and cold plunge baths and one proposed not awarding licences to food and beverage providers. The majority of these submissions used the same wording, which suggests that the submissions were orchestrated to support a particular outcome.

The mobile vending licences at Bondi Beach have historically been for the provision of beach-related refreshments and services to meet the needs and expectations of locals and visitors.

Council has approved the procurement of services consistent with those being delivered for many years at Bondi Beach. These include the provision of beach-related refreshments—such as ice-cream, shaved ice, gelato, soft drinks—as well as beach equipment hire service to provide beach chairs, umbrellas, lockers for hire by visitors to the beach and the sale of sunscreen.

**Issue 3 – One submission that opposed vending machines**

This is a misunderstanding of the notice there is no intention to install fixed vending machines or award licences for this purpose.

**Issue 4 - One submission that opposed opera-style tents on the beach.**

The opera style tent has traditionally been used by the beach equipment hirer under previous licences. The small tent offers sunshade to staff of the operator and is a visual aid to inform the public of the service and their ability to hire chairs, sun lounges and umbrellas at this location.

**Item 5 – One submission was against vehicles, vans or lockers being on the promenade, and any licences being provided at locations that might impede access to the beach**

This submission misinterprets the locations in which the licences will be able to operate. The tender document will provide a plan of the site locations where the operators are able to trade as was presented at the May Finance, Operations and Community Services Committee meeting. The sites selected are the same as those which have been utilised by mobile vendor licences for many years and are selected so that they do not impeded access to the promenade or beach.

All submissions will have to provide a traffic management plan to address vehicle movements on the promenade and the size and type of carts, vans or other infrastructure proposed will need to be detailed and examples provided to ensure they are appropriate for the proposed licenced area.

**Issue 6 - One submission wanted more information in relation to parking availability, public access, disabled access, footprint of structures, sanitation, additional patrolling, restrictions on noise including music and announcements**

The tender documentation will deal with many of the matters raised and applicants will be required to consider and address these in their response. The licences will contain conditions that relate to amplified noise, traffic management. The site locations at which the operators will be able to trade has been agreed by Council and will be set out in the tender documentation.

**5. Financial impact statement/Time frame/Consultation**

There is no financial impact from Council dealing with the submissions received during the exhibition period.

On receipt of Council approval, officers will commence a tender process for the allocation of the four mobile vendor licences in the coming weeks, with a report to be brought back to Council on the outcome, seeking approval of licences.

## **6. Conclusion**

It is recommended that Council notes the submissions received during public exhibition and approves the licences in principle. Officers will then undertake a tender process to appoint four suitably qualified mobile vendor operators to provide beach-related services under licence.

## **7. Attachments**

Nil